

LEASE

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

A Portion of 40 Muir Road
Martinez, California

This lease is dated July 22, 2019, and is between the CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION, a public agency of the State of California (“**LAFCO**”) and the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (“**County**”).

Recitals

- A. County is the owner of the building located at 40 Muir Road, Martinez (the “**Building**”).
- B. County desires to lease to LAFCO and LAFCO desires to lease from County a portion of the Building consisting of approximately 620 square feet of floor space and more particularly described as Room 1202, Room 1203 and Room 1218 (together, the “**Premises**”), as shown in Exhibit A – Building Floorplan.

The parties therefore agree as follows:

Agreement

- 1. Lease of Premises. In consideration of the rents and subject to the terms herein set forth, County hereby leases to LAFCO and LAFCO hereby leases from County, the Premises.
- 2. Term. The “**Term**” of this lease is comprised of an Initial Term and, at LAFCO’s election, Renewal Terms, each as defined below.
 - a. Initial Term. The “**Initial Term**” is 5 years, commencing on July 22, 2019, and ending July 21, 2024.
 - b. Renewal Terms. LAFCO has two options to renew this lease for a term of 5 years for each option (each, a “**Renewal Term**”) upon all the terms and conditions set forth herein.
 - i. LAFCO will provide County with written notice of its election to renew the Lease thirty days prior to the end of the Term. However, if LAFCO fails to provide such notice, its right to renew the Lease will not expire until fifteen working days after LAFCO’s receipt of County’s written demand that LAFCO exercise or forfeit the option to renew.

- ii. Upon the commencement of a Renewal Term, all references to the Term of this lease will be deemed to mean the Term as extended pursuant to this Section.
3. Base Rent and Additional Rent. Base Rent and Additional Rent, as defined below, will be referred to collectively as “**Rent**” in this lease.
 - a. Base Rent. LAFCO shall pay to County as “**Base Rent**” an amount equal to 3.2% of the actual cost of operating and maintaining the Building, which costs may include, but are not necessarily limited to, utilities, janitorial services, pest control, refuse collection, elevators, HVAC, gas, electric, water, and sewer. The cost of operating and maintaining the Building for FY19/20 is estimated to be \$12,569, which equates to a monthly Base Rent of \$1,047. The County will notify LAFCO no later than March 1 of each year during the Term what the estimated Base Rent will be in the upcoming fiscal year.
 - b. Additional Rent. LAFCO shall pay \$1,000 per month to County as “**Additional Rent,**” as reimbursement for the costs of a portion of the first floor the Building tenant improvements.
 - c. Payment of Rent. The County shall bill and LAFCO shall pay Rent and Additional Rent monthly during the Term of this lease. Base Rent will be paid to the County’s Department of Public Works. Additional Rent will be paid to the County’s Department of Conservation and Development. Rent may be paid by cash, check, or journal transfer. At the expiration or earlier termination of this lease, LAFCO will have no further obligation to pay Rent to the County. Rent for any fractional month will be prorated and computed on a daily basis with each day’s rent equal to one-thirtieth (1/30) of the monthly Rent.
4. Conference Room. Room 1215 of the Building (the “**Conference Room**”) is not part of the Premises. The Conference Room is shown on Exhibit A – Building Floorplan. LAFCO may schedule use of the Conference Room by contacting the designated representative of the County’s Department of Conservation and Development.
5. Use. LAFCO may use the Premises for the purpose of conducting various administrative office functions of LAFCO.
6. Utilities, Maintenance and Repairs.
 - a. County Obligations. County shall pay for all gas, electric, water, sewer and refuse collection services provided to the Premises. County shall keep and maintain the interior and exterior of the Building in good repair and condition, including but not limited to the parking lot and exterior lighting system, the Building roof, walls, doors and their fixtures, closers and hinges, glass and glazing, and all locks and key systems. County shall keep and maintain the electrical, lighting, water, plumbing, heating, ventilating, and air-conditioning (HVAC) systems in good order, condition

and repair. County shall repair, at County expense, any damage to the leased Premises caused by County's failure to fulfill its maintenance and repair obligations.

- b. LAFCO Obligations – No Waste. LAFCO will not commit, or suffer to be committed, any waste upon the Premises, or any nuisance or other act or thing that may damage the Premises or disturb the quiet enjoyment of any other occupant of the Building.
7. Quiet Enjoyment. Provided LAFCO is in compliance with the material terms of this lease, County shall warrant and defend LAFCO in the quiet enjoyment and possession of the Premises during the Term.
8. Assignment and Sublease. LAFCO may not assign this lease or sublease the Premises or any part thereof at any time during the Term.
9. Alterations; Fixtures and Signs. LAFCO may (i) make any lawful and proper minor alterations to the Premises and (ii) attach fixtures and signs ("**Attachments**") in or upon the Premises. Any Attachments will remain the property of LAFCO and may be removed from the Premises by LAFCO at any time during the Term. At the expiration or earlier termination of this lease, LAFCO shall remove any such alterations and Attachments. LAFCO is responsible for the cost of all alterations and Attachments. All alterations and Attachments are subject to County's prior approval and must comply with existing code requirements.
10. Prior Possession. Commencing July 15, 2019, LAFCO has the right to install fixtures, telephones and other items required to prepare the Premises for LAFCO's occupancy and to store furniture, supplies and equipment, provided such work and storage and can be effected without unduly interfering with County's completion of any tenant improvements.
11. Insurance.
 - a. Liability Insurance. Throughout the Term, LAFCO shall maintain in full force and effect, at its sole expense, a general self-insurance program covering bodily injury (including death), personal injury, and property damage, including loss of use. LAFCO shall provide County with a letter of self-insurance affirming the existence of the aforementioned self-insurance program and naming Contra Costa County, its officers, agents and employees as additional insureds thereunder.
 - b. Self-Insurance Exclusion. LAFCO's self-insurance does not provide coverage for (i) areas to be maintained by County under this lease, or (ii) negligence, willful misconduct, or other intentional act, error or omission of County, its officers, agents, or employees.
12. Surrender of Premises. On the last day of the Term, or sooner termination of this lease, LAFCO shall peaceably and quietly leave and surrender to County the Premises, along

with their appurtenances and fixtures (except Attachments), all in good condition, ordinary wear and tear, damage by casualty, condemnation, act of God and County's failure to make repairs required of County excepted. LAFCO is not responsible for painting the Premises upon the expiration or earlier termination of this lease.

13. Inspection. County, or its proper representative or contractor, may enter the Premises by prior appointment between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday, holidays excepted, to determine that (i) the Premises is being reasonably cared for, (ii) no waste is being made and that all actions affecting the Premises are done in the manner best calculated to preserve the Premises, and (iii) LAFCO is in compliance with the terms and conditions of this lease.
14. Perilous Conditions. If the LAFCO becomes aware of a perilous condition on the Premises that, in the opinion of LAFCO's Executive Officer, substantially and significantly threatens the health and safety of LAFCO's employees and/or invitees (a "**Perilous Condition**"), then LAFCO's Executive Officer, or his or her designee, will immediately notify County of such Perilous Condition and County shall use best efforts to immediately eliminate the Perilous Condition.

County shall immediately address any condition reasonably constituting an emergency, whether County learns of the condition through LAFCO or otherwise.

15. Destruction. If damage occurs that causes a partial destruction of the Premises during the Term from any cause and repairs can be made within sixty days from the date of the damage under the applicable laws and regulations of governmental authorities, County shall repair the damage promptly. Such partial destruction will not void this lease, except that Lessee will be entitled to a proportionate reduction in Rent while such repairs are being made. The proportionate reduction in Rent will be calculated by multiplying Rent by a fraction, the numerator of which is the number of square feet that are unusable by Lessee and the denominator of which is the total number of square feet in the Premises.

If repairs cannot be made in sixty days, LAFCO will have the option to terminate the lease or request that County make the repairs within a reasonable time.

This lease will terminate in the event of a total destruction of the Building or the Premises.

16. Hazardous Material. County warrants to LAFCO that County does not have any knowledge of the presence of Hazardous Material (as defined below) or contamination of the Building or Premises in violation of environmental laws. County shall defend, save, protect and hold LAFCO harmless from any loss arising out of the presence of any Hazardous Material on the Premises that was not brought to the Premises by or at the request of LAFCO, its agents, contractors, invitees or employees. County acknowledges and agrees that LAFCO has no obligation to clean up or remediate, or contribute to the cost of clean up or remediation, of any Hazardous Material unless such Hazardous Material is released, discharged or spilled on or about the Premises by LAFCO or any of

its agents, employees, contractors, invitees or other representatives. The obligations of this Section shall survive the expiration or earlier termination of this lease.

“Hazardous Material” means any substance, material or waste, including lead based paint, asbestos and petroleum (including crude oil or any fraction thereof), that is or becomes designated as a hazardous substance, hazardous waste, hazardous material, toxic substance, or toxic material under any federal, state or local law, regulation, or ordinance.

17. Indemnification.

- a. LAFCO. LAFCO shall defend, indemnify and hold County harmless from LAFCO’s share of any and all claims, costs and liability for any damage, injury or death of or to any person or the property of any person, including attorneys’ fees, caused by the willful misconduct or the negligent acts, errors, or omissions of LAFCO, its officers, agents or employees in using the Premises pursuant to this lease.
- b. County. County shall defend, indemnify and hold LAFCO harmless from County’s share of any and all claims, costs and liability for any damage, injury or death of or to any person or the property of any person, including attorneys’ fees, caused by the willful misconduct or the negligent acts, errors or omissions of County, its officers, agents, employees, with respect to the Premises, or County’s performance under this lease, or the County’s performance, delivery or supervision of services at the Premises, or by the structural, mechanical or other failure of buildings owned or maintained by County, except to the extent caused or contributed to by the negligent acts, errors, or omissions of LAFCO, its officers, agents, or employees.

18. Termination of Lease by LAFCO and Mutual Termination. LAFCO may terminate this Lease upon 30 days’ prior written notice to County. In addition, the parties may mutually agree to immediate termination of this lease, without notice. LAFCO will have no further cost or obligation under this lease following the termination date.

19. Default.

The occurrence of any of the following events is a default under this lease:

a. LAFCO.

- i. LAFCO’s failure to pay Rent within ten business days after receipt of a written notice of failure (a “**Notice**”) from County to LAFCO; provided, however, that LAFCO will have additional time if its failure to pay Rent is due to circumstances beyond its reasonable control, including, without limitation, failure of the LAFCO’s Commission to adopt a budget. In no event may such additional time exceed seventy-five days from receipt of a Notice.

- ii. LAFCO's failure to comply with any other material term or provision of this lease if such failure is not remedied within thirty days after receipt of a Notice from County to LAFCO specifying the nature of the breach in reasonably sufficient detail; provided, however, if such default cannot reasonably be remedied within such thirty day period, then a default will not be deemed to occur until the occurrence of LAFCO's failure to comply within the period of time that may be reasonably required to remedy the default, up to an aggregate of ninety days, provided LAFCO commences curing such default within thirty days and thereafter diligently proceeds to cure such default.
- b. County. County's failure to perform any obligation under this lease if such failure is not remedied within thirty days after receipt of a Notice from LAFCO to County specifying the nature of the breach in reasonably sufficient detail; provided, however, if such breach cannot reasonably be remedied within such thirty day period, then a default will not be deemed to occur until the occurrence of County's failure to perform within the period of time that may be reasonably required to remedy the breach, up to an aggregate of ninety days, provided County commences curing such breach within thirty days and thereafter diligently proceeds to cure such breach.

20. Remedies.

- a. County. Upon the occurrence of a default by LAFCO, County may, after giving LAFCO written notice of the default, and in accordance with due process of law, reenter and repossess the Premises and remove all persons and property from the Premises.
- b. LAFCO. Upon the occurrence of a default by County, LAFCO may (i) terminate this lease by giving written notice to County and quit the Premises without further cost or obligation to LAFCO, or (ii) proceed to repair or correct the failure and, at LAFCO's option, either deduct the cost thereof from Rent due to County, or invoice County for the cost of repair, which invoice County shall pay promptly upon receipt.

21. Notices. Any notice required or permitted under this lease shall be in writing and sent by overnight delivery service or registered or certified mail, postage prepaid and directed as follows:

To County: Real Estate Manager
 Contra Costa County
 Public Works Department
 255 Glacier Drive
 Martinez, CA 94553

To LAFCO: Contra Costa Local Agency Formation Commission
 40 Muir Road
 Martinez, CA 94553
 Attn: Executive Officer

Either party may at any time designate in writing a substitute address for that set forth above and thereafter notices are to be directed to such substituted address. If sent in accordance with this Section, all notices will be deemed effective (i) the next business day, if sent by overnight courier and (ii) three days after being deposited in the United States Postal system.

22. Successors and Assigns. This lease binds and inures to the benefit of the heirs, successors, and assigns of the parties hereto.
23. Holding Over. Any holding over after the Term of this lease is a tenancy from month to month and is subject to the terms of this lease.
24. Time is of the Essence. In fulfilling all terms and conditions of this lease, time is of the essence.
25. Governing Law. The laws of the State of California govern all matters arising out of this lease.
26. Severability. In the event that any provision herein contained is held to be invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions of this lease will not in any way be affected or impaired.

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27. Entire Agreement; Construction; Modification. Neither party has relied on any promise or representation not contained in this lease. All previous conversations, negotiations, and understandings are of no further force or effect. This lease is not to be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. This lease may be modified only by a writing signed by both parties.

The parties are executing this lease as of the date set forth in the introductory paragraph.

COUNTY OF CONTRA COSTA, a
California political subdivision of the
State of California

CONTRA COSTA LOCAL
AGENCY FORMATION
COMMISSION (LAFCO), a public
agency of the State of California

By: _____
Brian M. Balbas
Director of Public Works

By: _____
Lou Ann Texeira
Executive Officer

RECOMMENDED FOR APPROVAL:

By: _____
Karen A. Laws
Principal Real Property Agent

By: _____
Stacey Sinclair
Senior Real Property Agent

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Kathleen M. Andrus
Deputy County Counsel

By: _____
Sharon L. Anderson
LAFCO Legal Counsel

