



To: Mayor and City Council
From: Michael Chandler, Assistant to the City Manager
Subject: NorCal Courts First Amendment to Lease
Date: September 15, 2016

Recommendation

Resolution authorizing the City Manager to execute a First Amendment to Lease with NorCal Courts, LLC, to allow bocce as a permitted use within the leased real property located at 360 Ferry Street in Martinez, and finding that such action is categorically exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301.

Background

The City acquired in November 2007 two parcels totaling 6.3 acres and consisting of various buildings and surrounding parking just north of the downtown Intermodal Facility/train station, with funding from local, regional, and state transportation agencies. The funding for this acquisition was part of the long term, multi-phase plan for the Intermodal Facility to provide additional Amtrak overflow parking on the site, and a pedestrian bridge connecting the new parking lot to the Intermodal Facility/train station. The site is commonly known as the “Zocchi property.”

The Planning Commission held a public hearing on October 25, 2012, to recommend adoption of a mitigated negative declaration to the City Council for the lease and reuse of the 330 and 360 Ferry Street properties within the Zocchi property as indoor sports facilities. The Commission also approved “indoor field and court sports facilities” as permitted uses within the Light Industrial District on which the Zocchi property is located, and found these additional uses consistent with the General Plan.

The Martinez City Council authorized the City Manager via Resolution No. 110-11 adopted on November 16, 2011, to execute a Lease Agreement with NorCal Courts, LLC (“NorCal”) to allow for the adaptive reuse of the building located at 360 Ferry Street and approximately 30,000 square feet in size (“Premises”). A copy of the resolution is attached as Exhibit A. Consistent with the Planning Commission’s approval, the permitted use of the Premises was, “for the operation of an indoor sports court facility, consisting of 5 basketball courts or 6 volleyball courts or any combination thereof” as well as incidental office and snack bar support for the defined indoor sports uses. Any uses beyond those expressed in the lease would require issuance of a *temporary use permit*. A copy of the Lease is attached as Exhibit B.

Since neither the Planning Commission's definition of "indoor field and court sports facility" nor the lease with the City specifically addressed "Bocce" as a possible use, NorCal submitted its formal request to the City on September 18, 2015, for a one year *temporary use permit* (as required by the current lease for any use beyond those expressed) to allow up to 8 temporary bocce courts in the unused western end of the Premises. NorCal's proposal to support bocce included building up a non-structural floor, adding light fixtures, exit signs, and any required fire sprinklers and ADA improvements. NorCal also indicated in its request that assuming indoor bocce was successful, it would later request a formal amendment to its lease with the City to allow for this use on a permanent basis. NorCal's request for bocce was subsequently heard and approved – without any opposition – by the Zoning Administrator at a hearing on September 30, 2015. A copy of the Zoning Administrator's approval letter dated October 1, 2015, is attached as Exhibit C.

NorCal submitted a letter to City staff on July 18, 2016, indicating bocce at the Premises had been successful, with 70 teams and approximately 450 individuals for league play. While not envisioned in 2011 when the lease was drafted, the allowance for bocce courts is consistent with the Planning Commission's interpretation of the Indoor Sports Court Facility as a permitted use class within the subject Light Industrial Zoning District. With the lease's requirement for a *temporary use permit* having been successfully completed with no negative feedback from facility users, NorCal formally requested the City amend the Lease to allow bocce as a permitted use. A copy of the letter is attached as Exhibit C. Subsequent to submitting the letter, NorCal staff informed the City that almost 200 individuals had already registered for the upcoming indoor bocce season, which starts October 31st.

The attached First Amendment to Lease ("First Amendment") includes among the permitted uses up to 8 bocce courts. Additionally, the First Amendment removes the requirement of a Temporary Use Permit for any additional uses and instead stipulates that the City's written consent is required to grant such uses (which must also be in compliance with all applicable federal, state and City laws, rules and regulations). The reasons for this modification include: 1) the lease itself actually needs to memorialize the uses permitted under the lease, and 2) not all future uses that might be contemplated would be appropriate for a temporary use permit, as a different land use permit might be required by the code or a particular use might not be allowed at all.

Environmental Determination

Staff recommends that the proposed first amendment to lease be found categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities), in that the modification of use that is the subject of the First Amendment to Lease is essentially replacing a use (basketball or volleyball court activities) that would otherwise be occurring in the facility and therefore does not constitute an expansion of use beyond that already occurring or authorized to occur in an existing facility, within the meaning of CEQA Guidelines Section 15301.

Fiscal Impact

None.

Attachments:

- #1, Resolution
- #2, First Amendment to Lease
- #3, Exhibit A – Resolution No. 110-11
- #4, Exhibit B – Lease for 360 Ferry Street
- #5, Exhibit C – Zoning Administrator approval 10/1/15
- #6, Exhibit D – NorCal Bocce Letter 7/18/16

APPROVED BY:



Brad Kilger, City Manager

RESOLUTION NO. – 16

AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO LEASE WITH NORCAL COURTS, LLC, TO ALLOW BOCCE AS A PERMITTED USE WITHIN THE LEASED REAL PROPERTY LOCATED AT 360 FERRY STREET, AND FINDING THAT SUCH ACTION IS CATEGORICALLY EXEMPT FROM THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTION 15301

WHEREAS, the City selected NorCal Courts (“NorCal”) as the developer for the building located at 360 Ferry Street (“the Premises”) and entered into a lease with NorCal for the Premises on November 17, 2011 (“Lease”) for the purposes of improving and converting the Premises into an indoor sports complex; and

WHEREAS, the list of permitted uses authorized under the Lease included 5 basketball courts or 6 volleyball courts or any combination thereof; and

WHEREAS, NorCal submitted a request to City on September 18, 2015, to allow temporary use of an unused portion of the Premises for up to 8 bocce courts for a period of one year; and

WHEREAS, said request was considered and approved at a Zoning Administrator hearing on September 30, 2015; and

WHEREAS, due to the success of indoor bocce at the Premises, NorCal has formally requested amending the Lease to authorize up to 8 bocce courts as a permitted use under the Lease; and

WHEREAS, the parties have agreed to amend the Lease to allow for indoor bocce as requested by NorCal, and to allow for approval of additional uses upon the written consent of the City.

NOW, THEREFORE, BE IT RESOLVED the City Council finds that such action is categorically exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301, in that the modification of use that is the subject of the First Amendment to Lease is essentially replacing a use (basketball or volleyball court activities) that would otherwise be occurring in the facility and therefore does not constitute an expansion of use beyond that already occurring or authorized to occur in an existing facility, within the meaning of CEQA Guidelines Section 15301.

BE IT FURTHER RESOLVED the City Council authorizes the City Manager to execute a First Amendment to Lease with NorCal Courts, LLC, as set forth in the form attached to this resolution.

* * * * *

I HEREBY CERTIFY 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 21st day of September, 2016, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

FIRST AMENDMENT TO LEASE

This First Amendment to Lease is made effective as of _____, 2016, by and between the City of Martinez, a municipal corporation ("City") and NorCal Courts, LLC ("Lessee").

RECITALS

- A. **WHEREAS**, the City and Lessee entered into a lease for certain real property at 360 Ferry Street on November 17, 2011 ("Lease"), to allow Lessee use of the approximately 30,000 square foot facility ("Premises") for purposes of improving and converting the Premises into an indoor sports court complex; and
- B. **WHEREAS**, the list of permitted uses authorized under the Lease included 5 basketball courts or 6 volleyball courts or any combination thereof; and
- C. **WHEREAS**, Lessee submitted a request to City on September 18, 2015, to allow temporary use of an unused portion of the Premises for up to 8 bocce courts for a period of one year; and
- D. **WHEREAS**, said request was considered and approved at a Zoning Administrator hearing on September 30, 2015; and
- E. **WHEREAS**, due to the success of indoor bocce at the Premises, Lessee has formally requested amending the Lease to authorize up to 8 bocce courts as a permitted use under the Lease; and
- F. **WHEREAS**, the parties have agreed to amend the Lease to allow for indoor bocce as requested by Lessee.

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

1. The first sentence of Section 4 of the Lease ("Use") is hereby amended to read as follows:

The Premises are to be used as an indoor sports court facility, consisting of up to 5 basketball or 6 volleyball or 8 bocce courts or any combination thereof, to be used for practices, training, games and tournaments, incidental accessory office and snack bar use to support said sports court activities (Permitted Use) and no part of the Premises shall be used for any different purpose at any time except with the written consent of City which may be withheld for any reason or no

reason whatsoever. Any such additional uses shall be required to comply with all applicable federal, state and City laws, rules and regulations.

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

CITY OF MARTINEZ

BY: _____
BRAD KILGER, CITY MANAGER

APPROVED BY CITY COUNCIL MOTION ON SEPTEMBER 21, 2016

ATTEST: _____
MERCY CABRAL, DEPUTY CITY CLERK

LESSEE

BY: _____

RESOLUTION NO. 110-11

AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH NORCAL COURTS, LLC, FOR USE OF CITY REAL PROPERTY LOCATED AT 360 FERRY STREET

WHEREAS, the City of Martinez used a combination of funding from local, regional, and State transportation agencies to acquire two parcels totaling 6.3 acres and consisting of various buildings and surrounding parking located north of the Intermodal Station in November 2007; and

WHEREAS, the site is commonly known as the "Zocchi property"; and

WHEREAS, the primary purpose of acquiring the Zocchi property was to provide additional Amtrak overflow parking on the site; and

WHEREAS, the City removed several substandard and hazardous metal, Quonset-style structures from the Zocchi property in 2009; and

WHEREAS, two concrete "tilt up" warehouse facilities remain on the site, at 330 and 360 Ferry Street, respectively; and

WHEREAS, the City desires to lease the 330 and 360 Ferry Street facilities for recreational reuse as indoor sports facilities; and

WHEREAS, the City selected Norcal Courts ("NCC") as the developer for the building located at 360 Ferry Street ("the Premises") and entered into a formal Letter of Intent with NCC on May 23, 2011, to begin negotiations for leasing of the Premises; and

WHEREAS, an Initial Study was conducted to evaluate any potential adverse impacts of the recreational reuse of the facilities; and

WHEREAS, the City Planning Commission on October 25, 2011, recommended approval of the Initial Study and adoption of a Mitigated Negative Declaration, and approved within its purview the addition of "indoor field and sports court facilities" to the list of permitted uses within the Light Industrial District on which the subject facilities are located, and found that the proposed use and the leasing of the facilities therefore were consistent with the General Plan; and

WHEREAS, the City Council approved the Initial Study and adopted a Mitigated Negative Declaration by the adoption of separate resolution on even date herewith; and

WHEREAS, the City believes that NCC's proposed reuse of the Premises will provide a benefit to the health and welfare of the people of Martinez and its neighboring cities; and

WHEREAS, the City and NCC have reached agreement on the terms and conditions of the lease for the Premises, attached hereto as Exhibit C; and

WHEREAS, as a condition of the lease, NCC will be required to perform numerous alterations and improvements to the Premises and portions of the parking area adjacent to the Premises at its own expense; and

WHEREAS, the City desires to enter into a Lease Agreement to provide NCC use of the Premises.

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the City Manager to execute a Lease Agreement with Norcal Courts, LLC, upon the mutually agreeable terms, considerations, covenants, and conditions substantially as set forth in the form attached to this resolution, with any non-substantive modifications subject to the review and approval of the City Manager and City Attorney's Office, for use of the City's Real Property located at 360 Ferry Street.

* * * * *

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 November, 2011, by the following vote:

AYES: Councilmembers Lara DeLaney, Michael Menesini, Mark Ross, Vice Mayor Janet Kennedy, and Mayor Rob Schroder

NOES: None

ABSENT: None


RICHARD G HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

LEASE

- Section 1. Premises
- Section 2. Term and Termination
- Section 3. Rental Terms
- Section 4. Use
- Section 5. Alterations
- Section 6. Possession
- Section 7. Insurance
- Section 8. Default
- Section 9. Remedies
- Section 10. Maintenance and Repairs
- Section 11. Estoppel Certificate
- Section 12. Severability
- Section 13. Assignment or Subletting
- Section 14. Entry
- Section 15. Signs
- Section 16. Holding Over
- Section 17. Destruction and Condemnation
- Section 18. Indemnity
- Section 19. Lessor's Right to Perform For Lessee
- Section 20. Notices
- Section 21. Attorney Fees
- Section 22. Legal Effect
- Section 23. Titles
- Section 24. Successors
- Section 25. Waiver
- Section 26. Services and Utilities
- Section 27. Entire Agreement
- Section 28. Taxes
- Section 29. Lessor Subsequent Improvements
- Section 30. Time of the Essence
- Section 31. Subordination
- Section 32. Governing Law
- Section 33. Sale of Premises By Lessor
- Section 34. Guarantee

This Lease (Lease) dated as of the 17th day of Nov, 2011 is entered into by and between the City of Martinez, a Municipal Corporation (Lessor) and NorCal Courts, LLC, a California Limited Liability Company (Lessee).

Recitals

A. WHEREAS, Lessor owns a building consisting of approximately 30,000 square feet located upon that certain real property located at 360 Ferry Street, Martinez, California, commonly known as APN # 373-030-019-5, as more particularly described in Exhibit A, attached hereto and incorporated by reference. Said building is hereafter referred to as the "Premises."

B. WHEREAS, Lessor desires that the Premises be used in a manner that benefits the health and welfare of the people of the City of Martinez and its neighboring cities.

C. WHEREAS, Lessor believes that Lessee's indoor sports business will provide such a benefit to the people of the City of Martinez and its neighboring cities.

D. WHEREAS, Lessee has agreed to bear all costs related to the Alterations (defined herein) and tenant improvements described herein, and the City of Martinez will expend no monies in furtherance of Lessee's use of the Premises.

E. WHEREAS, Lessor and Lessee have negotiated in good faith the terms of the lease as set forth herein and wish to reduce such terms to writing.

Section 1. Premises.

Lessor leases to Lessee and Lessee leases from Lessor the "Premises", together with a non-exclusive right to use up to 50 spaces within the adjacent parking area located primarily to the south, east and west of the Premises (the "Parking Area") as set forth in **Exhibit A**, between the hours of 10:00 a.m. and 11 p.m., Monday through Friday, and 8 a.m. and 11 p.m. on weekends, on a first-come, first-served, space available basis. The Parties hereto acknowledge that no specific number of parking spaces is guaranteed by this Lease and the City reserves the right to allocate parking spaces within the Parking Area for the exclusive use of commuter parking Monday through Friday.

Section 2. Term and Termination.

(a) The term of this Lease is for fifteen (15) years (Term), commencing on the 17th day of Nov, 2011 (Commencement Date) and ending on the 17th day of Nov 2026, unless sooner terminated as herein provided.

(b) Lessee shall have the right upon written notice to this Lessor, delivered at least thirty (30) days prior to the expiration of the Lease Term or any Renewal Term, to extend the

terms and conditions as set forth herein, provided that Lessee is not otherwise in default under the Lease.

(c) Notwithstanding the foregoing, this Lease shall be terminable by Lessor (i) immediately upon the occurrence of an Event of Default as provided in Section 8 hereof, (ii) immediately if upon the determination of the Lessor's Chief Building Official that the building located on the Premises does not meet the required Health and Safety Standards of the City or in the event of an emergency, (iii) upon three hundred sixty five (365) days written notice if the Premises and/or Parking Area are needed for City governmental purposes, as determined by the City Council in its reasonable discretion, (iv) immediately, upon a determination by Lessor that such termination is required by state or federal law; (v) upon written notice, as and if required by Caltrans, the Contra Costa County Transportation Authority (CCTA), or other State or Federal agency, in order for Lessor to comply with the terms of the grants, loans, or other funds which were used to purchase the Premises; and (vi) as otherwise expressly provided in this Lease. City governmental purposes include any public uses by the City or other Governmental entity for any purpose but shall not include lease to any other third party private entity.

(d) If this lease is terminated within fifteen (15) years from the date of execution of this Lease for City governmental purposes, as provided in section (c) (iii) above, Lessor shall reimburse Lessee for the unamortized value of all Alterations as required in Exhibit B to be property of the Lessor upon termination hereof, determined on a fifteen (15) year straight line basis from the date of completion of the Alterations. A fifteen (15) year depreciation table shall be prepared by the parties and appended to this Lease within thirty (30) days of completion of the Alterations described in Exhibit B.

Section 3. Rental Terms.

(a) Lessee shall establish a Maintenance Reserve Fund to which Lessee shall annually deposit the sum of Four Percent (4%) of the gross profits of Lessee's operations at the Premises as shown in the Annual Profit and Loss Statement of preceding 12 month period. Said Maintenance Reserve Fund shall be kept in a segregated bank account for the benefit of the Premises, and funds deposited into the Maintenance Reserve Fund by Lessee shall be used only for extraordinary repairs to or major preventative maintenance projects for the Premises as determined by the Lessor, outside of normal and routine maintenance, which, if left unrepaired or uncompleted, would shut down or otherwise require modification to the Premises and/or cause material damage to fixtures or equipment. Lessee shall provide to Lessor within 45 days following one year after the commencement date hereof and annually thereafter, a copy of Lessee's Financial Statements, including, but not limited to a Profit and Loss Statement and Balance Sheet and copies of all Bank Statements for the Maintenance Reserve Fund. Lessee shall continue to maintain the Maintenance Reserve Fund during the entire Term of this Lease. Lessee shall not at any time use any funds deposited into the Maintenance Reserve Fund for operational, routine maintenance or any other purpose without the express written consent of Lessor, which consent may be withheld for any reason or no reason whatsoever. Lessor, in the sole discretion of the City Manager, or his/her designee, may require a financial audit of Lessee once every three (3) years at the sole expense of Lessee. At the expiration or earlier termination

of this Lease, the funds in the Maintenance Reserve Fund, less any amounts necessary to complete any project previously requested by Lessee and authorized by Lessee and Lessor, shall be released to Lessee.

(b) On or before the Commencement Date, Lessee shall pay to Lessor a Security Deposit in the amount of ten thousand dollars (\$10,000.00). Said Security Deposit shall be held in a separate fund by Lessor. Said Security Deposit shall not bear interest in favor of Lessee. Said Security Deposit shall be replenished in full by Lessee within thirty (30) days of any drawdown of the Security Deposit by Lessor due to Lessee's failure to perform any obligation for which an expenditure is required pursuant to Section 19 herein. Said Security Deposit shall be returned to Lessee upon the expiration or termination of Lease, less any amounts due to Lessor at that time.

(c) Lessee shall offer discounts of no less than ten percent (10%) for Martinez-based sports teams, leagues and Martinez residents to encourage local participation in the use of the Premises.

Section 4. Use.

The Premises are to be used for the operation of an indoor sports court facility, consisting of up to 5 basketball or 6 volleyball courts or any combination thereof, to be used for practices, training, games and tournaments, incidental accessory office and snack bar use to support said field and sports court activities (Permitted Use) and no part of the Premises shall be used for any different purpose at any time except as may be permitted by the issuance of a temporary use permit by the City for events from time to time. The Parking Area is to be used for Parking for the customers and employees of the business to be located on the Premises during the Operating Hours as described herein and for no other purpose at any time. Operating Hours shall be defined as 10:00 a.m. to 11:00 p.m. Monday through Friday, and 8 a.m. to 11 p.m. on weekends or as expressly permitted by advance written permission of Lessor. Lessee shall not do or permit any act to be done that will increase the existing rate or cause cancellation of insurance on the Premises. Lessee shall not use the Premises or the Parking Area or permit anything to be done in or about the Premises or Parking Area which will in any way conflict with any statutes, law, ordinances, regulations and rules now in force or which may hereafter be promulgated. Lessee shall at its sole cost and expense promptly comply with all statutes, law, ordinances, regulations and rules and other requirements of all governmental entities that pertain to the occupancy or use of the Premises and Parking Area, and shall at all time maintain the Premises and Parking Area in a good order with all due care for the safety and cleanliness of the Premises. Lessee shall not use the Premises for the conduct of the Permitted Use or any other occupation of the Premises or the Parking Area until completion of the Preliminary Alterations set forth in Exhibit B have been completed and a certificate of occupancy has been issued by Lessor.

Section 5. Alterations.

(a) Lessor and Lessee agree that the alterations described on **Exhibit B** and **Exhibit C**, attached hereto and incorporated herein by reference, shall be completed at the expense of the

Lessee. Lessee shall not make or suffer to be made any alterations, additions, improvements, including the installation of fixtures, equipment, or signs in, upon or with respect to the Premises or Parking Area, without the prior written consent of Lessor, which consent may not be unreasonably withheld. Any alteration to the Premises or Parking Area without the prior written consent of Lessor shall be a breach of this Lease and, at the option of Lessor, shall cause a termination of this Lease. Lessee shall keep the Premises, Parking Area and any improvements located thereon free and clear from any and all liens and claims arising out of any work performed, materials furnished or obligations incurred by or for the account of Lessee.

(b) All alterations, additions, improvements, including the installation of fixtures, equipment, or signs in, upon or with respect to the Premises or Parking Area, shall be at the sole cost and expense of Lessee, including all design, construction, engineering, permitting, inspection and other costs and fees associated therewith. Unless Lessor shall indicate in writing at any time during the term of this Lease and except as set forth in **Exhibit C** hereof, any alterations, additions or improvement made or suffered to be made by Lessee with respect to the Premises or Parking Area shall on the termination of the Lease become a part of the Premises and the property of Lessor. Upon notice to Lessee, Lessee shall at its sole cost and expense forthwith and with all due diligence remove any alterations, additions or improvements made by or on behalf of Lessee which improvements were not approved by Lessor in accordance with section 5(a) above. Upon removal of any alterations, addition, improvements, including the installation of fixtures, equipment, or signs in, upon or with respect to the Premises or Parking Area removed by Lessee pursuant to the terms hereof, Lessee shall forthwith and with all due diligence at its sole cost and expense repair any damage to the Premises or Parking Area caused by such removal and restore the Premises to a broom clean and tenant ready condition.

(c) Any and all work to be performed by or through Lessee relating to the Premises or Parking Area shall be performed in a good and workmanlike manner and in accordance with the applicable laws and regulations and the industry standard of customs and care applicable to such work. Lessor shall have no responsibility for any work performed by Lessee under this Agreement. Lessee shall defend, indemnify, and hold harmless Lessor as set forth in Section 18 hereof for any liability or claims made in connection with such work.

(i) Before any work of construction, alteration, or repair is commenced on the Premises or Parking Area, and before any building materials have been delivered to the Premises or Parking Area by Lessee or under Lessee's authority, Lessee shall comply with all the following conditions:

- (1) Notify Lessor of Lessee's intention to commence a work of improvement at least ten (10) days before commencement of any such work or delivery of any materials. The notice shall specify the approximate location and nature of the intended improvements. Lessor shall have the right to post and maintain on the Premises any notices of nonresponsibility provided for under applicable law.
- (2) Furnish Lessor with a true copy of Lessee's contract with the general contractor. The contract shall give Lessor the right but not the

obligation to assume Lessee's obligations and rights under that contract if Lessee should default.

- (3) Furnish Lessor payment and performance bonds naming Lessor as beneficiary. Said bonds shall be issued by a responsible surety company, licensed to do business in California, and approved by Lessor, and shall be in an amount not less than 100% of the estimated cost of the improvement and shall remain in effect until the entire cost of the work shall have been paid in full and the new improvements shall have been insured as provided in this Lease.
- (4) Furnish Lessor with a project budget that includes all cost estimates for work to be performed on the Premises or Parking Area.
- (5) Deliver to Lessor certificates and endorsements of insurance as set forth below with insurers with a Best rating of no less than A:XI:

- a. Workers' Compensation Insurance to cover the employees of contractor and all subcontractors as required by the Labor Code of the State of California for all of the contractor/subcontractors' employees. Each Workers' Compensation policy shall be endorsed with the provision that it will not be canceled or altered without first giving thirty (30) days prior notice to Lessor.

Said Worker's Compensation policy shall have the following endorsement:

"All rights of subrogation are hereby waived against the City of Martinez, its officers and employees when acting within the scope of their appointment or employment."

- b. Commercial General Liability Insurance including personal injury and property damage insurance for all activities of the Lessee, the contractor and subcontractors arising out of or in connection with the Premises, written on a commercial general liability form including, but not limited to, Broad Form Property Damage, blanket contractual, products liability and completed operations, X,C,U hazards, vehicle coverage and non- owned auto liability coverage in an amount no less than \$2 million dollars combined single limit personal injury and property damage for each occurrence.

Each such policy shall be endorsed with the following specific language:

- (1) The City of Martinez is named as additional insured for all liability arising out of the work performed by or on behalf of the named insured, and this policy protects the

additional insured, its officers, agents, and employees against liability for personal and bodily injuries, deaths or property damage or destruction arising in any respect, directly, or indirectly, in the performance of the contract.

(2) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured.

(3) The insurance provided is primary and no insurance held or owned by the City shall be called upon to contribute to a loss.

(4) The coverage provided by this policy shall not be canceled without thirty (30) days prior written notice given to the City.

c. Any deductible or self-insured retentions must be declared to and approved in writing by City. At the option of City, insurer shall reduce or eliminate such deductible or self-insured retention as respects City, its officers and employees or Lessee and contractor shall procure a bond guaranteeing payment of losses and related investigation, claims, administration and defense expenses.

d. Certificates of insurance evidencing coverage for "builder's all risk,"

e. Lessee shall maintain, keep in force, and pay all premiums required to maintain and keep in force all insurance above at all times during which such work is in progress.

(6) The provision to the Lessor of all necessary permits from all governmental agencies having jurisdiction over the work of improvement, including but not limited to, the City, Contra Costa County Fire District, Contra Costa County Environmental Health, and Central Contra Costa Sanitary District.

(d) Within 180 days after the date that Lessee takes possession of the Premises, Lessee shall complete construction of the Alterations set forth in **Exhibit B**. Failure, regardless of cause, to complete construction within said 180 day period shall, at Lessor's election exercised by notice, terminate this Lease. Completion of said Alterations shall be in compliance with any and all approval standards of Lessor as may be submitted in writing to Lessee as part of Lessor's

approval of said work and shall generally be in compliance with the City Planning Design Standards set forth in **Exhibit E**.

(e) In consideration of the favorable rental terms established in Section 3, Lessee has agreed to perform certain improvements and alterations to the Premises and Parking Area all as set forth in Exhibit B hereof, said works of improvement are therefore considered a Public Work pursuant to California Labor Code, Division 2, Part 7, Chapter 1 and therefore subject to the payment of prevailing wage to all workers engaged to perform said work. Lessee shall be separately responsible for any and all additional tenant improvements proposed to be performed and funded by Lessee. Lessee shall be solely responsible for any and all liability arising from any claims regarding the payment of prevailing wage for any and all work performed on the Premises or the Parking Area and shall defend, indemnify, and hold harmless Lessor from any claims, actions, or proceedings as set forth in Section 18 hereof.

Section 6. Possession.

Lessee acknowledges that the Premises are currently utilized on a month-to month basis by various other parties. Delivery of Possession of the Premises to Lessee will occur following the delivery of a thirty day notice to all existing users of the Premises that the month-to month tenancies currently in effect are terminated. Any delay in delivery of possession of the Premises to the Lessee shall postpone the commencement of rent accordingly, but shall not otherwise affect this Lease.

Section 7. Insurance.

Lessee agrees to and shall at its own cost and expense procure and maintain during the entire Lease Term and any extension thereof the following insurance which Lessee shall obtain at its own cost and expense:

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 property damage, bodily injury and personal injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the Premises and Parking Area or the general aggregate limit shall be twice the required occurrence limit.

2. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and **Employer's Liability Insurance** with limits of no less than **\$1,000,000** per accident for bodily injury or disease.

3. **Property insurance** against all risks of loss to any tenant improvements or betterments to the Premises and Parking Area, and any tenant contents, at full replacement cost with no coinsurance penalty provision.

If the Lessee maintains higher limits than the minimums shown above, Lessor shall be entitled to coverage for the higher limits maintained.

All such insurance coverages are to contain, or be endorsed to contain, the following provisions:

1. For Commercial General Liability, Lessor, its officers, officials, employees, and volunteers are to be **covered as additional insureds** with respect to liability arising out of ownership, maintenance, or use of the Premises and Parking Area.
2. The Lessee's insurance coverage shall be **primary insurance** as respects the Lessor, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Lessor, its officers, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it.
3. Each insurance policy required above shall contain, or be endorsed to contain, a waiver of all **rights of subrogation** against Lessor.
4. Each insurance policy shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the Entity.
5. The Property insurance shall **name the Lessor as Loss Payee** as its interests may appear.

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 approved by Lessor, in writing.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by Lessor, in writing. At the option of Lessor, either: the Lessee shall obtain coverage to reduce or eliminate such deductibles or self-insured retentions as respects the Lessor, its officers, officials, employees, and volunteers; or the Lessee shall provide a financial guarantee satisfactory to the Lessor guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

Verification of Coverage

Lessee shall furnish the Lessor 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 Lessor before the Commencement Date. However, failure to obtain the required documents prior to the Commencement Date shall not waive the Lessee's obligation to provide them. The Lessor reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

Waiver of Subrogation

Lessee hereby grants to Lessor a waiver of any right to subrogation which any insurer of said Lessee may acquire against the Lessor by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not the Lessor has received a waiver of subrogation endorsement from the insurer.

Special Risks or Circumstances

Lessor 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 relating to additional activities which Lessee may wish to undertake at the Premises.

Lessee shall release, defend and indemnify Lessor its officials, employees, representatives and agents, from any claims for damage to any person or to the Premises, Parking Area, or to the Lessee's personal property contained therein caused by, or that result from, risks insured against under any insurance policies carried by Lessor and in force at the time of any such damage. Lessor shall not be liable to Lessee for any damage caused or any of the risks insured against under any insurance policy required by Section 7.

Section 8. Default.

Each of the following shall be an Event of Default under this Lease:

- (a) If Lessee fails to make any payment required by the provisions of this Lease, when due;
- (b) If Lessee fails within thirty (30) days after written notice to correct any breach or default of the other covenants, terms, or conditions of this Lease;
- (c) If Lessee vacates, abandons, or surrenders the Premises prior to the end of the Term; and
- (d) If all or substantially all of Lessee's assets are placed in the hands of a receiver or trustee, and that receivership or trusteeship continues for a period of thirty (30) days, or if Lessee makes an assignment for the benefit of creditors or is adjudicated a bankrupt, or if Lessee institutes any proceedings under any state or federal bankruptcy act by which Lessee seeks to be adjudicated a bankrupt or seeks to be discharged of debts, or if any voluntary proceeding is filed against Lessee under any bankruptcy laws, and Lessee consents or acquiesces by pleading or default.

Section 9. Remedies.

Upon the occurrence of an Event of Default under this Lease by Lessee, Lessor is entitled at Lessor's option to the following:

- (a) to reenter and take exclusive possession of the Premises and the Parking Area;
- (b) to collect immediately the present value of the unpaid rent reserved for the entire term, or to collect each installment of rent as it becomes due;
- (c) to continue this Lease in force or to terminate it at any time;
- (d) to relet the Premises and Parking Area for any period on Lessee's account and at Lessee's expense, including real estate commissions actually paid, and to apply the proceeds received during the balance of Term to Lessee's continuing obligations under this Lease;
- (e) to take custody of all personal property on the Premises and Parking Area and to dispose of the personal property and to apply the proceeds from any sale of that property to Lessee's obligations under this Lease;
- (f) to recover from Lessee the damages described in Civil Code § 1951.2(a)(1), 1951.2(a)(2), 1951.2(a)(3), and 1951.2(a)(4), the provisions of which are expressly made a part of this Lease;
- (g) to restore the Premises and Parking Area to the same condition as received by Lessee, or to alter the Premises and/or Parking Area to make them suitable for re-letting, all at Lessee's expense; and
- (h) to enforce by suit or otherwise all obligations of Lessee under this Lease and to recover from Lessee all remedies now or later allowed by law.

Any act that Lessor is entitled to do in exercise of Lessor's rights upon an Event of Default may be done at a time and in a manner deemed reasonable by Lessor in Lessor's sole discretion, and Lessee irrevocably authorizes Lessor to act in all things done on Lessee's account.

Section 10. Maintenance and Repairs.

Lessee acknowledges and accepts the Premises and Parking Area in their "as is" condition as of the Commencement Date and agrees and acknowledges that Lessor makes no representations or warranties, either express or implied, as to the condition of the Premises or Parking Area, the absence or presence of Hazardous Materials, located thereon, or the fitness of the Premises or the Parking Area for any particular purpose. Lessor shall not be responsible for the condition or repair of the Premises, except for maintenance, repairs and services to be furnished by Lessor, as designated in **Exhibit D**, attached hereto and incorporated herein by reference. Lessee agrees to maintain the Premises, and all portions thereof, in good and safe condition, including, but not limited to, all plumbing and drainage, drain, waste and vent piping inside the building on the Premises; all weather protection, including but not limited to all roofing and any leaks associated therewith; all electrical wiring inside the building on the Premises, all heating, ventilation and air conditioning systems, including all appliances and

venting therefore; all fixtures on the interior of the building on the Premises, including plumbing and bathroom fixtures; all interior surfaces of walls, windows, plate glass, doors, and ceilings; Lessee's required permanent access ramps, ADA parking, parking stalls, and any Lessee-constructed sidewalks or pathways; and all other items of maintenance not specifically assumed by Lessor pursuant to the terms of this Lease and as set forth in Exhibit D. Lessee promises to surrender the Premises at termination of this Lease in at least the same condition as after completion of the Alterations described in **Exhibit B**, except for normal wear and tear and except for changes authorized by Lessor and not required to be removed pursuant to the terms of this Lease. Lessee agrees to make no repairs at the expense of Lessor. Lessor shall charge and Lessee shall pay all of the City of Martinez's usual and customary fees for any licenses or permits required in connection with such maintenance and repair work.

Lessor and Lessee agree that the maintenance, repairs and services to be furnished by the Lessor are solely as designated in **Exhibit D** and that Lessor shall have no other responsibility whatsoever for the maintenance and repair of the Premises or the Parking Area. All responsibility for maintenance and repair of the Premises or Parking Area not specifically designated as the responsibility of the Lessor in accordance with **Exhibit D** shall be the responsibility of Lessee. Lessee specifically waives the right to make any repairs or cause to be made any repairs or maintenance at Lessor's expense under any law, statute or ordinance now or hereafter in effect.

Lessee shall not cause, maintain or permit any nuisance in, on or about the Premises or Parking Area or commit or suffer to be committed any waste in or upon the Premises or Parking Area. Lessee shall not permit garbage or other refuse to accumulate or to gather in or about the Premises or Parking Area except in suitable covered garbage receptacles. All parts, equipment, garbage, refuse and other debris shall be stored or discarded in such a manner so as not to be visible by persons located off the Premises.

Section 11. Estoppel Certificate.

At any time within ten (10) days after request by Lessor, Lessee shall execute, acknowledge, and deliver to Lessor, without charge, a written statement certifying that this Lease is unmodified and in full force, or if there have been modifications, that it is in full force as modified. The statement shall also contain the date of commencement of this Lease, the dates to which the rent and any other charges have been paid in advance, and any other information Lessor reasonably requests. It is acknowledged by Lessee that any statement is intended to be delivered by Lessor to and relied upon by prospective purchasers, mortgagees, deed of trust beneficiaries, and assignees.

Section 12. Severability.

The invalidity of any portion of this Lease shall not affect the remainder, and any invalid portion shall be deemed rewritten to make it valid so as to carry out as near as possible the expressed intention of the parties.

Section 13. Assignment or Subletting.

(a) Lessee shall not assign the Lease or any interest hereunder, and shall not sublet the Premises, Parking Area or any part thereof, or any right or privilege appurtenant thereto, or suffer any person other than the agents and employees of Lessee to occupy the Parking Area, Premises, or any portion thereof without the prior written consent of the Lessor, which consent may be withheld for any reason or no reason whatsoever, it being expressly understood that the Rent to be paid hereunder is not a market rate Rent and that said Rent is expressly to compensate Lessee for the Alterations and improvements set forth in **Exhibit B**. Lessee shall notify Lessor in writing of its intent to sublease any portion of the Premises and/or Parking Area and Lessor shall have thirty (30) working days to grant or withhold its consent to such sublease. In the event that Lessor has not, on or before the thirty first day after Lessor's receipt of the notice of intent to sublease, provided to Lessee written notice of its consent, such consent to sublease shall be presumed to be denied. Notwithstanding the preceding sentence, no consent to assignment of this lease, or any portion hereof, shall be presumed. Lessor shall have the right to review and approve any sublease or assignment document relating to the Premises, Parking Area or any portion thereof and no notice of intent to sublease shall be considered delivered to Lessor in accordance with this paragraph unless said notice contains a full and complete copy of any sublease document. Lessee will reimburse Lessor for any legal fees or for any other expense incurred as a consequence of any such assignment. The consent of Lessor to one assignment, subletting or occupation by another person or entity shall not be deemed to be a consent by Lessor to any subsequent assignment, subletting or occupation by another person or entity. Any such assignment or subletting without such consent shall be void and shall, at the option of Lessor, be deemed to be an Event of Default under the provisions of this Lease. Notwithstanding any provision hereof to the contrary, neither this Lease nor any interest herein shall be assignable, as to the interest of Lessee, by operation of law, without the prior written consent of Lessor. Lessor consent pursuant to this paragraph shall not be required for Lessee to enter into temporary use agreements with Lessee's customer clientele (group or individual) end users of the Lessee's facilities located in the Premises.

(b) Without limiting the instances in which Lessor may withhold consent to an assignment or subletting, Lessor and Lessee acknowledge that Lessor may in its absolute discretion withhold consent in the following instances:

- (i) if at the time consent is requested or at any time prior to the granting of consent, an Event of Default has occurred under this Lease;
- (ii) if, in the Lessor's sole and absolute discretion, the use of the Premises or Parking Area by the proposed assignee or sublessee would not be compatible with or comparable to the uses by Lessee as set forth herein or would entail alterations that would materially lessen the value of the leasehold improvements in the Premises;
- (iii) if, in Lessor's sole and absolute discretion, it determines that circumstances warrant a consideration of the financial worth of a proposed

assignee and the financial worth, in Lessor's sole and absolute discretion, does not meet the credit standards applied by Lessor for other Lessees under leases with comparable terms;

- (iv) if, in Lessor's sole and absolute discretion, it determines that under the circumstances of the proposed assignment or sublease, Lessee will be unjustly enriched by the financial terms of the sublease in a manner to the detriment of Lessor in light of the below market rate Rent set forth herein.

(c) Irrespective of Lessor's consent, no subletting or assignment shall release Lessee of Lessee's obligation or alter the primary liability of Lessee to pay the rent and to perform all other obligations to be performed by Lessee hereunder. The acceptance of rent by Lessor from any other person shall not be deemed to be a waiver by Lessor of any provision hereof. Consent to one assignment or subletting shall not be deemed to be consent to any subsequent assignment or subletting. In the event of default by an assignee of Lessee or any successor of Lessee in the performance of any of the terms hereof, Lessor may proceed directly against Lessee without the necessity of exhausting remedies against such assignee or successor.

Section 14. Entry.

Lessor reserves the right, upon the delivery of reasonable notice, to enter the Premises and/or Parking Area at reasonable times to carry out any building management or business purpose in or about the building, without any abatement of rent. The requirement to provide notice as specified herein shall not be interpreted or construed in any way to limit any right of entry or inspection that Lessor may have in its capacity as a local governmental entity.

Section 15. Signs.

Lessee shall not place or permit to be placed in, upon, about, or outside the Premises or Parking Area any sign, notice, drapes, shutters, blinds, or display of any kind, without the prior written consent of Lessor.

Section 16. Holding Over.

This Lease shall terminate without further notice at the expiration of the Term. Any holding over shall not constitute a renewal or extension. If Lessee remains in possession of the Parking Area, the Premises or any part thereof after the termination of the term of this Lease with the express written consent of the Lessor: (1) such occupancy shall be deemed a tenancy from month-to-month with rent payable at the rate of Two Dollars and Fifty Cents (\$2.50) per month per square foot of gross floor area of the building located on the Premises, plus all other charges payable hereunder, and upon all the terms applicable hereof and (2) Lessee shall defend, hold harmless and indemnify Lessor from all liability and expense resulting from the delay or failure to surrender, including without limitation, claims made by any succeeding lessee founded on or resulting from Lessee's surrender.

Section 17. Destruction and Condemnation.

(a) If the Premises and/or Parking Area are damaged to an extent that cannot be lawfully repaired within sixty (60) days after the date of damage, this Lease may be terminated by written notice of either party. If the Premises and/or Parking Area can be repaired within the sixty (60) day period, or if this Lease is not terminated in accordance with this provision, Lessor shall proceed with repairs as necessary, subject to a proportionate reduction in the rent, based on the extent to which the damage and repairs shall interfere with the business of Lessee on the Premises. In case of damage to one-third (1/3) or more of the building on the Premises, Lessor may elect to terminate this Lease, regardless of whether the Premises may be repaired within said sixty (60) day period. Lessee waives the benefits of Civil Code §§ 1932(2) and 1933(4).

(b) If all or any portion of the Premises are condemned or are transferred in lieu of condemnation, Lessor or Lessee may, upon written notice given within sixty (60) days after the taking or transfer, terminate this Lease. Lessee shall not be entitled to share in any portion of the award, and Lessee expressly waives any right or claim to any part of the award. Lessee shall, however, have the right to claim and recover, from the condemning authority only, but not from Lessor, any amounts necessary to reimburse Lessee for the cost of removing the personal property of Lessee.

Section 18. Indemnity.

(a) Lessee shall indemnify, defend and hold harmless Lessor from and against any and all claims arising from Lessee's use of the Premises and/or the Parking Area or from any activity, work, or other thing done, permitted or suffered by the Lessee in or about the Premises and/or the Parking Area and shall further indemnify and hold harmless Lessor from and against any and all claims arising from any breach or default in the performance of any obligation on Lessee's part to be performed under the terms of this Lease, or arising from any act or negligence of the Lessee, or any officer, agent, employee, contractor, guest, or invitee of Lessee, and from and against all costs, attorney's fees, expenses and liabilities incurred in or about any such claim or any action or proceeding brought thereon, and, in any case, any action or proceeding brought against Lessor by reason of any such claim, Lessee upon notice from Lessor shall defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor. Lessor or its agents shall not be liable for any damage to property entrusted to Lessee's employees, nor for loss or damage to any property by theft or otherwise, nor for any injury to or damage to persons or property resulting from Lessee's use of the Premises and/or the Parking Area.

(b) 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, 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 or any Lessor 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 satisfaction of Lessor and any governmental body having jurisdiction thereover.

(c) Lessor shall indemnify, hold harmless, and defend Lessee from and against all losses, liabilities, claims, claims and/or costs and expenses (including, without limitation, any fines, penalties, judgments, litigation costs, attorneys' fees, and consulting, engineering and construction costs) incurred by Lessee as a result of the presence, disposal, storage, generation or release on the Premises and/or the Parking Area at any time prior to Lessee's possession of the Premises of any Hazardous Materials, except to the extent caused by the gross negligence or willful misconduct of Lessee or any officer, agent, employee, contractor, guest, or invitee of Lessee regardless of whether such liability, cost or expense arises during or after the Lease Term.

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 to disclose any matters which Lessor 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.

(d) The indemnifications provided pursuant to this Section 18 shall survive the termination of this Lease.

Section 19. Lessor's Right to Perform for Lessee.

If Lessee fails to perform any obligation under this Lease, Lessor shall be entitled to make reasonable expenditures to cause proper performance on Lessee's behalf and at Lessee's expense, against which the Security Deposit will be charged. Lessee promises to reimburse Lessor for any expenditures not fully satisfied by the Security Deposit within ten (10) days after written notice from Lessor requesting reimbursement, and failure of Lessee to make the reimbursement shall be deemed to be a default the same as a failure to pay an installment of rent when due. All obligations of Lessee to pay money are payable without abatement, deduction, or offset of any kind.

Section 20. Notices.

All notices, payments, or other communications by either party to the other under this Lease shall be deemed to have been given on the date of service if served personally or on the second business day after mailing if mailed to the party to whom notice is to be given by first

class mail, registered or certified, return receipt requested, postage prepaid and properly addressed as follows:

To Lessor: City of Martinez
525 Henrietta Street
Martinez, CA 94553
ATTN: City Manager

To Lessee: Nor Cal Courts, LLC
360 Ferry Street
Martinez CA 94553

Either party may change its address by providing written notice to the other as provided herein.

Section 21. Attorney Fees.

In any action or proceeding by either party to enforce this Lease or any provision of this Lease, the prevailing party shall be entitled to recover reasonable attorney fees and all other costs incurred.

Section 22. Legal Effect.

All obligations of Lessee are expressly made conditions of this Lease, any breach of which shall, at the option of Lessor, terminate this Lease. The parties agree that nothing in this Agreement is intended or shall be construed to create or reflect any form of partnership or joint venture between the Parties. Lessee shall at no time represent itself as an agent, employee, or representative of Lessor.

Section 23. Titles.

The titles or headings to paragraphs shall have no effect on interpretation of provisions.

Section 24. Successors.

The provisions of this Lease shall apply to and bind the heirs, successors, and assigns of the parties.

Section 25. Waiver.

Any waiver given hereunder by Lessor must be in writing and shall not be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition herein waived. The subsequent acceptance of rent hereunder by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease, other than the failure of Lessee to pay the particular rent so accepted, irrespective of Lessor's knowledge of such preceding breach at the time of the acceptance of such rent. The failure of Lessor to enforce a provision of this Lease shall not be deemed a waiver for any purpose.

Section 26. Services and Utilities.

Lessee shall provide gas, electricity, heating, water, telephone, cable, garbage and janitorial services to the Premises at Lessee's sole cost and expense. Lessor shall not be liable for, and Lessee not be entitled to any reduction of rent by reason of the unavailability of any utility service to the Premises.

Section 27. Entire Agreement.

This Lease, together with each attached exhibits, shall constitute the entire agreement of the parties, and may be modified only by a writing signed by the parties.

Section 28. Taxes.

Lessee shall pay all personal property taxes assessed against the Lessee's property located on the Premises. Notice is hereby given pursuant to California Revenue and Taxation Code Section 107.6 that the interest granted to Lessee pursuant to this Lease to occupy the Premises and Parking Area may create a possessory interest in Lessee subject to property taxation and Lessee may be subject to the payment of property taxes levied on such interest.

Section 29. Parking Area and Subsequent Improvements

(a) Lessee acknowledges that the primary use of the Parking Area is for parking of vehicles associated with the Intermodal Facility owned by Lessor and located at 601 Marina Vista Avenue, Martinez, California. Lessee shall take no action at any time that will interfere or otherwise preclude Lessor's use of the Parking Area for said transportation purposes and in this regard Lessee understands and acknowledges that said transportation use of the Parking Area shall be superior at all times to the non-exclusive use by Lessee of the Parking Area. Lessee further expressly understands that Lessor may take action which will, from time to time and at any time or duration during the Term of this Lease, temporarily or permanently preclude use of the Parking Area by Lessee. Lessor will make reasonable efforts to notify Lessee in advance of any activity of Lessor's which Lessor anticipates will temporarily or permanently preclude use of the Parking Area by Lessee. Said notice to Lessee shall occur no less than thirty (30) days prior to the interruption of use, except in emergency circumstances or where shorter notice is consented to by Lessee.

(b) Lessee acknowledges and understands that Lessor will, at an undetermined future time, be improving the Parking Area by reconstructing, repaving, striping or any and all other improvements deemed necessary by Lessor in its sole and absolute discretion. Lessor will make reasonable efforts to notify Lessee of the Lessor's impending construction schedule, which shall in no event be less than thirty (30) days prior to the commencement of construction unless shorter notice is consented to by Lessee. Lessor will make reasonable efforts to minimize the impact to the Lessee during said future construction, to the extent practically and economically feasible as determined by Lessor in its sole and absolute discretion. Lessee understands and acknowledges that Lessee's use of the Parking Area may be impaired, substantially or

completely eliminated during construction and that such impairment or elimination may require Lessee to cease operation of the Permitted Use at the Premises for the period of time necessary to undertake said improvements to the Parking Area.

(c) In connection with the interruption of Lessee Use of the Parking Area or Premises as set forth in (a) and/or (b) above, Lessee hereby releases and discharges Lessor from each and every claim, demand, action, cause of action, damage, cost, expense, attorney's fee, obligation and liability of whatever kind or nature, in law or equity, arising or to arise in favor of the undersigned, whether known or unknown, including, but not limited to, claims for damages to property, loss of business or services, or special damage of any character, by reason of or growing out of said action of Lessor. It is expressly understood and agreed that this release is expressly intended to cover and include all claims, several or otherwise, past, present or future, known or unknown, which can or may ever be asserted by Lessee, its successors and assigns as the result of said action on the part of Lessor and that this paragraph constitutes a full and final release of any claims relating thereto of every kind or nature, past, present or future, known or unknown, suspected or unsuspected, and all claims or rights pursuant to Section 1542 of the Civil Code of the State of California are hereby expressly waived. Lessee understands that said Section 1542 provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

In this regard, Lessee expressly understands and agree that it is possible that other or unanticipated injuries or consequences resulting from the herein described and referred to matters and events which are not now known, will occur or be discovered by the undersigned and the undersigned agree and understand that this paragraph constitutes a full and final release of any such claims and is intended to cover and does cover and include all such future damages and/or injuries or their effects, consequences or results, including all causes of action therefor. Lessee has taken these possibilities into account in determining to enter into this Lease and acknowledges that the risk of such loss is included in the reduction of Rent to be paid by Lessee as set forth herein.

Section 30. Time of the Essence.

Time is of the essence in the performance of Lessee's obligations under this Lease.

Section 31. Subordination.

This Lease, at Lessor's option, shall be subordinate to the lien of any first deed of trust or first mortgage subsequently placed upon the real property of which the Premises are a part, and to any advances made on the security of the Premises, and to all renewals, modifications, consolidations, replacements, and extensions; provided, however, that as to the lien of any deed

of trust or mortgage, Lessee's right to quiet possession of the Premises shall not be disturbed if Lessee is not in default and so long as Lessee pays the rent and observes and performs all of the provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms. If any mortgagee, trustee, or ground Lessor elects to have this Lease prior to the lien of a mortgage, deed of trust, or ground lease, and gives written notice to Lessee, this Lease shall be deemed prior to that mortgage, deed of trust, or ground lease, whether this Lease is dated prior or subsequent to the date of that mortgage, deed of trust, or ground lease or the date of recording.

Section 32. Governing Law.

This Lease shall be governed by and construed in accordance with California law. Venue shall be in the County of Contra Costa.

Section 33. Sale of Premises By Lessor.

In the event of any sale of the Premises, Lessor shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease arising out of any act, occurrence or omission occurring after the consummation of such sale; and the purchaser, at such sale or any subsequent sale of the Premises shall be deemed, without any further agreement between the parties and their successors in interest or between the parties and any such purchaser, to have assumed and agreed to carry out any and all of the covenants and obligations of Lessor under this Lease. In the event of sale of the Premises to any non-governmental entity, the provisions of Section 2, (c) (iii) and (d) shall be of no further force and effect.

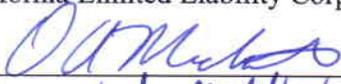
Section 34. Guarantee.

By execution hereof, the undersigned principals of Lessee hereby absolutely and unconditionally, jointly and severally, personally guarantee to Lessor the full, faithful, and timely performance by Lessee of this Lease, and any extension, renewals or modifications thereof. If Lessee shall default at any time in the performance of any covenant or obligation under this Lease, then the undersigned Guarantors, at Guarantors expense, shall on demand by Lessor fully and promptly perform all covenants and obligations to be performed by Lessee pursuant to this Lease.

The parties have executed this Lease on the date first written above.

Lessee:

NorCal Courts, LLC,
a California Limited Liability Corporation

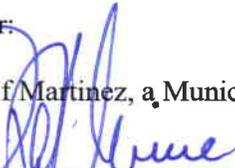
By: 
Daniel A. Middleton

Attest:

N/A

Lessor:

City of Martinez, a Municipal Corporation

By: 
Philip Vince, City Manager

Attest:


City Clerk

STATE OF CALIFORNIA)
COUNTY OF CONTRA COST)

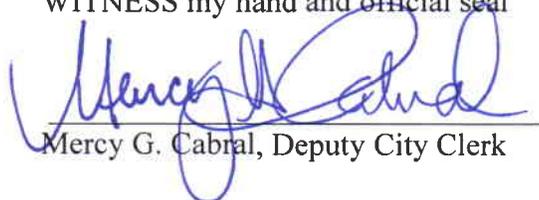
SS.

ALL-PURPOSE ACKNOWLEDGMENT

On November 17, 2011, before me, Mercy G. Cabral, Deputy City Clerk, personally appeared PHILIP VINCE, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PURJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal



Mercy G. Cabral, Deputy City Clerk

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Contra Costa

On 11-17-11
Date

before me,

Mercy G. Cabral, Notary Public
Here Insert Name and Title of the Officer

personally appeared

Daniel A. Middleton
Name(s) of Signer(s)

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Mercy G. Cabral
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Lease - 360 Ferry St

Document Date:

11-17-11

Number of Pages:

29 pages

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

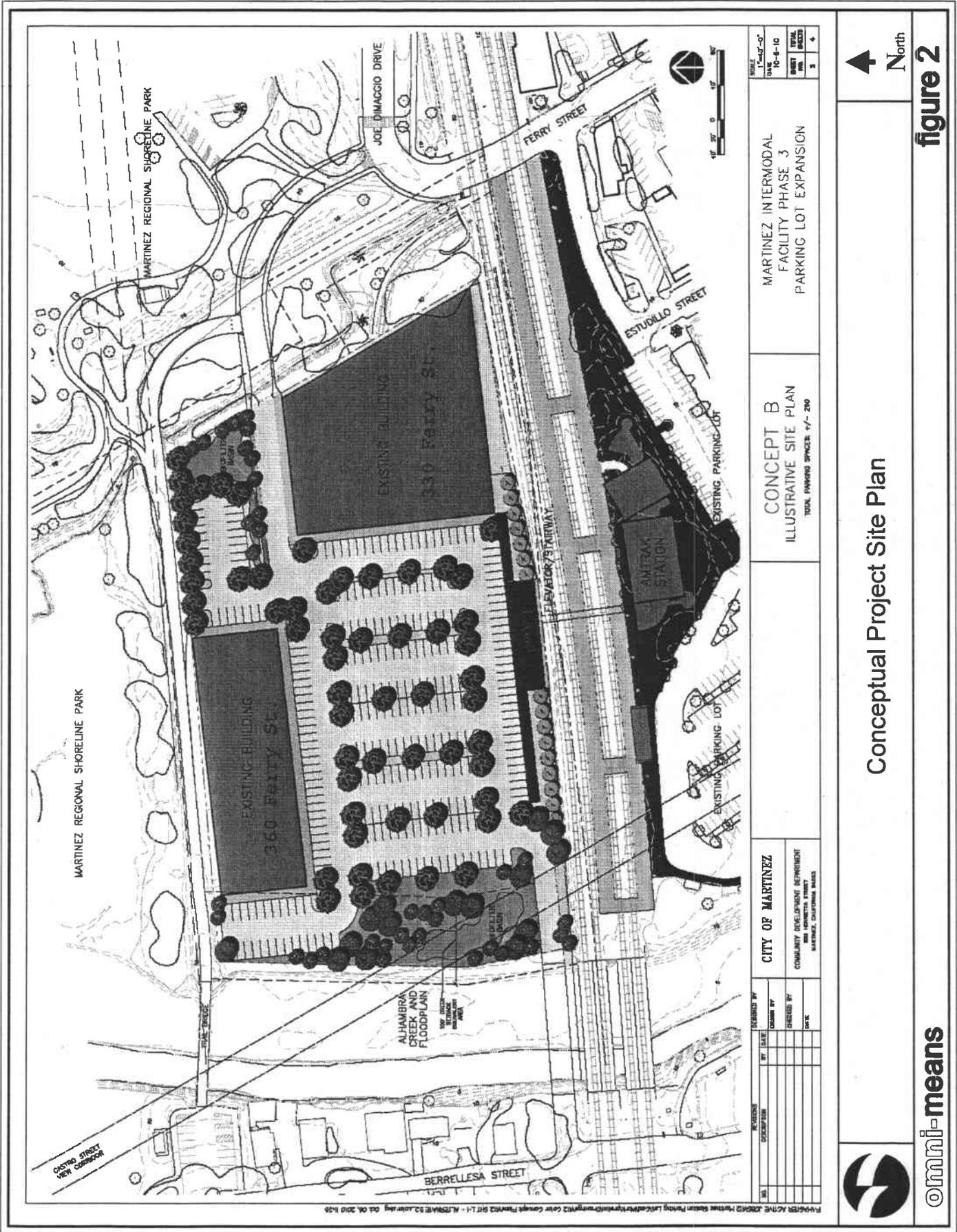
Signer's Name:

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

EXHIBIT A



| NO. | REVISIONS | DESCRIPTION | BY DATE | DESIGNED BY | CHECKED BY | DATE |
|-----|-----------|-------------|---------|-------------|------------|------|
| | | | | | | |
| | | | | | | |
| | | | | | | |

DESIGNED BY
 CITY OF MARTINEZ
 CONSULTING ARCHITECTS RETIREMENT
 AND CONSULTANTS INC.
 MARTINEZ, CALIFORNIA 94553

CONCEPT B
 ILLUSTRATIVE SITE PLAN
 TOTAL PARKING SPACES +/- 200

MARTINEZ INTERMODAL
 FACILITY PHASE 3
 PARKING LOT EXPANSION

| SCALE | TOTAL SHEETS |
|-----------|--------------|
| 1"=40'-0" | 3 |
| DATE | NO. |
| 10-8-10 | 3 |



omni-means

Conceptual Project Site Plan



figure 2

PROJECT: ACNE 200102 Martinez Intermodal Facility Phase 3 Parking Lot Expansion; DATE: 10/8/10; DRAWING NO.: 10-08-10-03

EXHIBIT B
Alterations to be completed by Lessee (Nor Cal Courts, LLC)

Lessee Alterations:

Lessee will, at Lessee's sole cost and expense, complete the following Alterations in accordance with all applicable City standards, including but not limited to City Planning Design Standards, City Engineering Standards, and City Building Standards, within 180 days of possession per Lease Section 5 (c), except as otherwise provided:

Structural Reinforcements:

Structural reinforcements to the Premises in conformance with International Building Code (IBC) and/or California Building Code (CBC) regulations. All work is subject to the review and approval of the Lessor's Chief Building Official.

ADA Parking/Accessibility Improvements:

Lessee will install all improvements upon and in the Premises and Parking Area necessary to comply with the accessibility requirements of state and federal law, including, but not necessarily limited to, installation of permanent handicapped accessible parking spaces, access ramps and paths of travel from the Parking Area to the Premises.

Windows:

Lessee will replace all broken glass and repair all exterior windows to render them operational and weather tight, if applicable.

Drainage:

Lessee will modify downspouts to divert water away from foundation of the Premises. Lessee will establish earth clearance between siding of structure and adjacent grade, where applicable.

Exterior Access:

Lessee will modify the entrance to the Premises to provide disabled accessibility.

Lessee will construct sidewalks or other pathways, subject to Lessor review and approval, to create a clear and continuous pathway from the Parking Area to the Premises as required to be in compliance with accessibility/ADA standards.

Exterior:

Lessee will repair or replace exterior to render the structure weather tight as deemed necessary by Lessor.

Lessee will do all structural modifications to the exterior of the building, including installation/construction of entryways/reception areas and doors, as required in the City Planning Design Standards, attached hereto as Exhibit E and incorporated herein by reference.

Lessee will paint the Premises within one year of the Commencement Date.

Lessee will install exterior safety/security light fixtures in an amount to be determined by Lessor at the exterior of the Premises and at locations to be determined by Lessor.

Trash Enclosure:

When required by Lessor, Lessee will provide a trash enclosure to accommodate three (3) fifty (50) gallon trash cans, or in a sufficient capacity as needed to accommodate the demand. Trash enclosure will be subject to all County Health and National Pollution Discharge Elimination System/Clean Water Act regulations, which may require a covered enclosure.

Parking Area:

Lessee will stripe the Parking Area located adjacent to the Premises to delineate parking spaces as determined appropriate by Lessor in its sole and absolute discretion.

Plumbing & Electrical:

Lessee will inspect and make any and all necessary repairs and or replacements/upgrades to the plumbing and electrical systems of the Premises from the location of the meters to and throughout the interior of the structure.

Structure Interior:

Lessee will repair or replace all damaged or deteriorated interior dry wall and paneling.

Lessee will be responsible for any painting of the interior of the structure.

Lessee will replace floor covering throughout, including the replacement of underlayment where necessary, not including wooden basketball/volleyball floors as set forth in Exhibit C.

Lessee will replace floor covering and plumbing fixtures in the bathrooms, including the replacement of underlayment and pipe where necessary.

Lessee will build out a minimum of two ADA compliant restrooms.

EXHIBIT C
Alterations to be Property of Lessee on Termination

The following alterations, additions, improvements, including the installation of fixtures, equipment, or signs in, upon or with respect to the Premises or Parking Area, shall remain the property of Lessee upon termination of this Lease (excepting Termination for Default) and may be removed by Lessee at its sole cost and expense:

Approximately 29,000 square feet of wooden basketball floors, baskets, volleyball nets, other sports equipment, café equipment, office equipment, office computers, air conditioning and heating equipment, special lighting and signage.

EXHIBIT D
Maintenance Responsibilities of Lessor and Lessee

Lessor Responsibilities

General structural repairs to the building on the Premises, not otherwise the responsibility of Lessee as set forth herein, as determined reasonable in the sole and absolute discretion of Lessor, not related to weather protection, siding and painting, roof leaks or ADA improvements. The determination of reasonableness includes but is not limited to economic feasibility. The parties expressly understand and agree that Lessor may terminate this Lease in accordance with Section 2 (c) (ii) rather than make any structural repairs to the building.

Sewer laterals running to building.

Maintenance of electrical and water/plumbing services from the public street to the meter. Lessor shall not be responsible for maintenance of these services from the meters to the structure.

Maintenance of the Parking Area, excluding Lessee's required permanent access ramps, ADA parking, parking stalls, and any Lessee-constructed sidewalks or pathways.

Lessee Responsibilities

Maintenance and structural of building exterior, including roof, windows and doors, and painting of exterior of structure to insure weather tightness and aesthetics; repair and maintenance of all roofing material and roof structural members; and all accessibility improvements installed by Lessee.

All building interior including, but not limited to, drywall, paneling, paint, carpet, floor coverings, and electrical fixtures shall be maintained, repaired and/or replaced by Lessee.

All plumbing and drain, waste and vent piping within the building on Premises, including all fixtures.

All electrical, gas, and water systems from the meters into the building and phone, cable and any other wiring system within the building shall be maintained, repaired and/or replaced by Lessee.

Trash enclosure and all Trash and recycling collection receptacles and services.

Maintenance of any Lessee-installed landscape improvements, including mowing of all lawns and trimming of all bushes and plant materials, and replacement of planting materials.

Maintenance, repair or replacement of Heating, Ventilating and Air Conditioning supply unit(s), any ducting, electrical, or other Heating, Ventilating and Air Conditioning system components.

All Heating, Ventilating and Air Conditioning system components other than the Heating, Ventilating and Air Conditioning supply unit(s) itself/themselves, including, but not limited to electrical and ducting shall be maintained, repaired and/or replaced by Lessee.

All janitorial-related services.

All interior and exterior lighting systems to the Premises.

Lessee shall remove or paint over all graffiti which may be placed on the Premises or Parking Area during the Term of this Lease within 48 hours of the application of said Graffiti.

Any additional services required to maintain the health and safety of the users on or about the Premises, and the associated costs thereof, will be the sole responsibility of the Lessee.

All other terms of maintenance not specifically delegated to Lessor under this Lease.

EXHIBIT E
City Planning Design Standards

1. Structural Modifications to Exterior of Buildings

- Each building shall have one clearly identified main customer entry shelter and/or lobby projecting from the existing building. Materials of construction shall be limited to metal (with masonry veneers, if desired by tenants) and in a style similar to those of the exterior train/bus shelters at Multimodal Station. Glass enclosure of the projecting lobby (matching the required treatment for the roll up door openings described below) may be permitted.
- If existing opening(s) w/roll up door(s) are to be used as either a main entry or secondary access, the door(s) shall be placed in a “rolled up” position and the entire opening shall be fully enclosed with a glass storefront, with powder coated or anodized aluminum frames.
- New emergency exit “service doors” (if any are required by Building official) may be installed into existing rollup doors, or placed through the existing concrete walls. Doors shall be metal to match existing.
- The addition of any rooftop mechanical equipment requires City approval prior to installation, and shall be located and/or screened to minimize visibility from public view.

2. Building Colors

- Paint colors shall generally be medium earth tones that are compatible with Multimodal Station and Park District buildings. Limited accent colors, subject to City approval, may be used at main entry doors and at glass storefronts.

3. Signs

- No off-site signage is permitted, except for integrated non-commercial “directional signs,” (to be coordinated with City, EBRPD and other waterfront civic organizations) to direct visitors to Station parking lot and all public/private recreational facilities north of railroad tracks.
- One primary business identification wall sign is permitted for each building; any additional primary signage may be added at the City’s sole discretion. Sign sizes and design shall comply with sign regulations of Downtown Specific Plan, Chapter 11, Signs. Secondary signs shall be limited to window signs within new storefront(s).
- Murals and other graphic representations depicting activity and not advertisement copy must be approved by City staff.

4. Other Exterior Improvements

- Any other exterior improvement, including but not limited to ramps, decks and/or landscaping, subject to City approval. Such possible improvements may not interfere with primary operation of parking lot as facility for Multimodal Station users. Any fencing or railing shall be painted metal - chain link or wood fencing shall not be permitted.



October 1, 2015

Marta Moss Senz
NorCal Courts
360 North Ferry Street
Martinez, CA 94553

SUBJECT: APPLICATION APPROVAL - USE PERMIT TO ALLOW BOCCE COURTS

Dear:

On Wednesday, September 30, 2015, acting as Zoning Administrator, I approved the request for a use permit to allow up to eight (8) bocce courts to be installed within the current vacant portion of the building for a period of up to one year located at 360 North Ferry Street, in Martinez.

The conditions of approval are attached.

This decision may be appealed to the Planning Commission by yourself or any interested person. There is a 10-day appeal period which ends on Tuesday, October 13, 2015.

You may proceed in applying for your building permit after the appeal period has expired. For more information on obtaining a building permit, please contact Lisa Luna, Building Permit Technician, at 372-3550.

Sincerely,

Alan Shear
Acting Zoning Administrator

Attachment

cc: Lisa Luna, Building Permit Technician
Engineering
Project File
Chron
Binder

CONDITIONS OF APPROVAL

AS APPROVED BY ZONING ADMINISTRATOR

Project Name: Norcal Courts LLC; Temporary bocce court use

Site Location: 360 North Ferry Street (APN 373-030-019)

I. Description of Permit

These conditions apply to and constitute the approval a *Temporary Use Permit*, to allow (in addition to existing basketball and volleyball court uses) up to eight bocce courts to be installed within the currently vacant portion of the building, for a period of up to one year, with hours of operation as specified in Norcal's current lease with the City ("10:00 a.m. to 11:00 p.m. Monday through Friday, and 8 a.m. to 11 p.m. on weekends or as expressly permitted by advance written permission of Lessor")

II. Exhibits

The following exhibits are hereby approved and incorporated as conditions of approval, except where specifically modified by these conditions:

| EXHIBIT | RECEIVED ON | PREPARED BY | PAGES |
|--|--------------------|---|-------|
| Description of activity and floor plan | September 21, 2015 | Marta Senz, co-owner, Norcal Courts LLC | 2 |

All business activities and construction plans pursuant to subject Temporary Use Permit, conform to these exhibits. Building permit plans shall include a checklist of these conditions for staff review and verification that the conditions have been met. Where a plan or further information is required by these conditions, it is subject to review and approval by the Planning Division, Building Division or Engineering Division as noted.

III. Building Permits

Prior to commencing business operations, the applicant shall make all interior improvements, and pay applicable fees, that may be required by permitting agencies, which include but are not limited to: Contra Costa County Environmental Health, Central Contra Costa Sanitation District, Contra Costa County Fire Protection District and the City of Martinez Building Division. Building permit plans, where building permits are required, are subject to the approval of the Chief Building Official.

IV. Other Standard Requirements

- A. This conditional use permit does not include approval for any signage. The applicant must apply for a sign permit, pay all required fees and receive approval prior to placement of any signage on the building
- B. Where and if required, complete any building permits, improvement plans, specifications, and calculations and submit said plans to the Building Division, City Engineer, Community & Economic Development Director, and/or other agencies having jurisdiction for all improvements within the proposed development for review and approval prior to commencement of any work. Approved plans shall become the property of the City of Martinez upon being signed by the City Engineer and Community & Economic Development Director.

V. Validity of Permit Approval

- A. Zoning Administrator approval of subject Temporary Use Permit, is subject to appeal to the Planning Commission within ten calendar days of the approval.
- B. The use permit approval shall expire in one year from the date on which they became effective (unless extended under C) unless either: a) a building permit is obtained and construction begun, or b) applicable business licenses and/or permits are obtained and business activity commences, within the one year time period. The effective date of the permit approval is September 30, 2015.
- C. The applicant may apply to extend the expiration date, September 30, 2016, if an application with the required fee is filed at least 45 days before the said expiration date. (Otherwise the use permit approval expire, are of no further force or effect and a new application for such permits is required.) A public hearing will be required for all extension applications, except those involving only Design Review. Extensions are not automatically approved: Changes in conditions, City policies, surrounding neighborhood, and other factors permitted to be considered under the law, may require or permit denial.
- D. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Martinez, or other public agency having jurisdiction.
- E. The permit applicant, Norcal Courts LLC/Marta Senz shall defend, indemnify and hold harmless the City and its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys or employees to attack, set aside, void, or annul the Zoning Administrator's decision to approve subject Use Permit, Permit #14PLN-0025. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorneys' fees, and other costs and expenses incurred in connection with such action whether incurred by Norcal Courts LLC/Marta Senz,

APPROVED BY ZONING ADMINISTRATOR

September 30, 2015

the City, and/or the parties initiating or bringing such action. The City shall promptly notify the applicant of any such claim, action or proceeding. The City shall retain the right to participate in any claim, action, or proceeding.

- F. Norcal Courts LLC/Marta Senz shall defend, indemnify and hold harmless the City, its agents, officers, employees and attorneys for all costs incurred in additional investigation of, or study of, or for supplementing, preparing, redrafting, revising, or amending any document (such as the Negative Declaration), if made necessary by said legal action and if Norcal Courts LLC/Marta Senz desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents.
- G. In the event that a claim, action or proceeding described in Subsection E, above, is brought, the City shall promptly notify Norcal Courts LLC/Marta Senz of the existence of the claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding. In the event that Norcal Courts LLC/Marta Senz is required to defend the City in connection with any said claim, action, or proceeding, the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with Norcal Courts LLC/Marta Senz in the defense of said claim, action or proceeding. If the City chooses to have counsel of its own to defend any claim, action or proceeding where Norcal Courts LLC/Marta Senz has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the City, except that the fees and expenses of the City Attorney shall be paid by the applicant.
- H. Norcal Courts LLC/Marta Senz shall indemnify the City for all the City's costs, fees, and damages, which the City incurs in enforcing the above indemnification provisions.
- I. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirement, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

Attachment #6

July 18, 2016

Mr. Mike Chandler,
Assistant to the City Manager
City of Martinez

RE: NORCAL BOCCE COURTS; REQUEST FOR LEASE INCLUSION

Dear Mike,

Thank you for assisting NorCal Courts and local bocce enthusiasts by arranging temporary permission to offer bocce at NorCal Courts. Now that we know bocce can be successful indoors in Martinez, we petition to update our lease to include bocce as a permitted court type.

The facility at NorCal Courts now includes six indoor bocce courts in addition to the athletic courts configurable as three basketball courts, four volleyball courts, three futsal courts or twelve pickleball courts. In our opening bocce season, we had 70 teams and approximately 450 individuals for league play. We hope to open registration soon for Fall/Winter bocce and expect that the number of teams and participants will increase significantly.

As you know, bocce is an extremely popular sport in our area. Martinez Bocce Federation is the largest of its type in the U.S.! The sport draws players from middle-school age up through retirees and, until recently, could only be played in daylight and fair weather in our area. Offering an indoor venue significantly enhances the opportunities for play. Both Martinez residents and residents of surrounding cities are likely to stop in for a meal, a drink, or to run a retail errand either before or after a bocce match. Thus, in addition to enhancing recreational opportunities in Martinez, we believe that indoor bocce will draw additional spending to the downtown.

A few pictures of the courts during play are included. If it would be helpful to provide letters of encouragement from local residents or, indeed, appearance of residents in any meeting, just let me know as we have no trouble locating volunteers. Thank you for your assistance in this matter and we look forward to next steps.

Sincerely,



Marta Senz, Co-Owner

NorCal Courts, LLC

marta@norcalcourts.com

360 Ferry St. Martinez CA 94523

925 457-5281



NorCal (Bocce) Courts



www.bocceball.norcalcourts.com

League play Birthdays Parties Bachelor Parties
Reception Parties Family reunions

Indoor bocce ball - 365 days a year!
That's just how we roll!

