

FIRST AMENDMENT
TO
JOINT EXERCISE OF POWERS AGREEMENT BETWEEN THE CITY
OF SAN RAFAEL AND MARINWOOD COMMUNITY SERVICES
DISTRICT FOR FIRE PROTECTION, EMERGENCY SERVICES, AND
PERSONNEL SHARING

THIS FIRST AMENDMENT TO AGREEMENT is entered into as of November 1, 2018, by and between the **CITY OF SAN RAFAEL**, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California (hereinafter "**CITY**"), and **MARINWOOD COMMUNITY SERVICES DISTRICT**, a community services district organized under the Community Services District Law, codified as Government Code section 61000 et seq. (hereinafter the "**DISTRICT**"). **CITY** and **DISTRICT** may sometimes hereinafter individually be referred to as a "party" or jointly as the "Parties."

RECITALS

A. On April 8, 2014, the Parties entered into an agreement entitled "Joint Exercise of Powers Agreement between the City of San Rafael and Marinwood Community Services District for Fire Protection, Emergency Services, and Personnel Sharing" (hereinafter the "Agreement").

B. In addition to the provisions for services and personnel sharing in the Agreement, the **DISTRICT** is also in current need of obtaining Fire Chief Officer Services necessary for the administration and operations of the Marinwood Fire Department.

C. The **CITY**, through its Fire Chief, Fire Department command staff, and other personnel, possesses the skills, expertise and other necessary resources needed to satisfy the **DISTRICT's** current need for Fire Chief Officer Services, and is willing to provide those services to the **DISTRICT**.

D. In accordance with the Section 12 of the Agreement, the Parties wish to amend the Agreement to additionally include Fire Chief Officer Services as described in this First Amendment.

NOW, THEREFORE, in consideration of the mutual and respective promises, and subject to all the terms and conditions of said Agreement, except as herein modified, the parties agree to amend the Agreement as follows:

ARTICLE 1.

Exhibit A to the Agreement is hereby replaced with “EXHIBIT A” attached to this First Amendment and incorporated herein by reference.

ARTICLE 2.

Any and all references in the Agreement to the **DISTRICT**’s “Fire Chief” shall be deemed to refer to **DISTRICT**’s District Manager or their designee.

ARTICLE 3.

New Section 2.1 entitled “FIRE CHIEF OFFICER SERVICES – CITY OBLIGATIONS TO DISTRICT”, is hereby added to the Agreement to read in its entirety as follows:

2.1. **FIRE CHIEF OFFICER SERVICES – CITY OBLIGATIONS TO DISTRICT**

A. **Cooperation.** **CITY** will cooperate with **DISTRICT** regarding **CITY’S** performance of Fire Chief Officer Services, recognizing the Fire Chief Officer Services provided pursuant to this Agreement are required for oversight of all **DISTRICT** fire operations.

B. **Provision of Fire Chief Officer Services.** **CITY** will provide the Fire Chief Officer Services described in **Exhibit B**, attached and incorporated herein by reference (“Fire Chief Officer Services”). For the purposes of this Agreement, all references to **CITY’S** “Fire Chief” shall be deemed to refer to the San Rafael Fire Chief or their Designated Chief Officer.

C. **Compensation of CITY Personnel.** Throughout the term of this Agreement, **CITY** will continue to be responsible for all compensation provided to **CITY** personnel including **CITY’S** Fire Chief.

ARTICLE 4.

New Section 3.1 entitled “FIRE CHIEF OFFICER SERVICES – DISTRICT OBLIGATIONS TO CITY”, is hereby added to the Agreement to read in its entirety as follows:

3.1 **FIRE CHIEF OFFICER SERVICES – DISTRICT OBLIGATIONS TO CITY**

A. **Cooperation.** **DISTRICT** will cooperate with **CITY** regarding **CITY’S** performance of Fire Chief Officer Services, recognizing the Fire Chief Officer Services provided for oversight of **DISTRICT** operations pursuant to this Agreement are provided in addition to **CITY’S** ongoing oversight of **CITY’S** Fire Department services.

B. **Payment for Fire Chief Officer Services.** **DISTRICT** will reimburse **CITY** for the cost of providing Fire Chief Officer Services pursuant to this Agreement, as follows:

- i. **DISTRICT** shall pay **CITY** a flat annual fee for services in an amount agreed upon by both Parties (the “Services Fee”), which the Parties agree shall be the sum of \$96,320.20 for the first year of the term of this Agreement. At the end of each year of the term, the Services Fee for the next year shall be increased by three percent (3%) of the then-current Services Fee. **CITY** shall submit invoices to **DISTRICT** in accordance with this Agreement not more often than monthly, and **DISTRICT** shall pay any such invoices within 30 days;
- ii. At the end of five years, if **CITY** determines its costs associated with the provision of Fire Chief Officer Services as provided in this Agreement exceed the then-current Services Fee, **CITY** may, with not less than sixty (60) days’ notice to **DISTRICT**, request an increase of the Services Fee and the Parties agree to negotiate in good faith a mutually agreeable resolution of the requested fee adjustment prior to the requested effective date of such adjustment. The agreed upon fee shall become the new “Services Fee” and shall be subject to the adjustments over five years provided in Subsection B.i. above. Thereafter throughout the term of this Agreement, a similar process may be followed for adjustment of the Services Fee not more frequently than every five years.

ARTICLE 5.

Section 2, TYPE OF ASSISTANCE – CITY TO DISTRICT, is hereby amended to delete Subsection F thereof in its entirety.

ARTICLE 6.

Section 7, EMPLOYER/EMPLOYEE RELATIONSHIP, Subsection B, Discipline, is hereby amended to read in its entirety as follows:

B. **Discipline.** The **Receiving Agency** may not reprimand, suspend, or take any disciplinary action whatsoever against an employee of the **Sole Employer** temporarily assigned to the **Receiving Agency**. Only the **Sole Employer** may discipline an employee temporarily assigned to a **Receiving Agency**, regardless of the number of hours the employee may be assigned to the **Receiving Agency**. The **Receiving Agency** may recommend that disciplinary action be considered by the **Sole Employer**, provided that nothing in this Agreement shall require the **Sole Employer** to implement the recommended disciplinary action. If **DISTRICT** is the **Sole Employer**, all recommendations by **CITY** that disciplinary action be considered shall be made by **CITY’S** Fire Chief or Designated Chief Officer only. If **CITY** is the **Sole Employer**, all recommendations by **DISTRICT** that disciplinary action be considered shall be made by **DISTRICT’S** District Manager or their designated representative only.


ARTICLE 7.

Except as hereinabove amended, all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day first written above.

CITY OF SAN RAFAEL

MARINWOOD COMMUNITY SERVICES DISTRICT




Gary O. Phillips, Mayor



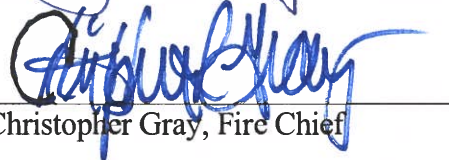
Leah Green, Board President



Jim Schutz, City Manager



Eric Dreikosen, District Manager



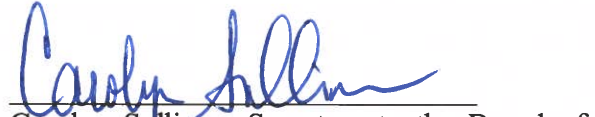
Christopher Gray, Fire Chief

ATTEST:

ATTEST:




Lindsay Lara, City Clerk



Carolyn Sullivan, Secretary to the Board of Directors

APPROVED AS TO FORM:



Robert F. Epstein, City Attorney

EXHIBIT A

San Rafael Marinwood Fire Departments

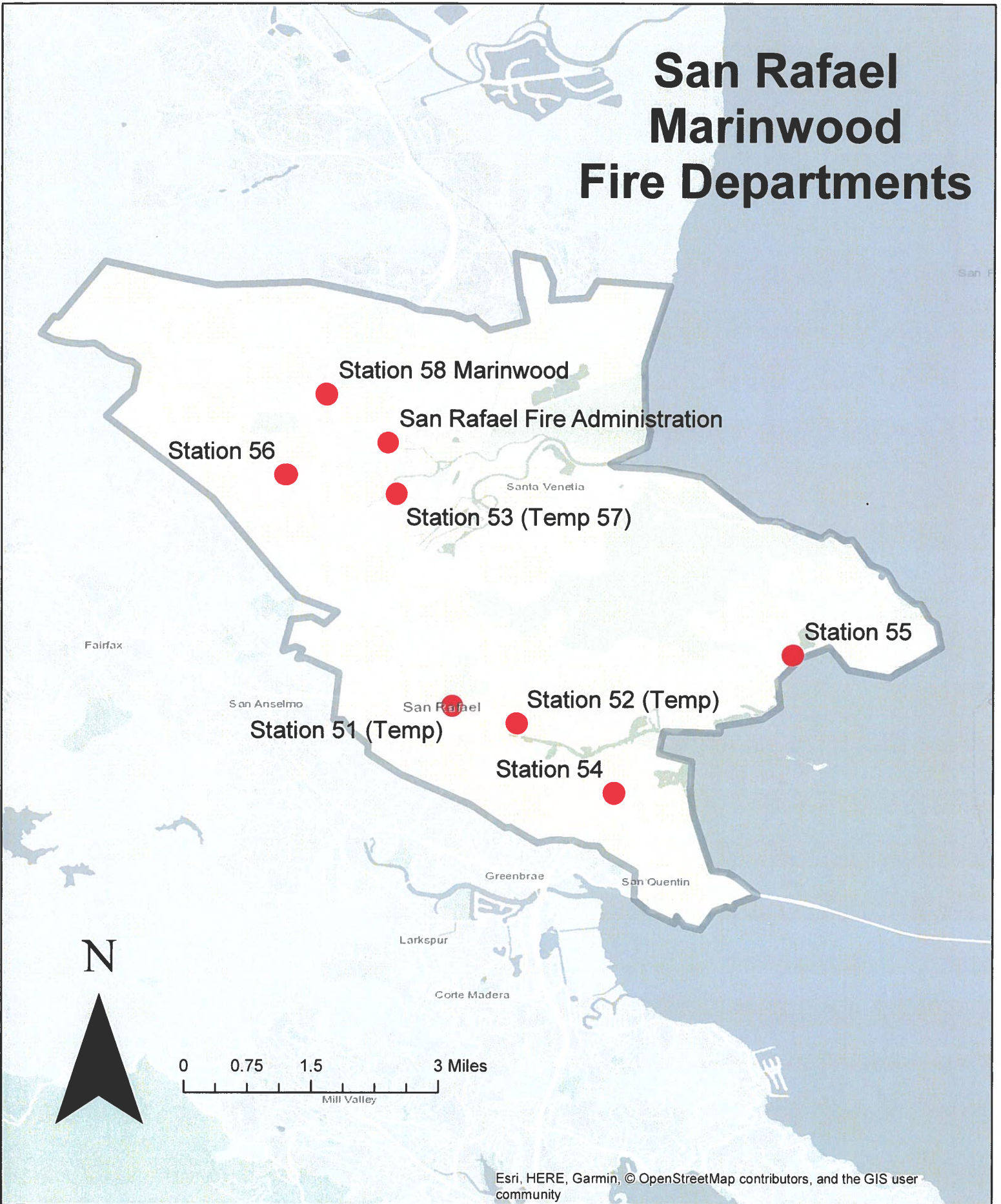


EXHIBIT B

FIRE CHIEF OFFICER SERVICES

The Fire Chief Officer Services provided by the **CITY's** Fire Chief or Designated Chief Officer to **DISTRICT** pursuant to this Agreement will generally include the following:

1. **CITY's** Fire Chief or Designated Chief Officer will assist **DISTRICT's** District Manager in administering all operations of **DISTRICT's** Fire Department by being responsible for the planning, organizing, staffing, coordinating, directing, and budgeting of all functions, policies, and procedures of **DISTRICT's** Fire Department; ensuring protection of the lives and property of residents from loss due to fire or related hazards; coordinating operations of the Fire Department with other fire departments and other agencies.
2. **CITY's** Fire Chief or Designated Chief Officer will respond to emergency incidents and assume the role of incident commander as needed and/or support the incident commander as warranted.
3. **CITY's** Fire Chief or Designated Chief Officer will attend **DISTRICT's** Board of Directors meetings and prepare reports as needed or directed, subject to the availability of **CITY'S** Fire Chief.
4. **CITY's** Fire Chief or Designated Chief Officer will attend **DISTRICT's** Fire Commission meetings and prepare reports as needed or directed, subject to the availability of **CITY's** Fire Chief.
5. **CITY's** Fire Chief or Designated Chief Officer will determine work schedules and make work assignment as required to ensure adequate staffing levels.
6. **CITY's** Fire Chief or Designated Chief Officer will prepare narrative and statistical reports relating to the administration and operations of **DISTRICT's** fire department.
7. **CITY's** Fire Chief or Designated Chief Officer will respond to correspondence relating to the administration and operations of **DISTRICT's** fire department.
8. **CITY's** Fire Chief or Designated Chief Officer will prepare and administer **DISTRICT's** fire department budget, subject to approval of **DISTRICT's** Board of Directors and in conjunction with **DISTRICT's** District Manager or their designee.
9. **CITY's** Fire Chief or Designated Chief Officer will have sufficient knowledge of the Insurance Services Office rating schedule to assist in achieving the best possible rating for **DISTRICT's** fire department with the available resources.
10. **CITY's** Fire Chief or Designated Chief Officer will direct the establishment and maintenance of records necessary to meet both legal requirements and standards as adopted by the **DISTRICT**.
11. **CITY's** Fire Chief or Designated Chief Officer will send NFIRS reports to State Fire Marshal's Office as required.
12. **CITY's** Fire Chief or Designated Chief Officer will initiate cost recovery billing for emergency incidents to the appropriate agency.
13. **CITY's** Fire Chief or Designated Chief Officer will review budget performance monthly and will prepare written reports to the Fire Commission relating to this same topic.
14. **CITY's** Fire Chief or Designated Chief Officer will oversee the purchasing of supplies and equipment and approve all expenditures. All expenditures shall be appropriated in **DISTRICT's** budget, which shall be approved by **DISTRICT's** Board of Directors.
15. **CITY's** Fire Chief or Designated Chief Officer will review and approve all invoices and allocate them to the appropriate general ledger accounts.

16. **CITY's** Fire Chief or Designated Chief Officer will plan, organize, and direct the activities of the **DISTRICT's** fire department and the professional staff and volunteers engaged in fire suppression, fire prevention, medical aid, rescue, hazardous material mitigation and disaster planning in **DISTRICT's** jurisdiction, as well as the general administration of the activities specified in this section.
17. **CITY's** Fire Chief or Designated Chief Officer will ensure personnel safety.
18. **CITY's** Fire Chief or Designated Chief Officer will be responsible for investigation and determination of fire causes and origin.
19. **CITY's** Fire Chief or Designated Chief Officer will direct **DISTRICT's** fire department's training, fire prevention, and maintenance programs.
20. **CITY's** Fire Chief or Designated Chief Officer will apply risk management programs, including fire protection standards and applicable laws.
21. **CITY's** Fire Chief or Designated Chief Officer will plan and supervise the requisition, maintenance, operation, and proper utilization of materials, supplies, and equipment.
22. **CITY's** Fire Chief or Designated Chief Officer will see that all applicable laws, ordinances, codes, rules and regulations pertaining to fire protection are enforced.
23. **CITY's** Fire Chief or Designated Chief Officer will supervise and review all tentative plans for new developments for water supply mains, hydrants, sprinklers, and related items for compliance with applicable regulations.
24. **CITY's** Fire Chief or Designated Chief Officer will coordinate **DISTRICT's** fire department activities with those of other public and private agencies and CSD departments.
25. **CITY's** Fire Chief or Designated Chief Officer will inspect personnel, equipment, and quarters to ensure that **DISTRICT's** fire department standards are attained.
26. **CITY's** Fire Chief or Designated Chief Officer will report and make recommendations to the **DISTRICT's** Fire Commission and Board of Directors for the purchase of new apparatus and other fire equipment; directs the preparation of specifications for new equipment.
27. **CITY's** Fire Chief or Designated Chief Officer will formulate **DISTRICT's** fire department goals and objectives and develops plans for future operation and projected needs of the Department to measure progress toward their achievement.
28. **CITY's** Fire Chief or Designated Chief Officer will develop and coordinate **DISTRICT's** fire department disaster planning with the County master plan.
29. **CITY's** Fire Chief or Designated Chief Officer will attend meetings of the Marin County Fire Chiefs Association and other professional organizations and agencies as warranted, subject to **CITY's** Fire Chief's availability.
30. **CITY's** Fire Chief or Designated Chief Officer will assist in conducting all plan reviews of remodels and new construction relating to fire.
31. **CITY's** Fire Chief or Designated Chief Officer will know and understand building construction codes, California Building Code, Uniform Fire Code, and International Wildland Urban Interface Code.
32. **CITY's** Fire Chief or Designated Chief Officer will lead **DISTRICT** in process of new fire code adoption.
33. **CITY's** Fire Chief or Designated Chief Officer will respond to reports of hazardous conditions on private property.
34. **CITY's** Battalion Chiefs will continue in the role of Operations Chiefs for **DISTRICT** personnel and oversee daily management of **DISTRICT's** operational personnel.
35. **CITY's** Fire Chief or Designated Chief Officer will provide resources, as available and as reasonable, to maintain **DISTRICT's** CERT Program.

36. **CITY's** Fire Chief or Designated Chief Officer will provide resources, as available and as reasonable, to support **DISTRICT'S** Grant Award Management/Report Writing efforts.