



**CITY OF MARTINEZ**

**CITY COUNCIL  
July 16, 2014**

**TO:** Mayor and City Council  
**FROM:** Michael Chandler, Senior Management Analyst  
**SUBJECT:** Lease Agreement with Contra Costa Community College District and Sublease Agreement with Martinez Historical Society for Property generally Located at 1005 Escobar Street and Nearby City Parking Lot  
**DATE:** July 10, 2014

**RECOMMENDATION:**

Adopt the following:

- A. Resolution approving a First Amendment to Lease Agreement with the Contra Costa Community College District for use of the property and parking lot located at 1005 Escobar Street in exchange for the City's leasing to the District use of the City's parking lot located north of Marina Vista Avenue, and authorizing the Mayor to execute same; and
- B. Resolution approving a First Amendment to Sublease Agreement with the Martinez Historical Society for use of the property located at 1005 Escobar Street as the Martinez Museum, and a First Amendment to Consent to Sublease with the Contra Costa Community College District and Martinez Historical Society, and authorizing the Mayor to execute same.

**BACKGROUND**

The City currently leases and has for many years the property and the parking lot at 1005 Escobar Street from the Contra Costa Community College District ("College District") in exchange for the City leasing to the College District the City's nearby parking lot located north of Marina Vista Avenue under a "Master Lease" agreement that ends July 1, 2014. The City has negotiated a "First Amendment to Lease Agreement" with the College District (attached as Attachment A) that essentially extends the Master Lease for an additional 5 years and updates various provisions related to insurance, indemnification and the storage of hazardous materials, among other things.

The City has for many years subleased the property to the Martinez Historical Society ("Historical Society") for use as the Martinez Museum under an agreement that ran concurrently with the City's lease of the property from the College District. As such, the City desires to establish a coterminous "First Amendment to Sublease Agreement" with the Martinez Historical Society for a period of 5 years and similarly update various provisions such as those related to insurance, indemnification and the storage of hazardous materials.

The First Amendment to Lease Agreement and First Amendment to Sublease Agreement documents have been conditionally approved by the College District's legal counsel and are pending final review by the College District's Risk Manager.

Upon execution of the First Amendment to Lease Agreement, all three parties will be required to execute a "First Amendment to Consent to Sublease" which, in conjunction with the original Consent to Sublease, outlines the specific terms under which the College District's consent for the City to sublease the property to the Historical Society is granted. These provisions include:

1. The Sublease is subordinate to the Master Lease and therefore the First Amendment to Sublease cannot be executed until the First Amendment to Lease is fully executed
2. The term of the First Amendment to Sublease is July 1, 2014, for a period of 5 years
3. The Sublease cannot be amended without the approval of the College District
4. The Historical Society is subject to insurance and indemnity obligations as set forth by the City's insurance risk pooling authority
5. The Sublease does not release the City from any of its obligations under the terms of the Master Lease

The First Amendment to Consent to Sublease is to be signed by all three parties to acknowledge the specific terms under which the College District agrees to allow the continued Sublease to the Historical Society.

**FISCAL IMPACT:**

The Martinez Historical Society's fee for using the property remains consistent at \$1/year.

**ACTION:**

Motion to adopt resolutions:

- A. Approving a First Amendment to Lease Agreement with the Contra Costa Community College District for use of the property and parking lot located at 1005 Escobar Street in exchange for the City's leasing to the District use of the City's parking lot located north of Marina Vista Avenue, and authorizing the Mayor to execute same; and
- B. Approving a First Amendment to Sublease Agreement with the Martinez Historical Society for use of the property located at 1005 Escobar Street as the Martinez Museum, and a First Amendment to Consent to Sublease with the Contra Costa Community College District and Martinez Historical Society, and authorizing the Mayor to execute same.
- C.

Attachments:

Resolution A

Attachment A Draft First Amendment to Lease Agreement

Resolution B

Attachment B Draft First Amendment to Sublease Agreement (Historical Society)

Attachment C First Amendment to Consent to Sublease

Exhibit 1 Sublease Agreement (with attachments including Master Lease)

**APPROVED BY:**

  
Interim City Manager

RESOLUTION NO. -14

**AUTHORIZING THE MAYOR TO EXECUTE A FIRST AMENDMENT TO LEASE AGREEMENT WITH THE CONTRA COSTA COMMUNITY COLLEGE DISTRICT FOR USE OF THE PROPERTY AND PARKING LOT AT 1005 ESCOBAR STREET IN EXCHANGE FOR THE CITY'S LEASING TO THE DISTRICT USE OF THE CITY'S PARKING LOT LOCATED NORTH OF MARINA VISTA AVENUE, AND AUTHORIZING THE MAYOR TO EXECUTE SAME**

**WHEREAS**, the City of Martinez has leased for many years the property and parking lot at 1005 Escobar Street ("Museum Site") from the Contra Costa Community College District ("District") via a Lease Agreement ("Lease"); and

**WHEREAS**, the City has in exchange leased to the District use of the City's nearby parking lot located north of Marina Vista Avenue; and

**WHEREAS**, the City has in turn subleased said Museum Site to the Martinez Historical Society ("Historical Society") for use as the Martinez Museum via a Sublease Agreement ("Sublease"); and

**WHEREAS**, the Lease and Sublease expired on June 30, 2014, and are currently on a month-to-month arrangement; and

**WHEREAS**, the City and College District desire to extend the existing term for a period of 5 years and amend certain other provisions of the Lease via a First Amendment to Lease Agreement ("First Amendment"), a draft of which is attached hereto as Attachment A; and

**WHEREAS**, the full execution of the First Amendment is a condition precedent to the execution of the City subleasing the Museum Site to the Historical Society for a similar extended term; and

**WHEREAS**, the First Amendment includes updated insurance provisions to comply with the City's current standards and is in the process of being reviewed by the District's risk management; and

**WHEREAS**, minor changes may be necessary as a result of the District's review.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council authorizes the Mayor to execute the attached First Amendment to Lease Agreement between the City and the College District, in a final form to be approved by the City Attorney and Interim City Manager.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 16<sup>th</sup> day of July, 2014, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK  
CITY OF MARTINEZ

**ATTACHMENT A**

**FIRST AMENDMENT TO LEASE AGREEMENT**

This First Amendment to Lease Agreement (“First Amendment”) is made and entered into effective on the 1st day of July, 2014, by and between the City of Martinez (“City”) and the Contra Costa Community College District (“District”).

WHEREAS, the parties entered into a Lease Agreement dated as of the 1<sup>st</sup> day of July 2004 (“Lease Agreement”); and

WHEREAS, the term of the Lease Agreement was previously extended for a period ending on June 30, 2014; and

WHEREAS, the parties desire to extend the term of the Lease Agreement for an additional period of five (5) years with provisions for possible further extensions; and

WHEREAS, the parties desire to clarify the location of the leased property by substituting new depictions of the leased property as Exhibits “A” and “B”; and

WHEREAS, the parties wish to further amend the Lease Agreement as set forth herein.

NOW THEREFORE, it is mutually agreed as follows:

1. Section 3.A. of the Lease Agreement is hereby amended to read as follows:

A. The term of this Lease shall be five (5) years commencing on July 1, 2014, and ending five (5) years from that date unless further extended as set forth in subsection B, below.

2. Section 9 of the Lease Agreement is hereby amended to read as follows:

9, **Insurance.**

For the mutual benefit of the parties the City and District shall each procure and maintain for the term of the lease insurance against claims to persons or damages to property which may arise from or in connection with the each party’s operation and use of the property each party is leasing from the other party. If the parties, or either of them, belong to an insurance pool and receive insurance coverage through that pool, such insurance shall be deemed to comply with this section, provided that the limits and terms of the insurance provided through the insurance pool satisfy the requirements of this section.

A. **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than two million dollars (\$2,000,000.00) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the property each party is leasing from the other party or the general aggregate limit shall be twice the required occurrence limit.
2. **Worker’s Compensation** insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limits of no less than one million dollars (\$1,000,000.00) per accident for bodily injury or disease for all employees and volunteers of the City or District respectively.
3. **Property Insurance** against all risks of loss to any tenant improvement or betterments at the property that each party is leasing from the other party, at full replacement costs with no coinsurance penalty provision.

If the City or District maintains higher limits than the minimums shown above, the parties shall be entitled to coverage for the higher limits maintained. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City and District respectively.

## **B. ENDORSEMENTS**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured.** The other party and its officials, officers, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the insured party including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Lessee’s insurance at least as broad as ISO Form CG 20 10.
2. **Primary Coverage.** For any claims related to this Lease, the insurance coverage of the party leasing the property from the other party shall be primary insurance as respects the party leasing the property to the other party and their respective officers, officials, employees, agents and volunteers. Any insurance or self insurance maintained by the City or District or their

respective officers, officials, employees volunteers or agents shall be excess of the party leasing the property from the other party's insurance and shall not contribute with it.

**Waiver of Subrogation.** With respect to the coverages herein described as they relate to claims arising from the leases of the property from one party to the other, the parties hereby grant to each other a waiver of any right to subrogation which any insurer of said party, including but not limited to CGL and Worker's Compensation, may acquire against each other by virtue of the payment of any loss under such insurance. Each party shall obtain and provide to the other endorsements to affect this waiver of subrogation, but this provisions applies regardless of whether or not the City or District has received a waiver of subrogation endorsement from the insurer.

**Verification of Coverage.** Each party shall furnish the other party with original certificates and amendatory endorsements or copies of the applicable policy language providing the insurance coverage required above. All certificates and endorsements are to be received and approved by the City or District respectively before occupancy and before any work upon the property being leased to the other party commences. However, failure to obtain the required documents prior to occupancy or commencement of work shall not waive the party's obligation to provide them. The parties reserve the right to require completed, certified copies of all required insurance policies, enclosing endorsements, required by this section at any time.

**Special Risks or Circumstances.** The parties reserve the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

3. A new Section 21 is hereby added to the Lease Agreement to read as follows:

21,     **Hazardous Materials**

City and District will not use, generate, store or dispose of any Hazardous Material on, under, about or within the property leased to it in violation of any law or regulation and each party shall indemnify and hold harmless the other party, its officers, agents and employees from and against any and all losses, liabilities, claims and/or costs and expenses (including, without limitation, any fines, penalties, judgments, litigation costs, attorneys' fees, and consulting, engineering and construction costs) arising from or as a result of a breach of this warranty and representation or as a result of the disposal, storage, generation or release on the property at any time during the term of this Lease of any Hazardous Materials, except to the extent caused by the gross negligence or willful misconduct of the other party, other party's sublessee, if any, regardless of whether such liability, cost or expense arises during or after the term of this Lease.

**DRAFT**

Should any discharge, leakage, spillage, emission, or pollution of any type occur upon or from the leased property due to a party’s use and occupancy thereof, such party at its expense, shall clean all property affected thereby to the reasonable satisfaction of the other party and to the level required by any applicable statute, ordinance, regulation or any governmental body having jurisdiction thereover.

As used in this paragraph, “Hazardous Material” shall mean any substance, chemical or waste that is identified as hazardous material, hazardous substance, hazardous waste or toxic substance in any federal, state or local law or regulation.

The indemnifications provided pursuant to this Section 21 shall survive the termination of this Lease.

- 4. Exhibits “A” and “B” attached hereto shall replace Exhibits “A” and “B” attached to the Lease Agreement.
- 5. The properties have not undergone inspection by a Certified Access Specialist (CASp).
- 6. This First Amendment to Lease Agreement may be signed in counterparts.
- 7. No other modification. Except as modified herein, all of the terms and conditions set forth in the Lease Agreement shall remain in full force and effect. This First Amendment to Lease Agreement shall become part of and be integrated into the Lease Agreement.

In WITNESS WHEREOF, this First Amendment to Lease Agreement has been signed and executed in duplicate on behalf of the parties hereto by persons duly authorized on the day and year first written above.

**District**

**City**

By: \_\_\_\_\_  
Chancellor

By: \_\_\_\_\_  
Mayor

ATTEST: Secretary of the Board

ATTEST: City Clerk

\_\_\_\_\_  
Secretary of the Board

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

APPROVED AS TO FORM

Atkinson Andelson Loya Ruud & Romo

By: \_\_\_\_\_

By: \_\_\_\_\_  
City Attorney

DRAFT

**DRAFT**

Exhibit A - pending

DRAFT

Exhibit B - pending

DRAFT

RESOLUTION NO. -14

**AUTHORIZING THE MAYOR TO EXECUTE A FIRST AMENDMENT TO SUBLEASE AGREEMENT WITH THE MARTINEZ HISTORICAL SOCIETY FOR USE OF THE PROPERTY AT 1005 ESCOBAR STREET AS THE MARTINEZ MUSEUM AND A FIRST AMENDMENT TO CONSENT TO SUBLEASE WITH THE CONTRA COSTA COMMUNITY COLLEGE DISTRICT AND MARTINEZ HISTORICAL SOCIETY FOR SAME**

**WHEREAS**, the City of Martinez has leased for many years the property at 1005 Escobar Street ("Museum Site") from the Contra Costa Community College District ("District") via a Lease Agreement ("Lease"); and

**WHEREAS**, the City has in turn subleased said Museum Site to the Martinez Historical Society ("Historical Society") for use as the Martinez Museum via a Sublease Agreement ("Sublease"); and

**WHEREAS**, the Lease and Sublease expired on June 30, 2014, and are currently on a month-to-month arrangement; and

**WHEREAS**, the City and College District desire to extend the existing term for a period of 5 years and amend certain other provisions of the Lease via a First Amendment to Lease Agreement, the full execution of which is a condition precedent to the execution of a First Amendment to Sublease Agreement between the City and Historical Society, a draft of which is attached hereto as Attachment B; and

**WHEREAS**, because both the First Amendment to Lease Agreement and the First Amendment to Sublease Agreement include updated insurance provisions to comply with the City's current standards and are in the process of being reviewed by the District's risk management, minor changes may be necessary as a result of the District's review; and

**WHEREAS**, the District is amenable to the City continuing to sublease the Museum Site to the Historical Society, provided that the City and the Historical Society acknowledge the terms under which said sublease may occur via a First Amendment to Consent to Sublease provided by the District, attached hereto as Attachment C.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council authorizes the Mayor to execute the attached First Amendment to Sublease Agreement between the City and the Historical Society, in a final form to be approved by the City Attorney and Interim City Manager, and the First Amendment to Consent to Sublease between the City, the District, and the Historical Society.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 16<sup>th</sup> day of July, 2014, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK  
CITY OF MARTINEZ

**ATTACHMENT B  
DRAFT**

**FIRST AMENDMENT TO SUBLEASE AGREEMENT**

**[MARTINEZ HISTORICAL SOCIETY]**

THIS FIRST AMENDMENT TO THE SUBLEASE AGREEMENT (“First Amendment”) is entered into as of July 1, 2014 (“Effective Date”), by and between the City of Martinez, a municipal corporation (“City”), and the Martinez Historical Society Corporation (“Lessee”).

**RECITALS**

WHEREAS, the City entered into that certain Lease Agreement, by and between the City as Master Lessee and the Contra Costa Community College District as master lessor (“District”), on July 1, 2004 (“Master Lease”), whereby City leased the real property located at 1005 Escobar Street, Martinez, CA, as more particularly described in Exhibit A to the Master Lease (“Premises”); and

WHEREAS, by exercise of the option set forth in paragraph 3. B. of the Master Lease, City did extend the Term of the Master Lease to June 30, 2014; and

WHEREAS, by execution of the First Amendment to Lease Agreement by and between City and District effective as of July 1, 2014, (“First Amendment to Lease”) the City and District did extend the Term of the Master Lease to June 30, 2019 and did additionally approve certain other amendments to the Master Lease; and

WHEREAS, the City and Lessee did enter into that certain Sub Lease Agreement dated September 15, 2010 (“Sublease Agreement”) whereby the City did sublease to Lessee the Premises, subject to the terms and conditions of the Master Lease; and

WHEREAS, the City, Lessee and District did enter into a Consent to Sublease Agreement dated October 14, 2010 whereby the parties did consent to the Sublease Agreement; and

WHEREAS, City and Lessee wish to enter into this First Amendment to Sublease Agreement to amend the provisions of the Sublease Agreement to be consistent with the provisions of the First Amendment to Lease and to comply with the City’s current insurance requirements.

NOW THEREFORE, it is mutually agreed as follows:

## AGREEMENT

I. The Sublease Agreement is amended as follows:

A. Paragraph 10 of the Sublease Agreement is amended to read as follows:

10. HAZARDOUS MATERIAL. Lessee agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Premises in violation of any law or regulation and Lessee shall indemnify and hold harmless City and District, their respective officials, officers, agents and employees from and against any and all losses, liabilities, claims, litigations costs and expenses (including without limitation, any fines, penalties, judgments, litigation costs, attorneys' fees, and consulting, engineering and construction costs) arising from or as a result of a breach of this warranty and representation or as a result of the disposal, storage, generation, or release on the Premises, at any time during the Term of this Sublease of any Hazardous Materials, except to the extent caused by the gross negligence or willful misconduct of the City or District regardless of whether such liability, cost or expense, arises during or after the Sublease Term. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the Premises and/or the, due to Lessee's use and occupancy thereof, Lessee, at Lessee's sole cost and expense, shall clean all property affected thereby to the reasonable satisfaction of City and District, and to the level required by any applicable statute, ordinance, regulation or any governmental body having jurisdiction thereover.

As used in this paragraph, "Hazardous Material" shall mean any substance, chemical, or waste that is identified as hazardous, material, hazardous substance, hazardous waste, or toxic substance in any federal, state or local law or regulation. Lessee acknowledges that Lessee is not looking to or relying upon City or District to disclose any matters which City or District might be required to disclose under California Health and Safety Code Section 25359.7 and that all such matters have been investigated by Lessee to Lessee's satisfaction. In this regard, Lessee specifically waives any and all rights it may have pursuant to the provisions of California Health and Safety Code Section 25359.7.

The indemnifications provided pursuant to this Section 10 shall survive termination of this Sublease.

B. Paragraph 11 of the Sublease Agreement is hereby amended to read as follows:

11. INDEMNIFICATION AND HOLD HARMLESS. Lessee covenants and agrees to indemnify, release, defend and hold harmless, the City, the District and their

respective officials, officers, employees, agents and volunteers from and against any and all liability, loss, damage, expense, costs claims, demands or any cause of action whatsoever (including, without limitation, costs and fees of litigation), by any person, including Lessee, for injury, death, or property damage, in any way arising out of, connected or relating to the use, maintenance or operation of the subleased Premises, or the acts, errors or omissions of Lessee relating to the performance of Lessee pursuant to this Sublease and regardless of the concurrent negligence of another, including City or District.

C. Paragraph 12 of the Sublease Agreement is hereby amended to read as follows:

12. INSURANCE. Lessee shall procure and maintain for the Term of the Sublease insurance against claims to persons or damages to property which may arise from or in connection with the Lessee's operation and use of the Premises. The cost of such insurance shall be borne by Lessee.

**A. MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than two million dollars (\$2,000,000.00) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the Premises or the general aggregate limit shall be twice the required occurrence limit.
2. **Worker's Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than one million dollars (\$1,000,000.00) per accident for bodily injury or disease for all employees and volunteers of Lessee.
3. **Property Insurance** against all risks of loss to any tenant improvement or betterments, at full replacement costs with no coinsurance penalty provision.

If the Lessee maintains higher limits than the minimums shown above, the City and District require and shall be entitled to coverage for the higher limits maintained. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City and District.

## **B. ENDORSEMENTS**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured.** The City, the District and their respective officials, officers, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Lessee including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Lessee's insurance at least as broad as ISO Form CG 20 10.
2. **Primary Coverage.** For any claims related to this Sublease, the Lessee's insurance coverage shall be primary insurance as respects the City, the District and their respective officers, officials, employees, agents and volunteers. Any insurance or self insurance maintained by the City or District or their respective officers, officials, employees volunteers or agents shall be excess of the Lessee's insurance and shall not contribute with it.

**Waiver of Subrogation.** Lessee hereby grants to City and District a waiver of any right to subrogation which any insurer of said Lessee, including but not limited to CGL and Worker's Compensation, may acquire against City or District by virtue of the payment of any loss under such insurance. Lessee shall obtain and provide to City and District endorsements to affect this waiver of subrogation, but this provisions applies regardless of whether or not the City or District has received a waiver of subrogation endorsement from the insurer.

**Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to City and District.

**Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the City and District. At the option of the City or District, either: the Lessee shall obtain coverage to reduce or eliminate such deductibles or self insured retentions as respects the City, District or their respective officials, officers, employees, volunteers and agents; or the Lessee shall provide a financial guarantee satisfactory to the City and District guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

**Verification of Coverage.** Lessee shall furnish the City and District with original certificates and amendatory endorsements or copies of the applicable policy language providing the insurance coverage required above. All certificates and endorsements are to be received and approved by the City and District before occupancy and before any work upon the Premises commences. However, failure to obtain the required documents prior to occupancy or commencement of work shall not waive the Lessee's obligation to provide them. The City reserves the right to require completed, certified copies of all required insurance policies, enclosing endorsements, required by this section at any time.

**Special Risks or Circumstances.** City reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

D. Paragraph 25 is hereby added to the Sublease Agreement to read as follows:

25. Access. Lessee understands and acknowledges that the Premises have not undergone inspection by a Certified Access Specialist (CASp) and that neither the City nor District makes any representation or warranty as to the compliance of the Premises with any federal or state law relating to access for persons with disabilities and Lessee waives any claims it may now or hereafter have relating to same and agrees to indemnify, defend and hold harmless City and District in accordance with the provisions of paragraph 11 hereof relating to claims by any third parties or Lessee relating thereto.

E. Exhibit A and Exhibit B attached hereto shall replace Exhibits A and B attached to the Sublease.

II. Except as specifically modified herein, all of the terms and conditions set forth in the Sublease shall remain in full force and effect. This First Amendment to Sublease shall become part of and be integrated into the Sublease Agreement.

III. This First Amendment to Sublease Agreement may be executed in counterparts.

IN WITNESS WHEREOF the parties hereto affix their signatures, as of the date first hereinabove written.

CITY OF MARTINEZ

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: City Clerk

By: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
City Attorney

LESSEE:

The Martinez Historical Society

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_

## ATTACHMENT C

### FIRST AMENDMENT TO CONSENT TO SUBLEASE

This First Amendment to Consent to Sublease is made and entered into effective on the 1st day of July, 2014, by and between the Contra Costa Community College District, a public school district of the state of California (“District or Lessor”) and City of Martinez, a municipal corporation (“City or Lessee”) and Martinez Historical Society, a California corporation (“Martinez Historical Society” or “Sub-Lessee”).

WHEREAS, the City and District are parties to that certain Lease Agreement dated July 1, 2004, (“Lease Agreement”) with respect to certain real property leased by District to City commonly known as the Museum Site located at 1005 Escobar Street, Martinez, California, as more particularly described in Exhibit A to the Lease Agreement (“Museum Site”); and

WHEREAS, by exercise of the option set forth in paragraph 3. B. of the Lease Agreement, City did extend the Term of the Lease Agreement to June 30, 2014; and

WHEREAS, by execution of the First Amendment to Lease Agreement by and between City and District effective as of July 1, 2014, (“First Amendment to Lease”) the City and District did extend the Term of the Lease Agreement to June 30, 2019 and did additionally approve certain other amendments to the Lease Agreement; and

WHEREAS, the City and Sub-Lessee did enter into that certain Sublease Agreement dated September 15, 2010 (“Sublease Agreement”) whereby the City did sublease to Sub-Lessee the Museum Site, subject to the terms and conditions of the Lease Agreement; and

WHEREAS, the City, Lessee and District did enter into a Consent to Sublease Agreement dated October 14, 2010 which permitted the sub-leasing of the Museum Site to the Sub-Lessee; and

WHEREAS, City and Sub-Lessee wish to enter into a First Amendment to Sublease Agreement to amend the provisions of the Sublease Agreement to be consistent with the provisions of the First Amendment to Lease and to comply with the City’s current insurance requirements.

WHEREAS, the parties desire to provide for the Lessor’s consent to continued subleasing to the Martinez Historical Society pursuant to the Lease Agreement, as amended.

NOW THEREFORE, it is mutually agreed as follows:

1. Execution of the First Amendment to Lease Agreement by the Lessor and Lessee extending the term of the Lease Agreement is a condition precedent to the approval of this First Amendment to Consent to Sublease. If the First Amendment to Lease Agreement is not fully executed, this First Amendment to Consent to Sublease shall be null and void.

2. Lessor consents to Lessee's subletting to the Martinez Historical Society during the term of the Lease Agreement, upon amendment thereof, effective July 1, 2014.
3. The Sub-lease Agreement between the City and the Martinez Historical Society which is set forth in Exhibit 1 to the Consent to Sublease and incorporated therein by reference shall be amended as set forth in the First Amendment to Sublease Agreement \_attached hereto as Exhibit 1 and incorporated herein by reference.
4. This First Amendment to Consent to Sublease may be signed in counterparts.
5. No Other Modification. Except as modified herein, all of the terms and conditions set forth in the Consent to Sublease shall remain in full force and effect. This First Amendment to Consent to Sublease shall become part of and be integrated into the Consent to Sublease.

IN WITNESS WHEREOF, this First Amendment to Consent to Sublease has been signed and executed in duplicate on behalf of the parties hereto by persons duly authorized on the day and year first written above.

**LESSOR:**  
CONTRA COSTA COMMUNITY COLLEGE  
DISTRICT

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**LESSEE:**  
CITY OF MARTINEZ

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Mayor

ATTEST: City Clerk

\_\_\_\_\_

**ACKNOWLEDGMENT**

State of \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public





**SUB-LEASE AGREEMENT**

1. PARTIES AND DATE. Effective 9/15, 2010, the City of Martinez, a municipal corporation, hereinafter referred to as "Lessor," or "City," and the Martinez Historical Society Corporation, hereinafter referred to as "Lessee," mutually agree and promise as set forth herein.
2. DESCRIPTION AND PURPOSE. The Lessor desires to sublease the real property located at 1005 Escobar Street, Martinez, California, hereinafter referred to as "Premises," constituting one building as depicted in Exhibit "A" attached hereto and incorporated herein by reference, to Lessee for the purposes of operating the Martinez Museum.
3. SUB-LEASE. The Premises are subject to that certain Lease Agreement between the Contra Costa Community College District ("District") as Master Lessor and the City of Martinez as Master Lessee dated July 1, 2004 (attached hereto as Exhibit B and incorporated herein by reference as "Master Lease"). Lessor agrees to sublease and Lessee agrees to sublease the Premises under the following terms and conditions consistent with the Master Lease. Lessee shall be responsible for performing all acts and covenants required of City pursuant to the Master Lease with respect to the Premises/museum site.
4. TERM. The Term of this sublease is effective immediately upon execution, and will expire upon expiration of the Master Lease, unless earlier terminated in accordance with the terms hereof. It is understood by Lessee and Lessor that the terms of this sublease are subordinate to the terms of the Master Lease and as such, this sublease is subject to the approval of the District.
5. RENT. In consideration of this sublease, the Lessee shall pay annually to the Lessor one dollar (\$1), payable each January 1 in advance.
6. TERMINATION. Lessor or Lessee may terminate this sublease for any or no reason during its term by giving the other party one hundred eighty (180) days prior written notice of its intention to so terminate. In the event District notifies Lessor of its intention to terminate the Master Lease, Lessor will provide Lessee written notice within 30 days of Lessor's receiving written notice from the District of its intention to so terminate and thereafter this sublease will terminate on the date of termination of the Master Lease.
7. USE OF PREMISES. The subleased Premises shall be used during the term of this sublease exclusively for educational, cultural, or historical museum purposes. No activities shall be conducted on the Premises by the Lessee that would in any way classify any participant therein as a student or pupil of the Lessor. No adult school activities pursuant to Education Code Section 52500 et seq. shall be conducted by the Lessee on the subleased Premises. Lessee shall not use or permit the subleased Premises to be used in whole or in part during the term of this sublease for any purpose other than as hereinabove set forth, nor for any use in violation of any present or future laws, ordinances, general rules or regulations at any time applicable thereto of any public or governmental authority relating to sanitation or the public health, safety or welfare.

Lessee shall at all times faithfully obey and comply with all laws, rules and regulations applicable thereto adopted by federal, state, local or other governmental bodies or departments or officers thereof.

8. ALTERATIONS, IMPROVEMENTS, FIXTURES AND SIGNS. Lessee shall not make any alterations, additions to, or improvement of the Premises, including the installation of fixtures, equipment, or signs in or upon the Premises, without the prior written consent of the Lessor and the District. If consent is granted, any such alteration or installation, including the cost of obtaining all necessary permits, shall be at Lessee's sole cost and expense. Antique elements attached to the Premises by the Lessee are the property of the Lessee. If the Lessee elects to remove or is directed by Lessor or the District to remove such elements, Lessor or the District may require Lessee to replace them with useable, new, modern substitutes made with new materials which meet minimum District standards. Lessee, prior to the expiration or termination of this sublease, shall restore the Premises to a safe, clean and usable condition, in good order and repair, reasonable wear and tear excepted, if so requested by the Lessor or District.

9. ASSIGNMENT AND SUBLETTING. Lessee shall not and cannot assign, let or sublet the Premises for any purpose whatsoever without obtaining the prior written consent of Lessor and District, which Lessor consent may be withheld for any reason or no reason whatsoever.

10. HAZARDOUS MATERIAL. Lessee agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Premises and/or the Parking Area in violation of any law or regulation and Lessee shall indemnify and hold harmless Lessor and District, its officers, agents and employees from and against any and all losses, liabilities, claims and/or costs and expenses (including, without limitation, any fines, penalties, judgments, litigation costs, attorneys' fees, and consulting, engineering and construction costs) arising from or as a result of a breach of this warranty and representation or as a result of the, disposal, storage, generation or release on the Premises and/or Parking Area at any time during the term of this Lease of any Hazardous Materials, except to the extent caused by the gross negligence or willful misconduct of Lessor, District, any Lessor indemnitee, or any District indemnitee, regardless of whether such liability, cost or expense arises during or after the Lease Term. Should any discharge, leakage, spillage, emission, or pollution of any type occur upon or from the Premises and/or the Parking Area due to Lessee's use and occupancy thereof, Lessee, at Lessee's expense, shall clean all property affected thereby to the to the reasonable satisfaction of Lessor and District and to the level required by any applicable statute, ordinance, regulation or any governmental body having jurisdiction thereover.

As used in this paragraph, "Hazardous Material" shall mean any substance, chemical or waste that is identified as hazardous material, hazardous substance, hazardous waste or toxic substance in any federal, state or local law or regulation. Lessee acknowledges that Lessee is not looking to or relying upon Lessor or District to disclose any matters which Lessor or District might be required to disclose under California Health and Safety Code Section 25359.7 and that all such matters have been investigated by Lessee to Lessee's satisfaction. In this regard, Lessee specifically waives any and all rights it may have pursuant to the provisions of California Health and Safety Code Section 25359.7.

The indemnifications provided pursuant to this Section 10 shall survive the termination of this Sublease.

11. INDEMNIFICATION AND HOLD HARMLESS. Lessee covenants and agrees to defend, release, indemnify, and hold harmless the Lessor and its officers and employees, in their capacities as such, from all liabilities, claims, demands, or causes of action by any person, including Lessee, for injury, death, or property damage, in any way arising from or connected with the use, maintenance or operation of the subleased Premises and regardless of the concurrent negligence of another, including Lessor.

12. INSURANCE. Lessee agrees to procure and maintain, at its own cost and at all times during the Term of this sublease, public liability insurance and property liability insurance in the amount of two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury, and property damage. The liability insurance policy shall be with insurers possessing a Best's rating of no less than A:VII and shall be endorsed with the following specific language:

- a. The City of Martinez, its elected or appointed officers, officials, employees, agents and volunteers, are to be covered as additional insureds with respect to liability arising out of the Martinez Historical Society's use of the Premises located at 1005 Escobar Street, Martinez, CA, 94553.
- b. The District, its elected or appointed officers, officials, employees, agents and volunteers, are to be covered as additional insureds with respect to liability arising out of the Martinez Historical Society's use of the Premises located at 1005 Escobar Street, Martinez, CA, 94553.

Lessee is solely responsible for insurance coverage of objects stored or displayed within the subleased Premises.

13. UTILITY SERVICES. Lessee shall pay all telephone costs or expenses.

14. TAXES. Execution of this sublease may create a possessory interest in Lessee subject to taxation. Lessee shall promptly and timely pay all taxes and assessments which may be levied or assessed upon any interest or property in the ownership of the Lessee.

15. GARDENING AND GROUNDS SERVICES. Lessee shall at all times maintain the grounds of the subleased Premises in a neat and clean appearance and condition.

16. JANITORIAL SERVICES. During the Term of this sublease, the Lessee shall continuously maintain the Premises, at its own cost, in a good, clean and orderly condition, and shall make and pay for all repairs, including repair of minor defects and dilapidations, necessary to protect any and all rights of Lessor.

17. INSPECTION. The Lessor or its agents shall at any and all times have the right to enter upon and inspect the demised Premises to protect any and all rights of Lessor.

18. WASTE AND QUIET CONDUCT. Lessee shall not commit, or suffer to be committed, any waste upon said Premises, or any nuisance which may disturb the quiet enjoyment or use of the surrounding property.

19. DESTRUCTION OF PREMISES. If the Premises or any essential part thereof is destroyed by fire, act of God, or other casualty, this sublease shall, in the case of partial destruction or damage which prevents the occupancy of the Premises by the Lessee, terminate at the option of the Lessee or Lessor, upon one party giving written notice to the other. In the event of any destruction or damage whatsoever, Lessor has no duty to repair or restore the Premises for use by the Lessee during the remaining term of this sublease. In the event of partial destruction of the Premises, Lessee shall have the option to rebuild or refurbish the Premises at their expense or with any funds available through insurance coverage. In the event Lessee exercises this right to rebuild or refurbish, it shall notify the Lessor in writing within thirty (30) days from the date of the loss, and the Lessee shall then have a reasonable period of time depending on the nature and extent of the damage in which to complete said repairs.

20. DEFAULT. If Lessee defaults in performing any promise or condition herein (or in the Master Lease), Lessor may at its option immediately cancel this sublease and terminate all Lessee's rights hereunder, and Lessee shall immediately and peaceably surrender the Premises to Lessor. No waiver of default in any of the terms, covenants, or conditions in this sublease shall be a waiver of any subsequent default of the same or any other terms, covenants, or conditions herein contained. Lessee is obligated to fulfill all obligations of City and terms and condition of the Master Lease and to the extent that the provisions of the sublease are inconsistent with the Master Lease, the more restrictive to the Lessee shall control.

21. SURRENDER OF PREMISES. On the last day of the term, or upon sooner termination of this sublease, Lessee shall peaceably and quietly leave, surrender and yield up to the Lessor the Premises with all structures, appurtenances, property, and fixtures in good order, condition, and repair, excepting reasonable use and wear thereof. Except as is otherwise provided in Section 8, Lessee shall, prior to the expiration or termination of this sublease, remove as its personal property any fixtures or signs installed hereunder and restore the Premises to a safe, clean and usable condition, in good order and repair, reasonable wear and tear excepted.

22. TIME OF THE ESSENCE. It is understood and agreed that time is of the essence of this sublease and of each and every term, covenant, and condition thereof.

23. NOTICES. Any and all notices desired or required to be given to the Lessor by the terms of this sublease shall be given in writing addressed to the Lessor at 525 Henrietta Street, Martinez, California 94553. Any and all notices desired or required to be given to Lessee by the terms of this sublease shall be given in writing addressed to the Lessee, c/o Martinez Historical Society, 1005 Escobar Street, Martinez, CA 94553.

24. COSTS AND ATTORNEY FEES. In the event any legal action or proceeding is necessary on behalf of the parties to this sublease agreement, all costs and attorneys' fees as awarded by the Court in connection therewith shall be paid by the losing party to the prevailing party.

IN WITNESS WHEREOF the parties hereto have subscribed their names, the day and year first hereinabove written.

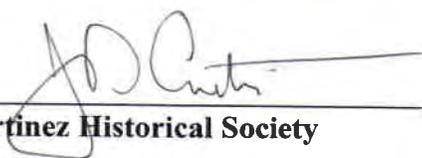
**LESSOR**

**LESSEE**

City of Martinez

By:

  
\_\_\_\_\_  
Mayor, City of Martinez

  
\_\_\_\_\_  
Martinez Historical Society

Date:

11-15-10

Date:

12 Nov 2010

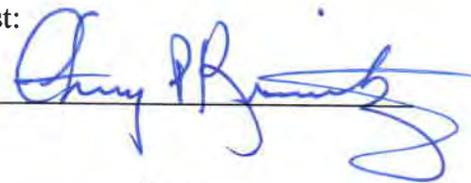
Attest: City Clerk

By:

  
\_\_\_\_\_  
City Clerk

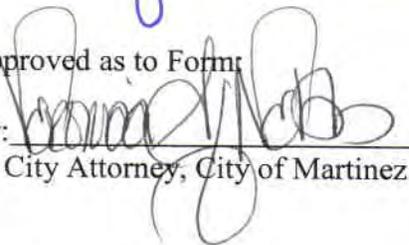
Attest:

By:

  
\_\_\_\_\_  
Attestor

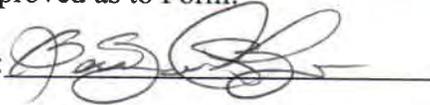
Approved as to Form:

By:

  
\_\_\_\_\_  
City Attorney, City of Martinez

Approved as to Form:

By:

  
\_\_\_\_\_  
Attestor

Attachments:

Exhibit A: Diagram of 1005 Escobar Street

Exhibit B: City Lease of 1005 Escobar Street from Contra Costa Community College District

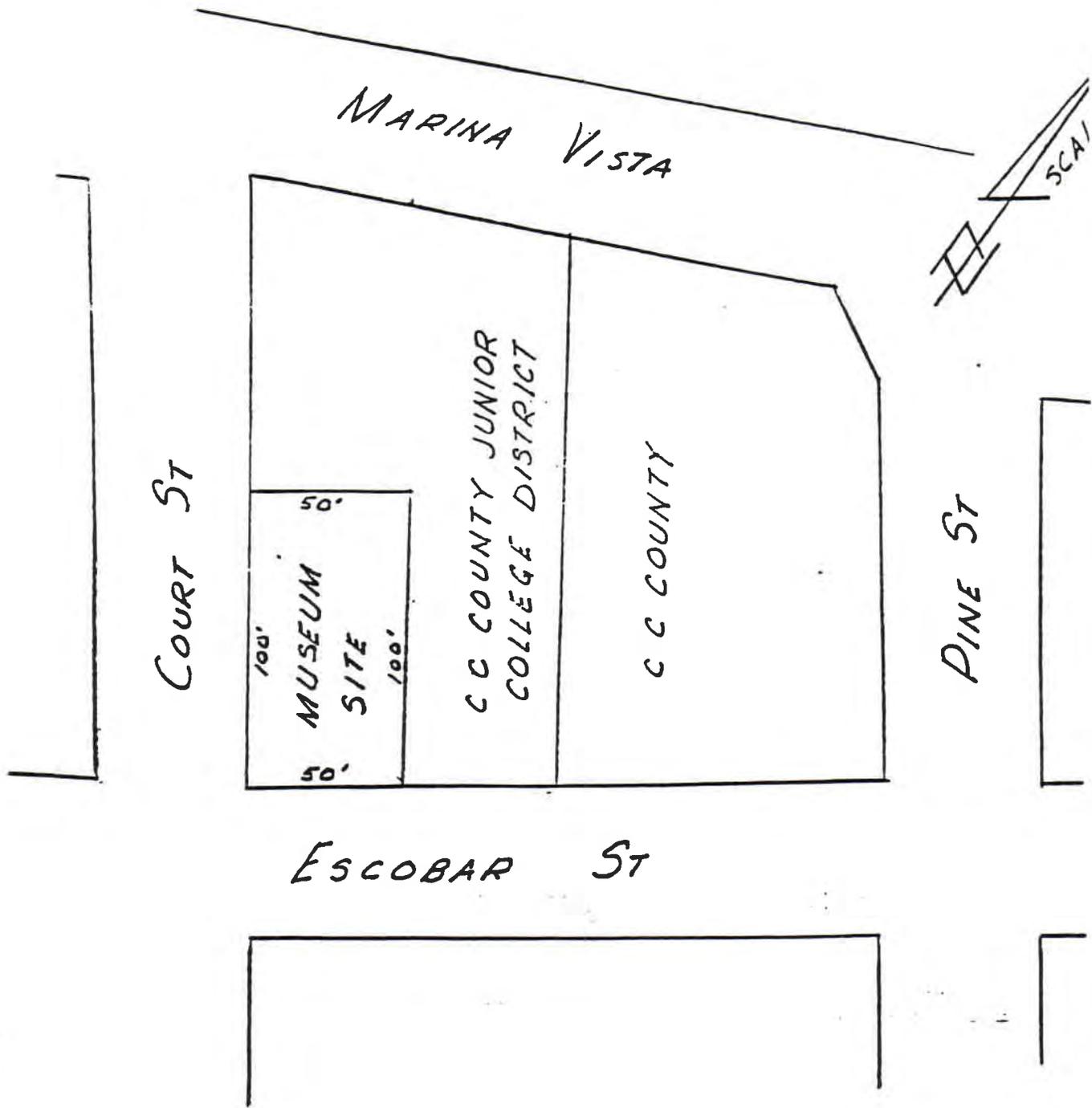


EXHIBIT "A"

## LEASE AGREEMENT

This Lease Agreement is made and entered into this 1<sup>st</sup> day of July, 2004, by and between the City of Martinez ("City") and the Contra Costa Community College District ("District").

WHEREAS, the District is the owner of certain real property, consisting of one building, known as the Museum Site, located at 1005 Escobar Street, City of Martinez as depicted on Exhibit A, which is attached hereto and incorporated herein; and

WHEREAS, the District is also the owner of a parking lot located east of Court Street and north and east of the Museum Site depicted on Exhibit A, which is attached hereto and incorporated herein; and

WHEREAS, the City is the owner of a parking lot located north of Marina Vista in the City of Martinez as depicted on Exhibit B, which is attached hereto and incorporated herein; and

WHEREAS, the District desires to lease to the City the Museum Site building and the parking lot depicted on Exhibit A; and

WHEREAS, in consideration of the District leasing such property to the City, the City desires to lease to the District the parking lot depicted on Exhibit B; and

WHEREAS, the purpose of this Lease Agreement is to specify the terms and conditions applicable to the District's lease of the property depicted as Exhibits A to the City and the City's lease of the property depicted as Exhibit B to the District.

NOW, THEREFORE, THE CITY AND THE DISTRICT DO HEREBY AGREE AS FOLLOWS.

### 1. Property

A. District does hereby lease to the City the Museum Site building and the parking lot depicted on Exhibit A.

B. City does hereby lease to the District the City owned parking lot depicted on Exhibit B.

### 2. Rent

The City and the District agree that the lease of the property each party is leasing from the other party represents the sole and complete consideration due and owing under this Lease Agreement. The City shall not owe the District, and the District shall not owe the City, any additional monetary or other consideration under the terms of this Lease Agreement for the lease of the property subject to this Lease Agreement.

**FILE COPY**

### **3. Term**

A. The term of this Lease shall be five (5) years commencing on July 1, 2004, and ending five (5) years from that date.

B. Either the City or the District may extend this Lease for an additional five (5) year period by providing a written request to the other party at least sixty (60) days prior to the expiration of the first five (5) year period. If one party desires to extend the lease, but the other party does not desire to extend the lease, then the party desiring to extend the Lease shall enter into good faith negotiations with the other party to establish a fair market rent for the leased property. If the parties agree on a fair market rent amount, then this Lease shall be extended for an additional five (5) year period under the same terms and conditions contained herein except that the rental amount shall be the fair market rent agreed to by the parties. If the parties, each exercising good faith, are unable to agree on a fair market rent amount, this Lease Agreement shall terminate at the conclusion of the five (5) year lease term.

C. Either the City or the District may terminate this Lease Agreement prior to the expiration of its term by providing the other party a 180 day written notice of its intention to so terminate the Lease Agreement. If the City or the District desire to retain the property leased by it during the remainder of the lease term, that party shall provide written notice to the other within 60 days of the termination date specified in the notice of termination. If the parties can negotiate a fair market rent for the property to be retained, this Lease Agreement shall be modified to reflect the terms and conditions, including rent, applicable to the leased property at issue. If the parties are not able to negotiate a fair market rent, then the City shall surrender to the District the property leased by the City under the terms of this Lease Agreement, and the District shall surrender to the City the property leased by the District under the terms of this Lease Agreement, by the termination date referenced in the 180 day termination notice.

### **4. Use of the Leased Property**

A. During the term of this Lease Agreement, including any extension thereof, the District shall use the property leased from the City for parking purposes only, consistent with its operations as a community college district. If the District desires to use the property for any other purpose, and such use would require a ministerial or discretionary permit from the City if such use was contemplated by a private party, the District shall be obligated to obtain such a permit before the District may commence such use. The District agrees and understands that the City makes no representations that such permit will be issued or approved by the City. The District agrees and understands that such permit will be evaluated by the City in accordance with the rules and regulations applicable to such permit and the permit shall be either approved or denied in conformance with those rules and regulations.

B. During the term of this Lease Agreement, including any extension thereof, the City shall use the property leased from the District exclusively for

educational, cultural or any other valid municipal purpose. The City, however, shall not conduct any adult public school activities pursuant to Education Code Section 52500 et seq. on the leased property.

C. During the term of this Lease Agreement, including any extension thereof, the City and the District agree that its use of the leased property shall conform to the reasonable rules and regulations of the party which owns the property and the City and the District agree that the use of the leased property shall comply with all laws, rules and regulations applicable thereto adopted by federal, state, local, or other governmental bodies or departments.

#### **5. Assignment and Subletting**

Neither the City nor the District may assign, let or sublet the property leased by the City or the District pursuant to this Lease Agreement for any purpose whatsoever without first obtaining the prior written consent of the owner of the leased property.

#### **6. Maintenance and Repairs**

A. The District accepts the property leased from the City pursuant to this Lease Agreement in its present condition and stipulates that the property is in good, clean and tenantable condition as of the date of this Lease Agreement. The District shall be responsible for maintaining the leased property in good order and repair and in a safe and clean condition. Such obligation shall extend to the grounds of the leased property which shall be maintained by the District. The District shall return the leased property to the City at the end of the lease term including any extension thereof in as safe and clean a condition as the leased property was when received by the District, reasonable wear and tear excepted.

B. The City accepts the property leased from the District pursuant to this Lease Agreement in its present condition and stipulates that the property is in good, clean and tenantable condition as of the date of this Lease Agreement. The City shall be responsible for maintaining the leased property in good order and repair and in a safe and clean condition. Such obligation shall extend to the buildings and grounds of the leased property which shall be maintained by the City. The City shall return the leased property to the District at the end of the lease term; including any extension thereof in as safe and clean a condition as the leased property was when received by the City, reasonable wear and tear excepted.

#### **7. Alterations, Repairs and Improvements**

A. Neither the District nor the City shall perform any alteration, addition or improvement to the property leased by the District or the City, including the installation of fixtures, equipments or signs in or upon the leased property, without the

written consent of the owner of that property. If the owner of the property consents to the performance of any alteration, addition or improvement to the leased property, the tenant of the leased property shall be responsible for obtaining all necessary permits for the alteration, addition and improvement, and shall be responsible for the full cost and expense associated with the alteration, addition and improvement.

B. Any alteration, addition, or improvement made to the leased property by the District or the City, after consent has been given by the owner of the property, and any fixtures installed as part of the construction, shall at the property owner's option become the property of the property owner on the expiration or earlier termination of this Lease Agreement; provided however, that the property owner shall have the right to require the lessee of the property to restore the property to its original condition prior to the installation of any authorized alterations, repairs or improvements. Such restoration shall be completed prior to the expiration of the lease term or any extension thereof.

C. The City agrees that it will install, at City expense, a sign on the City-owned parking lot depicted on Exhibit B, which is being leased to the District pursuant to this Lease Agreement. The sign shall indicate that parking is restricted for the College District from 6:00 a.m. to 6:00 p.m., Mondays through Fridays.

## **8. Indemnification and Hold Harmless**

A. The District shall indemnify, release and hold the City harmless from, and defend the City, its officers, officials, employees and agents from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) due to injury, including death, to any person, or loss or damage (including loss of use) to any property, caused by the acts or omissions, negligence, gross negligence, or willful misconduct of the District, its employees or agents, in connection with its performance under this lease relating to the property the District is hereby leasing from the City under the terms of this Lease Agreement, including its failure to comply with any of its obligations contained in this Lease Agreement, except for any loss or damage or portion of loss or damage that is caused by the gross negligence, intentional or willful acts of the City or the City's agents.

B. The City shall indemnify, release and hold the District harmless from, and defend the District, its officers, officials, employees and agents from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) due to injury, including death, to any person, or loss or damage (including loss of use) to any property, caused by the acts or omissions, negligence, gross negligence, or willful misconduct of the City, its employees or agents, in connection with its performance under this lease relating to the property the City is hereby leasing from the District under the terms of this Lease Agreement, including its failure to comply with any of its obligations contained in this Lease Agreement, except for any loss or damage or portion of loss or damage that is caused by the gross negligence, intentional or willful acts of the District or the District's agents.

## 9. Insurance

A. For the mutual benefit of the City and the District, the District shall maintain public liability insurance in the amount of \$1 million for injury to or death to persons or property insuring the District against liability for injury and/or death occurring in or on the property leased by the District from the City pursuant to this Lease Agreement. The City shall be named as an additional insured and the policy shall be primary and shall be endorsed to provide that other insurance maintained by the City shall not be called upon to contribute to a loss covered by said policy. The policy shall also be endorsed to state that the City shall be notified at least 30 days prior to any proposed cancellation or change in the policy. The District shall pay all premiums for this insurance. Evidence of insurance, including evidence of all endorsements required herein, shall be delivered to the City prior to the commencement of this lease. If the District belongs to an insurance pool and receives its insurance coverage through that pool, such insurance shall be deemed to comply with this provision provided that the limits and terms of the insurance provided through the insurance pool satisfy the requirements of this section.

B. The District shall during the entire term of this Lease Agreement maintain, at District's sole cost, property damage insurance against loss to District's personal property, including trade fixtures and District equipment that may be on or in the property leased by the District from the City pursuant to the terms of the Lease Agreement.

C. For the mutual benefit of the City and the District, the City shall maintain public liability insurance in the amount of \$1 million for injury to or death to persons or property insuring the City against liability for injury and/or death occurring in or on the property leased by the City from the District pursuant to this Lease Agreement. The District shall be named as an additional insured and the policy shall be primary and shall be endorsed to provide that other insurance maintained by the District shall not be called upon to contribute to a loss covered by said policy. The policy shall also be endorsed to state that the District shall be notified at least 30 days prior to any proposed cancellation or change in the policy. The City shall pay all premiums for this insurance. Evidence of insurance, including evidence of all endorsements required herein, shall be delivered to the District prior to the commencement of this lease. If the City belongs to an insurance pool and receives its insurance coverage through that pool, such insurance shall be deemed to comply with this provision provided that the limits and terms of the insurance provided through the insurance pool satisfy the requirements of this section.

D. The City shall during the entire term of this Lease Agreement maintain, at City's sole cost, property damage insurance against loss to the structure in favor of the district and City's personal property, including trade fixtures and City equipment that may be on or in the property leased by the City from the District pursuant to the terms of the Lease Agreement.

## 10. Utility Services

The City and the District shall each pay all gas, water, telephone, trash removal costs, electricity, and all other utility costs or expenses resulting from the use of the premises leased by the City or the District under the terms of this Lease Agreement.

#### **11. Taxes**

The respective lessee acknowledge that under the State of California Revenue and Taxation Code Section 107.6, a possessory interest subject to property taxation may be created whenever public property is leased or subleased to a private party, and that the private party in whom the possessory interest is vested may be subject to the payment of property taxes levied on that interest.

#### **12. Inspection**

The City or the District, as the owner of the property leased to the other pursuant to this Lease Agreement, shall have the right to enter upon and inspect the leased property upon reasonable notice in order to protect any and all rights of the property owner.

#### **13. Waste and Quiet Conduct**

Neither the City nor the District, as the lessee of property leased under the terms of this Lease Agreement, shall commit, or suffer to be committed, any waste upon the rented property, or commit any nuisance or other act or thing which may disturb the quiet enjoyment of use of the property surrounding the rented property.

#### **14. Destruction of Premises**

A. If the premises leased by the City or the District pursuant to this Lease Agreement are destroyed or substantially destroyed by fire, an act of God, or other casualty, and such destruction is not the fault of the lessee, then the District and the City shall have sixty (60) days to determine whether they can negotiate a new agreement for the remaining property subject to this Lease Agreement. If the City and the District are not able to reach agreement for the lease of the remaining property within this 60 day period, then this Lease Agreement shall terminate and all of the leased property subject to this Lease Agreement shall be restored to the owner of that property.

B. If the premises leased by the City or the District pursuant to this Lease Agreement are partially destroyed by fire, an act or God, or other casualty, and such destruction is not the fault of the lessee, either the tenant or the owner of the partially destroyed premises may serve on the other a sixty (60) day notice of its intention to terminate this Lease Agreement. Within this 60 day period, the District and the City shall determine whether they can negotiate a new agreement for the remaining property subject to this Lease Agreement. If the City and the District are not able to reach agreement for the lease of the remaining property within this 60 day period, then this Lease Agreement

shall terminate and all of the leased property subject to this Lease Agreement shall be restored to the owner of that property.

C. In the case of either the total or partial destruction of the leased property pursuant to paragraphs A and B above, the owner of that property shall have no duty to repair or restore the property for use by the lessee of that property during the remaining term of this Lease Agreement. The lessee, however, shall have the option to rebuild or refurbish the property at the lessee's sole expense with either its own funds or any funds it may be entitled to through its own insurance coverage. If the lessee exercises this option to rebuild or refurbish the property in accordance with this paragraph, the lessee shall give the property owner notice of its intention within thirty (30) days from the date of the loss, and the lessee shall then have a reasonable period of time depending on the nature and extent of the damage in which to complete said repairs. All of the other terms of this Lease Agreement shall remain in full force and effect.

#### **15. Default**

If the City or the District, as lessees under the terms of this Lease Agreement, defaults in performing any promise or condition of this Lease Agreement, the owner of that property may, at its option, immediately cancel and terminate this Lease Agreement. The City and the District shall then restore to the other the property leased by it under the terms of this Lease Agreement. No waiver or default in any of the terms, covenants, or conditions of this Lease Agreement shall constitute a waiver of the same or any subsequent default of the same or any other terms, covenants, or conditions herein contained.

#### **16. Surrender of Premises**

On the last day of the term of this Lease Agreement, including any extensions thereof, or upon sooner termination of this Lease Agreement, the District and the City shall peaceably and quietly surrender and yield up to the owner of the leased property the property leased by the City or the District, together with all structures, appurtenances, property and fixtures, in good order, condition and repair, reasonable wear and tear excepted. The leasing party may, prior to the expiration or termination of this Lease Agreement, remove as its personal property any fixtures or signs installed by that party provided that such fixtures or signs can be removed without damaging the leased property. However, any alterations, additions, fixtures or signs which cannot be removed without damaging the leased property shall become the property of the owner of the leased property at no cost to that property owner although the property owner shall retain the right to require the lessee to restore the property in conformance with Section 7 of this Lease Agreement.

#### **17. Notices**

Notices given under the terms of this lease must be in writing and shall be deemed properly served if such notice is hand delivered or mailed by certified mail.

return receipt requested, addressed to the other party at the following address, or such other address as either party may, from time to time, designate in writing:

**City:** City Manager  
525 Henrietta Street  
Martinez, CA. 94553

**District:** Chancellor  
Contra Costa College Community College District  
500 Court Street  
Martinez, CA. 94553

Notice mailed in accordance with the provisions hereof shall be deemed to have been given as of the date of hand delivery or the third business day following the date of such mailing, whichever is earlier.

#### **18. Attorney's Fees**

In the event any legal action is necessary on behalf of the parties to this Lease Agreement, the party prevailing in that litigation shall be entitled, in addition to any other relief granted, to a reasonable sum as and for attorney fees in the litigation which shall be determined by the court or by the parties to that litigation.

#### **19. Entire Agreement**

This Lease Agreement contains the sole and only agreement of the parties. Any prior agreements, promises, negotiations or representations not expressly set forth in this Lease Agreement are of no force or effect.

#### **20. Amendment**

This Lease Agreement shall not be amended, except through a writing signed by the parties. Any amendment or addendum to this Lease Agreement shall expressly refer to this lease.

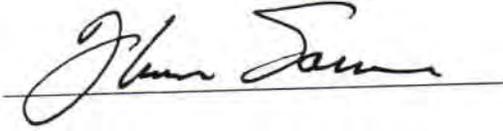
**IN WITNESS WHEREOF**, the parties hereto have affixed their signatures below:

District



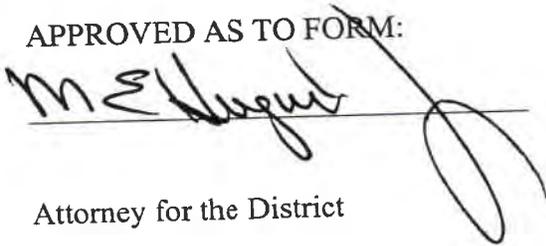
Chancellor

ATTEST: Secretary of the Board



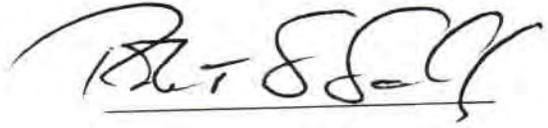
Secretary of the Board

APPROVED AS TO FORM:



Attorney for the District

City



Mayor

ATTEST: City Clerk



City Clerk

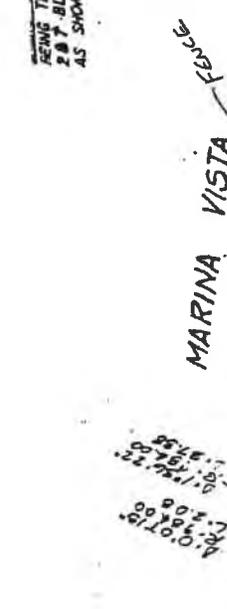
APPROVED AS TO FORM:



City Attorney

REVIEW  
 BLOCK 1 ADDITIONAL SURVEY - MARTINEZ, BOOK D PAGE  
 CITY OF MARTINEZ, CONTRA COSTA COUNTY, CALIF.  
 VINCENT H. CUNHA LS. 4520, SCALE 1"=20', JUNE 1989

BEING THE WESTERLY LINE OF LOTS  
 8 & 7 BLOCK 1, TAKEN AS N 86° 10' 00" W  
 AS SHOWN ON 35 LSM 20.



**SURVEYOR'S CERTIFICATE**  
 THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME  
 OR UNDER MY DIRECTION IN CONFORMANCE WITH THE  
 REQUIREMENTS OF THE LAND SURVEYORS ACT AT THE  
 REQUEST OF CONTRA COSTA COUNTY  
 JUNE 1989

*Vincent H. Cunha*  
 VINCENT H. CUNHA, L.S.

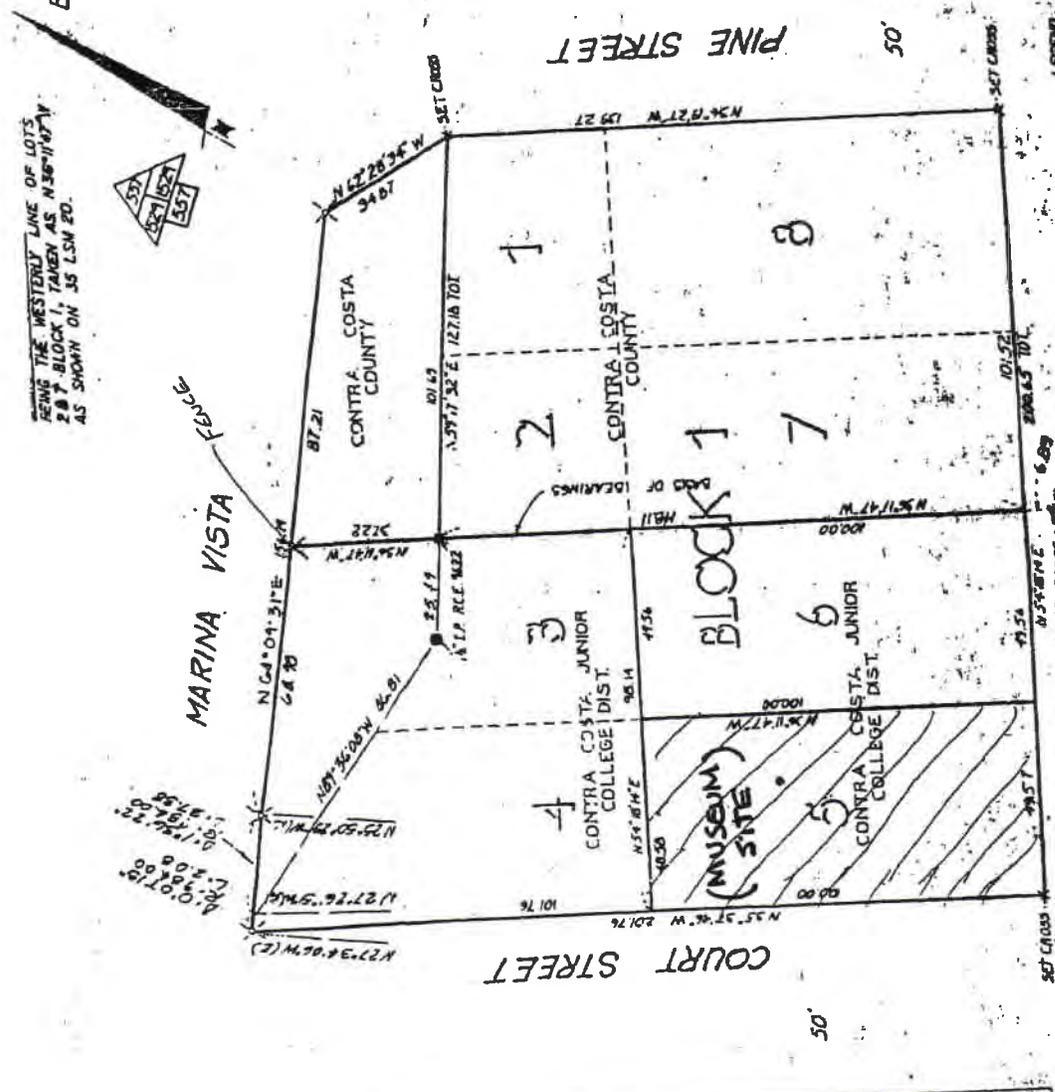
**COUNTY SURVEYORS CERTIFICATE**  
 THIS MAP HAS BEEN EXAMINED FOR CONFORMITY  
 WITH THE REQUIREMENTS OF THE LAND SURVEYORS  
 ACT AT THE REQUEST OF CONTRA COSTA COUNTY  
 THIS 15th DAY OF AUGUST, 1989.

J. MICHAEL WALFORD  
 ROAD COMMISSIONER - SURVEYOR

BY *R. H. Fournier*  
 DEPUTY ROAD COMMISSIONER - SURVEYOR

RECORDED'S CERTIFICATE  
 I HAVE FILED THIS MAP THIS DAY OF AUGUST, 1989, AT THE  
 COUNTY CLERK'S OFFICE OF CONTRA COSTA COUNTY,  
 AT THE REQUEST OF  
 VINCENT H. CUNHA, L.S.

*[Signature]*  
 COUNTY CLERK



LEGEND  
 O WITH NUMBER AS NOTED  
 X WITH OR SET CROSS AS NOTED  
 X SET NAIL AND TAG, S & 4020

BIYVALE PAVING  
4/16/11

DETAIL 3

PLAZA PAVING  
DETAIL 4

PLAZA PAVING  
DETAIL 5

PLANTER CURB  
DETAIL 6-12

SIDEWALK PAV.  
DETAIL 1-11

MARINA VISTA

60' SIDEWALK

CONVERT EXISTING SIDEWALK

PER SIDEWALK

\* SIGNAGE TO  
CLEARLY INDICATE  
RESTRICTED COLLEGE  
DISTRICT PARKING  
6 AM - 6 PM M-F

PREFERRED  
PLAN  
APPROVED

WIMMS A. BRETHER  
8/5/03  
VICE CHAIRMAN, FACULTY & OPERATIONS  
ASSISTANT SECRETARY GOVERNING BOARD

EXHIBIT B

