



CITY OF MARTINEZ

CITY COUNCIL
July 16, 2014

TO: Mayor and City Council
FROM: Michael Chandler, Senior Management Analyst
SUBJECT: Lease and Sublease Amendments and Budget Transfer for 636 Ward Street – Campbell Theater
DATE: July 9, 2014

RECOMMENDATION:

Based upon the direction given by the City Council to staff at the July 2, 2014 City Council meeting, adopt the following resolutions:

- A. Approving a First Amendment to Commercial Lease Agreement with the Bart and Jane Bisio Revocable Trust (“Bisio Trust”) for use of the Premises located at 636 Ward Street and authorizing the Interim City Manager to execute same, and amend the FY 2014-15 Budget with a budget transfer from Unassigned Fund Balance in the amount of \$27,822.
- B. Approving a First Amendment to Commercial Sublease Agreement with Onstage Repertory Theater (“Onstage”) for use of the Premises located at 636 Ward Street and authorizing the Interim City Manager to execute same.

BACKGROUND

The Campbell Theater, located at 636 Ward Street, is an approximately 5,700 square foot, two-story building on a lot of approximately 10,000 square feet with 12 parking spaces (collectively, the “Premises”). The City of Martinez began leasing the property from the Bisio Trust in January 2005, with the current term expiring on December 31, 2014. The City sublet the property to the Onstage Repertory Theater (“Onstage”) on October 17, 2013, with the sublease running concurrent with the master lease with Bisio and therefore also expiring on December 31, 2014.

City staff recently began informal discussions with the Bisio Trust and Onstage regarding the City’s future use of the Campbell Theater beyond the end of the master lease and sublease terms. Onstage has expressed its desire to be a long-term tenant of the City and submitted a recap and proposal to that effect dated June 5, 2014 (attached as Exhibit A). Representatives for the Bisio Trust indicated a willingness to entertain possibilities for a longer term arrangement with the City.

Both the Bisio Trust and Onstage were amenable to a six-month extension of the existing agreements to June 30, 2015, in order to afford the City additional time to consider and decide whether pursuing a long-term option was feasible. Such an arrangement would allow Onstage to accommodate booking requests for the first half of 2015 (some of which have already been received). The Bisio Trust has confirmed the City’s rent would remain fixed at the current rate of \$4,637 per month during the extension period.

The City Council received an update on the lease and sublease options for the Premises at the July 2, 2014 Council meeting. At that meeting, Council directed staff to bring before Council for consideration at the July 16, 2014 meeting amendments authorizing 6-month extensions to the City's lease and sublease agreements with the Bisio Trust and Onstage Repertory Theater, respectively, for use of the Premises located at 636 Ward Street. The Council also directed staff to amend the FY 2014-15 Budget with a budget transfer from Unassigned Fund Balance in the amount of \$27,822 to cover the additional expense related to the City's rental obligations under its lease with the Bisio Trust.

Onstage offered to establish a minimum rent per month to the City of \$300 and that provision has been included within the attached First Amendment to Commercial Sublease Agreement.

FISCAL IMPACT:

By extending its existing lease with the Bisio Trust for a period of six months (to June 30, 2015), the City will be obligated to pay an additional \$27,822 in rent (\$4,637 per month x 6 months). Onstage's new minimum monthly rent amount of \$300 will equate to a minimum of \$1,800 in revenue to offset the additional expense, resulting in a net cost to the General Fund of \$26,022.

ACTION:

Motion to adopt the following:

- A. Resolution approving a First Amendment to Commercial Lease Agreement with the Bart and Jane Bisio Revocable Trust ("Bisio Trust") for use of the Premises located at 636 Ward Street and authorizing the Interim City Manager to execute same, and amend the FY 2014-15 Budget with a budget transfer from Unassigned Fund Balance in the amount of \$27,822.
- B. Resolution approving a First Amendment to Commercial Sublease Agreement with Onstage Repertory Theater ("Onstage") for use of the Premises located at 636 Ward Street and authorizing the Interim City Manager to execute same.

Attachments:

Resolution A

Attachment A – First Amendment to Commercial Lease Agreement (Bisio Trust)

Resolution B

Attachment B – First Amendment to Commercial Sublease Agreement (Onstage Repertory Theater)

APPROVED BY:


Interim City Manager

RESOLUTION NO. -14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARTINEZ APPROVING A FIRST AMENDMENT TO COMMERCIAL LEASE AGREEMENT WITH JABA, LCC("BISIO TRUST") FOR USE OF THE PREMISES LOCATED AT 636 WARD STREET AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE SAME, AND AMEND THE FY 2014-15 BUDGET WITH A BUDGET TRANSFER FROM UNASSIGNED FUND BALANCE IN THE AMOUNT OF \$27,822

WHEREAS, the City of Martinez ("City") entered into a lease on January 1, 2005 ("Master Lease") for a building of approximately 5,700 square feet ("Campbell Theater") on a lot of approximately 10,000 square feet with 12 parking spaces located at 636 Ward Street (collectively, the "Premises") from the Bart and Jane Bisio Revocable Trust, and the successor, JaBa, LCC ("Lessor"); and

WHEREAS, the term of the Master Lease expires on December 31, 2014; and

WHEREAS, the City entered into a sublease agreement ("Sublease") with Onstage Repertory Theater ("Onstage") on October 17, 2013, for a term to run concurrent with the Master Lease; and

WHEREAS, the City has made a significant commitment over the past 10 years to support a performing arts theater available to the public at the Premises; and

WHEREAS, the City desires to extend the Master Lease and Sublease for an additional 6 months in order to continue providing a performing arts theater available to the public at the Premises and afford the City additional time to consider its long-term options for use of the Premises; and

WHEREAS, the City and Lessor have reached terms and desire to enter into a First Amendment to Commercial Lease Agreement for the Premises, attached hereto as Attachment A; and

WHEREAS, a budget adjustment in the amount of \$27,822 is needed to account for the additional rental expense obligation created through this First Amendment to Lease.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Martinez hereby approves a First Amendment to Commercial Lease Agreement with JaBa, LCC for use of the Premises located at 636 Ward Street in the form substantially as set forth in Attachment A, attached hereto and as approved by the Lessor and further authorizes the Interim City Manager to execute same.

BE IT FURTHER RESOLVED that the City Council adopts the revision to the Fiscal Year 2014-15 Budget as provided for herein.

* * * * *

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 16th day of July, 2014, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

ATTACHMENT A

FIRST AMENDMENT TO COMMERCIAL LEASE (Between JaBa, LCC, Lessor and the City of Martinez, Lessee)

This First Amendment to Commercial Lease is made effective as of January 1, 2015, by and between the successor Lessor, JaBa, LCC (“Lessor”), and the City of Martinez, a municipal corporation (“Lessee”).

RECITALS

- A. **WHEREAS**, Lessor and Lessee entered into that certain Commercial Lease dated as of January 1, 2005 (“Commercial Lease”) whereby Lessee did lease from Lessor that certain parcel of real property commonly known as 636 Ward Street, Martinez, CA , as more particularly described in Exhibit A, attached to said Commercial Lease and incorporated therein by reference (the “Premises”); and
- B. **WHEREAS**, the pursuant to Section 3.1 of Said Commercial Lease, the Term thereof was to expire on December 31, 2009; and
- C. **WHEREAS**, by letter dated June 17, 2009, Lessee did, pursuant to section 3.2 of said Commercial Lease, exercise an option to extend said Commercial Lease for an additional five (5) years, extending the Term of said Commercial Lease to December 31, 2014; and
- D. **WHEREAS**, Lessor and Lessee desire to extend the Commercial Lease for an additional six (6) month period to June 30, 2015, in order to afford the parties an opportunity to explore possibilities for a longer term arrangement.

NOW THEREFORE, in consideration of the mutual promises and conditions as set forth herein, Lessor and Lessee agree as follows:

1. Section 3.2 of the Commercial Lease is hereby added to read as follows:

3.2 SECOND OPTION TO EXTEND

Lessor grants to Lessee the right and option to extend the term of this Lease for an additional six (6) month period, commencing on January 1, 2015 and ending June 30, 2015, (herein the Second Option Period”) subject to all of the provisions of this Lease. This option to extend shall be considered exercised upon Lessee’s execution of this First Amendment to Commercial Lease.

2. Section 6 (c) of the Commercial Lease is hereby added to read as follows:

(c) **Monthly Rent During the Second Option Period.** Lessee shall pay to Lessor as monthly rent, without deduction, setoff, prior notice or demand, the sum of Four Thousand Six Hundred Thirty Seven Dollars (\$4,637.00) per month for each month of the Second Option Period, said payment of rent to be made as set forth in the Commercial Lease.

3. Except as set forth in this First Amendment to Commercial Lease, the terms and conditions of the Commercial Lease shall remain in full force and effect.

LESSOR:

LESSEE:

JABA, LCC

CITY OF MARTINEZ

BY: JANE L. BISIO, TRUSTEE

ANNA GWYN R. SIMPSON
INTERIM CITY MANAGER

DATE: _____

DATE: _____

BY: PAMELA BISIO DESPRES, TRUSTEE

ATTEST:

CITY CLERK

DATE: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

JONATHAN DANIEL ADAMS,
Attorney for Lessor

CITY ATTORNEY

RESOLUTION NO. -14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARTINEZ
APPROVING A FIRST AMENDMENT TO COMMERCIAL SUBLEASE AGREEMENT
WITH ONSTAGE REPERTORY THEATER ("ONSTAGE") FOR USE OF THE
PREMISES LOCATED AT 636 WARD STREET AND AUTHORIZING THE
INTERIM CITY MANAGER TO EXECUTE SAME

WHEREAS, the City of Martinez ("City") entered into a lease on January 1, 2005 ("Master Lease") for a building of approximately 5,700 square feet ("Campbell Theater") on a lot of approximately 10,000 square feet with 12 parking spaces located at 636 Ward Street (collectively, the "Premises") from the Bart and Jane Bisio Revocable Trust ("Lessor"); and

WHEREAS, the term of the Master Lease expires on December 31, 2014; and

WHEREAS, the City entered into a sublease agreement ("Sublease") with Onstage Repertory Theater ("Onstage") on October 17, 2013, for a term to run concurrent with the Master Lease; and

WHEREAS, the City has made a significant commitment over the past 10 years to support a performing arts theater available to the public at the Premises; and

WHEREAS, the City desires to extend the Master Lease and the Sublease for an additional 6 months' time in order to continue providing a performing arts theater available to the public at the Premises and afford the City additional time to consider its long-term options for use of the Premises; and

WHEREAS, the City and Lessor have reached terms and desire to enter into a First Amendment to Commercial Lease Agreement for the Premises, adopted by separate action of the City Council; and

WHEREAS, the City and Onstage have reached terms and desire to enter into a First Amendment to Commercial Sublease Agreement for the Premises, attached hereto as Attachment B; and

WHEREAS, the City has shared a copy of said First Amendment to Commercial Sublease Agreement with Lessor as required under the Master Lease, and the Lessor has given consent to same.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Martinez hereby approves the First Amendment to Commercial Sublease Agreement with Onstage Repertory Theater for use of the Premises located at 636 Ward Street, in the form substantially as set forth in Attachment B, attached hereto and as approved by the Lessor, and further authorizes the City Manager to execute same.

* * * * *

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 16th day of July, 2014, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

FIRST AMENDMENT TO COMMERCIAL SUBLEASE AGREEMENT
(Onstage Repertory Theater)

This First Amendment to Commercial Sublease is made effective as of January 1, 2015, by and between the City of Martinez, a municipal corporation (“City”), and the Onstage Repertory Theater, a non-profit Corporation (“Onstage”).

RECITALS

- A. **WHEREAS**, City entered into that certain Commercial Lease by and between Bart A. Bisio and Jane L. Bisio, Trustees of the Bart and Jane Bisio Revocable Trust (“Lessor”) dated as of January 1, 2005 (“Master Lease”) whereby City did lease from Lessor that certain parcel of real property commonly known as 636 Ward Street, Martinez, CA , as more particularly described in Exhibit A, attached to said Commercial Lease and incorporated therein by reference (the “Premises”); and
- B. **WHEREAS**, the pursuant to Section 3.1 of Said Commercial Lease, the Term thereof was to expire on December 31, 2009; and
- C. **WHEREAS**, by letter dated June 17, 2009, City did, pursuant to section 3.2 of said Commercial Lease, exercise the option to extend said Commercial Lease for an additional five (5) years, extending the Term of said Commercial Lease to December 31, 2014; and
- D. **WHEREAS**, on October 17, 2013, City, with the consent of Lessor, did enter into a Commercial Sublease Agreement with Onstage Repertory Theater (“Onstage”), whereby Onstage subleased from City the Premises (“Commercial Sublease”); and
- E. **WHEREAS**, Lessor and City did extend the term of the Commercial Lease for an additional six (6) month period to June 30, 2015, by execution of the First Amendment to Commercial Lease, between City and Lessor effective as of January 1, 2015 (“First Amendment to Commercial Lease”), in order to afford the parties an opportunity to explore possibilities for a longer term arrangement by Lessee; and
- F. **WHEREAS**, City and Onstage desire to enter into this First Amendment to Commercial Sublease Agreement to extend the Term of the Commercial Sublease to be concurrent with the extended Term of the Commercial Lease, to provide for a minimum monthly rent to be paid by Onstage to City, and to amend certain other provisions of the Commercial Sublease.

NOW THEREFORE, in consideration of the mutual promises and conditions as set forth herein, City and Onstage agree as follows:

1. Section 2 of the Commercial Sublease is hereby amended to read as follows:

2. Term

The Term of this Agreement shall be for the period commencing on October 17, 2013, and ending on December 31, 2014, unless sooner terminated in accordance with this Agreement. In the event that the Term of the Master Lease is extended to June 30, 2015 in accordance with the First Amendment to Commercial Lease, the Term of this Agreement shall likewise be extended to June 30, 2015.

2. Section 3 of the Commercial Lease is hereby amended to add subsection C. to read as follows:

C. Notwithstanding subsections 3. A. and 3. B. above, Onstage shall pay to City a minimum monthly rent of Three Hundred Dollars (\$300.00) per month.

3. Except as amended as set forth in this First Amendment to Commercial Sublease, the terms and conditions of the Commercial Sublease shall remain in full force and effect.

ONSTAGE:

CITY:

ONSTAGE REPERTORY THEATER

CITY OF MARTINEZ

BY: MARK G. HINDS, MANAGING DIRECTOR

ANNA GWYN R. SIMPSON
INTERIM CITY MANAGER

DATE: _____

DATE: _____

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

APPROVED AS TO FORM:

ATTORNEY FOR ONSTAGE

CITY ATTORNEY