



**CITY OF MARTINEZ**

**CITY COUNCIL**  
**September 15, 2010**

**TO:** Mayor and City Council  
**FROM:** Michael Chandler, Senior Management Analyst  
**SUBJECT:** Martinez Museum Sublease  
**DATE:** September 15, 2010

**RECOMMENDATION:**

Adopt a resolution authorizing the Mayor to execute a Sublease Agreement with the Martinez Historical Society for use of the property located at 1005 Escobar Street as the Martinez Museum, and a Consent to Sublease with the Contra Costa Community College District and Martinez Historical Society authorizing same.

**BACKGROUND**

The City currently leases the property at 1005 Escobar Street from the Contra Costa Community College District under a "Master Lease" agreement that ends July 1, 2014. The City has for many years subleased the property to the Martinez Historical Society for use as the Martinez Museum under an agreement that ran concurrently with the City's lease of the property from the College District. A recent review of City leases indicated that the sublease agreement between the City and the Historical Society had expired.

The agreement under consideration creates a new sublease to again establish a coterminous relationship between the Master Lease and sublease for the property. The sublease agreement has been approved by the Contra Costa Community College District via a "Consent to Sublease Agreement" which outlines the specific terms under which its consent is granted, including:

1. The sublease cannot be modified without the approval of the College District
2. The Historical Society is subject to the same insurance and indemnity obligations as the City, excepting property damage insurance, and is required to include the College District as additionally insured on its policy
3. The sublease does not release the City from any of its obligations under the terms of the Master Lease
4. The sublease is subordinate to the Master Lease

The Consent to Sublease Agreement is to be signed by all three parties to acknowledge the specific terms under which the College District agrees to allow the sublease.

**FISCAL IMPACT:**

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

**ACTION:**

Adopt a resolution authorizing the Mayor to execute a Sublease Agreement with the Martinez Historical Society for use of the property at 1005 Escobar Street as the Martinez Museum, and a Consent to Sublease with the Contra Costa Community College District and Martinez Historical Society authorizing same.

Attachments: Sublease Agreement  
Exhibit A Museum Site  
Exhibit B City-College District Lease  
Consent to Sublease



**APPROVED BY:** City Manager

RESOLUTION NO. -10

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

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

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

**WHEREAS**, a recent review of existing City leases indicated that the City's sublease of the Museum Site to the Historical Society had expired; and

**WHEREAS**, the City desires to re-establish a sublease with the Historical Society to run coterminous with the City's lease of the property from the District; and

**WHEREAS**, the District is amenable to the City subleasing the Museum Site to the Historical Society, provided that the City and the Historical Society acknowledge the terms under which said sublease may occur via a Consent to Sublease provided by the District.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council authorizes the Mayor to execute the attached Sublease Agreement between the City and the Historical Society, and the Consent to Sublease Agreement between the City, the District, and the Historical Society.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 15<sup>th</sup> day of September, 2010, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK  
CITY OF MARTINEZ

## SUB-LEASE AGREEMENT

1. PARTIES AND DATE. Effective \_\_\_\_\_, 2010, the City of Martinez, a municipal corporation, hereinafter referred to as "Lessor," or "City," and the Martinez Historical Society Corporation, hereinafter referred to as "Lessee," mutually agree and promise as set forth herein.
2. DESCRIPTION AND PURPOSE. The Lessor desires to sublease the real property located at 1005 Escobar Street, Martinez, California, hereinafter referred to as "Premises," constituting one building as depicted in Exhibit "A" attached hereto and incorporated herein by reference, to Lessee for the purposes of operating the Martinez Museum.
3. SUB-LEASE. The Premises are subject to that certain Lease Agreement between the Contra Costa Community College District ("District") as Master Lessor and the City of Martinez as Master Lessee dated July 1, 2004 (attached hereto as Exhibit B and incorporated herein by reference as "Master Lease"). Lessor agrees to sublease and Lessee agrees to sublease the Premises under the following terms and conditions consistent with the Master Lease. Lessee shall be responsible for performing all acts and covenants required of City pursuant to the Master Lease with respect to the Premises/museum site.
4. TERM. The Term of this sublease is effective immediately upon execution, and will expire upon expiration of the Master Lease, unless earlier terminated in accordance with the terms hereof. It is understood by Lessee and Lessor that the terms of this sublease are subordinate to the terms of the Master Lease and as such, this sublease is subject to the approval of the District.
5. RENT. In consideration of this sublease, the Lessee shall pay annually to the Lessor one dollar (\$1), payable each January 1 in advance.
6. TERMINATION. Lessor or Lessee may terminate this sublease for any or no reason during its term by giving the other party one hundred eighty (180) days prior written notice of its intention to so terminate. In the event District notifies Lessor of its intention to terminate the Master Lease, Lessor will provide Lessee written notice within 30 days of Lessor's receiving written notice from the District of its intention to so terminate and thereafter this sublease will terminate on the date of termination of the Master Lease.
7. USE OF PREMISES. The subleased Premises shall be used during the term of this sublease exclusively for educational, cultural, or historical museum purposes. No activities shall be conducted on the Premises by the Lessee that would in any way classify any participant therein as a student or pupil of the Lessor. No adult school activities pursuant to Education Code Section 52500 et seq. shall be conducted by the Lessee on the subleased Premises. Lessee shall not use or permit the subleased Premises to be used in whole or in part during the term of this sublease for any purpose other than as hereinabove set forth, nor for any use in violation of any present or future laws, ordinances, general rules or regulations at any time applicable thereto of any public or governmental authority relating to sanitation or the public health, safety or welfare. Lessee shall at all times faithfully obey and comply with all laws, rules and regulations applicable thereto adopted by federal, state, local or other governmental bodies or departments or officers thereof.
8. ALTERATIONS, IMPROVEMENTS, FIXTURES AND SIGNS. Lessee shall not make any alterations, additions to, or improvement of the Premises, including the installation of fixtures, equipment, or signs in or upon the Premises, without the prior written consent of the Lessor and the District. If consent is granted, any such alteration or installation, including the cost of obtaining all necessary permits, shall be at Lessee's sole cost and expense. Antique elements attached to the Premises by the Lessee are the property of the Lessee. If the Lessee elects to remove or is directed by Lessor or the District to remove such elements, Lessor or the District may require Lessee to replace them with useable, new, modern substitutes made with new materials which meet minimum District standards. Lessee, prior to the expiration or termination of this sublease, shall restore the Premises to a safe, clean and usable condition, in good order and repair, reasonable wear and tear excepted, if so requested by the Lessor or District.
9. ASSIGNMENT AND SUBLETTING. Lessee shall not and cannot assign, let or sublet the Premises for any purpose whatsoever without obtaining the prior written consent of Lessor and District, which Lessor consent may be withheld for any reason or no reason whatsoever.

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

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

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

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

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

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

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

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

14. TAXES. Execution of this sublease may create a possessory interest in Lessee subject to taxation. Lessee

shall promptly and timely pay all taxes and assessments which may be levied or assessed upon any interest or property in the ownership of the Lessee.

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

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

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

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

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

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

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

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

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

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

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

**LESSOR**

**LESSEE**

**City of Martinez**

**By:** \_\_\_\_\_  
Mayor, City of Martinez

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

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Attest: City Clerk

Attest:

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

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

Approved as to Form:

Approved as to Form:

**By:** \_\_\_\_\_  
City Attorney, City of Martinez

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

Attachments:

Exhibit A: Diagram of 1005 Escobar Street

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

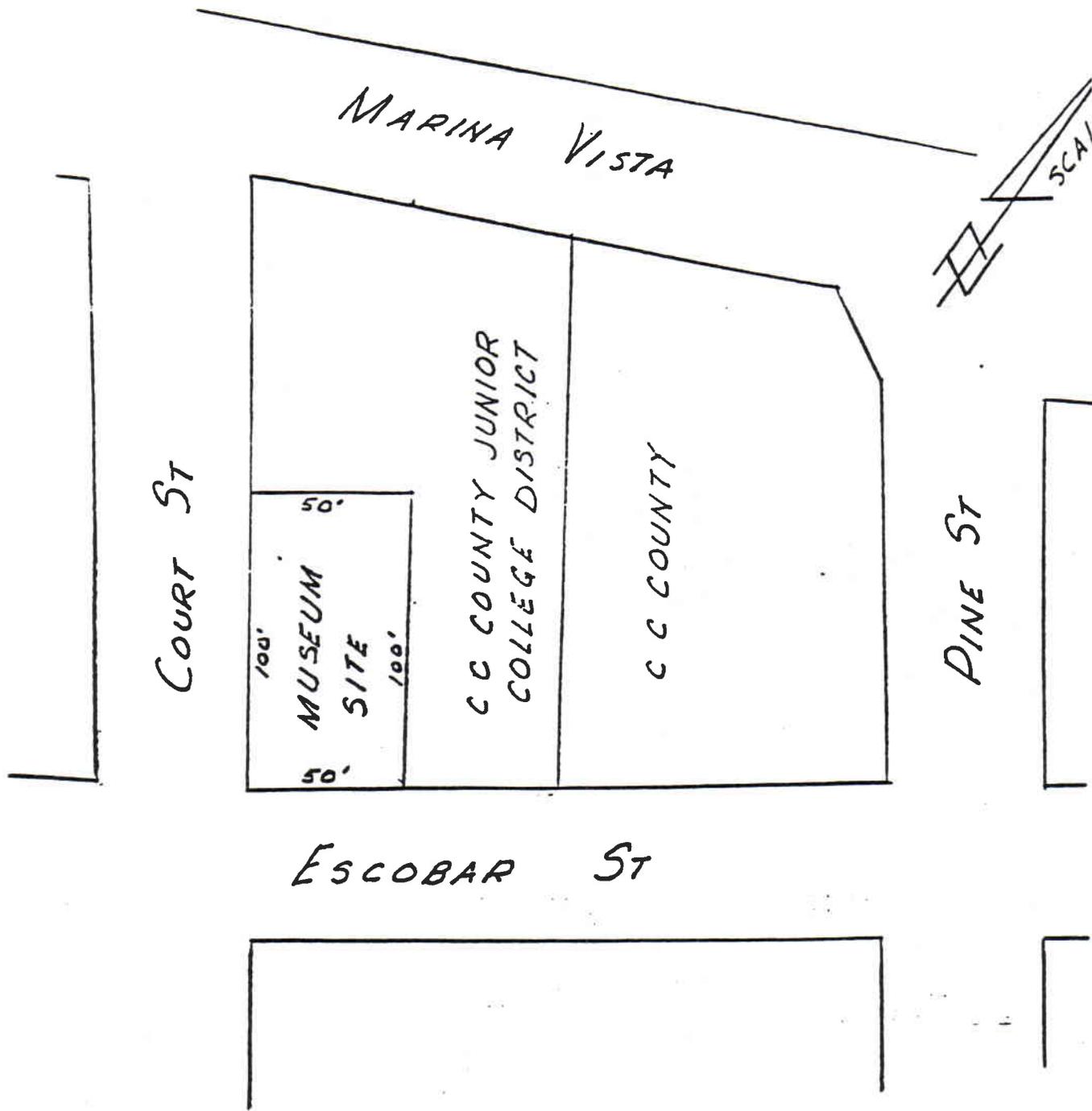


EXHIBIT "A"

**LEASE AGREEMENT**

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

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

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

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

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

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

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

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

**1. Property**

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

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

**2. Rent**

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

**FILE COPY**

### **3. Term**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 9. Insurance

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

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

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

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

## 10. Utility Services

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

#### **11. Taxes**

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

#### **12. Inspection**

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

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

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

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

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

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

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

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

#### **15. Default**

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

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

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

#### **17. Notices**

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

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

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

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

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

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

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

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

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

#### **20. Amendment**

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

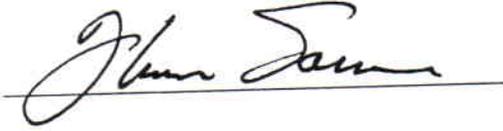
**IN WITNESS WHEREOF**, the parties hereto have affixed their signatures below:

District



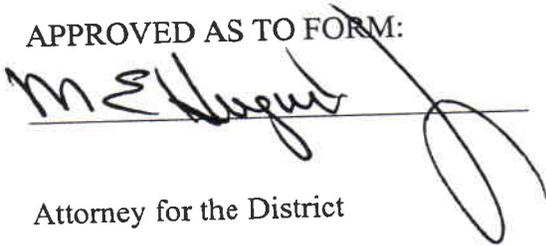
Chancellor

ATTEST: Secretary of the Board



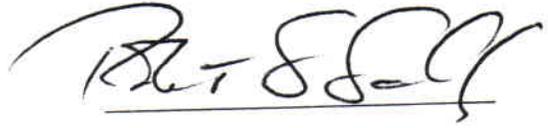
Secretary of the Board

APPROVED AS TO FORM:



Attorney for the District

City



Mayor

ATTEST: City Clerk



City Clerk

APPROVED AS TO FORM:



City Attorney

REVIEW  
 BLOCK 1 ADDITIONAL SURVEY - MARTINEZ, BOOK D PAGE  
 CITY OF MARTINEZ, CONTRA COSTA COUNTY, CALIF.  
 VINCENT H. GUNNA L.S. 4520, SCALE 1"=20', JUNE 1939

BEING THE WESTERLY LINE OF LOTS  
 8 & 7 BLOCK 1, TAKEN AS N 86° 14' 07" W  
 AS SHOWN ON 35 L.S.M. 20.

SURVEYOR'S CERTIFICATE  
 THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY  
 OR UNDER MY DIRECTION IN CONFORMANCE WITH THE  
 REQUIREMENTS OF THE LAND SURVEYORS ACT AT THE  
 REQUEST OF CONTRA COSTA COUNTY  
 JUNE 1939

VINCENT H. GUNNA, L.S.  
 Surveyor

COUNTY SURVEYOR'S CERTIFICATE  
 THIS MAP HAS BEEN EXAMINED FOR CONFORMITY  
 WITH THE REQUIREMENTS OF THE LAND SURVEYORS  
 ACT AT THE REQUEST OF CONTRA COSTA COUNTY  
 THIS 12th DAY OF AUGUST, 1939.

J. MICHAEL WALFORD  
 ROAD COMMISSIONER - SURVEYOR

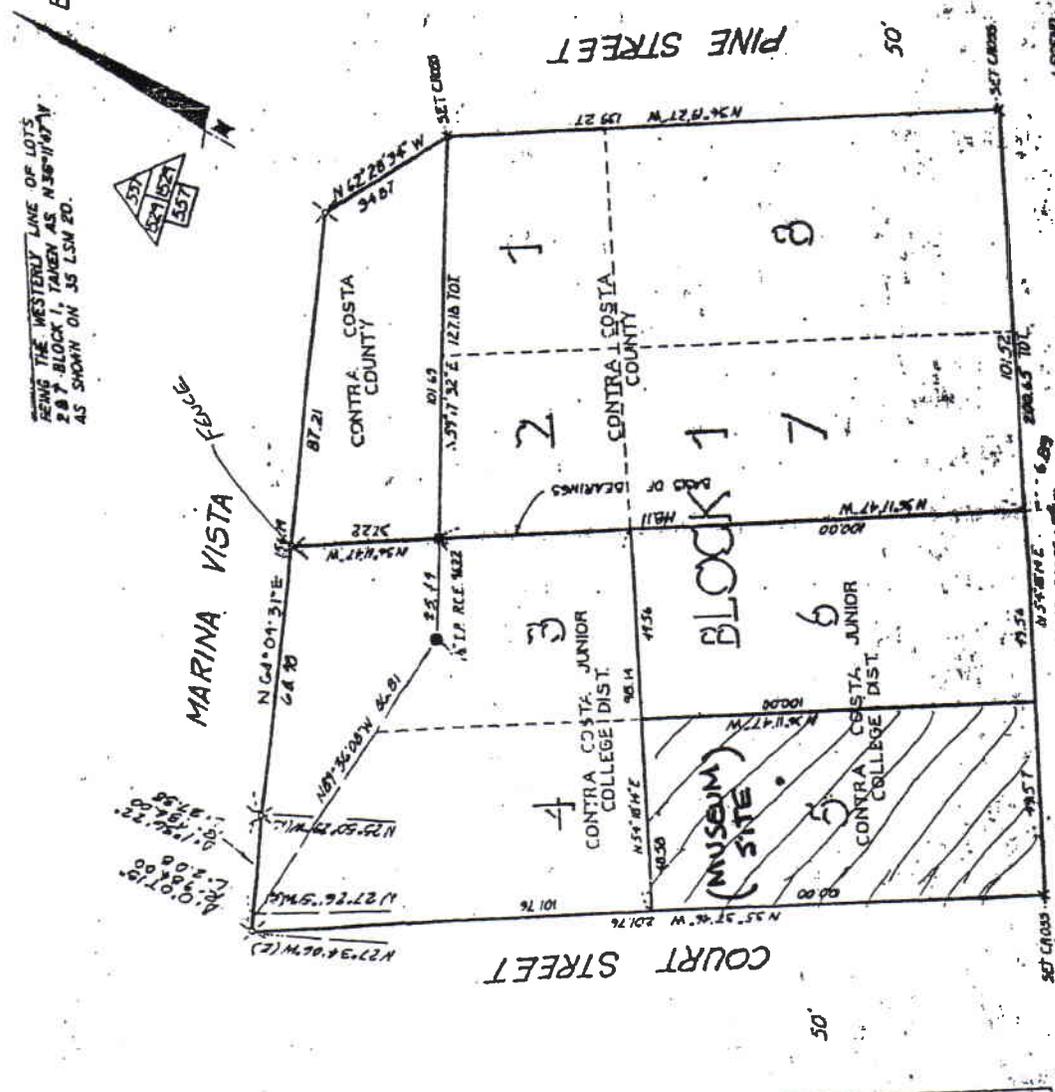
BY *R. H. Fournier*  
 DEPUTY ROAD COMMISSIONER - SURVEYOR

RECORDED'S CERTIFICATE  
 THIS MAP WAS FILED FOR RECORD  
 THIS 12th DAY OF AUGUST, 1939, AT THE REQUEST  
 OF CONTRA COSTA COUNTY.

CLASOM  
 COUNTY RECORDER

DEPUTY COUNTY RECORDER

LEGEND  
 BTR PROPOSE AS NOTED  
 XFB OR SET CROSS AT 8-4020  
 X SET NAIL AND TAG.



ESCOBAR STREET

COURT STREET

PINE STREET

MARINA VISTA FACE

SIDEWALK PAVING  
DETAIL 1-11

DETAIL

BENCH  
DETAIL 4-11

PLAZA PAVING  
DETAIL 1-11

PLANTED CURB  
DETAIL 6-12

SIDEWALK PAV.  
DETAIL 1-11

MARINA VISTA

CORNER WALK

CONNECT TO EXISTING SIDEWALK

PER SIDEWALK

MAXIMIZE WALK

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

APPROVED  
PREFERRED  
PLAN

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

EXHIBIT B

**CONTRA COSTA COMMUNITY COLLEGE DISTRICT**

**CONSENT TO SUBLEASE**

THIS CONSENT TO SUBLEASE (“Consent Agreement”) is entered into as of the \_\_\_ day of \_\_\_\_\_, 2010, by and between Contra Costa Community College District, a public school district of the state of California (“Lessor”) and City of Martinez, a municipal corporation (“Lessee”), and Martinez Historical Society, a California corporation (“Sublessee”).

**RECITALS**

- A. WHEREAS**, Lessor and Lessee are parties to the Lease Agreement, dated July 1, 2004 (“Lease ”), with respect to certain real property leased by Lessor to Lessee known as the Museum Site located at 1005 Escobar Street, Martinez, California (“Museum Site”);
- B. WHEREAS**, the term of the Lease was extended until July 1, 2014;
- C. WHEREAS**, the Sublease is not intended to include the Parking Lot also leased by Lessee in the Lease;
- D. WHEREAS**, Lessor has requested Lessor’s consent to enter into the Sublease;
- E. WHEREAS**, Lessor has agreed to give such consent upon the terms and conditions contained in this Consent Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals which by this reference are incorporated herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor hereby consents to the Sublease subject to the following terms and conditions, all of which are hereby acknowledged and agreed to by Lessee and Sublessee.

1. Sublease Agreement. Lessee and Sublessee hereby represent that a true and complete copy of the Sublease is attached hereto and made a part hereof as Exhibit 1, and the Lessee and Sublessee agree that the Sublease shall not be modified without Lessor’s prior written consent, which consent shall not be unreasonably withheld.

2. Representations. Lessee represents and warrants that Sublessee: (i) has not transferred or conveyed its interest in the Lease to any person or entity collaterally or otherwise; and (ii) has the full power and authority to enter into the Sublease and Consent Agreement. Sublessee hereby represents and warrants that Sublessee has full power and authority to enter into the Sublease and this Consent Agreement.

3. Indemnity and Insurance. Sublessee hereby assumes, with respect to Lessor, all of the indemnity and insurance obligations of the Lessee under the Lease with respect to the Museum Site, excepting property damage insurance, provided that the foregoing shall not be construed as relieving or releasing the Lessee from any such obligations under the

Lease. As a precondition to this Consent Agreement becoming effective, Sublessee shall provide Lessor with a certificate of insurance naming Lessor as an additional insured for the limits specified in the Lease and Sublease.

4. No Release. Nothing contained in the Sublease or this Consent Agreement shall be construed as relieving or releasing Lessee from any of its obligations under the Lease.

5. Lease. The parties agree that the Sublease is subject to and subordinate to the terms of the Lease and all terms of the Lease pertaining to the Museum Site are incorporated into the Sublease. In no event, shall the Sublease or this Consent Agreement be construed as granting or conferring upon the Lessee or Sublessee any greater rights than those contained in the Lease nor shall there be any diminution of the rights and privileges of the Lessor under the Lease, nor shall the Lease be deemed modified in any respect.

6. Authority. Each signatory of this Consent Agreement represents hereby that he or she has the authority to execute and deliver the same on behalf of the party hereto for which such signatory is acting.

7. Interpretation and Governing Law. This Agreement shall be construed according to its fair meaning as if prepared by both parties hereto. This Agreement shall be construed in accordance with the laws of the state of California.

8. Counterparts. This Consent Agreement may be executed in counterparts and shall constitute an agreement binding on all parties notwithstanding that all parties are not signatories to the original or the same counterpart provided that all parties are furnished a copy or copies thereof reflecting the signature of all parties.

**IN WITNESS WHEREOF,** Lessor, Lessee and Sublessee have executed this Consent Agreement as of the date set forth above.

**LESSOR:**

CONTRA COSTA COMMUNITY COLLEGE  
DISTRICT

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

Name: Valorie Gale

Title: Director of Purchasing

**LESSEE:**

CITY OF MARTINEZ

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

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

Title: Mayor

ATTEST: City Clerk

\_\_\_\_\_

**SUBLESSEE:**

MARTINEZ HISTORICAL SOCIETY

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

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

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

APPROVED AS TO FORM

ATKINSON, ANDELSON, LOYA,  
RUUD & ROMO

\_\_\_\_\_  
Elizabeth B. Hearey

DRAFT