

AMENDMENT #1 TO THE SUBLEASE AGREEMENT
BETWEEN
THE CITY OF MARINA
AND
MUSEUM OF HANDCAR TECHNOLOGY

This is Amendment No. 1 to the Sublease Agreement (Amendment No. 1) between the City of Marina (CITY) and Museum of Handcar Technology (MUSEUM) is effective retroactive to July 1, 2023 as follow:

RECITALS:

- A. **WHEREAS**, the CITY and MUSEUM entered into a Sublease Agreement on October __, 2022 (Sublease Agreement) for the Property, set forth in Exhibit A, which also depicts three subcomponents of the Property for which differing nonrefundable monthly rents are charged to MUSEUM, specifically identified as Area 1, Area 2, and Area 3 in Exhibit A.
- B. **WHEREAS**, the CITY is leasing the Property from the Transportation Agency for Monterey County (TAMC) to facilitate to the Sublease with MUSEUM.
- C. **WHEREAS**, the MUSEUM is not using Area 2 and desires not to pay rent for use Area 2.
- D. **WHEREAS**, the CITY and MUSEUM are amenable to an amendment to the Sublease Agreement that takes account of this request.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to amend the Sublease Agreement as follows:

- The following sections of the Sublease Agreement are amended and restated to read in their entirety as follows:

1. DESCRIPTION OF PREMISES

CITY desires to enter into a Lease Agreement with the TRANSPORTATION AGENCY FOR MONTEREY COUNTY (“TAMC” or “LESSOR”) for certain premises (Premises) known as the property (hereinafter referred to as the “Property”).

CITY hereby subleases such Property to MUSEUM on the terms and conditions hereinafter set forth, in a nonexclusive grant sublease.

- a. Exhibit A depicts two sub-components of the Property, identified as Area 1 and Area 3.

- b. The Property includes an encroachment into the railroad right-of-way for LESSOR, located in the County of Monterey, for an approximate length of three and a half (3.5) miles from the Palm Avenue and Marina Drive intersection in Marina, under the Highway 1 overcrossing and over the bike path, to the balloon spur tracks in the Fort Ord Dunes State Park (Area 1). There is also an area of fifty (50) by two hundred and twenty-five (225) feet for a fenced in storage area along the railroad tracks in the City of Marina near Marina Drive and Palm Avenue (Area 3). Besides the railroad track, there are no buildings or permanent structures on the Premises.
- c. The MUSEUM will operate in accordance with its proof of concept for the Project provided to the CITY. MUSEUM shall not allow entry to the Property to anyone not participating in activities outlined in the proof of concept.

5. RENT

CITY and MUSEUM agree that the monthly rent for the TERM of this SUBLEASE shall be structured based on the cost of 4.6 cents per square foot per month for Area 1 and 14 cents per square foot per month for Area 3.

- a. MUSEUM agrees to pay CITY non-refundable monthly rent in the amount of Four Thousand, Two Hundred and Forty-Eight Dollars (\$4,248) for Area 1.
- b. MUSEUM agrees to pay CITY non-refundable monthly rent in the amount of One Thousand, Five Hundred Seventy-Five Dollars (\$1,575) for the use of Area 3.

If necessary, the rent for certain months of this SUBLEASE shall be pro-rated. For purposes of calculating rents and other charges due, each month shall be considered to have 30 days, and each year of the term of this SUBLEASE to have 360 days. Rent shall be due on the first day of each month. Should any payments due under this SUBLEASE remain unpaid ten (10) days after the due date of such payment, a penalty of 10% shall be added to any payments past due and owing.

6. USE/FACILITIES COVERED

The use of the facilities is limited to the areas noted in the description of Premises (incorporated herein by reference as Exhibit A). Use of Area 1 is limited to recreational uses as described in **Section 7**. The use of surrounding property for storage is limited to Area 3. Any permanent changes to the Property must first be proposed to MUSEUM and approved in writing by MUSEUM and LESSOR. Additionally, any permanent changes to the Property are to be within any safety standards pursuant to the type of changes proposed and it is the MUSEUM'S duty to be knowledgeable about and compliant with

all legal requirements, including but not limited to, federal, state, and local statutory and regulatory obligations.

Only the numbered sections of the Sublease Agreement that are being amended are set forth in this Amendment No. 1. All other terms of the Sublease Agreement remain in full effect.

- Integration. This Amendment No. 1 and the Sublease Agreement represent the entire agreement concerning this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Amendment No. 1 and the Sublease Agreement merge into this Amendment No. 1 and the Sublease Agreement.
- Counterparts. This Amendment No. 1 may be executed in any number of counterparts and all of counterparts taken together shall be deemed to constitute one and the same instrument.
- Authority. Each individual executing this Amendment No. 1 represents and warrants that they are duly authorized to execute and deliver this Amendment No. 1 and that this Amendment No. 1 is binding in accordance with its terms.
- Except as provided above, the Sublease Agreement is in all other respects in full force and effect.
- An executed copy of this Amendment No. 1 shall be attached to the Sublease Agreement and shall be incorporated as if fully set forth therein.

[Signature Pages Immediately Follow]

IN WITNESS WHEREOF the parties hereto have executed this SUBLEASE AMENDMENT No. 1 this ____ day of _____, 2023.

MUSEUM OF HANDCAR TECHNOLOGY

BY: _____

Approved as to form:

Museum of Handcar Technology Counsel

CITY OF MARINA

BY: _____

Layne Long, City Manager

Approved as to form:

Heidi A. Quinn, Interim City Attorney