

**FIFTH AMENDMENT TO LEASE AGREEMENT
BETWEEN THE CITY OF MORGAN HILL AND GAVILAN
COMMUNITY COLLEGE**

This FIFTH AMENDMENT TO LEASE AGREEMENT is made this _____ day of _____ 2015 ("FIFTH AMENDMENT"), by THE CITY OF MORGAN HILL, a municipal corporation, ("LANDLORD") and GAVILAN COMMUNITY COLLEGE, a California single community college district, (TENANT).

RECITALS

The following recitals are a substantive part of this Agreement:

1. The LANDLORD and the TENANT entered into a Lease Agreement dated December 4, 2001 ("ORIGINAL LEASE AGREEMENT") by which the LANDLORD leases to the TENANT the premises commonly known as the Gavilan College Campus at the Morgan Hill Community and Cultural Center consisting of a portion of a building with approximately ten thousand (10,000) square feet ("PREMISES").
2. The LANDLORD and the TENANT entered into a "First Amendment to Lease Agreement" made as of January 2, 2003, ("FIRST AMENDMENT"), under which the ORIGINAL LEASE AGREEMENT was amended as to **2.1. Initial Term** and **3.1 Base Rent** and allowed the TENANT to occupy the PREMISES prior to July 1, 2003.
3. LANDLORD and the TENANT entered into a "Second Amendment Lease Agreement" made as of March 6, 2009, ("SECOND AMENDMENT"), under which the ORIGINAL LEASE AGREEMENT was amended as to **1. Premises**, increasing the total square footage from ten thousand (10,000) square feet to ten thousand six hundred (10,600) square feet, **2.1 Term, 2.2 Renewal, 2.3 Termination, 3.1 Base Rent** and **16. Notices**.
4. The LANDLORD and the TENANT entered into a "Third Amendment Lease Agreement" made as of November 4, 2009, ("THIRD AMENDMENT"), under which the ORIGINAL LEASE AGREEMENT was amended as to **2.1 Term, 2.2 Renewal, 2.3 Termination**, requiring at least one hundred eighty (180) day written notice for either party.
5. The LANDLORD and the TENANT entered into a "Fourth Amendment Lease Agreement" made as of December 5, 2012 ("FOURTH AMENDMENT") under which the ORIGINAL LEASE AGREEMENT was amended as to **2.1 Term, 2.2 Renewal**, and **16. Notices**.
6. The "LEASE AGREEMENT" is defined as the ORIGINAL LEASE AGREEMENT, the FIRST AMENDMENT, the SECOND AMENDMENT, the THIRD AMENDMENT and the FOURTH AMENDMENT, each of which are

attached collectively as "**Exhibit A**" and incorporated herein by this reference.

7. The LANDLORD and TENANT ("PARTIES") desire to enter into a Fifth Amendment to the LEASE AGREEMENT.

AGREEMENT

THE PARTIES MUTUALLY AGREE TO FURTHER AMEND THE LEASE AGREEMENT AS FOLLOWS:

SECTION 1. Term

Section 2.1 of the LEASE AGREEMENT is hereby amended to read in its entirety as follows:

"2.1 Term. The Term of this Lease Agreement shall be for a period of five (5) years commencing July 1, 2015 and terminating June 30, 2020 unless earlier terminated as provided in Section 2.3. Lessee shall have the option to renew the Term as provided in Section 2.2 for three (3) additional one (1) year renewal terms ("Renewal Terms)."

SECTION 2. Renewal

Section 2.2 of the LEASE AGREEMENT is hereby amended to read in its entirety as follows:

"2.2 Renewal. Lessee option to renew the Lease Term for the Renewal Terms. Lessee shall give Lessor notice of Lessee's exercise of the option to renew for the first Renewal Term no later than January 31, 2020 and on each January 31, for the following two (2) Renewal Terms. If Lessee exercises the right for all Renewal Terms, the Lease terminates on July 1, 2023."

SECTION 3. Base Rent

Section 3.1 of the LEASE AGREEMENT is hereby amended to read in its entirety as follows:

"3.1 Base Rent. Commencing on July 1, 2015, Lessee agrees to pay to Lessor rent for the Premises in the amount of One Dollar and Fifty Seven Cents (\$1.57) per month per square foot of the Premises. Rent shall be payable In lawful money of the United States on or before the 1st day of each and every calendar month during the Term of the Lease, and shall be free from all claims and demands against Lessor of any kind nature or description whatsoever and without deduction or offset; at such place or places as may be designated from time to time by Lessor.

SECTION 4. Payment of Proportionate Share of Routine Costs.

Section 6.1 of the LEASE AGREEMENT is hereby amended to read in its entirety

as follows:

“6.1 Payment of Maintenance and Utility Costs. Lessee shall be responsible for all “Basic Maintenance and Utilities” including (a) custodial services within the Premises, (b) professional services including, but not limited to, financial, and legal, (c) utilities serving the Premises, including deposits and monthly charges for gas electricity and water, and (d) maintenance of the interior portions of the Premises as outlined in Section 6.2 of the Lease. Lessor shall be responsible for all building exterior maintenance, including without limitation: (a) parking lot clean-up, re-paving/re-striping, (b) landscape (vegetation, irrigation systems and hardscape elements) and (c) exterior pest control. Lessor shall also be responsible for maintenance of the following major building systems including: (a) HVAC system and equipment maintenance, repairs and replacement, (b) fire sprinkler maintenance, and (c) water heating systems, As the Premises will have its own water meter and gas and electrical meter, the Lessee will be responsible for making those payments directly to the service provider.

SECTION 5. Conflicting Provisions

In the event of a conflict between the terms and provisions of this FIFTH AMENDMENT and the terms and provisions of the LEASE AGREEMENT, or any prior amendments, the terms of this FIFTH AMENDMENT shall govern and control.

SECTION 6.

Except as specifically amended by the terms, provisions, and conditions contained in this FIFTH AMENDMENT, the terms, provisions, and conditions contained in the LEASE AGREEMENT shall remain in full force and effect.

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ATTEST:

CITY OF MORGAN HILL

City Clerk
Date: _____

City Manager
Date: _____

APPROVED AS TO FORM:

Gavilan Community College District

City Attorney
Date: _____

By:
Title: _____

Print Name and Title of Signer.
If Corporate: Chairman, President or
Vice President

Date: _____