Gordon & Rees LLP 101 West Broadway, Suite 2000 San Diego, CA 92101	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	P. GERHARDT ZACHER (SBN: 043184) KRISTIN N. REYNA (SBN: 211075) MATTHEW P. NUGENT (SBN: 214844) GORDON & REES LLP 101 W. Broadway Suite 2000 San Diego, CA 92101 Telephone: (619) 696-6700 Facsimile: (619) 696-7124 gzacher@gordonrees.com kreyna@gordonrees.com mnugent@gordonrees.com Attorneys for Cross-Defendant MARTIN FRANCHISES INC. UNITED STATES EASTERN DISTRIC CHARLES H. LEWIS and JANE W. LEWIS,) Plaintiffs,) vs.) ROBERT D. RUSSELL; BEN J. NEWITT; et) al.,) Defendants.) CITY OF DAVIS,) Cross-claimant,) Vs.) ROBERT D. RUSSELL; BEN J. NEWITT; the) Estate of PHILLIP NEWITT, Deceased; JUNG) HANG SUH; SOO JUNG SUH; JUNG K.) SEO; THE DAVIS CENTER, LLC; MELVIN (SEO; THE DAVIS CENTER, LLC; MELVIN) R. STOVER, individually and as a trustee of the Stover Family Trust; STOVER, individually and as a trustee of the Stover Family Trust; STOVER, individually and as a successor trustee of the Robert S. Stinchfield Separate Property	DISTRICT COURT T OF CALIFORNIA CASE NO. 2:03-CV-02646-WBS-CKD STIPULATION OF CROSS- COMPLAINANT CITY OF DAVIS AND CROSS-DEFENDANT MARTIN FRANCHISES INC. TO STAY PROCEEDINGS BETWEEN THEM PENDING SETTLEMENT; [PROPOSED ORDER]
			-
		STIPULATION OF CITY OF DAVIS AND MARTIN TO STAY PROCEEEDINGS BETWEEN THEM	

CASE NO. 2:03-CV-02646-WBS-CKD

PENDING SETTLEMENT; [PROPOSED] ORDER

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Revocable Trust, and as trustee of the Barbara
Ellen Stinchfield Testamentary Trust;
ROBERT S. STINCHFIELD SEPARATE
PROPERTY REVOCABLE TRUST; THE
BARBARA ELLEN STINCHFIELD
TESTAMENTARY TRUST; WORKROOM
SUPPLY, INC., a California corporation;
SAFETY-KLEEN CORPORATION, a
California corporation; JENSEN
MANUFACTURING COMPANY; VIC
MANUFACTURING COMPANY USA, a
Minnesota corporation; and MARTIN
FRANCHISES, INC., aka/dba
MARTINIZING DRY CLEANING;
,
Cross- Defendants.

WHEREAS, on October 3, 2012, this Court issued an order granting the motion for summary judgment of MARTIN FRANCHISES, INC. (hereinafter, "MARTIN") as to the claims of the CITY OF DAVIS ("CITY") against it for negligence, strict product liability, negligence per se, and under chapter 33.00 of the Davis Municipal Code [Docket No. 428];

WHEREAS, on October 3, 2012, this Court issued an order denying the CITY's motion for leave to amend its cross-claims against MARTIN [Docket No. 429];

WHEREAS, on October 3, 2012, this Court issued an order allowing the CITY ten days to submit a declaration or affidavit under Federal Rule of Civil Procedure 56(d) seeking time to obtain affidavits or declarations or to take discovery to support its opposition to MARTIN's summary judgment motion as to its CERCLA and nuisance claims against MARTIN [Docket No. 430];

WHEREAS, on October 3, 2012, this Court issued an order allowing MARTIN to file an opposition to said F.R.C.P. 56(d) submission within ten days of the filing of the CITY's submission [Docket No. 431];

WHEREAS, on October 3, 2012, this Court postponed its ruling on MARTIN's summary judgment motion on the CITY's CERCLA and nuisance claims until the Court could consider the F.R.C.P. 56(d) request by the CITY [Docket No.430];

WHEREAS, following the above-cited orders of the Court, the CITY and MARTIN began a dialogue on the potential settlement of the CITY's remaining claims against MARTIN;

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2 settlement of the CITY's remaining claims against MARTIN, which is expressly contingent on 3 approval of the settlement terms by the City Council and the City's insurance carriers; 4 WHEREAS, pending the finalization of said settlement, the CITY and MARTIN hereby 5 stipulate to stay the current proceedings between them, including, the CITY's Rule 56(d) 6 submission, MARTIN's opposition thereto, and any rulings by this Court on the CITY's Rule 7 56(d) submission and MARTIN's summary judgment motion as to the CITY's CERCLA and 8 nuisance claims: 9 WHEREAS, the CITY and MARTIN hereby stipulate that if the settlement cannot be 10 finalized within forty-five (45) days of October 10, 2012, that is, by November 23, 2012, the stay 11 of the current proceedings between the CITY and MARTIN shall terminate and the proceedings, 12 including the CITY's Rule 56(d) submission, MARTIN's opposition thereto, and any rulings by 13 the Court on the Rule 56(d) submission and MARTIN's summary judgment motion as to the 14 CITY's CERCLA and nuisance claims, shall recommence and proceed in due course. The CITY 15 and MARTIN further stipulate that, should the stay of the current proceedings between them 16 terminate, the CITY shall have ten (10) days from such termination to file its Rule 56(d) 17 submission and MARTIN shall have ten (10) days from the CITY'S submission to file its 18 opposition thereto. 19 IT IS SO STIPULATED. 20 Dated: October 12, 2012 **GORDON & REES LLP** 21 /s/ Kristin N. Reyna By: Kristin N. Reyna 22 23 24 Dated: October 12, 2012 COTA COLE LLP 25 By: 26

WHEREAS, on October 10, 2012, the CITY and MARTIN reached an agreement on the

Attorneys for Cross-Defendant MARTÍN FRANCHISES INC. /s/ Jennifer Hartman King Jennifer Hartman King Miranda Dalju Attorneys for Cross-complainant CITY OF DAVIS - 3 -CASE NO. 2:03-CV-02646-WBS-CKD

IT IS SO ORDERED.

DATED: October 16, 2012

UNITED STATES DISTRICT JUDGE

101 West Broadway, Suite 2000 San Diego, CA 92101 Gordon & Rees LLP