For the past thirty-one (31) years, the District has leased approximately three hundred fifty (350) acres of undeveloped land to the East Bay Regional Park District (EBRPD). This mutually beneficial relationship has allowed the EBRPD to provide access for local citizens and the general public to hiking, biking trails and to the Mission Peak Regional Preserve. In return, the District has received land management and fire prevention services for the area as well as patrols by Park Rangers to prevent unauthorized or illegal use of the premises.

The current five (5) year lease terminates on November 30, 2009. The attached First Amendment to Operating Lease Agreement will extend the term of the lease for another five (5) year period to November 30, 2014. It will also allow EBRPD to install a pedestrian gate at the Witherly Lane entrance to the Panorama Trailhead, shown in Exhibit A and depicted in the attached photo. This modification is being requested to prevent individuals from climbing and damaging the locked vehicular gate shown in the photo. The entire area currently under lease to EBRPD is depicted in Exhibit B.

As part of the preparation for this item, staff has performed due diligence to address concerns expressed by the Board about this lease. First, a title search of the District’s real property was performed that indicates “… no conveyance of the land within a period of twenty-four months prior to the date of this report…” Legal counsel was also consulted and opined that “EBRPD has no claim to the District’s property as a result of its extended use of the land subject to the lease, because EBRPD cannot be said to adversely possess the District’s property.” Second, EBRPD was requested to amend their maps of the area to give ownership recognition to Ohlone College District for the leased land. The attached Exhibit A shows that recognition has been provided and this revised map is now posted to the EBRPD website. Lastly, staff has queried EBRPD regarding any improvements or modifications made to facilities on the leased land and have determined that no improvements or modifications have been performed in the past five (5) years with the exception of maintenance and repairs that are required of EBRPD under terms of the lease.
RECOMMENDATION

The President/Superintendent recommends that the Board of Trustees approve Board Resolution No. 09/09-10 which authorizes the attached First Amendment to Operating Lease Agreement with the East Bay Regional Park District.