City of FRESNO **REPORT TO THE CITYCOUNCIL**

AGENDA ITEM NO.	1 F
COUNCIL MEETING	10/29/09
APPROVED BY	
DEPARTMENT DIRECTOR	FOR
CITY MANAGER	

October 29, 2009

Presented to City Council
Date 10/29/09
Disposition Res approved, Res 2009-219

FROM: RANDALL L. COOPER, Director
Parks, After School, Recreation and Community Services Department

BY: FORREST DEAN, Parks Manager
PAUL A. MELIKIAN, Administrative Manager
Parks, After School, Recreation and Community Services Department

SUBJECT: 1) APPROVE A FIVE-YEAR CONCESSION AGREEMENT FOR THE OPERATION AND MAINTENANCE OF CAMP FRESNO AND CAMP FRESNO JR. AT DINKEY CREEK, CALIFORNIA WITH DENNIS AND KIMBERLY BEARD

2) APPROVE THE 485th AMENDMENT TO MASTER FEE SCHEDULE, RESOLUTION NO. 80-420 CREATING A RESERVATION FEE FOR THE CAMP FRESNO RECREATION HALL

RECOMMENDATIONS

The Parks, After School, Recreation and Community Services Department (PARCS) recommends that the City Council approve the attached 1) five-year concession agreement for the operating and maintenance of Camp Fresno and Camp Fresno Jr. at Dinkey Creek, CA with D&K Beard Enterprise, Inc. (Dennis & Kimberly Beard), and 2) the 485th Amendment to Master Fee Schedule, Resolution No. 80-420 creating a $150.00 per day reservation fee for the newly renovated recreation hall at Camp Fresno.

EXECUTIVE SUMMARY

The attached five-year concession agreement for the operations and maintenance of Camp Fresno and Camp Fresno Jr. is similar to the existing concession agreement with the current operator, Dennis & Kimberly Beard. The only significant change is that the City will now receive 10% of the gross camp receipts instead of the current 7.5%. The additional 2.5% is expected to generate approximately $17,000-$20,000 in additional funds for capital improvements over the life of the Agreement. The Agreement also allows the City to utilize Camp Fresno Jr. up to 12 days each season at a discounted $200 per day rate for youth camps. The Beards began operating the camp in May 2006 after the City conducted a Request for Proposal process, and have been instrumental in rehabilitating the camp and raising funds for facility improvements. Parks staff believes that the Beards are well qualified for the continued operation and maintenance of the camp.

Staff and the Beard's share a vision of the camp becoming a destination for corporate retreats and private events. The attached MFS resolution will establish a $150.00 per day reservation fee for the newly renovated recreation hall, which includes a re-built deck, new windows, sheet rock, electrical lighting, furniture, and heating. The recreation hall was re-dedicated on September 18, 2009 with a special ceremony to honor the Hilblom Foundation for their significant contributions to the camp. The renovated hall will now allow the building to be fully utilized during the season for meals, movie nights, and general recreation activity; as well as corporate retreats and private events.

The infusion of public and private funds (as exhibited in the attached table) over the last several years to improve the condition of the camp has lead to lower vacancy rates during the peak vacation season as more people consider Camp Fresno as a vacation option. The camp is popular locally, with about 44% of campers coming from Fresno City during the 2008 season. Including Fresno City reservations, about 68% of campers came from Fresno County. The remaining 32% were from 'out of town' reservations.

In 2006 PARCS and the camp concessionaire presented a five-year capital improvement plan for facility repairs and upgrades. Since then the City has utilized over $550,000 in grants, General Fund support, and donations to complete many projects. Despite this sizable investment into the camp, there is still an estimated $600,000 needed for the remaining major water, sewer, and propane system upgrades and extensive cabin rehabilitation.

The Department has received positive feedback regarding the facilities from the campers. Low-and-moderate income families and youth programs sponsored by the City of Fresno and non-profit and faith-based organizations have benefited greatly from these new improved facilities.

BACKGROUND

The original (current) Agreement was for only one year, expiring December 2006, awarded after an RFP was conducted. The RFP process resulted in only two responses received by the City; the first from the operator (at the time) and Dennis & Kimberly Beard. The City had several documented performance issues with the current operator, and as a result chose the Beards to run the camp. The Beards also had extensive experience operating rental properties in the surrounding mountain area. The Agreement with the Beards was amended in 2007, extending their operation of the camp to December 31, 2007 with two automatic one-year extensions built in. The current Agreement's final extension expires December 31, 2009.

The attached Agreement would extend the Beard's operation of the camp through December 31, 2014, whereupon the City intends to put the camp operation back out to bid. This Agreement would put the total duration of the Beard's operation of the camp at eight years, which is a shorter time period than most of the camp's previous operators.

The overall condition of the camp has continuously improved since the Beards took over operation and maintenance responsibilities. Every year, Staff receives tremendous positive feedback from patrons about the progress of the camp rehabilitation. The Beards have also been instrumental in identifying grant dollars and establishing contacts with other agencies and volunteers, bringing together suppliers to donate needed materials. These positive factors all contributed to the PARCS staff recommendation that the Beard's operate the camp for another five years.

Camp Fresno began as a firefighter camp for the U.S. Forestry Department. The City of Fresno obtained a Special Use Permit on May 28, 1926 for 34 acres of the main camp, Camp Fresno. Another four acres were added for Camp Fresno Jr. in 1956, making the total camp 37.24 acres. PARCS has contracted out the operation and maintenance of Camp Fresno and Camp Fresno Jr. for the past 25 years. The Camp is operated under a Special Use Permit issued by the Sierra National Forest. The Camp received 622 total reservations during the 2008 season, with about 44% coming from campers with a Fresno City address.

FISCAL IMPACT

Camp Fresno and Camp Fresno Jr. operate as an enterprise. The concessionaire receives all camp revenues and pays all expenses for the camp. Per the proposed operating agreement, 10% of gross revenues are paid to PARCS for deposit into a Camp Fresno capital improvement fund. The increase from the 7.5% in the current Agreement to the 10% going forward is expected to generate an additional $17,000-$20,000 for repairs and improvements over the term of the Agreement. 100% of those funds are used for capital improvement projects at the facility.

Attachments Press Handout from the September 18, 2009 Re-dedication of the Recreation Hall Agreement
485th Amendment to the Master Fee Schedule

CAMP FRESNO

In 2006, PARCS initiated a local campaign to seek funding and in kind support to revitalize the camp and we are pleased to share the significant progress we've made to date.

FUNDING SOURCE	FY 2007	FY 2008	FY 2009
General Fund Allocation	$ 50,000	$ 100,000	$ 0
Lowes Charitable Foundation Grant	25,000	0	0
Hillblom Foundation	100,000	100,000	0
Local Businesses estimated in-kind materials/services	35,500	8,000	0
Camp Fresno Capital Improvement Fund Budget	25,300	36,000	67,300
*Community Contributions made to FUN	$5,754.00		
Total Funds Received or Generated	**$ 241,554**	**$ 244,000**	**$ 67,300**

*$5,754.00 was donated by community members to our non-profit Fresno United Neighborhoods (F.U.N.) for the Camp Fresno Rehab Fund.

IMPROVEMENTS

- New Roof – The roofs were replaced on 39 cabins
- Replaced flooring and sub-flooring on 24 cabins.
- Beds - Seventy five (75) new camp bunk beds with guardrails, 150 mattresses, and 150 vinyl mattress covers
- Repaired/replaced all plumbing to restrooms and showers
- Upgraded Potable water system/well, and water tank membrane
- Repaired septic system leach lines
- Replaced decking & rails on all cabins
- New floor and foundation for Camp Fresno Jr. Kitchen
- New tot-lot playground equipement (courtesy of Lowe's grant)
- Water efficient toilets

REMAINING IMPROVEMENTS

- Water & sewer system — $250,000
- Electrical system to all cabins/buildings—$100,000
- Cabin rehabilitation—$250,000

SHARING THE CAMP

Fresno United Neighborhoods donated $7,500 from it's *Kids go to Camp Fresno Educational Fund* to send 196 kids to camp in 2008. FUN supports PARCS efforts to bring exciting new wilderness experiences to disadvantaged urban youth. Many of the children had never been camping before and were thrilled with the opportunity to participate in the free camp and enjoy fishing, archery and hiking.

CITY OF FRESNO
City Clerk's Office (Original)

1F
10/29/09

CONCESSION AGREEMENT
CAMP FRESNO AND CAMP FRESNO JR.

THIS CONCESSION AGREEMENT ("Agreement") is entered into this 16th day of November, 2009, by and between the CITY OF FRESNO, a municipal corporation of the State of California, hereinafter called "City," and D & K Beard Enterprise, Inc., a California Corporation hereinafter called "Concessionaire."

RECITALS

A. Under a Special Use Permit dated December 26, 1956, as amended ("Permit"), issued by the United States Forest Service ("Forest Service"), City has the right to use certain National Forest land in the Sierra National Forest more particularly described in the Permit (the "Land") and to operate on the Land a family camp commonly referred to as Camp Fresno and Camp Fresno Jr. at Dinkey Creek (collectively referred to herein as the "Camps"). The Permit is attached to this Agreement as Exhibit "A."

B. City owns certain structures and improvements located on the Land and certain equipment and other items, all of which are used in operating the Camps.

C. Pursuant to City's RFP dated March 8, 2006, consistent portions of which are incorporated herein, Concessionaire agrees to lease the camp facilities and equipment, and to operate and maintain the Camps subject to the terms of the Permit.

AGREEMENT

1. CONCESSION AREA; ASSUMPTION OF OBLIGATIONS; RESERVATION OF RIGHTS. In conjunction with the concession herein granted, City hereby sublets to Concessionaire the City's land use rights under the Permit, and leases to Concessionaire for its use twenty-two (22) two-bedroom cabins, twenty-nine (29) one-bedroom cabins, a group camp with various structures, and all support facilities of the Camps, as more particularly set forth in Exhibit "B", attached hereto ("Concession Area"). A City representative and the Concessionaire will jointly inventory such facilities to verify the condition, maintenance levels, and number prior to the operating season. A photo log may be taken to document the condition of the facilities.

Except as otherwise provided in this Agreement, Concessionaire shall have exclusive use of the Concession Area. Concessionaire expressly assumes and agrees to perform and comply with all the terms and conditions required to be kept or performed by City under the Permit, and any future amendments to the Permit, except that Concessionaire shall not be responsible for the payment of annual land use fees required of the City under Amendment No. 2 to the Permit.

Concessionaire's rights under this Agreement are at all times subject to such performance and to the rights of the Forest Service under the Permit.

The City reserves the right to use Camp Fresno and Camp Fresno, Jr. and all parts thereof, for up to 12 days each camping season as may be necessary to conduct City programs or to fulfill the obligations of City under this Agreement, provided City shall give prior written notice of such use(s). Concessionaire has agreed to substitute the normal fees charged for the use of Camp with a special $200 per day reimbursement. The City will reimburse Concessionaire by crediting the amount owed to the City under the gross rental receipts calculation. This credit does not apply to the capital improvement surcharge.

2. USE OF CONCESSION AREA. The Concession Area shall be used for the purpose of conducting a public camp thereon together with such other activities as may be reasonably related thereto, and for no other purpose.

3. CONCESSION TERM. The base term of this Agreement shall begin on January 1, 2010, and terminate on the earlier to occur of (a) midnight on December 31, 2014, or (b) the earlier termination of this Agreement as provided herein. The agreement may be extended, with the mutual consent of both parties. So that

the City may have sufficient time to conduct requests for proposal as provided in this Agreement, Concessionaire shall give written notice to City at least four (4) months prior to expiration of Concessionaire's intention to seek extension of or enter into a new agreement with the City upon the expiration of the term. At the end of the fourth year of this Agreement (December 31, 2013), the City and the Lessee shall commence exclusive negotiation of all terms and conditions for purposes of extending this Agreement. The parties shall negotiate during the first ninety (90) calendar days of the fourth year of this Agreement. In the event that the City and the Lessee are unable to arrive at a mutual agreement, it is understood by the parties to this Agreement that the City will solicit proposals to lease or manage the Leased Premises pursuant to Section 31 of this Agreement.

4. RENT PAYMENT; LATE CHARGES; INTEREST. Concessionaire shall pay to City ten percent (10%) of gross rental receipts each month. In addition Concessionaire shall pay to City each month one hundred percent (100%) of all improvements surcharges charged and collected in accordance with the City's master fee schedule. Concessionaire shall remit such monthly rent payments to City no later than the twentieth day of the month following the month for which rent is paid, and must include supporting documentation into how each month's rent payments were calculated. Rent shall be paid by check or draft, payable to the City of Fresno, and delivered to the Parks Division Office, 2326 Fresno Street, Suite 101, Fresno, CA 93721-1824.

Concessionaire acknowledges that late payment of rent will cause City to incur costs not contemplated by this Agreement, the exact amount of such costs being extremely difficult and impracticable to fix. Therefore, Concessionaire shall pay to City a late charge of One Hundred Dollars ($100) for any payment that is received by the City after the due date. The parties agree that this charge represents a fair and reasonable estimate of the costs that City will incur by reason of late payment by Concessionaire. Acceptance by City of any late charge shall not constitute a waiver of Concessionaire's default with respect to the overdue amount, nor prevent City from exercising any other rights and remedies available to it. City shall not be obligated to notify the Concessionaire of the accrual or assessment of late charges. Rent not paid when due shall bear interest at the maximum rate permitted by law. The late charge and/or interest may, at the City's sole discretion, be waived if the City finds the late payment of rent to be excusable for reasons beyond Concessionaire's control.

5. DEFINITION OF "GROSS RENTAL RECEIPTS." "Gross Rental Receipts" shall include the total amounts from sales and rentals, and the total amounts for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the rental of facilities or equipment, or the sale of materials, goods, wares, or merchandise, as long as the amount is received in connection with the operation of the Camps or either of them. Included in "Gross Rental Receipts" shall be all receipts, cash, and/or credits, and property of any kind or nature without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses, or other expense whatsoever. Excluded from "Gross Rental Receipts" shall be the following:

5.1 Any tax collected from the consumer or purchaser and which is separately stated and recorded at time of sale; and

5.2 Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business shall not be excluded; and

5.3 Proceeds paid as a result of an insurable loss, unless paid for the loss or interruption of business.

5.4 Money received from or property donated by the Friends of Camp Fresno.

6. TAXES. In addition to the rent, Concessionaire shall pay and discharge all taxes related to the Concession Area or Concessionaire's operation of the Camps including, but not limited to, any business license tax, possessory interest taxes[1], general and special assessments, and other charges of every description which during

[1]Any interest in real property which exists as a result of possession, exclusive use, or a right to possession or exclusive use of land owned by City, and any improvements thereon, is a taxable interest unless the possessor is exempt from taxation. Lessee should take a copy of this Agreement to the Tax Assessor to determine how much Lessee will be taxed, if at all.

the term of this Agreement may be levied on or assessed against the Concessionaire, the Concession Area, the Land, or any and all improvements and other property located in, on, or about the Concession Area. If taxes payable by Concessionaire are taxed to the City with other real or personal property of the City, the taxes shall be prorated on a square footage basis or other appropriate formula. Concessionaire shall pay that portion of taxes, for example, that the square footage of land or improvements related to the Concession Area bears to the total square footage of land or improvements covered by the tax assessment to the City.

7. **UTILITIES.** Concessionaire shall pay all charges for telephone, gas, electricity, and water used, on, or about the Concession Area, and shall provide and pay for the removal of rubbish. Concessionaire shall indemnify, defend, and hold City harmless for any liability therefore.

This section shall survive expiration or termination of the Agreement.

8. **WASTE; HAZARDOUS MATERIALS; INDEMNIFICATION.** Concessionaire shall not (a) commit or suffer to be committed any waste upon the Concession Area, (b) maintain, commit, or permit the maintenance or commission of any nuisance in, on, or about the Concession Area, or (c) use the Concession Area for any unlawful purpose. Concessionaire shall not cause or permit to occur in, on, under or about the Concession Area any violation of any federal, state, or local law, ordinance, or regulation now or hereafter enacted related to environmental conditions. Concessionaire's use, storage, or disposal of any materials/supplies covered by this provision shall be in full compliance with any and all federal, state, and local laws, ordinances, codes, rules, and regulations now or hereafter enacted including, without limitation, any and all Occupational Safety and Health statutes, laws, codes, rules and regulations of the United States and the State of California. The term "hazardous substances", as used herein, shall include, without limitation, flammables, explosives, chemicals known to cause cancer or reproductive toxicity, pollutants, petroleum and petroleum products, and substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority. Concessionaire shall defend, indemnify, and hold City, its elected officials, officers, agents, and employees, to the fullest extent permitted by law, harmless from and against any and all claims, liabilities, costs and/or losses of any kind or cause whatsoever which arise out of or result from Concessionaire's or Concessionaire's agents, employees, or representatives' use, storage, or disposal of hazardous materials in, on, under, or about the Concession Area.

This section shall survive expiration or termination of this Agreement.

9. **EQUIPMENT AND SUPPLIES.** This Agreement includes a lease of all the City-owned equipment listed in Exhibit "B". However, any or all other City-owned furnishings and equipment on the Concession Area may be used by Concessionaire if Concessionaire so desires and so stipulates in writing to the City. Should Concessionaire elect to use any or all of such furnishings and equipment, Concessionaire at his/her own cost and expense, shall maintain and repair such furnishings and equipment throughout the term of this Agreement and shall replace the same as the necessity arises. All such furnishings and equipment which Concessionaire elects not to use shall be removed by City from the Concession Area within thirty (30) days of execution of this Agreement.

The Concessionaire will furnish all supplies, tools, materials and other property necessary to clean, operate and maintain all facilities and equipment. Concessionaire will furnish all transportation equipment, and will furnish all expendable items, such as but not limited to toilet tissue, rags, detergents, and other cleaning agents. Concessionaire, at his/her sole cost and expense, shall maintain all the equipment in a clean, sanitary, and operable condition. Such maintenance shall include, but not be limited to repair and replacement. Replacement sleeping mattresses shall be plastic or vinyl covered.

A City representative and the Concessionaire will jointly inventory the equipment to verify the condition, maintenance levels, and number of such items prior to the operating season. A photo log may be taken to document the condition.

10. **OPENING AND CLOSING CAMP.** If the Concessionaire is new to the operation of the Camps, a City representative will provide instructions to Concessionaire at the beginning of the term on the maintenance and operation of the facilities and equipment including, but not limited to, the water system, sewer system, garbage disposal, and road systems, and will instruct the Concessionaire on work required by the Forest Service.

Thereafter, at the beginning of each camping season a City representative will provide instruction to Concessionaire on the maintenance and operation of any facilities or equipment installed or constructed at the Camps by the City during the off-season, and will inform the Concessionaire of any new maintenance or operational requirements of the Forest Service. If Concessionaire has operated the Camps as a concessionaire in prior seasons, Concessionaire acknowledges receiving instructions on all existing facilities and equipment and on current work required by the Forest Service. It will be the responsibility for the Concessionaire to "close down" the Camp at the end of the season and to prepare the Camp for use at the beginning of each succeeding operating season.

11. MAINTENANCE, REPAIRS AND PAINTING.

11.1 MAINTENANCE To maintain the value of the Concession Area, Concessionaire shall, at Concessionaire's sole cost and expense and to the satisfaction of the City:

11.1.1 Keep and maintain all portions of the Camps in good order and in a clean and sanitary condition, free of litter, neat in appearance, and in a safe condition. Restrooms shall be cleaned daily and more often if necessary to keep them in a clean, sanitary condition. The interiors of all cabins and buildings in the family camp and the group camp shall be cleaned at least once a week during the time between "check out" and "check in" time.

11.1.2 "Water down" all roadways in the campgrounds daily to reduce dust contingent upon the availability of water.

11.1.3 Remove all rubbish, garbage, and waste from the camp site and dispose of it. Garbage cans shall be emptied daily and bins emptied weekly. Any garbage kept overnight in the camp areas shall be stored in a manner inaccessible to bears.

11.1.4 Concessionaire shall maintain interiors of all buildings free of graffiti. For purposes of this section, interiors are defined as all interior surfaces that are viewable to the public.

11.1.5 Properly use and operate all water distribution systems in accordance with Fresno County Health Department requirements.

11.1.6 Properly use and operate all electrical, gas, and plumbing fixtures and keep them as clean and sanitary as their condition permits.

11.1.7 Submit to and obtain prior written approval from the City of Fresno and the Forest Service for development plans; layout plans; construction, reconstruction, or alteration of improvements; or revision of layout or construction plans for the Concession Area. The City shall respond within thirty (30) days of the request for approval. Concessionaire may remove or destroy trees or shrubbery in the Concession Area only after the Forest Service has approved the removal or destruction, and has marked or otherwise designated the trees or shrubbery to be removed or destroyed. Merchantable timber cut must be paid for by Concessionaire. Concessionaire may plant only such trees, shrubs, and other plants in such manner and in such places about the Concession Area as are approved by the Forest Service.

11.2 FAILURE TO PERFORM Should Concessionaire fail to perform his/her obligations under this Section 11, City may, but shall not be obligated to, enter upon the Concession Area and perform such obligations, using any suitable equipment or materials available to the Concession Area whether belonging to City or Concessionaire. Concessionaire shall upon demand reimburse City for City's costs so incurred including, but not limited to, direct and indirect overhead costs as determined by the City.

11.3 REPAIR AND REPLACEMENT Concessionaire shall maintain the facilities and structures in and on the Concession Area and every part thereof in good order and in safe, sanitary condition and repair. Maintenance shall include repair, replacement and rebuilding, except as otherwise provided herein. Concessionaire and City acknowledge that Concessionaire may not have funds budgeted and available for major repairs, replacements, or rebuilding for which and at the time which Concessionaire may become liable under the terms of this Agreement. Concessionaire shall notify City of all required major repairs, replacements, or rebuilding

and City shall determine whether such repair, replacement, or rebuilding shall be completed. Concessionaire shall use his/her best efforts to make all such repairs, replacements and rebuilding in a timely manner, and agrees to do so in the following order of priority:

11.3.1 Repairs affecting public health or safety.

11.3.2 Other repairs. Concessionaire shall keep the Concession Area and every portion thereof free and clear from any and all liens, claims, and demands for work performed, materials furnished, or operations conducted on the Concession Area at the instance or request of Concessionaire.

In the event that the Concessionaire is unable to pay the costs of meeting any obligation under this Section 11 and the City finds that such inability substantially impairs the ability of the Concessionaire to continue to perform its obligations hereunder, or if the City determines that the repair should not be made, and the City further determines that the result will be a substantial detrimental effect on revenues from the Camps because the public is unable or unwilling to use the Camps, then the Concessionaire may, after reasonable notice to City, terminate all of its obligations hereunder.

For purpose of this section, a "major repair" shall mean a single repair or replacement item that is necessary to render the use or operation of the Concession Area or any portion thereof safe for human habitation.

11.4 NO DUTY OF CITY TO REPAIR OR REPLACE Concessionaire understands and agrees that City shall not have any duty nor shall City be called upon to make any improvements, replacements, or repairs whatsoever to the Concession Area or any part thereof including, but not limited to, any structures, other improvements, fixtures, trade fixtures, equipment, facilities or utilities.

12. IMPROVEMENTS. Concessionaire shall as the need arises make written recommendations to City regarding improvements to the Concession Area, and submit such recommendations to City for approval. The City, at its sole discretion, shall evaluate the recommendations and formulate a decision within thirty (30) calendar days after receipt to render a decision in writing to Concessionaire. The decision shall be final and binding. For improvements recommended by Concessionaire that are approved by the City in writing, and completed by Concessionaire, City shall reimburse Concessionaire in any fiscal year of the term an amount not to exceed the rent the City receives or will receive from Concessionaire during the same fiscal year.

Unless otherwise agreed in writing between the parties, "improvements" as used in this Agreement shall mean new, added or replacement improvements that become a permanent part of the real property, cost a minimum of Five Hundred Dollars ($500.00), and have a minimum expected life of five (5) years.

13. CONDITION OF FACILITIES.

13.1 Concessionaire warrants and agrees that at the commencement of the term of this Agreement the facilities and equipment are in good operating condition and repair, other than what has been identified in city's pro forma proposed five-year Capital Improvement Plan for Camp Fresno and Camp Fresno Jr. (Exhibit F) setting out potential projects subject to annually allocated and available funding.

13.2 Concessionaire accepts the Concession Area and the facilities and equipment thereon. Concessionaire agrees not to make any demands upon City, and City shall not be responsible for, any improvements or alteration thereof. Concessionaire agrees and represents that he has personally inspected the Concession Area, and the area surrounding the Concession Area independent of the City or any agent, officer, or employee of City, and that Concessionaire is entering into this Agreement as a result of his/her own investigation and not as a result of any representations made by City or any agent, employee, or officer of City.

14. CONCESSIONAIRE'S REPORTING RESPONSIBILITY. Concessionaire shall orally report to City at its Parks Division all damage to City facilities in excess of $50.00 resulting from vandalism, and shall orally report to City all breakdowns of City equipment, by 9:00 a.m. the City work day following the damage or breakdown. If the Camps or either of them is without water, electricity or sewage, Concessionaire shall report the problem to City at its Parks Division Office immediately. If the Parks Division Office is closed, Concessionaire shall make the report to City at its answering service (559) 621-2900.

15. **SIGNS.** All additional signs desired by the Concessionaire must be approved in writing by City. This includes, but is not limited to, the color of sign boards, material, location and signs used. The majority of signs will be located on the information bulletin board including, but not limited to, rules and regulations, and general area information. Traffic signs such as speed limit signs may be posted inside the Camps to regulate traffic on the Camps' road systems.

16. **CAMP INSPECTION.** City requires and Concessionaire shall permit an annual inspection of the Concession Area and all portions thereof by the Fresno County Health Department and the U.S. Forest Service. Concessionaire, at Concessionaires sole cost and expense, make all corrections recommended or required as a result of such inspections. A City Parks Division representative shall be present at each inspection.

17. **CAMP OPERATION.**

17.1 RESERVATIONS. Concessionaire shall continue to use the reservation system currently in place for both Camps. Any change in this reservation system will require the approval of the City of Fresno.

17.2 FEE COLLECTION Concessionaire shall be responsible for the assessment and collection of rental and all other user fees.

17.3 COMPLIANCE WITH LAWS, RULES AND REGULATIONS. Concessionaire shall conduct only lawful operations from the Concession Area in accordance with all Federal, State, county, and city laws now in effect or as hereafter adopted or amended, including but not limited to, Federal Pure Food and Drug Laws and all other applicable health rules, regulations, ordinances, and laws. Concessionaire will be responsible to monitor water quality according to California Domestic Water Quality and Monitoring Regulations required for drinking water systems. The City reserves the right to adopt, amend, and enforce rules, and regulations governing the operation of the Concession Area. Such rules and regulations shall be consistent with the safety, security, and public use requirements of the Concession Area. The following are regulations that must be enforced by Concessionaire:

17.3.1 No recreational vehicles shall be used for sleeping quarters in the Camps.

17.3.2 Dogs and cats shall be prohibited, unless on a leash.

17.3.3 The use of motor bikes shall be prohibited in the Camps.

17.3.4 The drinking of alcoholic beverages in the playground area shall be prohibited.

17.3.5 No radios and other audio appliances shall be played at a high noise level in the Camps.

18. **TREATMENT OF PUBLIC.** Concessionaire and Concessionaire's employees, agents, and representatives shall at all times be respectful and courteous to the public. Concessionaire shall notify City of any service complaints and disposition of same. City shall notify Concessionaire of any service complaints received by City and Concessionaire shall provide City with a response and disposition.

19. **FINANCIAL RECORDS.** Concessionaire shall provide City once a year with a CPA Reviewed financial statement as defined by the American Institute of Certified Public Accountants duly certified by Concessionaire. The financial statement will provide separate gross and net revenues and expenses for each operation of the Concession Area. The financial statement shall also provide monthly statistical information on revenue from each rate structure in accordance with Exhibit "E", attached hereto. Concessionaire shall prepare and submit such reports to City within seventy-five (75) days after the end of each fiscal year of Concessionaire. Concessionaire shall also provide such information regarding camp operations and revenues as the Controller of the City may, in his/her judgment, require for the adequate assurance of compliance with the terms of this Agreement. City's agents and officers shall have the right at reasonable times and frequencies to inspect and review any and all of Concessionaire's records regarding the Concession Area and this Agreement. Concessionaire shall maintain a rental receipt register and cause all receipts from the operation of the concessions to be recorded thereon. The register shall be available for review and audit by the City. Revenue generated by the

Friends of Camp Fresno shall not be subject to this provision, but shall make financial reports directly to the City.

20. FRIENDS OF CAMP FRESNO. The Friends of Camp Fresno ("Friends"), a volunteer group, has provided support to the Camps for a number of years through annual cleanup and improvement projects. The Concessionaire shall review and approve all projects which the Friends provide on-site at the Camps and shall be responsible for ensuring that all activities, projects, sales, or installations by Friends comply with all laws and regulations which may apply to the project and/or to the Concession Area. Concessionaire may provide complimentary cabin use or other gratuities to the Friends' volunteers at the sole discretion of Concessionaire, where allowed by law/this Special Use Permit and approved in advance by the City.

21. RENTAL RATES. The rental rates, fee, and deposit schedule is attached hereto as Exhibit "D". Subject to receipt of prior approval by the Fresno City Council, Concessionaire may increase rental rates during the term of this Agreement. The City shall be allowed to increase fees at City's discretion for capital improvements or such other expenses as the City may incur.

22. INSURANCE.

22.1 Throughout the life of this Agreement, Concessionaire shall pay for and maintain in full force and effect all insurance as required in **Exhibit C** or as may be authorized in writing by City's Risk Manager or his/her designee at any time and in his/her sole discretion.

22.2. If at any time during the life of the Agreement or any extension, Concessionaire or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to Concessionaire shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City pursuant to this section shall in any way relieve Concessionaire of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by City that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

22.3. The fact that insurance is obtained by Concessionaire shall not be deemed to release or diminish the liability of Concessionaire, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Concessionaire. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Concessionaire, its principals, officers, agents or employees.

22.4. Upon request of City, Concessionaire shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy

certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

22.5 If Concessionaire should subcontract all or any portion of the services to be performed under this Agreement, Concessionaire shall require each subcontractor to provide insurance protection in favor of City and each of its officers, officials, employees, agents and authorized volunteers in accordance with the terms of this section, except that any required certificates and applicable endorsements shall be on file with Concessionaire and City prior to the commencement of any services by the subcontractor.

23. INDEMNIFICATION. Concessionaire shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and authorized volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Concessionaire or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to

have arisen directly or indirectly out of performance of this Agreement. Concessionaire's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, agents or authorized volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of City or any of its officers, officials, employees, agents or authorized volunteers.

If Concessionaire should subcontract all or any portion of the work to be performed under this Agreement, Concessionaire shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and authorized volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

24. OWNERSHIP OF IMPROVEMENTS. Any and all structures, buildings, improvements, alterations, additions, betterments, or fixtures constructed or installed by Concessionaire upon the Concession Areas shall upon expiration or earlier termination of this Agreement, become the property of City without compensation being paid therefore, and shall be surrendered with the Concession Area. City shall have the option, however, on expiration or termination of this Agreement, of requiring Concessionaire, at Concessionaire's sole cost and expense, to remove any or all of such alterations and improvements. Should the City elect for removal and Concessionaire fail to remove said alterations and improvements within a reasonable period of time after notice to do so, City may sell, remove or demolish, or otherwise dispose of same. Upon demand made by City, Concessionaire shall reimburse City for any reasonable cost or expense it incurred in disposing of the property, less any value received by the City as part of such sale, removal or demolition, or other disposition.

25. SURRENDER OF CONCESSION AREA. Upon expiration of the term of this Agreement, Concessionaire shall, at Concessionaire's own cost and expense, remove all personal property belonging to Concessionaire, and all alterations or improvements made by Concessionaire during the term hereof which the City has notified Concessionaire to remove. Concessionaire shall repair all damage to the Concession Area or any portion thereof caused by such removal.

26. DESTRUCTION OF IMPROVEMENTS. In the event any improvement on, in, or about the Concession Area is damaged or destroyed by an event against which Concessionaire is required to carry insurance hereunder, Concessionaire shall, at City's option, repair, rebuild or restore such improvement to substantially the same condition as such improvement was in immediately preceding the event of damage or destruction, or shall pay such insurance proceeds over to City. In the event any improvement in, on, or about the Concession Area is damaged or destroyed by an event against which Concessionaire is not required to carry insurance hereunder, City shall, at City's option, repair, rebuild, or restore the improvements to substantially the same condition as immediately prior to such event of damage or destruction.

Notwithstanding the foregoing, Concessionaire shall have no obligation to repair, restore, or rebuild, and shall have the right to terminate this Agreement upon payment of all insurance proceeds to City if: (a) the damage or destruction from an insured casualty cannot reasonably be repaired, restored, or rebuilt within the term of this Agreement; or (b) damage or destruction from an insured casualty occurs after the close of the last camping season under this Agreement and Concessionaire has not before the casualty entered into an agreement with the City to continue as Concessionaire.

27. RELATIONSHIP OF PARTIES. Nothing contained in this Agreement shall be deemed or construed by the parties or by any third persons to create the relationship of principal and agent or of partnership or joint venture between City and Concessionaire. In performing its obligations under this Agreement, Concessionaire is acting as an independent contractor, and not as an employee of City.

28. DISCRIMINATION. Concessionaire certifies and agrees that all persons Concessionaire employs, as well as its subcontractors, bidders, and vendors are and shall be treated equally without regard to or because of race, religion, ancestry, national origin, age, or sex, and in compliance with all Federal and State laws prohibiting discrimination in employment.

29. DEFAULT AND REMEDIES. If Concessionaire breaches this Agreement or abandons the Concession Area before the natural expiration of this Agreement, City, in addition to any other remedy given City by law or in equity, may: (a) terminate this Agreement and recover from Concessionaire any and all amounts for damages as permitted by law, or (b) terminate this Agreement and, in addition to any recovery under (a), bring an action to reenter and regain possession of the Concession Area in the manner provided by the laws of unlawful detainer then in effect in California. The remedies granted to City in this Section 29 are not exclusive but shall be cumulative and in addition to all other remedies now or hereafter allowed by law, in equity, or under in this Agreement.

The following events shall constitute a material default and breach of this Agreement:

29.1 Failure to pay rent when due;

29.2 Failure to perform any other covenant, condition, or agreement herein when the failure is not cured within ten (10) days after written notice of the specific failure is given by City to Concessionaire;

29.3 Failure to make any other payments required hereunder when due, if the delinquency continues for more than thirty (30) calendar days.

29.4 Failure to submit finance records as required under Section 19 of this Agreement.

29.5 Ceasing operation of the Concession Area as a public camp for more than forty-eight (48) hours, unless caused by acts of God, fire, or the elements. (This shall not be construed to mean that Concessionaire must keep the Camps open to the public during other than the recognized camping season.)

29.6 The bankruptcy or insolvency of Concessionaire, or the making by Concessionaire of any general assignment for the benefit of creditors;

29.7 The filing by or against Concessionaire of a petition to have Concessionaire adjudged a bankrupt or a of a petition for reorganization or arrangement under the Bankruptcy Act, unless such action is dismissed within sixty (60) calendar days of filing;

29.8 The appointment of a receiver or trustee to take possession of substantially all of Concessionaire's assets located at the Concession Area or of Concessionaire's interest under this Agreement, if possession is not restored to Concessionaire within thirty (30) days; or

29.9 The attachment, execution, or other judicial seizure of substantially all of Concessionaire's assets located at the Concession Area or of Concessionaire's interest in this Agreement, when the seizure is not discharged within fifteen (15) days.

In addition to the foregoing, Concessionaire acknowledges that this Agreement shall terminate on the following events:

29.10 Termination by the Forest Service of the use rights granted under the Permit for any reason including, but not limited to those stated in paragraphs 14 and 19 of the original Permit; or

29.11 A determination by the State Department of Fair Employment and Housing or the Federal Equal Employment Opportunity Commission that Concessionaire has violated State and/or Federal discrimination laws.

No claim shall be made by Concessionaire against City for or on account of prospective profits or for any injury or damage to properties, improvements, or operations due to termination of this Agreement under paragraph 19 of the Permit. If either Concessionaire or City receives a notice as provided under such paragraph 19, that party shall forward a copy of the notice to the other party hereunder. Within the ninety (90) day evacuation period, Concessionaire shall remove all his/her property from the Concession Area that Concessionaire is permitted or required to remove under the terms of this Agreement.

30. MISCELLANEOUS PROVISIONS.

30.1 ASSIGNMENT Concessionaire shall not assign this Agreement or any interest therein, and shall not sublet the Concession Area or any part thereof, or any right or privilege appurtenant thereto. Voluntary activities of Friends shall not come within this prohibition against assignment provided all such activities have first been approved by the Concessionaire, the City, and the Forest Service.

30.2 RIGHT OF ENTRY City and the Forest Service shall have the right by its officers or employees to enter upon the Concession Area at reasonable times during regular business hours to inspect the Concession Area, to determine whether Concessionaire is complying with the terms of this Agreement and the Permit, to perform lawful acts that may be necessary to protect the interest of City or the Forest Service in the Concession Area, or to perform duties under this Agreement or the Permit or law.

30.3 ATTORNEY'S FEES In the event any action, suit, or proceeding is commenced between the parties concerning the Concession Area, this Agreement, or the rights and duties of either party under this Agreement, the party prevailing shall be entitled, in addition to any other relief that may be granted in the action, to a reasonable sum as and for its attorneys' fees, as determined by the court in which the action is brought or in which a separate proceeding for attorneys fees is brought.

30.4 EXCLUSIVE VENUE The parties stipulate to venue in and to the jurisdiction of the courts in Fresno County, California for all actions arising under this Agreement.

30.5 ENTIRE AGREEMENT This Agreement contains the entire agreement of the parties with respect to the matters covered by this Agreement.

30.6 NOTICES All notices under this Agreement required to be in writing shall be addressed to the parties as follows, and shall be delivered personally to either party by the other or delivered by first class mail, postage prepaid, registered or certified, return receipt requested and addressed as follows:

CITY:
City of Fresno, Attention:
Parks and Recreation Department Director
2326 Fresno Street, Room 101
Fresno, California 93721-1824.

CONCESSIONAIRE:
D & K Beard Enterprise, Inc.,
13810 Oak View Drive
Prather, California 93651.

Either party may change its address during the term hereof by giving notice to the other as provided herein.

30.7 EXHIBITS All exhibits referenced herein as attached hereto are by such reference incorporated into and made a part of this Agreement for all purposes.

30.8 SEVERABILITY If any covenant, agreement, term, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect.

30.9 INTERPRETATION This Agreement shall be interpreted according to the rules which govern the interpretation of contracts, as prescribed in Part 2 of Division 3 of the California Civil Code, commencing with Section 1635. The headings herein contained are for convenience and reference only and are not intended to define or limit the scope of any provision thereof.

30.10 TIME OF THE ESSENCE Time is of the essence of this Agreement and of each provision.

30.11 WAIVER No failure by either City, or Concessionaire, to insist upon the strict performance by the other of any covenant, agreement, term or condition of this Agreement, or to exercise any right, or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, terms, or condition.

31. REQUESTS FOR PROPOSALS. Under Section 3 of this Agreement, Concessionaire is to notify the City at least four (4) months prior to expiration regarding his/her intent to renew or seek a new Concession Agreement. If such notice is not received by such date, or if received and the City determines that it would be in the best interest of the City to solicit proposals, then City may solicit proposals to lease or manage the Concession Area. Concessionaire may submit a proposal therefore. City shall evaluate and consider each proposal received on its merits and on the same basis as any other proposal.

If City solicits proposals and Concessionaire fails to submit a proposal or is not selected as the concessionaire, the City will use its best efforts to provide not less than ninety (90) calendar days' notice to Concessionaire of the change in Concessionaire so that Concessionaire may make such arrangements as may be necessary to dispose of personal property, sell unneeded equipment, and arrange for the newly selected concessionaire.

Concessionaire agrees that any new concessionaire may upon agreement with Concessionaire, purchase all maintenance equipment, tools, and supplies, used in the operation of the Camps and owned by Concessionaire, at fair market value. For purposes of this Section, the determination of fair market value shall be made after giving consideration to, among other factors, the original purchase price, present condition, depreciation, and demand therefore.

32. HOLD OVER. In the event Concessionaire holds over and continues in possession of the Concession Area after expiration of the term hereof, such holding over shall be considered a month-to-month tenancy, subject to all the terms and conditions of this Agreement and shall not be deemed a renewal thereof.
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IN WITNESS WHEREOF, the parties have executed this Amendment at Fresno, California, the day and year first above written.

CITY OF FRESNO
a municipal corporation

By: Randall L. Cooper
Parks, After School, Recreation
and Community Services Department

Title: Director

CONCESSIONAIRE
D & K Beard Enterprise, Inc.
a California corporation

By: DENNIS BEARD
Title: Partner

By: KIMBERLY BEARD
Title: Partner

ATTEST:
REBECCA E. KLISCH
City Clerk

By: Elvira Sommerville
Deputy 12/1/09

APPROVED AS TO FORM:
JAMES C. SANCHEZ
City Attorney

By: _____
Deputy BRADLEY

Attachments :

1. Exhibit "A" Special Use Permit issued by U.S. Forest Service
2. Exhibit "B" Facility and Equipment Inventory
3. Exhibit "C" Insurance Requirements

EXHIBIT A

Case Designation:
U
USES
Municipal Camp
City of Fresno, 5/28/25

SIERRA NATIONAL FOREST
FS ___ A ___ AA ___
RANGER DIST: MAR ___ NF ___
PR ___ KR ___ MIN ___ HS ___
RECEIVED
JAN 9 1957
ENG ___ F ___ TN ___
CLER ___ ST ___ DISP ___
COPIES RECEIVED ___
DISTRIBUTION ___
FILE COPY ___

SPECIAL USE PERMIT

Sierra National Forest

Permission is hereby granted to CITY OF FRESNO

of City Hall, Fresno, California

hereinafter called the permittee, to use, subject to the conditions set out below, the following-described lands or improvements: National Forest land located in the SE¼ SE¼ and E½ SW¼ SE¼ Section 8, and the NE¼ NE¼ and E½ NW¼ NE¼ Section 17, T. 10S., R. 26E., M.D.B. & M., and specifically as shown on City of Fresno Map No. 7-B-1, titled Camp Fresno and Camp Fresno Jr., and dated September 1956.

(Revised 9/28/56)

This permit covers Approx. 37.24 acres and/or ----- miles for the purpose of: Constructing, maintaining and operating a municipal camp.

The exercise of any of the privileges granted in this permit constitutes acceptance of all the conditions of this permit.

1. In consideration for this use, the permittee shall deposit with the Regional Fiscal Agent, Forest Service, FREE - Regulation U-11, a check, draft, or money order made payable to the Treasurer of the United States in the sum of _____ dollars ($_____) for the period from _____, 19___, to _____, 19___, and thereafter annually on _____, _____ dollars ($_____). The charges for this use may be readjusted from time to time to place this permit on a basis consistent with the charge to other permittees for like privileges.

Form FS-432
(Revised 12-1-49)

EXHIBIT A

FILE COPY

ADDITIONAL STIPULATIONS TO SPECIAL USE PERMIT - SIERRA NATIONAL FOREST

18. The permittee agrees to take all reasonable precaution to avoid damage to property and resources of the United States, and diligently to undertake suppression action in the event of fire resulting from the exercise of the privileges herein granted.

19. The lands described in this permit have been withdrawn for water power purposes under the act of March 3, 1879, or act of June 25, 1910 (or are embraced in an application or license under the Federal Power Act of June 10, 1920), and therefore are subject at any time to use in connection with the development of water power. This permit therefore is issued with the specific understanding that its exercise shall not interfere with such water power development and may be, if necessary, terminated upon ninety (90) days' notice that, in the judgment of the Federal Power Commission, the lands occupied are needed for use in connection with the generation of hydroelectric power or other purpose contemplated by the act under which the lands have been withdrawn.

No claim shall be made against the United States or power licensee for or on account of prospective profits or for any injury or damage to properties, improvements, or operations due to such power development. The permittee will be allowed 90 days in which to remove his improvements.

20. Whenever requested to do so by the Forest Officer in charge, the permittee shall be responsible for the removal of any diseased or insect-infested trees on the area under permit, the work to be done within the time limits specified, and in accordance with instructions issued by the Forest Officer.

21. This permit is issued free of charge with the understanding that any profits derived from this use are not deposited into a general fund for expenditures elsewhere.

22. This permit shall have no force or effect until the permittee has signified acceptance thereof by signing and returning the duplicate copy to the Forest Supervisor.

7 Jan 27
Date

City of Fresno
Permittee

By Gordon G. Dunn
Mayor

EXHIBIT A

3525 E. Tulare

July 23, 1959

2710 (2300)
Municipal Camp
Camp Fresno-Dinkey Creek
City of Fresno, 5/29/56

Amendment #1

Mr. Sam Setencich
Superintendent
Roeding Park
890 W. Belmont Avenue
Fresno, California

Dear Mr. Setencich:

Reference is made to your Special Use Application of May 25, 1959, requesting amendment of the above designated permit to include two 10 inch cased water wells and a portable electric pump, all with necessary pipelines.

By copy of this letter the above designated Special Use Permit is amended to include two 10 inch cased water wells with necessary pipeline plus a pipeline from a portable pump on Dinkey Creek to shower and laundry building, all within the area presently under permit and as shown on the Camp Fresno Dinkey Creek map attached to this letter.

The above designated permit is also amended to authorize a portable pressure pump in the NE¼ Section 17, T. 10S., R. 26E., M.D.B. & M., and specifically as shown on the map attached to this letter.

The above designated Special Use Permit is not otherwise amended or changed.

Very truly yours,

WALTER J. FEIL
Forest Supervisor

By

Attachment

EXHIBIT A

2710
Municipal Camp & Playground
City of Fresno, 5/28/26

SPECIAL USE PERMIT AMENDMENT NO. 2

The Special Use Permit issued to City of Fresno on December 26, 1956, by L. F. Abel, Acting Forest Supervisor, is hereby amended as follows:

1. Camp Fresno and Camp Fresno Junior are to be shown as indicated on attached map.

2. The public picnic area along Dinkey Creek south of the wooden bridge is deleted from permit.

3. Camp Fresno (main) has been enlarged from 33.98 to 34.43 acres.

4. Camp Fresno Junior has been enlarged from 3.26 to 4.05 acres.

5. As a result of present regulations and appraisals of land use fees which represent fair land rental values, we are hereby placing your permit on a charge basis with an annual rate of $20.00 per acre or fraction thereof commencing on January 1, 1965. Fees in connection with this permit are due and payable by not later than February 13 annually.

6. This permit is subject to cancellation for non-payment of the special use fee. Cancellation will become effective automatically if the permittee has not made payment by February 13 of each year. A service fee in addition to the regular fee will be charged for reinstatement of the permit.

7. A service fee will be charged for issuance of a new permit as the result of any change of ownership other than enforcement of contract, foreclosure, tax sale, or other valid legal proceedings against the improvements occupying this site.

8. Delete Clause No. 21.

9. The concession stand operated by the camp is intended to include items solely for the accommodation of children. Examples are gum, candies, soft drinks, ice cream, etc. No staple foods or adult supplies are to be handled.

(Continued)

EXHIBIT A

SPECIAL USE PERMIT AMENDMENT NO. 2 (Continued)

10. "In connection with the performance of work under this permit, the permittee agrees as follows:

"(1) The permittee will not discriminate against any employee or applicant for employment because of race, creed, color or national origin. The permittee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The permittee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Forest Service setting forth the provisions of this non-discrimination clause.

"(2) The permittee will, in all solicitations or advertisements for employees placed by or on behalf of the permittee, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

"(3) The permittee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Forest Service advising the said labor union or workers' representative of the permittee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(continued)

EXHIBIT A

"(4) The permittee will comply with all provisions of Executive Order No. 10925 of March 6, 1961, and of the rules, regulations, and relevent orders of the President's Committee on Equal Employment Opportunity created thereby.

"(5) The permittee will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the Forest Service and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the permittee's non-compliance with the nondiscrimination clauses of this permit or with any of the said rules, regulations, or orders, this permit may be cancelled in whole or in part and the permittee may be declared ineligible for further government permits in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

"(7) The permittee will include the provisions of the foregoing paragraphs (1) through (6) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, so that such provisions will be binding upon each subcontractor or vendor. The permittee will take such action with respect to any subcontract or purchase order as the Forest Service may direct as a means of enforcing such provisions, including sanctions for non-compliance: Provided, however, that in the event the permittee becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Forest Service, the permittee may request the United States to enter into such litigation to protect the interests of the United States."

(Continued)

EXHIBIT A

SPECIAL USE PERMIT AMENDMENT NO. 2 (Continued)

11. In the event of destruction by fire, or other cause, destruction of forty percent or more of the invested value will be considered ample for the purpose of terminating this permit.

12. The effect of avalanches, rising waters, high winds, and falling limbs or trees are a natural phenomena in the Forest, and while they cannot be foreseen, present a risk which permittees must assume. The permittee has the responsibility of inspecting his area and immediate adjoining area for dangerous trees, hanging limbs and other evidence of hazardous conditions and securing permission from the local Forest Officer to remove such hazards.

13. This permit is for land occupancy only and does not provide for the furnishing of road maintenance, water, fire protection or any other such services.

It is understood that this amendment shall not operate to alter nor amend said permit in any other respect than is herein specified and shall not in any way constitute a waiver of any part, provision, or condition of said permit, and every such part, provision, or condition of said permit shall apply equally to this amendment.

By _____

Date DEC 1 1964

Title Acting Forest Supervisor

This amendment to the Special Use Permit issued December 26, 1956, is accepted subject to the conditions set forth above.

CITY OF FRESNO

By _____

Date _____

Title _____

EXHIBIT A

United States Department of Agriculture Forest Service	a. Record no. (1-2) 70	b. Region (3-4) 05	c. Forest (5-6) 15
AMENDMENT NO. 4 FOR SPECIAL USE PERMIT Ref: FSM 2714	d. District (7-8) 54	e. Use number (9-12) ----	f. Kind of use (13-15) ---
THIS AMENDMENT IS ATTACHED TO AND MADE A PART OF THE ☐ TERM ☒ ANNUAL PERMIT	g. State (16-17) 06	h. County (18-20) 019	i. Card no. (21) 1

for Organization Camp Camp Fresno (KIND OF PERMIT) issued to City of Fresno (NAME OF PERMITTEE), on 12/26/56 (DATE OF PERMIT)

which is hereby amended as follows:

The following clause is added to the permit effective January 1, 1973:

23. The permittee shall have in force public liability insurance covering (1) property damage in the amount of Twenty Five Thousand dollars ($ 25,000), and (2) damage to persons in the minimum amount of One Hundred Thousand dollars ($ 100,000) in the event of death or injury to one individual and the minimum amount of Three Hundred Thousand dollars ($300,000) in the event of death or injury to more than one individual. The coverage shall extend to property damage, bodily injury, or death arising out of the permittee's activities under the permit including but not limited to, the occupancy or use of the land and the construction, maintenance, and operation of the structures, facilities or equipment authorized by this permit. Such insurance shall also name the United States as a co-insured and provide for specific coverage of the permittee's contractually assumed obligation to indemnify the United States. The permittee shall require the insurance company to send an authenticated copy of its insurance policy to the Forest Service immediately upon issuance of the policy. The policy shall also contain a specific provision or rider to the effect that the policy will not be canceled or its provisions changed or deleted before thirty (30) days written notice to the Forest Supervisor, 1130 "O" Street, Room 3211, Fresno, California 93721, by the insurance company.

It is understood and agreed that the coverage provided under this policy will not be canceled or its provisions changed or deleted before thirty (30) days written notice to the Forest Supervisor, 1130 "O" Street, Room 3211, Fresno, California 93721, from the insurance company.

Permittee to send copy of policy and certificates of insurance to Forest Supervisors' Office.

This Amendment is accepted subject to the conditions set forth herein, and to conditions ---- attached hereto and made a part of this Amendment.

	NAME OF PERMITTEE	SIGNATURE OF AUTHORIZED OFFICER	DATE
PERMITTEE	× [illegible] City of Fresno	× [illegible] TITLE	× 11/2/72
	SIGNATURE	TITLE	DATE

EXHIBIT A

EXHIBIT B

FACILITIES AND EQUIPMENT

CAMP FRESNO

Facilities:

29 One bedroom cabins	Very Good
22 Two bedroom cabins	Very Good
1 Social Hall	New
1 Manager's House	Very Good
1 Assistant Manager's	Very Good
1 Staff Cabin	Good
1 Maintenance Service Building	Good
2 Storage Buildings	Good
4 Restrooms	Good
2 Shower/Restrooms & Laundry (main & upper) with Water Heaters	Good

Equipment:

197 Mattresses and beds	Very Good
46 Wood burning stoves	Good to Poor
51 Outdoor propane cooking stoves	Good to Poor
3 Water pumps, centrifugal type	Good
1 New Well	Very Good
3 Ranges with ovens	Very Good
1 Refrigerated walk-in box	Good
2 Refrigerators with freezers in staff cabins	Good
3 Commercial hot water heaters	Very Good
1 Chlorine Regulator and injector	Good
1 Turbidity Gauge	Good
1 500-gallon steel water storage tank, Abandoned behind office	Poor
1 15,000-gallon redwood water storage tank	Poor
1 15,000-gallon steel water storage tank	Good
1 7,000-gallon storage tank, abandoned	
1 500-gallon pressure tank	Good

CAMP FRESNO JR.

Facilities:

2 Forty-bed Dormitories	Good
3 Counselor's cabins with 3 beds each	Good
1 Large kitchen with Cook's quarters Including bedroom and restroom	Very Good
1 Enclosed dining pavilion	Very Good
2 restrooms with 10 toilets/8 showers, men's and women's With laundry room; no machines supplied	Good
1 Amphitheater with fire ring	Good
2 Swing sets	Good
1 Horseshoe pit	Good
2 Storage sheds near recreation hall	Good
2 Basketball goals with hoops	Good

EXHIBIT B continued – Facility and equipment inventory

Equipment:

93 Mattresses and beds	Good
1 Four-door commercial refrigerator	Good
1 Refrigerated walk-in box	Good
1 Commercial stove with grills	Good
1 Serving table	Good
11 Dining Tables	Good
1 Free-standing wood burning fireplace	Good
1 2'x6' Brick BBQ grill	
All Kitchen utensils, pots and pans	Good
1 Microwave oven	Good
1 Freezer, stand-up	Good

New Equipment Added Since 2006:

59 queen-sized bed sets with legs (not frames) - 2006
75 sets of metal bunk beds - 2007
40 sets of metal bunk beds - 2008
5 new woodstoves (4 installed in 2006, 1 in 2009)
3 dressers & 5 nightstands for staff housing - 2006
25 new cook stoves
Tables and chairs for rec hall - 2009

Exhibit C

INSURANCE REQUIREMENTS FOR
CONCESSION AGREEMENT
between City of Fresno
and D & K Beard Enterprise, Inc.
CAMP FRESNO AND CAMP FRESNO JR.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, which shall include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations, products and completed operations, and contractual liability.

2. The most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, which shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 - Any Auto).

3. Workers' Compensation insurance as required by the California Labor Code and Employer's Liability Insurance.

Minimum Limits of Insurance

CONCESSIONAIRE shall maintain limits of liability of not less than:

1. General Liability:

   $1,000,000 per occurrence for bodily injury and property damage
   $1,000,000 per occurrence for personal and advertising injury
   $2,000,000 aggregate for products and completed operations
   $2,000,000 general aggregate applying separately to the work performed under the Agreement

2. Automobile Liability:

   $1,000,000 per accident for bodily injury and property damage

3. Employer's Liability:

   $1,000,000 each accident for bodily injury
   $1,000,000 disease each employee
   $1,000,000 disease policy limit

Umbrella or Excess Insurance

In the event CONCESSIONAIRE purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

Deductibles and Self-Insured Retentions

CONCESSIONAIRE shall be responsible for payment of any deductibles contained in any insurance polices required hereunder and CONCESSIONAIRE shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the CITY'S Risk Manager or his/her designee. At the option of the CITY'S Risk Manager or his/her designee, either (i) the insurer shall reduce

or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees, agents and authorized volunteers; or (ii) CONCESSIONAIRE shall provide a financial guarantee, satisfactory to CITY'S Risk Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall CITY be responsible for the payment of any deductibles or self-insured retentions.

Other Insurance Provisions

The General Liability and Automobile Liability insurance policies are to contain, or be endorsed to contain, the following provisions:

1. CITY, its officers, officials, employees, agents and authorized volunteers are to be covered as additional insureds.

2. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, officials, employees, agents and authorized volunteers.

3. CONCESSIONAIRE'S insurance coverage shall be primary and no contribution shall be required of CITY.

The Workers' Compensation insurance policy is to contain, or be endorsed to contain, the following provision: CONCESSIONAIRE and its insurer shall waive any right of subrogation against CITY, its officers, officials, employees, agents and authorized volunteers.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice by certified mail, return receipt requested, has been given to CITY. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, CONCESSIONAIRE shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, CONCESSIONAIRE shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

Acceptability of Insurers

All policies of insurance required hereunder shall be placed with an insurance company(ies) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide; or authorized by CITY'S Risk Manager.

Verification of Coverage

CONCESSIONAIRE shall furnish CITY with all certificate(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the CITY'S Risk Manager or his/her designee prior to CITY'S execution of the Agreement and before work commences.