

## AMENDMENT TO LEASE

### MARIN COUNTY FIRE DEPARTMENT THROCKMORTON FIRE STATION

This Lease Amendment (Amendment) dated as of \_\_\_\_\_ day of \_\_\_\_\_, 2005 is entered into by and between the Marin Municipal Water District, ("District"), and the County of Marin, a political subdivision of the State of California, ("County"), and amends that certain Lease Agreement between the District and the County, dated January 2, 1958 (the "Lease"), attached hereto as Exhibit "A" and made a part hereof.

For valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

#### Section 1. Recitals:

- A. The District is the owner of that certain property located on Panoramic Highway, Mill Valley, Assessor's Parcel Number 197-120-29 ("Property").
- B. District leased to the County certain premises, described in the Lease ("Premises"). The County has constructed a building on the Premises (the "Existing Building") known as the Marin County Throckmorton Fire Station.
- C. The County plans to demolish the Existing Building and construct a new fire station ("Fire Station") on the Premises.
- D. The County desires to amend the Lease to (1) increase the size of the Premises to 41,075 square feet which will allow space for the new building and employee parking, and (2) to place underground sewer facilities within the existing 50-foot wide access driveway, on the Premises, as part of the construction of the Fire Station.
- E. The District hereby agrees to amend the Lease in order to increase the size of the Premises and to allow sewer facilities to be placed on the Premises and along and under the 50-foot access right of way described in Exhibit "B" and depicted on Exhibit "C".

#### Section 2. Environmental Documentation and Permitting:

- A. The County shall act as the lead agency and prepare and process all documents and studies associated with the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA) if

required. In this regard the County shall consult with District in the preparation and processing of documents and studies relevant to CEQA and NEPA.

- B. The County shall obtain any and all necessary permits and approvals from applicable local, state and federal regulatory agencies for the construction of Project.

### Section 3. Indemnification:

- A. County shall hold harmless, indemnify, and defend the District, its officers, directors, employees and agents from any and all claims, actions or liability for injuries and/or damages to persons and/or property which arise out of the County's performance under this agreement, its use of the Premises and/or its construction, use and/or maintenance of the Fire Station on the Premises.
- B. The County's duty to indemnify and hold harmless the District as set forth herein shall include the duty to defend as set forth in Civil Code Section 2778.

### Section 4. Dispute Resolution:

Any dispute or claim in law or equity between District and County arising out of this agreement, if not resolved by informal negotiation between the parties, shall be mediated by referring it to the nearest office of Judicial Arbitration and Mediation Services, Inc. (JAMS) for mediation. Each party shall provide the others with a list of four mediators. The parties shall confer on the list and select a mutually agreeable mediator. Mediation shall consist of an informal, non-binding conference or conferences between the parties and the judge-mediator jointly, then in separate caucuses wherein the judge will seek to guide the parties to a resolution of the case. If the parties cannot agree to a mutually acceptable member from the JAMS panel of retired judges, a list and resumes of available mediators with substantial experience in mediating claims of the type at issue between the parties, numbering one more than there are parties, will be sent to the parties, each of whom will strike one name leaving the remaining name as the mediator. If more than one name remains, JAMS arbitration administrator will choose a mediator from the remaining names. The mediation process shall continue until the case is resolved or until such time as the mediator makes a finding that there is no possibility of resolution.

At the election of either party, any dispute or claim in law or equity between District and County arising out of this agreement which is not settled through mediation shall be decided by neutral binding arbitration and not by court action,

except as provided by California law for judicial review of arbitration proceedings. The arbitration shall be conducted in accordance with the rules of Judicial Arbitration Mediation Services, Inc. (JAMS). The parties to an arbitration may agree in writing to use different rules and/or arbitrators.

Section 5. Authorization:

Each signatory to this agreement warrants that he or she has full authority to execute this agreement on behalf of and thus bind the individual or entity represented.

Section 6. Entire Agreement:

This agreement contains the entire agreement and understanding between the parties hereto with respect to the matters referred to herein.

Section 7. Binding on Successors:

This agreement shall bind and inure to the benefit of the respective successors, assigns, legatees, heirs, executors, administrators and estates of each of the parties.

Section 8. Paragraph Headings:

Paragraph headings are used for reference purposes only and are not intended to describe, interpret, define or limit the scope or extent of this agreement or any of its provisions.

Section 9. Governing Law:

This agreement shall be governed by and construed in accordance with the laws of the state of California.

Section 10. Counterparts:

This agreement may be executed in any number of counterparts, each of which shall be an original, but all of which taken together, shall constitute one instrument.

Section 11. No Presumption Re Drafter:

The Parties acknowledge and agree that the terms and provisions of this agreement have been negotiated and discussed between the Parties and their attorneys, and this agreement reflects their mutual agreement regarding the

same. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any party to be the drafter of this agreement, and therefore no presumption for or against validity or as to any interpretation hereto, based upon the identity of the drafter shall be applicable in interpreting or enforcing this agreement

Section 12. Modification:

This agreement may be modified at any time by mutual written consent of the parties hereto.

Section 11. Effective Date:

The effective date of this first amendment to lease shall be the date District signs this amendment.

All other terms and conditions of the original lease not modified herein shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

COUNTY OF MARIN

MARIN MUNICIPAL WATER DISTRICT

By: \_\_\_\_\_  
President, Board of Supervisors

By: \_\_\_\_\_  
General Manager

ATTEST:

ATTEST:

\_\_\_\_\_  
Deputy Clerk of Board of Supervisors

\_\_\_\_\_  
District Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
County Counsel

By: \_\_\_\_\_  
General Counsel

Exhibit B  
Legal descriptions of New Premises and New Access

Survey Description for Lease Amendment

THROCKMORTON RIDGE FIRE STATION  
EXHIBIT 'B'

**Commencing** at a 1¼" square steel plate stamped "TMP102" the same as shown on Record of Survey Panoramic Highway filed in the Office of the Recorder of Marin County in Book 21 at Page 23 of Official Surveys (21 OS 23) in January of 1986; thence North 33°26'36" West 806.06 feet to a ½" iron pipe in concrete marked "B + S" as shown on (21 OS 23); thence North 25°34'04" West 279.73 feet to the **Point of Beginning**; thence North 25°57'28" West **95.00** feet; thence North 64°02'32" East 155.00 feet; thence South 25°57'28" East **265.00** feet; thence South 64°02'32" West 56 feet to Point "A" of the original lease; thence South 64°02'32" West 99 feet; thence North 25°57'28" West 170.00 feet to the **Point of Beginning**.

Said parcel contains **41,075** sq. ft. more or less.

Also a right of way for road purposes and for an underground sanitary sewer pipeline 50 feet in width lying 25 feet on either side of the following described line:

Beginning at said "Point A" hereinabove mentioned and running thence South 42° 17' East 536.41 feet; thence on a curve to the right with a radius of 200 feet for an arc length of 77 feet, more or less, to the easterly line of the 60 foot strip of land designated as Parcel One in the conveyance from the Marin Municipal Water District to the County of Marin by deed dated September 20, 1927 and recorded in Book 125 at Page 493, Marin County Official Records.