

MARIN LAFCO  
APPLICATION QUESTIONNAIRE

In accordance with requirements set forth in the California Government Code, the Commission must review specific factors in its consideration of this proposal. In order to facilitate the Commission's review, please respond to the following questions:

**I. GENERAL INFORMATION**

1. Please check the method by which this application was initiated:

Resolution of Application  
 Petition

2. Does the application possess 100% written consent of each property owner in the subject territory? Yes  No

3. A. Application is submitted for the following boundary change:  
(BE SPECIFIC; i.e., "annexation," "reorganization".)

Annexation of the area encompassed by the City of Sausalito into the Southern Marin Fire Protection District

B. The reason the proposed action(s) has been requested:  
(BE SPECIFIC; i.e., "annexation to sewer district for construction of three homes")

Annexation of the City of Sausalito into the Southern Marin Fire Protection District for the provision of fire protection. Both the City of Sausalito and the Southern Marin Fire Protection District operate fire departments. Currently both departments are managed by a single headquarters section, with the City and the District sharing the costs. The District Fire Chief also serves as Fire Chief for the City. The line operations of the two departments have been functionally consolidated so they train and operate as a single department, although each agency currently retains a portion of the firefighter work force on its separate payroll.

Annexing the City into the District for purposes of fire protection will complete the consolidation of the two fire departments. This will permit economies of scale in the department operations, consolidate the work force under a single set of personnel rules which will facilitate management of the department, and create a single financing structure for the fire operations.

4. State general location of proposal:

The area proposed to be annexed to the Southern Marin Fire Protection District is the territory within the municipal boundaries of the City of Sausalito.

5. Is the proposal within a city's boundaries?

Yes   
Which city? Sausalito

No \_\_\_\_\_. If the proposal is adjacent to a city, provide city name: \_\_\_\_\_.

6. Is the subject territory located within an island of unincorporated territory?

Yes \_\_\_\_\_ No X

7. Would this proposal create an island of unincorporated territory? Yes \_\_\_\_\_ No X.

If yes, please justify proposed boundary change:

8. Provide the following information regarding the area proposed for annexation:

(Attach list if necessary.)

The proposal boundary is identical to the City of Sausalito boundaries and includes all parcels within the City's incorporated area.

A. Assessor's Parcel Number(s)

Site Address(es)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Total number of parcels: \_\_\_\_\_.

9. Total land area: 2.17 sq miles. Approximately .3 sq miles is underwater.

## II. LAND USE AND DEVELOPMENT POTENTIAL

1. Describe any special land use concerns:

None \_\_\_\_\_

2. Indicate current land use:

(i.e., number of dwellings, permits currently held, etc.)

The attached Tables 2-2 and 2-3 from the City of Sausalito General Plan reflect the land use and development potential within the City limits.

3. Indicate the current zoning (either city or county) title and densities permitted:

See attached City Zoning Map.

4. Has the area been rezoned? No \_\_\_\_\_ Yes \_\_\_\_\_

Not Applicable

5. Describe the specific development potential of the property:

(Number of units allowed in zoning.)

See attached Tables 2-2 and 2-3 and GP Map G-4 from the City of Sausalito General Plan reflecting the land use and development potential within the City limits.

III. ENVIRONMENT

1. Is the site presently zoned or, designated for, or engaged in agricultural use?

Yes \_\_\_\_\_ No X \_\_\_\_\_

If yes, explain: \_\_\_\_\_  
\_\_\_\_\_

2. Will the proposal result in a reduction of public or private open space?

Yes \_\_\_\_\_ No X \_\_\_\_\_

If yes, explain: \_\_\_\_\_  
\_\_\_\_\_

3. Will service extension accomplished by this proposal induce growth in:

- A. This site? Yes \_\_\_\_\_ No X \_\_\_\_\_ N/A \_\_\_\_\_
- B. Adjacent sites? Yes \_\_\_\_\_ No X \_\_\_\_\_ N/A \_\_\_\_\_
- C. Unincorporated? Yes \_\_\_\_\_ No X \_\_\_\_\_
- D. Incorporated? Yes \_\_\_\_\_ No X \_\_\_\_\_

4. State general description of site topography: Sausalito is characterized by a diverse topography which encompasses steep, wooded hillside towards the west and shoreline tidal flats to the east. The relief of the region is 975 feet at the southwestern border of the City limits adjacent to the Golden Gate National Recreation Area and sea level along the eastern border of the City limits along the shoreline adjacent to Richardson's Bay. The topography of the area from north to south consists of a series of parallel, elongated ridges, intervening valleys, and ten open drainage ways.

5. Indicated Lead Agency for this project: City of Sausalito

6. Indicate Environmental Determination by Lead Agency: City of Sausalito and the Southern Marin Fire Protection District with respect to annexation of the City of Sausalito to the Fire District: September 13, 2011.

Annexation of the City to the District is Categorically Exempt under Section 15320 CEQA Guidelines. (Title 14, California Code of Regulations Section 15000, et seq.).

Section 15320 of the CEQA Guidelines provides that changes in the organization or reorganization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised" are exempt. Both the

City and the District have the power to provide fire services within their current respective boundaries.

In addition, the consolidation is exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the consolidation may have a significant effect on the environment.

**(COPY OF ENVIRONMENTAL DOCUMENTS MUST BE SUBMITTED WITH APPLICATION.)**

See Resolution Adopted September 13, 2011 by the Sausalito City Council attached.

Please provide the names and addresses of persons who are to be furnished copies of the Agenda, Executive Officer's Report, and Notice of Hearing:

<u>Name</u>	<u>Address</u>
Adam Politizer	420 Litho Street Sausalito, CA 94965
Charlie Francis	420 Litho Street Sausalito, CA 94965
Mary Wagner	420 Litho Street Sausalito, CA 94965
Debbie Pagliaro	420 Litho Street Sausalito, CA 94965
Jim Irving	308 Reed Blvd Mill Valley, CA 94941

Name and Address of Applicant:

City of Sausalito, 420 Litho Street Sausalito, CA 94965

Telephone Number: W (415) 289-4166

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Application Questionnaire Item II-2 and II-5

Land Use Tables from City of Sausalito General Plan

Table 2-2  
Residential Development Potential by Land Use Category

<u>LAND USE DESIGNATION</u>	<u>EXISTING # OF UNITS</u>	<u>NET ACRES</u>	<u>UNITS PER ACRE</u>	<u>POTENTIAL UNITS<sup>1</sup></u>
Very Low	33	26.23	1.26	23
Low	121	32.2	3.75	8
Medium-Low	891	118.3	7.53	83
Medium	90	10.92	9.34	18
Medium-High	1619	120.1	13.50	114
Planned Development	283	12.77	15.00	0
High	1000	34.42	24.26	182
Arks	7	.35	20.00	0
Houseboats	7	4.82	1.45	6
Marinship Overlay	44	71.00	.08	0
Central Commercial	77	4.92	15.60	0
Mixed Residential and Commercial	50	6.04	8.40	0
Neighborhood Comm.	18	5.50	3.30	0
<b>Total</b>	<b>4240</b>			<b>434</b>

<sup>1</sup> The maximum number of potential units is based on each lot being developed to the full density entitlement.

Table 2-3  
Commercial Development Potential by Land Use Category

<u>LAND USE DESIGNATION</u>	<u>EXISTING SQUARE FEET</u>	<u>NET ACRES</u>	<u>MAXIMUM POTENTIAL COMMERCIAL SQ. FT.<sup>2</sup></u>
Central Commercial	325,598	5.82	38,100 sq. ft.
Mixed Residential & Commercial	216,249	6.04	46,600 sq. ft.
Neighborhood Comm.	111,573	5.50	5,100 sq. ft.
Comm. Waterfront	69,090	5.90	39,000 sq. ft.
Shopping Center	19,000	1.47	0 sq. ft.
Industrial	944,858	62.85	91,000 sq. ft.
Waterfront	91,808	27.5	112,200 sq. ft.
<b>Total</b>	<b>1,778,176</b>		<b>432,000 sq. ft.</b>



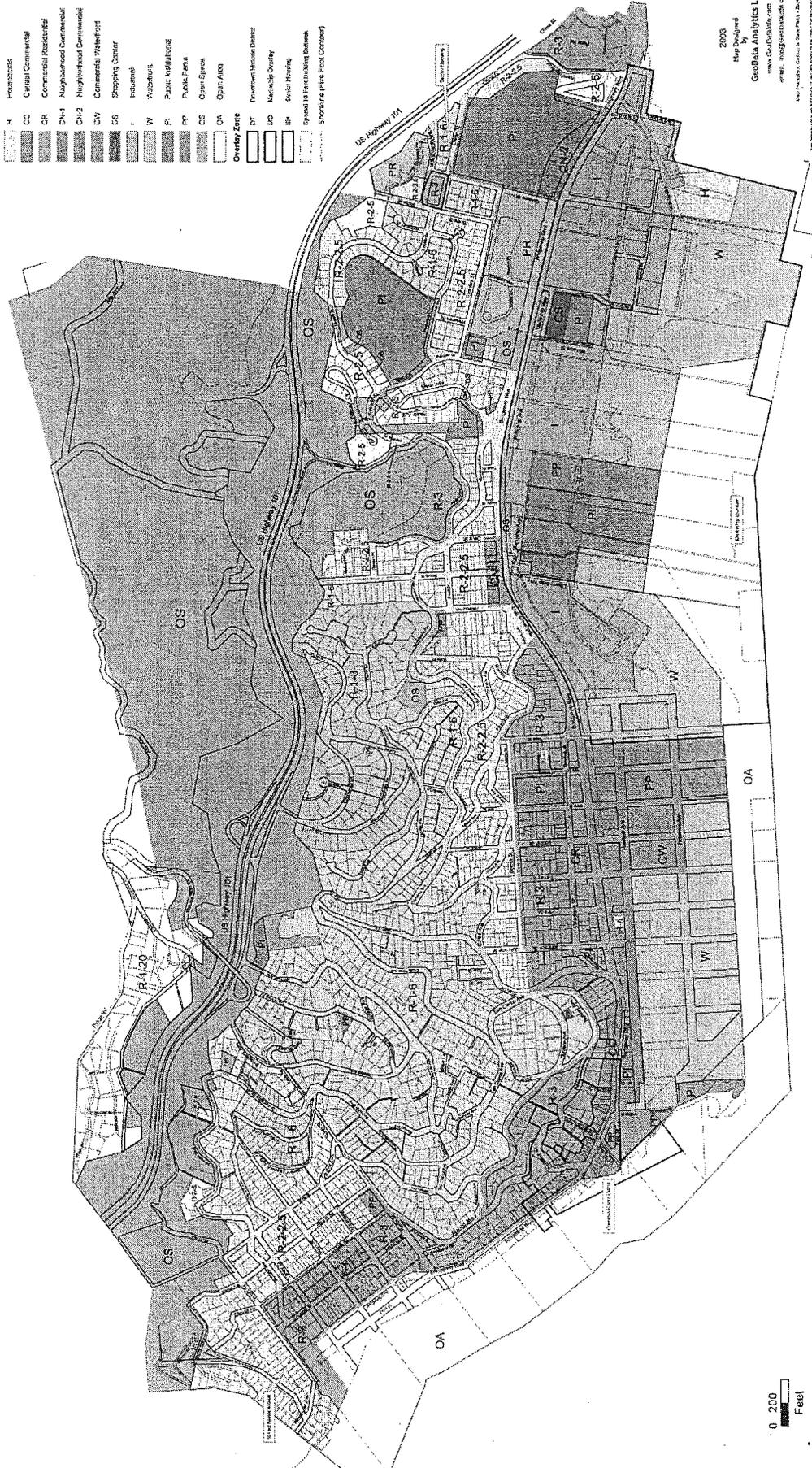
# City of Sausalito

## ZONING MAP

1 inch equals 400 feet

### Legend

- ZONING**
- R-3 Multiple Family
  - PR Planned Development Residential
  - R-25.1 Two Family
  - R-25 Three Family
  - R-16 Single Family
  - R-18 Single Family
  - R-120 Single Family
  - R-A Arts
  - H Houseboats
  - CC Central Commercial
  - CR Commercial Residential
  - DN-1 Neighbourhood Commercial
  - DN-2 Neighbourhood Commercial
  - DW Commercial Waterfront
  - CS Shopping Center
  - I Institute
  - IV Warehouse
  - P Public Institution
  - PP Public Parks
  - OS Other Space
  - OA Other Area
- Overlay Zone**
- DT Downtown Historic District
  - PO National Overlay
  - SR Senior Housing
  - Special Use Planning Subarea
  - Shoreline Plus Trail Corridor



2003  
Map Designed by  
GeoData Analytics LLC  
www.geodataanalytics.com  
email: shag@geodataanalytics.com

All rights reserved. This map is not to be used for engineering, surveying, or other professional purposes without the written consent of GeoData Analytics LLC.

0 200 Feet

56

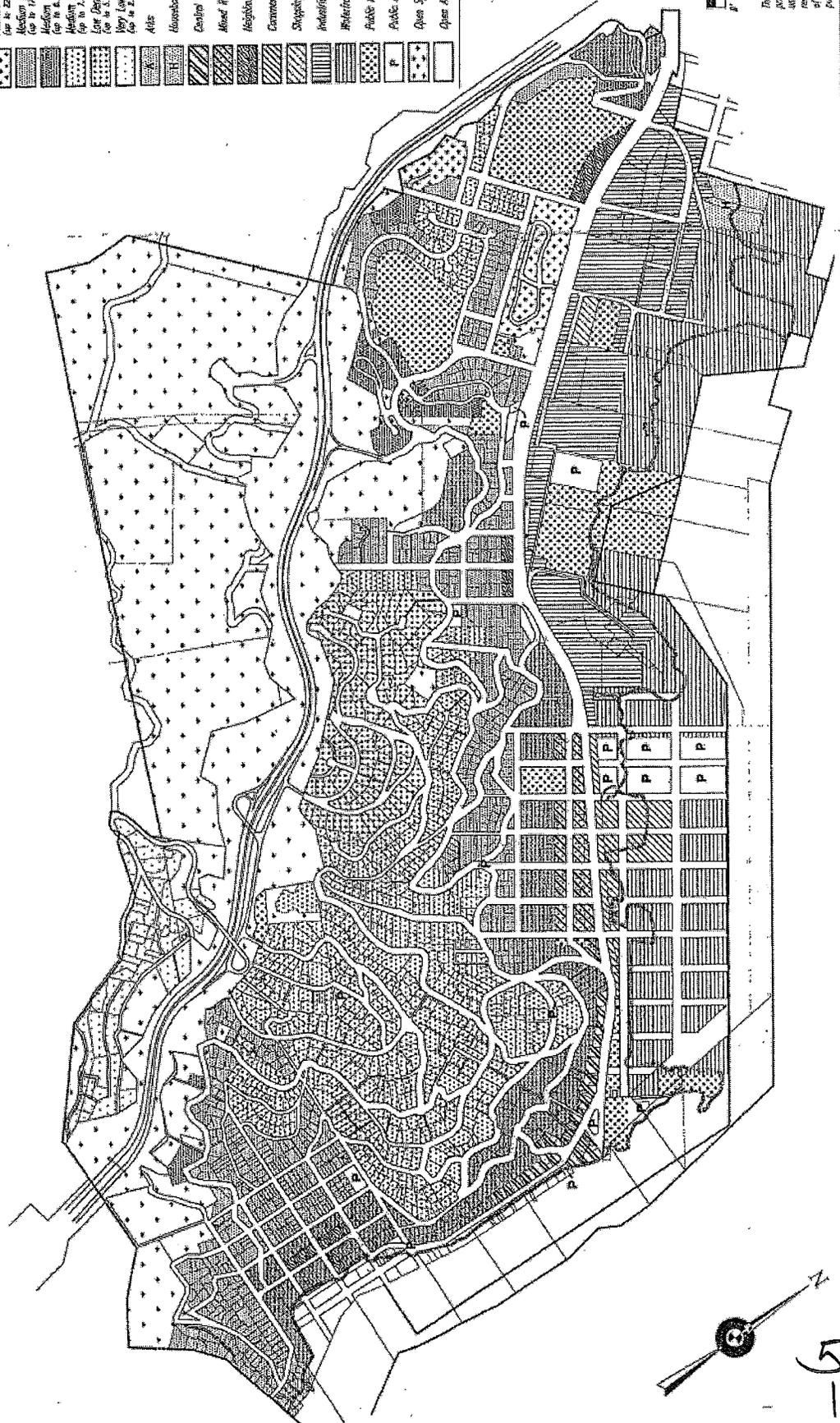
Application Questionnaire Item II-5

Land Use Map from City of Sausalito General Plan

LAND USE  
CITY OF SAUSALITO - GENERAL PLAN

LEGEND

	High Density Residential (up to 22 dwelling units per acre)
	Medium Density Residential (up to 22.7 dwelling units per acre)
	Low Density Residential (up to 11.4 dwelling units per acre)
	Very Low Density Residential (up to 5.7 dwelling units per acre)
	Single-Family Residential (up to 1.7 dwelling units per acre)
	Neighborhood Commercial
	Community Commercial
	Retail Commercial
	Office Commercial
	Industrial Commercial
	Public Institutional
	Public Parks
	Open Space
	Open Area



This zone map was developed primarily for General Planning purposes. The City of Sausalito is not responsible nor liable for use of this map beyond its intended purpose.

RESOLUTION NO. \_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO AUTHORIZING THE CITY MANAGER TO SUBMIT AN APPLICATION TO THE MARIN COUNTY LOCAL AGENCY FORMATION COMMISSION FOR THE ANNEXATION OF THE CITY OF SAUSALITO TO THE SOUTHERN MARIN FIRE PROTECTION DISTRICT; APPROVING THE LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT; AND APPROVING THE AGREEMENT REGARDING CERTAIN FINANCIAL AND PERSONNEL CONDITIONS OF ANNEXATION

**WHEREAS**, since 2004, the City of Sausalito ("City") has partnered with the Southern Marin Fire Protection District ("District") to provide the residents and businesses of Sausalito with high-quality fire protection and emergency services; and

**WHEREAS**, the present cooperative arrangement is governed by a formal contract between the City and District whereby the District provides almost all management, operations and administrative services, including a fire chief and other key management and firefighting personnel, while the City owns and maintains its downtown fire station and equipment and employs 15 firefighters who are managed by the District; and

**WHEREAS**, despite the success of the current model, it has become outdated in the face of changing state and federal standards which require certain levels of firefighter staffing, training and supervision to ensure a safe and adequate response to fires and other emergencies; and

**WHEREAS**, the City and District, following several years of careful research and analysis, public meetings and working with union representatives and experts in municipal finance and consolidation, identified annexation as the preferred alternative to the current agreement for providing the City with fire protection services; and

**WHEREAS**, other alternatives are not cost effective for the City and the District; and

**WHEREAS**, the City desires to initiate proceedings under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code, for the annexation of the City to the District; and

**WHEREAS**, notice of intent to adopt this resolution of application has been given to each interested and subject agency; and

**WHEREAS**, approval of the annexation of the City to the District is exempt from the application of the California Environmental Quality Act (California Public Resources Code

52  
17

Section 21000, et seq., "CEQA"), pursuant to Section 15320 (Class 20 Categorical Exemption) of the State CEQA Guidelines (Title 14, California Code of Regulations Section 15000, et seq.).

**WHEREAS**, Section 15320 of the CEQA Guidelines provides that changes in the organization or reorganization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised" are exempt. Both the City and the District have the power to provide fire services within their current respective boundaries; and

**WHEREAS**, in addition, the annexation is exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the consolidation may have a significant effect on the environment; and

**WHEREAS**, it is desired that the proposed annexation be subject to the terms and conditions contained in the Plan for Service to be submitted as part of the application for annexation.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Sausalito that,

1. The City Council hereby finds that the proposed annexation is exempt from the application of CEQA pursuant to Section 15320 (Class 20 Categorical Exemption) and Section 15061(b)(3) of the State CEQA Guidelines and the City Clerk, or her designee, is directed to cause Notices of Exemption to be posted in accordance with CEQA.
2. The City Manager is authorized to submit an annexation application to the Marin County Local Agency Formation Commission in accordance with the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act; and
3. The area proposed to be annexed to the Southern Marin Fire Protection District is all the territory within the municipal boundaries of the City of Sausalito.
4. The City Council hereby approves the Lease of Premises and Equipment Disposition Agreement (the "Lease") by and between the City of Sausalito and the Southern Marin Fire Protection District and the Mayor is authorized to execute the Lease on behalf of the City.
5. The City Council hereby approves the Agreement Regarding Certain Financial and Personnel Conditions of Annexation (the "Agreement") and the Mayor is authorized to execute the Agreement on behalf of the City.
6. Upon execution of the Lease and the Agreement by the Mayor, the City Manager (or his designee), is authorized, on behalf of the City, to approve and/or sign all documents

necessary and appropriate to carry out and implement the Lease and the Agreement, and to administer the City's obligations, responsibilities and duties to be performed under the Lease and the Agreement and related documents.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on the \_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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MAYOR OF THE CITY OF SAUSALITO

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52  
19



LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT

333 JOHNSON STREET  
SAUSALITO, CALIFORNIA

TENANT:

THE SOUTHERN MARIN FIRE PROTECTION DISTRICT

LANDLORD:

THE CITY OF SAUSALITO

52  
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## TABLE OF CONTENTS

### LEASE SUMMARY

#### 1. PREMISES AND EQUIPMENT

- 1.1 Premises
- 1.2 Equipment

#### 2. TERM

- 2.1 Term
- 2.2 Possession of Premises

#### 3. RENTAL

- 3.1 Rent
- 3.2 Additional Rent
- 3.3 Rent Commencement Date
- 3.4 Interest and Late Charges

#### 4. UTILITIES

#### 5. USE AND CONDITION OF PREMISES

- 5.1 Tenant's Use
- 5.2 Landlord's Use
- 5.3 Condition of Premises
- 5.4 Hazardous Materials

#### 6. MAINTENANCE, REPAIR AND ALTERATIONS

- 6.1 Tenant's Obligations
- 6.2 Landlord's Rights and Obligations
- 6.3 Alterations and Additions

#### 7. INSURANCE AND INDEMNIFICATION

- 7.1 Minimum Scope of Insurance
- 7.2 Minimum Limits of Coverage
- 7.3 Deductibles and Self-Insured Retentions
- 7.4 Other Insurance Provisions
- 7.5 Acceptability of Insurers
- 7.6 Verification of Coverage
- 7.7 Subrogation Waiver
- 7.8 Indemnification

#### 8. DAMAGE OR DESTRUCTION

- 8.1 Damage
- 8.2 Damage - End of term
- 8.3 Complete Destruction

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8.4 Abatement of Rent

9 CONDEMNATION

- 9.1 Total Taking
- 9.2 Partial Taking
- 9.3 Compensation
- 9.4 Voluntary Sale; Waiver

10. ASSIGNMENT, SUBLEASE, TRANSFER

- 10.1 Definition
- 10.2 Use
- 10.3 Instrument, Consent
- 10.4 Rent
- 10.5 Excess Rent from Assignment or Sub-Tenancy

11. DEFAULT

- 11.1 Tenant's Default
- 11.2 Remedies
- 11.3 Landlord's Default

12. CONDUCT OF BUSINESS

13. GENERAL PROVISIONS

- 13.1 Transfer of Landlord's Interest
- 13.2 Estoppel Statement
- 13.3 Financial Statement
- 13.4 Subordination; Attornment
- 13.5 Access to Premises
- 13.6 Holding Over
- 13.7 Merger
- 13.8 Recording
- 13.9 Prior Agreements; Amendments
- 13.10 Attorney's Fees
- 13.11 Remedies; Choice of Law
- 13.12 Successors and Assigns
- 13.13 Severability
- 13.14 Authority
- 13.15 Signs
- 13.16 Time of Essence
- 13.17 Covenants and Conditions
- 13.18 Captions
- 13.19 Waiver
- 13.20 No Setoffs
- 13.21 Force Majeure
- 13.22 Notices

13.23 Brokers  
13.24 Keys

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT  
333 JOHNSON STREET  
SAUSALITO, CALIFORNIA**

**LEASE SUMMARY**

DATE OF LEASE	Effective Date – Date of Finalization of Annexation (Exhibit B)
LANDLORD	City of Sausalito
TENANT	The Southern Marin Fire Protection District
ADDRESS OF TENANT	308 Reed Boulevard, Mill Valley, CA 94941
PREMISES	333 Johnson Street, Sausalito CA
TERM	30 Years
BASE RENT	\$100,000 per year
ADDITIONAL RENT	See Section 3.2
UTILITIES	Additional
PERMITTED USE	Fire Prevention Services

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

This **LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT** (this "Lease"), executed in duplicate, is by and between **THE CITY OF SAUSALITO**, a municipal corporation ("Landlord" or "City") and **THE SOUTHERN MARIN FIRE PROTECTION DISTRICT**, a special district formed and operating pursuant to the Fire Protection District Act of 1987 ("SMFPD" or "Tenant").

**ARTICLE 1. PREMISES AND EQUIPMENT.**

**1.1 Premises.** Landlord leases to Tenant and Tenant leases from Landlord, subject to the following terms and conditions, the real property which is located at 333 Johnson Street, City of Sausalito, County of Marin, State of California, (the "Premises").

Upon the expiration or termination of this Lease, Tenant shall return the Premises to Landlord as set forth in Section 6.1(b).

**1.2 Equipment.** Landlord transfers to Tenant possession and title to:

- a. The existing fire apparatus owned by the City includes: i) the City's 45% interest in the 1994 Pierce 105' Aerial Truck; ii) the 1995 Spartan Fire Pumper; iii) 1996 GMC Pickup Truck; iv) Achilles 16' Inflatable Rescue Boat; v) 2004 34' Fire Boat (Liberty); and vi) 2007 Pierce Fire Pumper (collectively the "Fire Apparatus") and all portable equipment normally carried on said apparatus. In the event that SMFPD or a successor entity no longer provides fire services in the City, SMFPD will be required to transfer all Fire Apparatus back to City. The Fire Boat (Liberty) shall be transferred back in its then current condition all other Fire Apparatus shall be transferred back to the City in substantially the same or better condition as it was delivered along with accumulated replacement. In consideration of SMFPD's responsibility to replace the Fire Apparatus at the end of its useful life upon the Commencement Date as defined in Section 2.1 below, the City shall also transfer to Tenant the sum of Two Hundred Forty Three Thousand Four Hundred Sixty Two Dollars and 00/100 (\$243,462.00) which represents the depreciated value of the Fire Apparatus.
- b. All existing tools, equipment and all Fire Station furnishings and equipment including without limitation the items set forth in the Fire Station Property Inventory attached hereto as Exhibit A which includes all items having a value of One Thousand Dollars and 00/100 (\$1000.00) or more along with each item's value (the "Fire Station Property"). The Parties agree that the Fire Station Property is in good condition and is less than one year old. In consideration of the transfer of the Fire Station Property SMFPD shall pay the City the amount of Ninety Nine Thousand Two

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT  
333 JOHNSON STREET  
SAUSALITO, CALIFORNIA**

Hundred Eighty Two Dollars and 00/100 (\$99,282.00.) upon the Commencement Date defined in Section 2.1 below.

**ARTICLE 2. TERM.**

**2.1 Term.** This Lease shall be for a period of thirty(30) years ("Term") commencing upon the date that is the effective date of the annexation of the City into the SMFPD which date shall be inserted in Exhibit B ("Commencement Date"). This Lease shall end thirty (30) years from the Commencement Date, ("Expiration Date"), unless otherwise terminated or extended in accordance with the provisions of this Lease. Notwithstanding the foregoing, the effectiveness of this Lease is expressly contingent on the annexation of the City to the SMFPD for the purpose of fire protection services on or before July 1, 2012; in the event that this condition precedent is not met this Lease shall automatically be of no force or effect with no further action required on the part of the City or the SMFPD.

**2.2 Possession of Premises.** Tenant is currently in possession of the Premises.

**ARTICLE 3. RENTAL.**

**3.1 Rent.** Tenant agrees to pay Landlord, as "Base Rent" for the Premises, One Hundred Thousand and 00/100 (\$100,000.00) annually plus such additional sums as required in this Lease. If Tenant's obligation to pay Rent does not commence on the first day of a calendar month, the Rent payable by Tenant for the first fractional month shall be prorated on a thirty (30) day basis. Tenant shall pay Landlord the Base Rent in four (4) quarterly payments of Twenty Five Thousand Dollars and 00/100 (\$25,000.00) each to be paid on each January 1, April 1, July 1, and October 1 during the Term.

**3.2 Additional Rent.** Tenant shall pay as "Additional Rent" upon demand from Landlord such other sums due and payable hereunder. Said sums shall be paid upon demand from Landlord and without setoff.

**3.3 Rent Commencement Date.** Payment of Rent shall commence on the Commencement Date payable in accordance with Section 3.1.

**3.4 Interest and Late Charges.** If Tenant shall fail to pay when due and payable any Rent, Additional Rent or other amounts or charges which Tenant is obligated to pay under the terms of this Lease, such unpaid amounts shall bear interest at the maximum rate allowed in the State of California. In addition to such interest, Tenant acknowledges that the late payment of any monthly installment of Rent or Additional Rent will cause Landlord to incur costs and expenses

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

not contemplated under this Lease, including but not limited to administrative and collection costs and processing and accounting expenses the exact amount of which is extremely difficult to fix. Therefore, if any such payment is not received by Landlord within ten (10) days from the date such payment is due, Tenant shall pay Landlord a late charge equal to ten percent (10%) of such payment. Landlord and Tenant agree that this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to Landlord for the loss suffered by such nonpayment by Tenant. Acceptance of any late charge shall not constitute a waiver of Tenant's default with respect to such nonpayment by Tenant nor prevent Landlord from exercising any other rights or remedies available to Landlord under this Lease.

**ARTICLE 4. UTILITIES.** Tenant shall pay for all heat, gas, electricity, telephone and other utilities and services provided to or for the Premises, including taxes thereon. Landlord shall not be liable in damages or otherwise for any failure or interruption of any utility service being provided to the Premises, and no such failure or interruption shall entitle Tenant to terminate this Lease or to discontinue the payment of rent or any other amount due hereunder.

**ARTICLE 5. USE AND CONDITION OF PREMISES.**

**5.1. Tenant's Use.** Tenant shall use or permit the Premises to be used only for the normal services provided by a fire department, including, but not limited to, fire protection services, fire prevention services, emergency medical services, public education and public relations events and shall not use or permit the use of the Premises for any other purpose without obtaining the prior written consent of Landlord. Tenant shall not use or permit the Premises to be used in any manner that may result in waste or the creation of a nuisance, and Tenant shall maintain the Premises free of any objectionable noises, odors or disturbances. Tenant shall fully comply with all health and police regulations and shall not use or permit the use of the Premises for any purpose or in any manner which may constitute a violation of the laws of the United States or the laws, ordinances, zoning requirements, regulations or requirements of any governmental entity having authority in the jurisdiction where the Premises are located. Tenant acknowledges that no warranties or representations have been made regarding the fitness or suitability of the Premises for the conduct of Tenant's business or proposed use.

**5.2 Landlord's Use.** The parties acknowledge and agree that a portion of the Premises, specifically the ground level conference room, serves as the City's Emergency Operations Center (EOC) and that the City shall be entitled to continue to utilize the EOC on an as needed basis as determined by the City during the Term. In addition, Landlord may use the conference room and other portions of the Premises as mutually agreed by the City and the SMFPD at no charge to the City.

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

**5.3 Condition of Premises.** Tenant acknowledges that it has had an opportunity to inspect the Premises and that the Premises are being taken on an "as-is" condition with no warranties expressed or implied by Landlord. Tenant takes possession hereunder subject to all laws, ordinances and regulations applicable to the Premises, and their use, and any covenants or restrictions of record. Tenant shall, at Tenant's expense, comply promptly with all laws, ordinances and regulations applicable to the Premises or their use which are or may be in effect during the Term.

**5.4 Hazardous Materials.**

Landlord and Tenant agree as follows with respect to the existence or use of Hazardous Materials on the Property.

a. Environmental Laws shall mean all present and future applicable federal, state and local laws, ordinances or regulations or policies pertaining to Hazardous Materials (including, without limitation, the use, handling, transportation, production, disposal, discharge or storage thereof) or to industrial hygiene or the environmental conditions on, under or about the Premises and to the protection of the environment or human or animal health and safety.

b. Hazardous Materials shall mean any hazardous or toxic substance, material or waste the storage, use, or disposition of which is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term Hazardous Material includes, without limitation, any material or substance which is (i) defined as hazardous or extremely hazardous pursuant to Article II of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ii) defined as a hazardous waste pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. (42 U.S.C. 69093), (iii) defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. (42 U.S.C. 9601 ) or (iv) is listed or defined as a hazardous waste, hazardous substance , or other similar designation by any regulatory scheme of the State of California or the U.S. Government that is similar to the foregoing.

c. Tenant shall not use, generate, manufacture, produce, store, release, discharge, or dispose of, on, under or about the Premises or transport to or from the Premises any Hazardous Material or allow its employees, agents , contractors, licenses, invitees or subtenants (collectively, Tenant' s Agents) to do so. Tenant shall comply with and shall cause Tenant's Agents to comply with, and shall keep and maintain the Premises and cause Tenant's Agents to keep and maintain the Premises in compliance with all Environmental Laws.

52  
29

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

d. Tenant shall give written notice to Landlord promptly after Tenant receives notice of any of the following: (i) any proceeding or inquiry by, notice from, or order of any governmental authority (including, without limitation, the California State Department of Health Services) with respect to the presence of any Hazardous Material on, under or about the Premises or the migration thereof from or to other property; and (ii) all claims made or threatened by any third party against Tenant or the Premises relating to any loss or injury resulting from any Hazardous Materials. Tenant shall give written notice to Landlord promptly after Tenant becomes aware of any spill, release or discharge of Hazardous Materials with respect to the Premises by Tenant or Tenant's Agents.

e. Tenant shall protect, defend, indemnify and hold harmless Landlord, its officers, elected and appointed officials, employees, agents, volunteers, successor and assigns from and against any and all claims, fines, judgments, penalties, losses, damages, costs, expenses or liability (including reasonable attorneys' fees and costs) to the extent directly or indirectly arising out of or attributable to the use, generation, manufacture, production, storage, release, threatened release, discharge or disposal of any Hazardous Material on, under or about the Premises or the transportation of any Hazardous Material to or from the Premises by Tenant or Tenant's Agents including, without limitation, the costs of any investigation, monitoring, removal, restoration, abatement, repair, cleanup, detoxification or other ameliorative work of any kind or nature (collectively, "Remedial Work"). Tenant's obligations under this Section 7.5(e) shall survive the expiration or earlier termination of this Lease.

f. Upon any spill or release of Hazardous Materials by Tenant or Tenant's Agents, Tenant shall promptly notify Landlord of the spill or release of Hazardous Materials and shall, at its sole expense and promptly after demand by Landlord, commence to perform and thereafter diligently prosecute to completion such Remedial Work as is required under Environmental Laws.

**ARTICLE 6. MAINTENANCE, REPAIR AND ALTERATIONS.**

**6.1 Tenant's Obligations.**

a. Subject the provisions of Article 8 hereof, Tenant shall, at Tenant's sole cost and expense, maintain in good repair, order and serviceable condition the Premises and every part thereof, including but not limited to all plumbing, ventilation, heating, electrical systems, refrigeration, and equipment in, on or exclusively serving the Premises, roof, foundations, exterior walls, windows, doors, storefronts, plate glass, interior walls and ceilings which are part of the Premises. In addition, Tenant shall be responsible for maintenance, repair and/or replacement (at its option) of the solar panels on the building. Tenant shall contract with a

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

service company for necessary periodic maintenance of the heating, ventilating and air conditioning equipment exclusively serving the Premises and Tenant shall furnish to Landlord a copy of such service contract within five (5) days after request therefor. Except in case of an emergency, prior to Tenant's making any repair, Tenant shall give Landlord written notice that such work will be performed and Landlord shall have the right to approve or disapprove the plans for such repair and all repairs shall be performed in accordance with all applicable regulations, including without limitation applicable provisions of the City of Sausalito Municipal Code. To the extent the cost of any repairs or maintenance are covered by warranties held by Landlord, Landlord agrees to coordinate with Tenant to ensure the work is done under the warranty.

b. Upon the expiration or earlier termination of this Lease, Tenant shall return the Premises to Landlord broom clean and in the same condition as on the date Tenant took possession, except for normal wear and tear. Any damage to the Premises, including any structural damage, resulting from Tenant's use or from the removal of Tenant's fixtures, furnishing and equipment pursuant to section 8.3(d) shall be repaired by Tenant at Tenant's expense.

**6.2 Landlord's Rights and Obligations.** If Tenant refuses or neglects to make repairs and/or maintain the Premises, or any part thereof, in a manner reasonably satisfactory to Landlord, without prejudice to any other remedy Landlord may have hereunder, upon giving Tenant ten (10) days prior written notice, Landlord shall have the right to enter the Premises and perform such maintenance or make such repairs on behalf of and for the account of Tenant. In the event Landlord so elects, Tenant shall pay the cost of such repairs or maintenance promptly following Tenant's receipt of a bill therefor, with interest thereon at the maximum allowable legal rate from the date of Tenant's receipt of such bill until the date paid. The costs incurred by Landlord in making such repairs shall be treated as Additional Rent. Tenant agrees to permit Landlord or its agent to enter the Premises at any time during normal business hours for the purpose of inspecting the Premises. Landlord shall be responsible for maintenance, repair and/or replacement of the emergency generator.

**6.3 Alterations and Additions.**

a. SMFPD shall not make any additions, alterations or improvements to the Premises without obtaining the prior written consent of Landlord, except for minor additions, alterations and improvements, the cost of which do not exceed Five Thousand Dollars and 00/100 (\$5,000.00) as adjusted annually by the change in the Consumer Price Index for All Urban Consumers, San Francisco Area (or successor index) for the preceding twelve months for which data is available. Such permission shall not be unreasonably withheld or delayed by

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

Landlord. Landlord's consent may be conditioned upon the SMFPD's agreement to remove any such additions, alterations or improvements at the termination of this Lease. All work with respect to any addition, alteration or improvement shall be done in a good and workmanlike manner by property qualified and licensed personnel, and such work shall be diligently prosecuted to completion.

b. Prior to the commencement of any Tenant improvements or remodeling which exceed Five Thousand Dollars and 00/100 as adjusted as set forth in Section 6.3a Tenant shall provide to Landlord a true copy of the written, executed agreement between Tenant and the contractor hired to make such improvements for Landlord's approval. During the course of said construction, Tenant shall provide Landlord with all written, executed change orders for Landlord's approval. If Landlord fails to object to any provisions of the agreement or subsequent change order(s) within five (5) days of receipt, then the agreement or change order(s) shall be deemed accepted. Prior to the commencement of any work, Landlord reserves the right to require Tenant post a sum equal to the total amount of the cost of said improvements, including subsequent change order(s), in cash, in a special account, or provide a performance bond equal to the cost of said improvements and subsequent change order(s) and provide satisfactory evidence of same to Landlord.

c. Tenant shall pay the costs of any work done on the Premises pursuant to section 6.3(a), and shall keep the Premises free and clear of liens of any kind. Tenant shall indemnify, defend against and keep Landlord free and harmless from all liability, loss, damage, costs, attorneys' fees and any other expense incurred on account of claims of lien by any person performing work or furnishing materials or supplies for Tenant or any person claiming under Tenant.

d. Tenant shall keep Tenant's leasehold interest, and any additions or improvements which are or become the property of Landlord under this Lease, free and clear of all attachment or judgment liens. Before the actual commencement of any work for which a claim of lien may be filed, Tenant shall give Landlord written notice of the intended commencement date a sufficient time before said date to enable Landlord to post notices of non-responsibility or any other notices which Landlord deems necessary for the proper protection of Landlord's interest in the Premises and Landlord shall have the right to enter the Premises and post such notices at any reasonable time.

e. For any Tenant improvements or remodeling which exceed Five Thousand Dollars and 00/100 as adjusted as set forth in Section 6.3a Landlord may require, at Landlord's sole option, that Tenant provide to Landlord, at Tenant's expense, a lien and completion bond in an amount equal to at least one and one-half (1-1/2) times the total estimated cost of any

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

additions, alterations or improvements to be made in or to the Premises, to protect Landlord against any liability for mechanic's and materialman's liens and to insure timely completion of the work. Provided, however, nothing contained herein shall relieve Tenant of its obligation under section 6.3(b) to keep the Premises free of all liens. Tenant shall keep a record of all alterations, additions, improvements and repairs made by Tenant to the Premises, having a useful life of more than three (3) years and exceeding Five Thousand Dollars (\$5,000.00) in value. This dollar threshold shall be adjusted annually by the change in the Consumer Price Index for All Urban Consumers, San Francisco Area (or successor index) for the preceding twelve months for which data is available. Tenant shall keep a record of the annual depreciated value of such additions, alterations, improvements and repairs based on the fixed asset depreciation schedules for public entities set forth in Governmental Accounting Standards Board Statement No. 34 (GASB 34).

f. Unless their removal is required by Landlord as provided in section 6.3(a), all additions, alterations and improvements made on the Premises shall become the property of Landlord and be surrendered with the Premises upon the expiration of the Term of this Lease; provided, however, Tenant's equipment, machinery and trade fixtures which can be removed without damage to the Premises shall remain the property of Tenant and may be removed, subject to the provisions of section 6.1(b).

**ARTICLE 7. INSURANCE AND INDEMNIFICATION.** Tenant shall procure and maintain for the duration of the Term insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Tenant's operation and use of the Premises in accordance with the terms and conditions of this Article 9. The cost of such insurance shall be borne by Tenant.

**7.1 Minimum Scope of Insurance.** The insurance required to be maintained by Tenant shall provide coverage at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
- b. Workers' Compensation insurance as required by the State of California and Employer's Liability insurance (for tenants with employees).
- c. Property insurance against all risks of direct physical loss unless otherwise specially excluded.

**7.2 Minimum Limits of Insurance.** Tenant shall maintain limits no less than:

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

- a. General Liability: **\$1,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- b. Employer's Liability: **\$1,000,000** per accident for bodily injury or disease.
- c. Property Insurance: Full replacement cost with no coinsurance penalty provision.

**7.3 Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by Landlord. At the option of Landlord, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Landlord, its officers, elected and appointed officials, employees, agents and volunteers; or the Tenant shall provide a financial guarantee satisfactory to Landlord guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**7.4 Other Insurance Provisions.** The general liability policy is to contain, or be endorsed to contain, the following provisions:

a. Landlord, its officers, elected and appointed officials, employees, agents and volunteers are to be covered as insureds with respect to liability arising out of ownership, maintenance or use of that part of the Premises.

b. Tenant's insurance coverage shall be primary insurance as respects Landlord, its officers, elected and appointed officials, employees, agents and volunteers. Any insurance or self-insurance maintained by Landlord, its officers, elected and appointed officials, employees, agents or volunteers shall be excess of Tenant's insurance and shall not contribute with it.

c. Should any of the required insurance policies required by this Lease be cancelled or non-renewed, it is the Tenant's duty to notify the Landlord immediately upon receipt of the notice of cancellation or non-renewal and provide evidence of other coverage.

**7.5 Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

52  
34

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

**7.6 Verification of Coverage.** Lessee shall furnish Landlord with original certificates and amendatory endorsements effecting coverage required by this Article 9. The endorsements should be on forms provided by Landlord or on other than the Landlord's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the Landlord before the Commencement Date. Landlord reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

**7.7 Subrogation Waiver.** Landlord and Tenant hereby waive any rights of recovery each may have against the other for any loss or damage to Landlord or Tenant, or their respective property, the Premises or its contents arising from any risk insured by fire, extended coverage and any other property insurance policies in effect at the time of such loss or damage. The foregoing waivers of subrogation shall be effective to the extent permitted by Landlord's and Tenant's respective insurers and provided that no policy of insurance is invalidated as a result of such waivers.

**7.8 Indemnification.** Tenant shall indemnify and hold Landlord, its elected and appointed officials, officers, employees, agents and volunteers harmless against and from liability and claims of any kind including, without limitation, claims for loss or damage to property of Tenant or any other person, or for any injury to or death of any person, arising out of: (a) Tenant's use and occupancy of the Premises, or any work, activity or other things allowed or suffered by Tenant to be done in, on or about the Premises; (b) any breach or default by Tenant of any of Tenant's obligations under this Lease; or (c) any negligent or otherwise tortuous act or omission of Tenant, its agents, employees, invitees or contractors. Tenant shall, at Tenant's sole cost and expense, defend Landlord its elected and appointed officials, officers, employees, agents and volunteers in any action or proceeding arising from any such claim by counsel satisfactory to Landlord and shall indemnify Landlord its elected and appointed officials, officers, employees, agents and volunteers against all costs, attorneys' fees, expert witness fees and any other expenses incurred in or for such action or proceeding.

Landlord shall indemnify and hold Tenant, its elected and appointed officials, officers, employees, agents and volunteers harmless against and from liability and claims of any kind including, without limitation, claims for loss or damage to property of Landlord or any other person, or for any injury to or death of any person, arising out of: (a) Landlord's use of the Premises, or any activity or other things allowed or suffered by Landlord to be done in, on or about the Premises; (b) any breach or default by Landlord of any of Landlord's obligations under this Lease; or (c) any negligent or otherwise tortuous act or omission of Landlord, its agents, employees, invitees or contractors. Landlord shall, at Landlord's sole cost and expense, defend Tenant, its elected and appointed officials, officers, employees, agents and volunteers in any

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

action or proceeding arising from any such claim by counsel satisfactory to Tenant and shall indemnify Tenant, its elected and appointed officials, officers, employees, agents and volunteers against all costs, attorneys' fees, expert witness fees and any other expenses incurred in or for such action or proceeding.

**ARTICLE 8. DAMAGE OR DESTRUCTION.**

**8.1 Damage.**

a. If the Premises are damaged by perils covered by Landlord's insurance, Landlord shall, within ninety (90) days, commence repair, reconstruction and restoration of the Premises and this Lease shall remain in full force and effect.

b. If the Premises are damaged by perils covered by insurance required to be maintained by Tenant hereunder, and if the proceeds received by Landlord from such insurance are not sufficient to complete the required repair, reconstruction and restoration, Landlord shall give Tenant written notice of the amount of the deficiency and Tenant may, within thirty (30) days after receipt of such notice, contribute such amount. If Tenant elects not to contribute such amount, Landlord shall have the right, at Landlord's option, to terminate this Lease with no liability to Tenant. If Tenant elects to contribute such amount, Landlord shall, within ninety (90) days, commence repair, reconstruction and restoration and this Lease shall continue in full force and effect. Tenant shall not have a right of reimbursement from Landlord for any amount contributed under the provisions of this Section 10.1(b).

c. If the Premises are damaged by perils not covered by insurance, Landlord shall repair, reconstruct and restore the Premises, provided, however, if the extent of such damage is greater than twenty five percent (25%) of the total cost for complete restoration of the Premises, excluding therefrom the replacement cost of Tenant's trade fixtures and equipment and the restoration costs of building foundations, then Landlord may elect not to restore the Premises, in which case Landlord shall have the right to terminate this Lease with no liability to Tenant. Landlord shall give Tenant written notice of its election not to restore the Premises within thirty (30) days from the date such damage occurs and if such notice is not given, Landlord shall be deemed to have elected to restore the Premises, in which case Landlord shall commence repair, reconstruction and restoration within ninety (90) days from the end of said thirty (30) day period. If Landlord elects not to restore the Premises Tenant may elect to restore the Premises at Tenant's expense by serving written notice of such election upon Landlord within ten (10) days after receipt of Landlord's notice. If Tenant so elects, this Lease shall remain in full force and effect and Tenant shall, within ninety (90) days, commence repair, reconstruction and restoration of the

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

Premises. Tenant shall not have a right of reimbursement from Landlord for any amount expended by Tenant under the provisions of this Section 10.1(c).

**8.2 Damage - End of Term.** Notwithstanding anything to the contrary contained in this Lease, if the Premises are partially destroyed or damaged during the last six (6) months of the Term hereof, Landlord may elect to terminate this Lease as of the date such destruction or damage occurred with no liability to Tenant, by serving written notice of such election to terminate on Tenant within thirty (30) days from the date such destruction or damage occurred.

**8.3 Complete Destruction.** If the Premises are completely destroyed (excluding foundations) at any time during the Term of this Lease from any cause, whether insured or uninsured, then this Lease shall automatically terminate as of the date of such destruction.

**8.4 Abatement of Rent.** In the event of repair, reconstruction and restoration as provided for under this Article 10, the Rent to be paid by Tenant under Article 3 hereof shall be abated proportionately with the degree to which the Tenant's use of the Premises is impaired, commencing from the date of damage and continuing during the period of such repair, reconstruction and restoration. Tenant shall continue to operate its business on the Premises during any such period to the extent reasonably practicable from the standpoint of prudent business management and the obligation of Tenant to pay rent and additional charges due hereunder shall remain in full force and effect. Tenant shall not be entitled to any compensation or damages from Landlord for loss of use of the Premises or any part thereof, or for any other loss resulting from such damage, repair, reconstruction or restoration.

**ARTICLE 9. CONDEMNATION.**

**9.1 Total Taking.** If the entire Premises are taken under the power of eminent domain, this Lease shall terminate as of the date Tenant is required to vacate the Premises, and Landlord and Tenant shall each thereafter be released from any further liability under this Lease, except, subject to the terms of this Lease, for the return or application of any prepaid rents or security deposits.

**9.2 Partial Taking.** If a portion in excess of twenty-five percent (25%) of the Premises is taken under the power of eminent domain, or if, as a result of any taking regardless of the extent, the remainder of the Premises is not one undivided parcel of property, either Landlord or Tenant may terminate this Lease as of the date Tenant is required to vacate the Premises, by serving written notice of such election within thirty (30) days after receipt by Tenant of written notice from Landlord that the Premises have been so taken. If this Lease is so terminated each party shall thereafter be released from any further liability hereunder. If both parties elect not to

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

terminate this Lease, Tenant shall remain in that portion of the Premises not so taken and, in that event, Landlord agrees, at Landlord's cost and expense, to restore the remaining portion of the Premises as soon as possible to a complete unit of like quality and character as existed prior to such taking; and thereafter the Rent set forth in Article 3 hereof shall be equitably reduced, taking into account the relative value of the portion taken as compared to the portion remaining.

**9.3 Compensation.** In the event of any taking and regardless of whether such taking results in termination of this Lease, Landlord shall be entitled to the entire award or compensation in such proceeding; provided, however, Tenant's right to receive compensation or damages for its fixtures and personal property shall not be affected hereby.

**9.4 Voluntary Sale; Waiver.** For purposes of this Article 11, a voluntary sale or conveyance in lieu of condemnation, under threat of condemnation, shall be deemed a taking under the power of eminent domain. Tenant hereby waives any statutory rights of termination Tenant may have by reason of any partial taking of the Premises under the power of eminent domain.

**ARTICLE 10. ASSIGNMENT, SUBLEASE, TRANSFER.**

**10.1 Definition.** For purposes of this Article 12, the terms "assign" and "assignment" shall include and mean any act attempting to or document purporting to assign, transfer, sublet, enter into license or concession agreements for, change ownership of, mortgage or hypothecate this Lease or Tenant's interest in and to the Premises or any part thereof. Tenant shall not assign this Lease or Tenant's interest in and to the Premises without obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld, subject to the terms, covenants and conditions contained herein. If the transfer is a sublease of all or part of the Premises or an assignment of this lease, Landlord has the right to terminate this Lease as of the effective date of the assignment or sublease (if less than the entire Premises, for that portion of the Premises subleased or assigned), in which case the Landlord may elect to enter into a direct lease with the proposed assignee or subtenant. Any attempt to assign this Lease without the prior written consent of Landlord shall be a breach hereof, and Landlord may, at Landlord's option, terminate this Lease.

**10.2 Use.** It is expressly agreed that Tenant shall not have the power to assign this Lease or sublet the Premises (a) for any use other than the use specified in Article 7 hereof, (b) to any party, if in Landlord's reasonable business judgment the quality of the business operation is or may be adversely affected thereby, or (c) to any party whose financial worth at the time of any proposed assignment or subletting is less than the financial worth of Tenant as of the date of this Lease, and any such purported assignment or subletting without Landlord's consent shall be void

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

and of no force or effect and shall not confer any benefit or estate on any person, and Landlord shall not be required to terminate this Lease to prevent any such assignment or subletting.

**10.3 Instrument, Consent.** Any assignment to which Landlord has consented shall be by an instrument in writing satisfactory to Landlord, and any assignee, sublessee, transferee, licensee, concessionaire or mortgagee shall agree for the benefit of Landlord to be bound by, assume and perform all the terms, covenants and conditions of this Lease. Consent by Landlord to any assignment shall not constitute consent to any subsequent assignment. Notwithstanding Landlord's consent, Tenant shall remain fully liable hereunder as primary obligor during the unexpired term of this Lease.

**10.4 Rent.** If Tenant assigns its interest in this Lease, the Base Rent provided in Article 3 hereof shall be increased effective as of the date of such assignment based upon the Consumer Price Index for all Urban Consumers, (base year 1998=100) for San Francisco-Oakland published by the U.S. Department of Labor, Bureau of Labor Statistics (the Index). The Index published as of the month prior to the Commencement Date of the Term shall be considered the "the Base Index". The index, which is published most immediately proceeding the date of the assignment shall be considered "the Extension Index". Upon the date of the assignment, the Rent shall be increased by a percentage equal to the percentage increase, if any, in the Extended Index over the Base Index (Adjusted Rent). Notwithstanding any subsequent decrease in the Index, the Adjusted Rent shall not be less than the Rent paid by Tenant.

**10.5 Excess Rent from Assignment or Sub-Tenancy.** Should the Tenant assign or sublet its interests in this Lease, any monies received by Tenant from said assignment or sub-tenancy over and above the amount of Base Rent due Landlord shall be payable to Landlord.

**ARTICLE 11. DEFAULT.**

**11.1 Tenant's Default.** The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

- a. Abandoning or vacating the Premises; or
- b. Failing to pay any Base Rent, Additional Rent or any other charges when due and payable by Tenant, if such failure continues for ten (10) days after the due date for such payment provided for in this Lease; or
- c. Failure to promptly and fully perform any other covenant, condition or agreement contained in this Lease should such failure continue for thirty (30) days after written notice

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

thereof from Landlord to Tenant; provided, however, if the failure to perform is such that it cannot reasonably be cured within thirty (30) days, Tenant shall not be in default hereunder if Tenant commences to cure within said thirty (30) day period and diligently prosecutes such curing to completion; or

d. Permitting Tenant's assets to be placed in the hands of a receiver or trustee for a period in excess of thirty (30) days; making an assignment for the benefit of creditors; instituting any proceedings under any bankruptcy act wherein Tenant seeks to be adjudicated a bankrupt, to be discharged of its debts or to effect a plan of liquidation, extension or reorganization; failing to have dismissed within sixty (60) days any involuntary proceeding filed against Tenant under any bankruptcy act; becoming insolvent; or failing to have dismissed within thirty (30) days any proceedings seeking to execute or levy against or attach fifty percent (50%) or more of Tenant's assets.

**11.2 Remedies.** In the event of Tenant's default hereunder, in addition to any other rights or remedies, Landlord may have under any law, Landlord shall have the right, at Landlord's option, without further notice or demand of any kind to do the following:

a. Terminate this Lease and Tenant's right to possession of Premises and reenter the Premises and take possession thereof, and Tenant shall have no further claim to Premises or under this Lease; or

b. Continue this Lease in full force and effect, reenter and occupy the Premises for the account of Tenant and collect any unpaid rental or other charges which have or may thereafter become due and payable; or

c. Reenter the Premises under the provisions of subparagraph (b), and thereafter elect to terminate this Lease and Tenant's right to possession of the Premises.

Should Landlord reenter the Premises under the provisions of subparagraphs (b) or (c) above, Landlord shall not be deemed to have terminated this Lease or the obligation of Tenant to pay any rental or other charges thereafter accruing, unless Landlord notifies Tenant in writing of Landlord's election to terminate this Lease in the event of any reentry or retaking of possession by Landlord. Landlord shall have the right, but not the obligation, to remove all or any part of the personal property in the Premises and to place such property in storage at a public warehouse at the expense and risk of the Tenant.

Should Landlord elect to terminate this Lease under the provisions of subparagraph (a) or (c) above, Landlord may recover as damages from Tenant the following:

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

1. The worth at the time of award of any unpaid Rent and Additional Rent which had been earned at the time of termination; plus
2. The worth at the time of the award of the amount by which the unpaid Rent and Additional Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Tenant proves could have been reasonably avoided; plus
3. The worth at the time of the award of the amount by which the unpaid Rent and Additional Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus
4. Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to any costs of expenses including attorneys' fees, incurred by Landlord in (a) retaking possession of the Premises, (b) maintaining the Premises after Tenant's default, (c) preparing the Premises for reletting to a new tenant including any repairs or alterations and (d) reletting the Premises including broker's commissions.

"The worth at the time of the award," as used in (1) and (2) above, is to be computed by allowing interest at the rate of ten percent (10%) per annum. "The worth at the time of the award," as used in (3) above, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank situated nearest to the location of the Premises at the time of the award plus one percent (1%).

The waiver by Landlord of any breach of any term, covenant or condition of this Lease shall not be deemed a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition. Acceptance of Rent and/or Additional Rent by Landlord subsequent to any breach hereof shall not be deemed a waiver of any preceding breach other than the failure to pay the particular Rent also accepted, regardless of Landlord's knowledge of any breach at the time of such acceptance of rental. Landlord shall not be deemed to have waived any term, covenant or condition unless Landlord gives Tenant written notice of such waiver.

**11.3 Landlord's Default.** If Landlord fails to perform any covenant, condition or agreement contained in this Lease within thirty (30) days after receipt of written notice from Tenant specifying such default, or if such default cannot reasonably be cured within thirty (30) days, if Landlord fails to commence to cure within said thirty (30) day period, then Landlord

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

shall be liable to Tenant for any damages sustained by Tenant as a result of Landlord's breach; provided, however, it is expressly understood and agreed that if Tenant obtains a money judgment against Landlord resulting from any default or other claim arising under this Lease, such judgment shall be satisfied only out of rents, issues, profits and other income actually received on account of Landlord's right, title and interest in the Premises or in the building of which the Premises are a part and the underlying real property, and no other real, personal or mixed property of Landlord wherever situated, shall be subject to levy to satisfy any such judgment. Tenant shall not have the right to terminate this Lease or to withhold, reduce or offset any amount against any payments of rent or any other charges due and payable hereunder.

**ARTICLE 12. CONDUCT OF BUSINESS.** Tenant covenants and agrees that from and after the Commencement Date of this Lease, Tenant will continuously and uninterruptedly operate and conduct within the Premises the business it is permitted to operate and conduct under the provisions of this Lease, except while the Premises are untenable by reason of fire or other casualty.

**ARTICLE 13. GENERAL PROVISIONS**

**13.1 Transfer of Landlord's Interest.** In the event of any sale, transfer, or reversion by Landlord of the Premises or the building of which the Premises are a part, and assignment of this Lease by Landlord, Landlord shall be and is hereby entirely freed and relieved of any and all liability and obligations contained in or derived from this Lease arising out of any act, occurrence or omission relating to the Premises or this Lease occurring after the consummation of such sale or transfer, provided the purchaser shall expressly assume all of the covenants and obligations of Landlord under this Lease. If any security deposit or prepaid rent has been paid by Tenant, Landlord shall transfer the security deposit or prepaid rent to Landlord's successor and upon such transfer, Landlord shall be relieved of any and all further liability with respect thereto.

**13.2 Estoppel Statement.** Upon not less than ten (10) days prior written request from Landlord, Tenant shall execute and deliver to Landlord or Landlord's designee, a written statement certifying (a) that this Lease is unmodified and in full force and effect, or in full force and effect as modified and stating the modifications; (b) the amount of Rent and the date to which said rent and other charges have been paid in advance; (c) the amount of any security deposited with Landlord; and (d) that Landlord is not in default hereunder or, if Landlord is claimed to be in default, stating the nature of any claimed default. Any such statement may be relied upon by a purchaser, assignee or lender. Tenant's failure to execute and deliver such statement within the time allowed shall be conclusive upon Tenant that: (1) this Lease is in full force and effect and has not been modified except as represented by Landlord; (2) there are no

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

uncured defaults in Landlord's performance and that Tenant has no right of offset, counter-claim or deduction against rental; and (3) not more than one month's rent has been paid in advance.

**13.3 Financial Statement.** Upon request from Landlord, Tenant agrees to deliver to Landlord and/or any holder of a mortgage or deed of trust and/or to a mortgage, deed of trust beneficiary or proposed mortgages or deed of trust beneficiary, upon fifteen (15) days written request therefor, such financial information as may be required by such party. Landlord agrees that such information, if confidential, shall to the extent permitted by law, be held in confidence and disclosed only for the purposes and to the parties set forth above.

**13.4 Subordination; Attornment.** Upon written request of Landlord, or any first mortgagee, first deed of trust beneficiary of Landlord, or lessor of Landlord, Tenant shall, in writing, subordinate its rights hereunder to the lien of any first mortgage, first deed of trust, or the interest of any lease in which the Landlord is lessee, and to all advances made or hereafter to be made upon the security therefor; provided, however, prior to executing any such subordination agreement, Tenant shall have the right to obtain from any lender or lessor of Landlord requesting such subordination, an agreement in writing providing that, as long as Tenant is not in default hereunder, this Lease shall remain in full force and effect for the full Term hereof. The holder of any security interest may, upon written notice to Tenant, elect to have this Lease prior to such security interest regardless of the time of granting or recording such security interest.

In the event of any foreclosure sale, transfer in lieu of foreclosure or termination of the lease in which the Landlord is lessee, Tenant shall attorn to the purchaser, transferee or lessor as the case may be, and recognize such party as Landlord under this Lease, provided such party acquires and accepts the Premises subject to this Lease.

**13.5 Access to Premises.** During any emergency, Landlord may enter the Premises at any time without any notice to Tenant required.

**13.6 Holding Over.** If Tenant, with Landlord's consent, retains possession of the Premises after the expiration of the Term or termination of the Lease, such possession shall be deemed to be a month-to-month tenancy terminable upon thirty (30) days written notice given at any time by either party. During any such month-to-month tenancy Tenant shall pay Base Rent as required by this Lease and such month-to-month tenancy shall be subject to all provisions of this Lease except those pertaining to Term.

**13.7 Merger.** The voluntary or other surrender of this Lease by Tenant or termination hereof shall not cause a merger but shall, at Landlord's option, terminate any existing subtenancies or operate as an assignment to Landlord of any such subtenancies.

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT  
333 JOHNSON STREET  
SAUSALITO, CALIFORNIA**

**13.8 Recording.** This Lease shall not be recorded by either Landlord or Tenant, provided, however, upon obtaining the prior written consent of the other party, either party may record a memorandum of lease.

**13.9 Prior Agreements; Amendments.** This Lease represents the entire agreement between the parties pertaining to the Premises and supersedes and cancels any and all previous negotiations, arrangements, representations, agreements and communications between the parties whether written or oral, and none of the foregoing shall be used to construe or interpret this Lease. This Lease may be amended or modified only by written agreement of all parties.

**13.10 Attorneys' Fees.** In the event of any action or proceeding brought by either party against the other pertaining to or arising out of this Lease, the finally prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred on account of such action or proceeding.

**13.11 Remedies; Choice of Law.** No remedy or election exercised hereunder shall be deemed exclusive but shall be cumulative with all other remedies at law or in equity. This Lease shall be governed by the laws of the State of California. Venue shall be in Marin County, California.

**13.12 Successors and Assigns.** Subject to the provisions regarding assignment contained herein, this Lease shall apply to and bind the heirs, personal representatives, successors and assigns of the parties hereto.

**13.13 Severability.** A final determination by a court of competent jurisdiction that any provision of this Lease is invalid shall not affect the validity of any other provision, and any provision so determined to be invalid shall, to the extent possible, be construed to accomplish its reflected intent.

**13.14 Authority.** By their signatures below, each of the following represent that they have the authority to execute this Agreement and to bind the party on whose behalf their execution is made. When this Lease calls for action or approval to be taken by the City such action or approval shall be undertaken by the City Manager or his designee; provided, however, that the City Manager may determine in his sole and absolute discretion that the action requires approval by the City Council. When this Lease calls for action or approval to be taken by SMFPD such action or approval shall be undertaken by the Fire Chief or his designee; provided, however, that the Fire Chief may determine in his sole and absolute discretion that the action requires approval by the SMFPD Board.

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

**13.15 Signs.** Tenant shall not, without Landlord's written consent, place, construct, maintain or permit the placement of any sign, advertisement, name, insignia, trademark, or similar item on the exterior side walls, rear wall or roof of the Premises or of the building of which the Premises are a part. Landlord shall have the right to approve or disapprove the use of any sign, advertisement, name insignia, trademark, or similar item to be placed, constructed, or maintained on the exterior front wall of the Premises or of the building of which the Premises are a part. In addition to the foregoing, Tenant shall comply with all applicable provisions of the Sausalito Municipal Code regarding such signs. Tenant shall have the right to maintain, place, or construct whatever signs Tenant wants on the interior walls of the Premises so long as such construction does not constitute an alteration to the Premises as defined herein.

**13.16 Time of Essence.** Time is of the essence in the performance of each and every term, covenant and condition of this Lease.

**13.17 Covenants and Conditions.** Each and every provision of this Lease to be performed by Tenant shall be deemed both a covenant and condition.

**13.18 Captions.** The article and section captions contained herein are for reference purposes only and are not a part of this Lease.

**13.19 Waiver.** A waiver by Landlord of any breach or default shall not be deemed a waiver of any other breach or default. Landlord's consent to or approval of any act by Tenant requiring such consent or approval shall not be deemed to waive or abrogate the requirement of Landlord's consent or approval of any subsequent or similar act.

**13.20 No Setoffs.** All payments to be made by Tenant hereunder shall, unless otherwise expressly provided, be paid to Landlord without notice or demand and without adjustment, deduction or setoff, in lawful money of the United States.

**13.21. Force Majeure.** Any provision, delay or stoppage which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor, acts of God, governmental restrictions or requisitions or controls, judicial orders, enemy or hostile government actions, civil commotion, fire or other casualty, or other causes beyond reasonable control of the party obligated to perform hereunder, shall excuse performance by such party for a period equal to the duration of such prevention, delay or stoppage, except where such performance is the payment of rental or other charges to be paid by Tenant pursuant to the provisions of this Lease.

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT**  
**333 JOHNSON STREET**  
**SAUSALITO, CALIFORNIA**

**13.22 Notices.** Wherever in this Lease it is required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall be in writing and shall be deemed duly served or given only if personally delivered or sent by United States mail, certified or registered, postage prepaid, to the address of the parties as specified below.

To Landlord

THE CITY OF SAUSALITO  
CITY MANAGER  
CITY OF SAUSALITO  
420 LITHO STREET  
SAUSALITO, CA 94965

To Tenant

SOUTHERN MARIN FIRE PROTECTION DISTRICT  
308 REED BOULEVARD  
MILL VALLEY, CA 94941

Landlord and Tenant may change their respective addresses for notices by giving notice of such new address in accordance with this section 13.22.

**13.23 Brokers.** Tenant warrants that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease.

**13.24 Keys.** In the event Tenant changes the access code, door hardware, locks, or tumblers to Premises, Tenant shall provide Landlord with the access code and/or a set of keys to all said changed locks within twenty (24) four hours of said change. In the event Tenant fails to provide said keys within five (5) days of written demand of Landlord, then Landlord may change said access code and/or locks at Tenant's expense and provide Tenant with new keys and/or access codes

[SIGNATURES ON FOLLOWING PAGE]

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT  
333 JOHNSON STREET  
SAUSALITO, CALIFORNIA**

**LANDLORD:**

**CITY OF SAUSALITO**, a municipal corporation

Dated: \_\_\_\_\_, 2011

By: \_\_\_\_\_  
Herb Weiner, Mayor

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

**TENANT:**

**SOUTHERN MARIN FIRE PROTECTION DISTRICT**, a special district formed and operating pursuant to the Fire Protection District Act of 1987

Dated: \_\_\_\_\_, 2011

By: \_\_\_\_\_  
Printed name: \_\_\_\_\_

**LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT  
333 JOHNSON STREET  
SAUSALITO, CALIFORNIA**

**APPROVED AS TO FORM:**

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SMFPD Attorney

## Exhibit "A"

### Sausalito Fire Station Furnishings Tranferred to Southern Marin Fire Protection District

Room	Item Number	Item Description	Quantity	Category Total	
Fire Marshal	207 RPF1827BP STEELCASE	Pedestal-Fixed, 2 File Drawers	2	7798.5	
	RPF1827AP STEELCASE	Pedestal-Fixed, 2 Box/1 File Drawer	2		
	LSM48K STEELCASE	Light-Shelf, Electronic Ballast	2		
	X3D000601	Screen-Core Mounted, Straight, 20x60	1		
	X3D000481 STEELCASE	Screen-Core Mounted, Straight, 20x48	1		
	XBB48 STEELCASE	Cabinet Package-Overhead, Single Door	1		
	XBB54 STEELCASE	Cabinet Package-Overhead, Double Door	1		
	X1AR24483 STEELCASE	Core Unit-Straight, End/Inside Supports	1		
	X1AR24603	Core Unit-Straight, End/Inside Supports	1		
	X1AL24540	Core Unit-Straight, End/Inside Supports	1		
	X1AR24548	Core Unit-Straight, End/Inside Supports	1		
	Impress	Task Chair	2		747.9
	202 LS1FSC STEELCASE	Cord-Starter, Daisy Chain, 6-1/2'	1		7783.93
	Lieutenant LSM48KFD STEELCASE	Light-Shelf, Economizer Electronic	2		
RPF1827AP STEELCASE	Pedestal-Fixed, 2 Box/1 File Drawer	1			
RPF1827BP	Pedestal-Fixed, 2 File Drawers	1			
XBB72	Cabinet Package-Overhead, Double Door	1			
XBB48 STEELCASE	Cabinet Package-Overhead, Single Door	1			
X3F000720	Screen-Core Mounted, Corner, Right Hand	1			
X3F000483	Screen-Core Mounted, Corner, Right Hand	1			
X1AI24242	Core Unit-Straight, Inside/ Inside	1			
TaskChair-Impress	TaskChair-Impress	1	525		
GuestChair-Peretti	GuestChair-Peretti	1	350		
X1NL24725	Core Unit-Corner, Extended	1			
X1MR32727	Core Unit-Corner, Extended	1			
204 LS1FSC STEELCASE	Cord-Starter, Daisy Chain, 6-1/2'	1	9299.49		
Chief LSM48KFD STEELCASE	Light-Shelf, Economizer Electronic	2			
X3D000728	Screen-Core Mounted, Straight, 20x7	1			
X3E000482	Screen-Core Mounted, Corner, Left Hand	1			
XBB72	Cabinet Package-Overhead, Double Door	1			
XBB48 STEELCASE	Cabinet Package-Overhead, Single Door	1			
RPF1827AP STEELCASE	Pedestal-Fixed, 2 Box/1 File Drawer	1			
X1DR24668	Table-Jetty, Conference/Inside Supports	1			
X1AI24242	Core Unit-Straight, Inside/ Inside	1			
X1NL24608	Core Unit-Corner, Extended	1			
Arc	Guest Chair	4		1588.2	
Cinturon	Task Chair	1		873	
205 LS1FSC STEELCASE	Cord-Starter, Daisy Chain, 6-1/2'	1		9,299.49	
Captain LSM48KFD STEELCASE	Light-Shelf, Economizer Electronic	2			
X3D000728	Screen-Core Mounted, Straight, 20x7	1			

5a  
49

	X3E000483	Screen-Core Mounted, Corner, Right Hand	1		
	XBB72	Cabinet Package-Overhead, Double Door	1		
	XBB48 STEELCASE	Cabinet Package-Overhead, Single Door	1		
	RPF1827AP STEELCASE	Pedestal-Fixed, 2 Box/1 File Drawer	1		
	X1DL24660	Table-Jetty, Conference/Inside Supports	1		
	X1AI24242	Core Unit-Straight, Inside/ Inside	1		
	X1MR24605	Core Unit-Corner, Extended	1		
	Arc	Guest Chair	4	1588.2	
	Cinturon	Task Chair	1	873	
Other	RLF18425P	Lateral File-1 Lift Up Door/Fixed Shelf	3		3608.64
	210 800RW	Rails	37		479.52
	202, 204, 2 RLF18362P	Lateral File-2 Dr	3		2145.6
	201 RLF18363P	Lateral File-3 Dr	2		1862.4
Dorms	TwinXLMattress Simmor	TwinXLMattress SimmonsBeautyrestClassic	15	689	10335
	Headboards	Headboards	15	115	1725
	Nightstand-	Nightstand-	15	146	2190
	Desk	Desk	5	238	1190
	Chair- Peretti	Chair- Peretti	4	354.9	1419.6
	Blankets and mattress pac	Blankets and mattress pads			2125
Patio	Tropitone-	Tropitone-	2	388.32	776.64
	Chairs-TropitoneOpus8	Chairs-TropitoneOpus8	8	156	1248
	Umbrella-8'/base	Umbrella-8'/base	2	523.42	1046.84
	Planters	Planters	2		1681
	212 Table-	Table-	1		2232.9
Dayroom	Dunhill Round Sta Tables	Dunhill Round Sta Tables	2	591.75	1183.5
	DiningChairs- Peretti	DiningChairs- Peretti	8	500	4000
	Stools	Stools	3	400	1200
	Console/Cabinet	Console/Cabinet	1	500	500
	Recliners	Recliners	5	849.95	4249.75
	OccasionalTables	OccasionalTables	3	525	1575
	DoublePed.Desk	DoublePed.Desk	1	2000	2000
	TaskChair-Impress	TaskChair-Impress	1	525	525
	EntertainmentConsole1	EntertainmentConsole1	2	2150	4300
	201 U-desk	U-desk	1		6852
Admin/Rec	TaskChair-Impress	TaskChair-Impress	1	373.95	373.95
	Lounge Chairs	Lounge Chairs	2	500	1000
	Table	Table	1	500	500
	118 Task Chair	Task Chair	1	373.95	373.95
Radio	102 FoldingTable-	FoldingTable-	8	530.1	4240.8
EOC/Train	Chairs-	Chairs-	16	386.05	6176.8

5a  
50

	Cart/Lecturn	Cart/Lecturn	1		3354.75
101	LoungeChair	LoungeChair	3	400-950	1500
Lobby	OccasionalTable	OccasionalTable	1	500	500
		<b>Sub-Total</b>			<b>\$102,353.05</b>
		<b>3% Depreciation</b>			<b>3070.5915</b>
					<b>\$99,282.46</b>

5a  
51

LEASE OF PREMISES AND EQUIPMENT DISPOSITION AGREEMENT  
333 JOHNSON STREET  
SAUSALITO, CALIFORNIA

Exhibit B

Date of Effectiveness of Annexation:

**AGREEMENT REGARDING CERTAIN FINANCIAL AND  
PERSONNEL CONDITIONS OF ANNEXATION**

This Agreement Regarding Financial and Personnel Conditions of Annexation ("Agreement") is made by and between the City of Sausalito, a municipal corporation ("City"), and the Southern Marin Fire Protection District, a special district formed and operating pursuant to the Fire Protection District Act of 1987 ("SMFPD"). City and SMFPD are herein jointly referred to as "Parties".

**RECITALS**

A. City, with SMFPD's consent, will file an application with the Marin Local Agency Formation Commission ("LAFCO") requesting its approval of the annexation of the City into SMFPD for the provision of fire protection services; and

B. The proposed annexation is conditioned on the following: (1) the Parties' approval of a lease for the fire station located at 333 Johnson Street ("Fire Station"), which shall contain terms regarding the transfer of fire apparatus, tools and equipment and all Fire Station furnishings and equipment from City to SMFPD ("Lease"); (2) each Parties' adoption of a resolution accepting a negotiated exchange of property tax revenues between the City and SMFPD; (3) the Parties' agreement regarding certain financial conditions of annexation; (4) the Parties' agreement regarding certain personnel matters necessitated by any annexation; (5) the existence of a negotiated agreement between the SMFPD and the Southern Marin Professional Firefighters, Sausalito Group, IAFF Local 1775 regarding the personnel actions necessitated by the proposed annexation ("Union Agreement"); and (6) LAFCO's approval of the annexation; and

C. The purpose of this Agreement is to set the agreement between the Parties regarding certain financial and personnel conditions resulting from the annexation.

City and SMFPD hereby agree as follows:

1. Financial Conditions of Annexation
  - a. Revenues from GGNRA Agreement. The Parties recognize that SMFPD has entered into an agreement with the Golden Gate National Recreation Area ("GGNRA") effective as of October 1, 2010 to provide services to fire and emergency medical services (collectively "Emergency Services") to the Marin Headlands and Fort Baker, NPS managed lands, immediately north of the Golden Gate Bridge in Southwestern Marin County ("GGNRA Agreement"). The Parties also recognize that as previously agreed due to the proximity of the City to the GGNRA and the utilization of City resources to provide services to GGNRA, SMFPD has paid City an annual amount of One Hundred Thirty Three Thousand and 00/100 (\$133,000.00) from the revenue received by SMFPD from the GGNRA Agreement (the "City Share"). The Parties hereby agree that upon the effective date of the annexation of the City into SMFPD, SMFPD shall have no further obligation to pay the City Share

and that any applicable payment of the City Share for the period of time prior to the effectiveness of the annexation shall be prorated.

- b. SMEMPS Ambulance Fees. The Parties, along with numerous other public entities, are both members of the Southern Marin Emergency Medical-Paramedic System, a Joint Powers Authority ("SMEMPS"). Currently, all members of SMEMPS, including City and SMFPD, perform certain functions and receive certain ambulance fees as a result of their membership in SMEMPS ("SMEMPS Ambulance Fees"). The Parties hereby agree that upon the effective date of the annexation of the City into SMFPD SMFPD shall assume the City's obligations under SMEMPS and City shall transfer to SMFPD any revenue received by the City from SMEMPS for services performed by SMFPD, until the date, if any, that the City's rights and obligations in SMEMPS are transferred to SMFPD.

2. Personnel Matters

- a. Change in Employment Status of City Firefighters. Subject to the explicit terms of the Union Agreement referenced above in Recital B, number (5), upon the effective date of the annexation of the City into SMFPD, City shall at its option lay-off, terminate or accept the valid resignations of each of its firefighters who are not on medical leave or workers' compensation leave or as soon thereafter as practicable and District shall hire said firefighters the following day. With respect to each City firefighter on medical leave or workers' compensation leave as of the date of annexation, City shall layoff, terminate or accept the valid resignation of the firefighter on the date the firefighter has been cleared to return to full-duty work or as soon thereafter as practicable and District shall hire said employee the following day.
- b. Vacation and Sick Leave Payout. Subject to the explicit terms of the Union Agreement referenced above in Recital B, number (5), upon leaving City employment the City firefighters will carry over to SMFPD their accumulated and unused vacation and sick leave. Prior to City laying off, terminating or accepting the valid resignations of its firefighters, City shall calculate each firefighter's accumulated and unused vacation and sick leave. City shall pay to SMFPD an amount equivalent to: i) for employees with ten years or more of service 35% of the employee's accumulated but unused sick leave plus 1.66% for each year of service up to 25 years; and ii) the value of unused vacation calculated at each firefighter's current hourly rate.
- c. Retiree Medical Costs. Six (6) of the City's firefighters have vested or will vest in a year or less their right to receive retiree medical benefits and are not likely to have sufficient time as SMFPD employees to earn this benefit again as SMFPD employees. As a result, following annexation of the City into SMFPD and upon their retirement, SMFPD will provide these six firefighters with retiree medical benefits and the City shall pay SMFPD an amount equal to the lesser of the actual amount paid by SMFPD for the retiree medical benefit or the then applicable rate if the City were to be providing the retiree

5a  
31

medical benefit. For the remaining nine (9) City firefighters, upon the effective date of the annexation of the City into SMFPD, City shall pay SMFPD an amount of Fifty Eight Thousand Dollars and 00/100 (\$58,000) per year for thirty (30) years for the retiree medical costs of these firefighters that represents the years said firefighters have worked for City.

3. Miscellaneous

- a. No Waiver. No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision.
- b. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision.
- c. No Third Party Rights. The parties do not intend the benefits of this Agreement to inure to any third party not a signatory to this Agreement.
- d. Jurisdiction and Venue. This Agreement is governed by the State of California and the Parties agree that venue shall be in Marin County, California.
- e. Amendment. This Agreement may be amended or modified only by a written agreement of the Parties.
- f. Execution. By their signatures below, each of the following represent that they have the authority to execute this Agreement and to bind the party on whose behalf their execution is made.
- g. Conflict. In the event any provision of this Agreement conflicts with a provision(s) of the Lease, the terms of the Lease shall control.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in the county of Marin, State of California, on the dates set forth below.

**CITY OF SAUSALITO**

Dated: \_\_\_\_\_, 2011

By: \_\_\_\_\_  
Herb Weiner, Mayor

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

**SOUTHERN MARIN FIRE  
PROTECTION DISTRICT**, a special  
district formed and operating pursuant to the  
Fire Protection District Act of 1987

Dated: \_\_\_\_\_, 2011

By: \_\_\_\_\_  
Printed name:

**ATTEST:**

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
District Attorney

RESOLUTION NO. \_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO ACCEPTING A NEGOTIATED EXCHANGE OF PROPERTY TAX REVENUES BETWEEN THE CITY OF SAUSALITO AND THE SOUTHERN MARIN FIRE PROTECTION DISTRICT

**WHEREAS**, in the case of a jurisdictional change other than a city incorporation or district formation which will alter the service area of responsibility of a local agency, Revenue and Taxation Code Section 99(a)(1) requires that the amount of property tax revenue to be exchanged, if any, among the affected local agencies shall be determined by negotiation; and

**WHEREAS**, when a special district is involved, the negotiations are conducted by the Board of Supervisors of the County on behalf of the district, pursuant to Revenue and Taxation Code Section 99(b)(5); and

**WHEREAS**, Revenue and Taxation Code Section 99(b)(6) requires that each local agency, upon completion of negotiations, adopt resolutions whereby said local agencies agree to accept the negotiated exchange of property tax revenues, if any, and requires that each local agency transmit a copy of each such resolution to the Executive Officer of the Local Agency Formation Commission; and

**WHEREAS**, no later than the date on which the certificate of completion of the jurisdictional change is recorded with the County Recorder, the Executive Officer shall notify the County Auditor of the exchange of property tax revenues by transmitting a copy of said resolution to the County Auditor, and the County Auditor shall thereafter make the appropriate adjustments as required by law; and

**WHEREAS**, the negotiations have taken place concerning the transfer of property tax revenues between the City of Sausalito and the Southern Marin Fire Protection District pursuant to Section 99(a)(1), for the jurisdictional changes designated as Annexation No. 1 to the Southern Marin Fire Protection District, and

**WHEREAS**, the negotiating parties have negotiated the exchange of property tax revenue between such entities as hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Sausalito as follows:

1. That the City of Sausalito agrees to accept the following negotiated exchange of property tax revenues:

52  
57

- a. For fiscal year 2012-13, the City of Sausalito shall transfer to the Southern Marin Fire Protection District \$2,667,250.00 of the City's secured and unsecured property tax revenue and Homeowners Property Tax Relief (HOPTR) subvention revenue, collectively referred to as "Property Tax Revenue".
  - b. For fiscal year 2013-2014, and subsequent fiscal years, the City of Sausalito shall transfer to the Southern Marin Fire Protection District the percentage of the total City of Sausalito Property Tax Revenue in fiscal year 2012-13 that is represented by \$2,667,250.00, as reflected in Exhibit "A".
  - c. If the effective date of the annexation ("Annexation Date") is prior to July 1, 2012, the City of Sausalito shall pay to the Southern Marin Fire Protection District, within 60 days following the Annexation Date, \$7,308 for each day between the Annexation Date and July 1, 2012.
- 2. That the City of Sausalito agrees that all of the exchanges of Property Tax Revenue required by this Resolution shall be made by the County Department of Finance.
  - 3. That the City Clerk is authorized and directed to transmit a certified copy of the resolution to the Executive Officer of the Marin County Local Agency Formation Commission, who shall then distribute copies in the manner prescribed by law.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on the \_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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MAYOR OF THE CITY OF SAUSALITO

5a  
58

**City of Sausalito and the Southern Marin Fire Protection District  
Plan for Service  
Following Annexation of City Territory into the District for  
Fire and Emergency Services**

**INTRODUCTION**

Pursuant to Section 56653 of the Government Code, the Local Agency Formation Commission of Marin County (LAFCO) requires that an application for a change of organization or reorganization be accompanied by a plan for providing services to the property. The plan is to include:

1. An enumeration and description of the services to be extended to the affected territory.
2. The level and range of those services.
3. An indication of when those services can feasibly be extended to the affected territory.
4. An indication of any improvements or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require of the affected territory if the change of organization is completed.
5. Information with respect to how those services will be financed.

The application is for the annexation of all of the territory within the Sausalito city limits, approximately 2.17 square miles, to the Southern Marin Fire Protection District (SMFD), being located in the southeastern corner of Marin County, adjacent to Highway 101. An application for and subsequent annexation of the City to the District is categorically exempt under Sections 15320 and 15061(b)(3) of the State CEQA Guidelines.

The Southern Marin Fire Protection District is an independent special district established by the Marin County Board of Supervisors in July of 1999. The District was formed by the merger of the Alto-Richardson Fire Protection District and the Tamalpais Fire Protection District and is governed by an elected seven member Board of Directors.

Both the City of Sausalito and the Southern Marin Fire Protection District have fire departments. The departments were functionally combined in 2004 through a Limited Joint Powers Agreement (as subsequently amended). Prior to this time the City was supervising its fire department with one Fire Chief and no other Chief Officers to assume

either administrative duties or to provide “incident command” at the emergency scene. Those Chief Officer duties, which are briefly listed below, are too numerous and time consuming to be performed by a single individual. Particularly a Fire Chief as the only Chief Officer of a fire department cannot practically be available 24/7/365 to supervise staff and act as incident commander at responses to incidents that are more than minor calls for service. Examples of duties are:

- Emergency Response incident command
- Fire Prevention - permits and inspections
- Ensuring Federal and State safety regulations are met for firefighting
- Line supervision and application of City rules and regulations
- Planning and liaison with other fire departments
- Fire Investigation and Public Education
- Disaster Preparedness
- Budgeting and City Fire Department Strategic Planning
- Records, invoices, payroll
- Mandated reports (NFIRS, PCR)
- Response and liaison to City Manager direction
- Coordination with other City departments

With these administrative responsibilities in mind and the need to have an incident commander on duty 24/7, the City and the District concluded that it was more cost-effective for the City to contract with the District to provide administrative services.

This functional consolidation was in recognition of the fact that both agencies had been operating separate fire departments that cooperated actively in emergency response; however, neither agency had sufficient resources by itself to respond to major emergency situations such as multiple injury accidents or serious building fires. The agencies were heavily reliant upon each other to not only respond jointly but also to provide backup response when one agency was already fully occupied with a prior emergency call.

Under the terms of the agreement the District Fire Chief and headquarters staff have managed the functionally combined department, with the City paying for these administrative services through a contract with the District. The City retained firefighters as employees although they have been supervised on a day to day basis by the District Fire Chief and headquarters staff.

The functionally combined fire department provides service to an area of approximately 11.5 square miles with an estimated population of about 29,000, including over 14,100 homes and business properties.

In addition to serving the District and City from three fire stations, the combined fire service provides both fire emergency response and paramedic ambulance service to the Golden Gate National Recreation Area under a contract that states “SMFPD will provide the full range of emergency services that it currently provides within its district including

5a  
6

but not limited to firefighting, technical rescue, hazardous materials responses, and emergency medical services for the assigned NPS areas of the Marin Headlands and Fort Baker.” They also provide paramedic ambulance service to the community of Muir Beach, and to the Muir Woods National Monument and provide a regional rescue unit which serves all of the above areas, the Tiburon peninsula, and the Golden Gate Bridge area.

It has been the intent of the City and the District to formally combine the departments into a single agency that will permit more reliable economies of scale and more cost-effective management of the staff and operations. To reach this objective the City and the District have worked to align their employee agreements so that employees of each agency are essentially compensated the same and operate under nearly identical personnel rules. With the completion of that alignment, the City and District are now petitioning LAFCO to approve the annexation of the City territory into the District and the District will then formally hire the fire department employees who are now on the City payroll and then provide fire and emergency response service to the enlarged District area. The terms and conditions of that employment are the subject of agreements between the City, the District and the employees, copies of which are Attachment I and II to this Plan for Service.

The City and District have completed a review of the fire and emergency services now provided to the City and District and determined that the level of such service to both the current District territory and the City territory proposed to be annexed into the District will not be reduced as a result of this proposed annexation, but will be provided more cost-effectively.

## **SOUTHERN MARIN FIRE PROTECTION DISTRICT SERVICES**

The Southern Marin Fire Protection District and the City of Sausalito fire departments operate as a single fire department and provide fire and emergency response services to both the territory within the City limits and the territory within the District boundaries. This joint operation serves the communities of Tamalpais Valley, Almonte, Homestead Valley, Alto, Strawberry, approximately 1/4 of the town of Tiburon, as well as the City of Sausalito and provides fire and paramedic ambulance response to the adjacent Golden Gate National Recreation Area under contract to the National Park Service.

**STAFFING AND EQUIPMENT**

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Fire services are provided from the headquarters station at 308 Reed Street, Mill Valley, which also serves as the administrative offices, the Tamalpais Valley station at 309 Poplar Street in Mill Valley, and the City of Sausalito station at 333 Johnson Street in Sausalito. Fire prevention functions and additional administrative office space are also located at the Sausalito station.

The headquarters station in Strawberry houses an Engine, Paramedic Medium Rescue, and the Shift Battalion Chief who serves as incident commander on each shift. The Sausalito station houses a Type 1 (Municipal) Engine, Ladder Truck, and a Paramedic Ambulance. The crews at the Sausalito station cross-staff the Fireboat, and an Inflatable Rescue Boat, and are members of the Dive Team. The Tamalpais Valley station houses a Type 1 (Municipal) Engine, a Type 3 (Wildland) Engine, and a Paramedic Ambulance.

The full inventory of fire apparatus and other fire vehicles owned by the City and the District is listed below:

**Table 1: Sausalito FD Apparatus**

<b>Vehicle Make</b>	<b>Vehicle Type</b>	<b>Year Placed in Service</b>	<b>Status</b>
GMC 2500/PU	Utility	1995	Front Line
Pierce	Type 1 Pumper	2007	Front Line
Sparten/3D	Type 1 Pumper	1995	Reserve
Pierce 105' (Joint ownership by 5 fire agencies)	Quint	1994	Front Line
Achilles 16'	Inflatable Rescue Boat	2002	Front Line
Metal Craft 30'	Fire Boat	2004	Front Line

**Table 2: Southern Marin FPD Apparatus**

<b>Vehicle Make</b>	<b>Vehicle Type</b>	<b>Year Placed in Service</b>	<b>Status</b>
Ford/Explorer	Chief Vehicle	2010	Front Line
Ford/Expedition	Command	2007	Front Line
Ford/Explorer	Utility	2003	Front Line
Ford 150 PU/4X4	Utility	1995	Front Line
Ford 250 PU	Utility	1992	Front Line
Ford 250 PU	Utility	2007	Front Line
Chevrolet Tahoe	Command	2003	Front Line
Chevrolet PU	Utility	1994	Front Line
International	Type 3/Pumper	1999	Front Line
Pierce	Type 1/Pumper	2006	Front Line
HME/3D	Type 1 Pumper	1995	Reserve
Pierce*	Type 1 Pumper	2009	Front Line

The City of Sausalito will continue to own the Fire Station at 333 Johnson Street and transfer ownership of the Sausalito Fire Department Apparatus and Fire Vehicles (listed in the table above) to the District. The terms and conditions of the use of the City Fire Station by the District and transfer of the fire apparatus and equipment are the subject of an agreement included here as Attachment III. The agreement takes effect upon the effective date of the annexation of the City to the District.

5a  
63

The currently budgeted fire services staffing of the two agencies is as follows:

**Table 3: Currently Budgeted Fire Emergency Services Staffing**

Position	Agency	
	So Marin	Sausalito
<b>Headquarters</b>		
Fire Chief	1	
Deputy Chief	1	
Admin Services Mgr	1	
Financial Mgr	0.5	
Admin Clerk	0.5	
<b>Total</b>	<b>4.0</b>	
<b>Line Operations</b>		
Battalion Chief	3	
Captain	6	3
Paramedic/Firefighter	9	6
Firefighter/Engineer	15	6
<b>Total</b>	<b>33</b>	<b>15</b>

**SERVICES**

The Fire District provides the following services throughout its City and District service area:

**Fire Suppression**—Fire Suppression is provided through a constant staffing of 3 people (a combination of City and District employees) on a fire engine or ladder truck 24 hours per day, with a Battalion Chief on duty as the incident commander and shift supervisor. Minimum daily staffing of line fire personnel is 6 at the Main Station on Reed Street, and 3 each at the Sausalito and Tamalpais Valley stations.

**Emergency Medical Services**—This is provided under operational guidelines of the Southern Marin Emergency Medical Paramedic System (SMEMPS), a Joint Powers Agency (JPA) in which other fire agencies in the area participate. Transportation of patients is generally to the nearest medical facilities in Marin County, which are Marin

General Hospital in Greenbrae and Kaiser Terra Linda. The District will also, in some cases, transport patients to medical facilities in San Francisco.

SMEMPS resources are located at:

Medic 31  
333 Johnson Street  
Sausalito, CA 94965

Medic 32  
4301 Paradise  
Tiburon, CA 94920

Medic 33  
309 Poplar Street  
Mill Valley, CA 94941

Medic 34  
26 Corte Madera Ave.  
Mill Valley, CA 94941

Rescue 9 (medium duty rescue)  
308 Reed Street  
Mill Valley, CA 94941

**Hazardous Materials Response**—All line personnel are trained as Hazardous Materials First Responders. To mitigate significant Hazmat incidents, the District is a member of the Marin County Hazardous Materials Team JPA with other departments in Marin County. Personnel from SMFD and various other Marin fire agencies staff this team. The District is also a designated Decontamination Unit for incidents in the Southern Marin area.

**Marin County Urban Search and Rescue Team** -- Southern Marin Fire Protection District currently has eight participating members, including one City of Sausalito line firefighter, on the county wide USAR Team which is comprised of a forty-eight member staff, each trained at least to the Rescue Systems One Level. The team is considered a "multi-hazard" discipline, since it may be needed for a variety of emergencies or disasters.

**USAR Water Rescue**—There is a water rescue element to the Marin County Urban Search and Rescue Team. This component is classified as a Type I Swiftwater/Flood Search and Rescue Team (SF SAR Team) and responds to water rescue calls within both the City and the District.

**Southern Marin County Dive Team**--The Southern Marin Dive Team is a resource available for water rescue and dive emergencies in the Southern Marin Fire Protection District and City service areas as well as other areas in Marin County. The Rescue Vehicle and associated equipment cache is located at Southern Marin Fire Protection District Main Fire Station 9. Due to the station's close proximity to Richardson Bay, the inflatable rescue boat (IRB-1) with a crew of fully equipped personnel is located at the Sausalito fire station, where they can be deployed quickly. The SMDT also has the capability of transporting its personnel, equipment and rescue boat to other waterways as needed.

**Public Education and Fire Prevention**—Programs are provided that disseminate information relating to fire and other life safety hazards. The programs include visiting schools, giving instruction in first aid, CPR and disaster preparedness.

**LEVEL AND RANGE OF SERVICES AND TIME OF SERVICE AVAILABILITY**

Upon annexation, all of the above services will immediately be provided to the new larger District area at the same level as now provided within both the City and District territory.

**UPGRADE OF FACILITIES AND EQUIPMENT WILL NOT BE NEEDED**

All of the City and District equipment now available to and being used by the District to provide services will continue to be available to and be used by the District pursuant to the provisions of the agreement transferring ownership of City fire apparatus and fire vehicles to the District. This equipment will continue to be operated out of the three fire stations now used by the District. No improvement or upgrade of facilities and equipment is needed to provide services to the area within the City of Sausalito City limits.

**HOW SERVICES WILL BE FINANCED – CURRENT COSTS**

**City of Sausalito**

Currently the City of Sausalito employs fifteen firefighters and includes the cost of their salaries and benefits in their annual budget. They also pay the District a share of the headquarters costs pursuant to a contract under which the District provides Headquarters services to the City, including supervision of its line fire staff. The City is responsible for a share of materials and supplies, sets aside funds to replace fire apparatus as it ages, and expends funds for other administrative costs such as consultant fees to work on the issue of merger with the District. The detail of fire service costs for the City over the past two years is reflected in the following table.

5a  
66

**Table 4: Detail of City Fire Service Costs**

	Operating Costs	HQ Contract Costs Paid to the District	Vehicle Replacement Funds Reserved	Other Administrative Expenses
<b>FY 2009-10</b>	\$2,800,802	\$108,415	\$190,081	\$21,831
<b>FY 2010-11*</b>	\$3,024,717	\$109,458	\$118,869	\$52,514

Unaudited end of year data

The following table shows the City fire service cost trend for the past three years.

**Table 5: City Fire Department Costs**

	FY 2008-09	FY 2009-10	FY 2010-11 Revised Budget
<b>Total Annual Fire Department Costs</b>	\$3,057,221	\$3,121,129	\$3,305,648

With the exception of ambulance revenue, fire related expenses are charged to the City's General Fund, whose revenue source includes unrestricted revenue such as property tax, sales tax, franchise and business license fees. The City does not levy a special tax or assessment to support fire costs. The ambulance revenue for FY 2009-10 was \$110,702 and in FY 2010-11 it was \$148,032.

Expressed as a percentage of Property Tax Revenue, the cost of supporting City fire services has absorbed about half of the City's annual property tax revenue. Expressed as a percentage of total tax revenue, fire service costs have absorbed a little over one-third of total tax revenue. And expressed as a percentage of total City General Fund Operating Revenue, fire service costs have absorbed a little over a quarter of the City revenue. The table below provides the detail for each of the past three years.

**Table 6: Fire Service Costs as a Percentage of City Annual Revenue**

	FY 2008-09	FY 2009-10	FY 2010-11 Revised Budget
<b>Percentage of Property Tax Revenue</b>	47%	47%	51%
<b>Percentage of All Tax Revenue</b>	34%	35%	38%
<b>Percentage of All General Fund Operating Revenue</b>	25%	25%	26%

Importantly, the City has been able to balance its General Fund budget even while operating revenues have remained relatively flat for the past three years. This has been

done principally through the use of some limited term revenue and restrictions in salaries and benefits. The table below reflects the operating revenue and the Undesignated Reserves that the City has been able to maintain.

**Table 7: City General Fund Revenue and Reserve History**

	FY 2008-09	FY 2009-10	FY 2010-11 Revised Budget
<b>Annual Operating Revenue</b>	\$12,467,075	\$12,313,495	\$12,581,650
<b>Unrestricted Reserve</b>	\$1,775,993	\$1,600,335	\$1,760,940

**Southern Marin Fire Protection District**

The District is a single purpose fire district, and so all of its expenditures are for the fire service.

- For FY 2009-10 the District expended \$8,821,765. However, annual operating expenditures were \$8,255,085 when one-time capital expenditures and vehicle depreciation are subtracted. This compared to revenue of \$8,999,717.
- For FY 2010-11, Preliminary Unaudited data similarly reflects total annual expenditures of \$8,650,432, of which \$8,288,698 were annual operating expenses. This compared to annual revenue of \$9,082,890.

Offsetting these expenses the District had the following sources of revenue:

**Table 8: District Revenue Sources in Fiscal Year 2009-10**

Revenue Source	Approximate Percent of Total District Revenue
Property Tax	71%
Special Parcel Tax	9%
ERAF <sup>1</sup>	6%
Other Fees and Charges	13%

1. ERAF: Educational Reimbursement Augmentation Funds returned to the District through the County pursuant to various state laws that shifted property tax revenue away from Counties, Cities and Districts.

50  
68

In spite of the recession, the District annual revenue has remained stable for the past four years as reflected in the table below:

**Table 9: District Revenue and Expense History**

	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>FY 2009-10</b>	<b>FY 2010-11 Unaudited</b>
<b>Annual Revenue</b>	\$8,488,736	\$9,239,726	\$8,999,717	\$9,082,890
<b>Annual Expense</b>	\$7,531,830	\$8,139,945	\$8,821,765	\$8,650,432

As a result of this stability, District reserves were \$4,373,611 on June 30, 2010, and an unaudited estimate of \$4,806,069 on June 30, 2011. It is anticipated that the District has sufficient fiscal strength to absorb responsibility for serving throughout the city limits of Sausalito if the City transfers sufficient permanent revenue to the District to offset the incremental added cost of providing the service.

**HOW SERVICES WILL BE FINANCED- AFTER ANNEXATION**

This incremental added cost of providing fire services to the City of Sausalito is \$2,969,250 less an average of about \$111,000 in ambulance revenue that would be earned by the District following annexation. This is less than the \$3,305,648 expended by the City in FY 2010-11, based on unaudited preliminary results. This savings reflects the fiscal benefit from a merger that is more cost effective and provides a more integrated fire services operation.

The City and the District have entered into an agreement, Attachment IV, that will permanently transfer to the District a share of the City's annual property tax allocation. The amount of this transfer is reduced by

- 1) \$111,000 in ambulance revenue,
- 2) Attributes to the City one-third or \$133,000 of the GGNRA contract revenue and this revenue will be received by the District along with their current two-thirds share of that contract revenue,
- 3) The City will assume responsibility for post retirement medical benefit costs of 6 employees who are close to retirement and will make an amortized annual payment for 30 years to the District of approximately \$58,000 per year to cover the unfunded liability for post retirement medical benefits of the remaining 9 City employees to be employed by the District,

5a  
69

Based on the property tax records for Fiscal Year 2009-10, this amount will be sufficient to fund the estimated incremental added cost of providing the District's services to the property and populace within the Sausalito City limits. Sources of revenue for the District to fund the incremental added cost of providing service with the City limits are illustrated in the table below. The property tax transferred to the District will only represent 21% of General Fund Operating Revenue, compared to the 26% now being used for fire services by the City as reflected in Table 6.

**Table 10: Sources of District Revenue**

Added Revenue Needed by the District	City Ambulance & Permit Revenue	City Share of GGNRA Contract	Post Retirement Benefit Payment	Property Tax Transferred to the District
\$2,969,250	\$111,000	\$133,000	\$58,000	\$2,667,250

**FINANCIAL ALTERNATIVES TO ANNEXATION**

The City and the Fire District asked Citygate Associates to analyze the proposed annexation of the City into the District for fire protection services. In the study, they were asked to look at the fiscal impact on the City if the annexation did not proceed.

While the full report prepared by Citygate Associates is Attachment V, in summary they found that the under the current contract whereby the City line fire personnel have remained as City employees, the amount that the City pays the District for the Headquarters services and for supervision of City fire personnel is less than should be paid if the cost were determined based on measures such as personnel supervised, relative population or assessed value. The table below summarizes the measures for cost allocation that are included in the study:

**Table 11: Sausalito Share of Measures of Service**

Measures of Service	Southern Marin	Sausalito	Sausalito Share of the Total
Assessed Value	\$4,816,258,598	\$2,597,633,714	35.04%
Population	21,500	7,596	26.11%
Calls for Service	1,130	847	42.84%
Line Staff on Duty	10	5	33.33%
Fire Stations	2	1	33.33%
Composite Measure			34.13%

If the "Composite Measure" in the table above were used to determine the amount the City should pay for Headquarters and supervisory services, the cost would increase from the present \$108,415 per year to \$503, 428.

Were the City instead to fully consolidate its fire services with the District, with the City employees becoming District employees, the District would then provide "all" fire services to the City under a Full Contract for Service. This approach would be in lieu of annexation. Under this approach and applying the "Composite Measure" to determine the City's share of the cost of services, the City fire service FY 2009-10 cost would increase from \$3,121,129 (which includes the current \$108,415 administrative contract with the District) to \$3,970,982. An annual cost increase of \$849,853.

The annexation approach to fire service reorganization would fully makeup for all added costs to be incurred by the District and provide the District with opportunities for greater administrative efficiency as a result of fully consolidating the two fire departments and would cost the City less than the present unsustainable arrangement.

Annexation creates a total of \$184,062 annual improvement to the City's General Fund.

- The provision of fire protection services through annexation to the Fire Protection District can be funded with a lower amount of property tax revenue than is currently being allocated in the FY 2011-12 budget by the City for that purpose. The City's net annual savings after annexation compared to the budgeted FY 2011-12 cost is \$44,062 and the City budget remains structurally balanced.
- In addition, annexation further enables the City to use the remaining monies in the equipment replacement fund to liquidate the outstanding CalPERS side fund, which is a currently unfunded liability of the City's associated with the City participation in the CALPERS pension system. This results in an additional annual savings of \$140,000.

## ATTACHMENTS

Attachment I: Employee Transfer Plan and Implementing MOU Sideletter

Attachment II: "Agreement Regarding Financial and Personnel Conditions of Annexation"

Attachment III: Agreement Regarding District use of the City Fire Station and Transfer of Ownership of City Fire Apparatus and Equipment to the District- "Lease of Premises and Equipment Disposition Agreement"

Attachment IV: Property Tax Agreement – "A Resolution of the City Council of the City of Sausalito Accepting a Negotiated Exchange of Property Tax Revenues Between the City of Sausalito and the Southern Marin Fire Protection District"

Attachment V: Citygate Associates Report "Sausalito and Southern Marin Fire Protection District Fire Phase I Briefing with FY 2009-10 Data"



**Attachment I:**

**Employee Transfer Plan and Implementing MOU Sideletter**

52  
73

## Employee Transfer Plan

It has been the intent of the City and the District to formally combine their two fire departments into a single agency that will permit more reliable economies of scale and more cost-effective management of the staff and operations. To reach this objective the City and the District have worked to align their employee agreements so that employees of each agency are essentially compensated the same and operate under nearly identical personnel rules. With the completion of that alignment, the City and District are now petitioning LAFCO to approve the annexation of the City territory into the District and the District will then formally hire the fire department employees who are now on the City payroll.

Upon leaving City employment the employees will carry over to the District, and not lose, their accumulated and unused vacation and sick leave. The City would compensate the District for their unused vacation and a portion of their unused sick leave, because the District will be assuming the obligation to compensate the employee for this unused time when the employees leave their employment with the District at some future time. This is not a new cost for the City, since City would have this obligation if the employees remained as City employees. The funds are currently reserved by the City for this purpose. The actual amount will be calculated upon annexation, but current the value is \$144,993 for accumulated vacation and \$112,614 for accumulated sick leave.

The City, in its current agreement with employees, has provided medical benefits after retirement. Since six of the employees are close to retirement and have earned the benefit with the City and will not have sufficient time as District employees to earn this benefit again as District employees, it is most cost effective for the City to retain the responsibility to pay for the retiree medical costs of these six employees after they retire. The City currently has this obligation and this would not be a new added cost to the City.

For the remaining employees who would have sufficient work time with the District to earn the post retirement medical benefit under District rules, the City would pay for the "unfunded liability" of these nine employees that represents only the years they have worked for the City. Based on an audit finding, the City can pay off this obligation to the District at \$58,000 per year for 30 years. Again this is a cost obligation the City already has and does not represent a new added expense to the City.

The terms and conditions of the employment of the City of Sausalito Fire Department personnel by the District are the subject of agreements between the City, the District and the employees. A copy of the text of the Agreement between the District and the Firefighters IAFF Local 1775 is included below. A copy of the "Agreement Regarding Financial and Personnel Conditions of Annexation" between the City and the District is included as Attachment II to the Plan for Service.

**Agreement for Transfer of City of Sausalito Fire department Employees to Employment  
with the Southern Marin Fire Protection District**

The following agreements are made between the Southern Marin Fire Protection District (District) and the Southern Marin Professional Firefighters, IAFF Local 1775 (Union).

This agreement shall serve as a side letter to the existing Memorandum of Understanding between the Union and the District and shall serve as an statement of agreements to facilitate the transfer of employees of the City of Sausalito (City) Fire Department to employment with the District.

These agreements shall occur only if the geographic area of the City is annexed into the boundaries of the District through a LAFCO annexation process. Should the annexation of the geographic areas of the City not occur, this agreement shall be null and void.

**1.0 Termination and Rehire**

All current City employees, with the exception of any employee who is either on 4850 H&L, Long Term Disability or unresolved medical leave, understand that their employment with the City shall be terminated at the point that the District assumes fire protection responsibilities for the City area. All employees, with the exception of those stated above shall become District employees at the exact time their employment with the City is terminated.

**2.0 Memorandum of Understanding (MOU)**

At the point at which members become employees of the District, they will be covered under the MOU between District and the Union and no longer be covered by the MOU between the City and the Union. The Union acknowledges that there are differences in the MOU between the Union and the City and the MOU between Union and the District

**3.0 Seniority and Hire Date**

For the purposes of seniority and years of service for vacation accrual, medical benefits and employee recognition, the District's Seniority and Hire Date policy will be used. For the purpose of hire date as it relates to qualifying for "grand-fathered" benefits, the actual date of employment with the District will be used.

**4.0 Retirement**

New employees will become members of the Marin County Employee Retirement Association (MCERA). Employees may elect to apply for reciprocity between MCERA and CalPERS or file for retirement from CalPERS.

**5.0 Vacation**

- 5.1 Vacation accrual for each employee shall be calculated based upon the hire date identified in the Districts "Seniority/Date of Hire" Policy.
- 5.2 Employees transferring from the CITY shall have the option of requesting that vacation time accrued with the CITY be transferred directly to the DISTRICT, or requesting a cash payout from the CITY.

**6.0 Sick Leave**

- 6.1 Unused Sick Leave hours accrued by each employee during employment with the City of Sausalito shall be transferred to the District.

**7.0 Post-Retirement Medical Coverage**

- 7.1 The District shall provide service credit towards "employee only" medical coverage at normal service connected retirement as follows:

If an employee has achieved a minimum of 10 years employment with the Southern Marin Fire Protection District, (for the purposes of this section includes service time with the Alto - Richardson Bay Fire Protection

District/ Tamalpais Fire Protection District), the District shall provide 5% of the cost of Kaiser "employee only per years served up to a total of 100% of the cost for Kaiser High Single member (Kaiser "S" Plan)

Service credit shall include any combination of service time of having been hired as the result of 1.) The Agreement between the City of Sausalito and Southern Marin Fire Protection District effective on or about April 25, 2006, or 2.) the Annexation of the City of Sausalito into the Southern Marin Fire Protection District. As an example, if an employee retires with 10 years of service with the District and 10 years of service with the City of Sausalito and was hired as a result of one of the defined mergers, the employee would have 20 years of service credit and would therefore receive 100% of the Kaiser "S" Plan cost.

The following parties have hereby executed this agreement on \_\_\_\_\_ by

Southern Marin Professional Firefighters      Southern Marin Fire Protection District

Local 1775 IAFF

\_\_\_\_\_

**Attachment II:**

**“Agreement Regarding Financial and Personnel Conditions of Annexation”**

**AGREEMENT REGARDING CERTAIN FINANCIAL AND  
PERSONNEL CONDITIONS OF ANNEXATION**

This Agreement Regarding Financial and Personnel Conditions of Annexation ("Agreement") is made by and between the City of Sausalito, a municipal corporation ("City"), and the Southern Marin Fire Protection District, a special district formed and operating pursuant to the Fire Protection District Act of 1987 ("SMFPD"). City and SMFPD are herein jointly referred to as "Parties".

**RECITALS**

A. City, with SMFPD's consent, will file an application with the Marin Local Agency Formation Commission ("LAFCO") requesting its approval of the annexation of the City into SMFPD for the provision of fire protection services; and

B. The proposed annexation is conditioned on the following: (1) the Parties' approval of a lease for the fire station located at 333 Johnson Street ("Fire Station"), which shall contain terms regarding the transfer of fire apparatus, tools and equipment and all Fire Station furnishings and equipment from City to SMFPD ("Lease"); (2) each Parties' adoption of a resolution accepting a negotiated exchange of property tax revenues between the City and SMFPD; (3) the Parties' agreement regarding certain financial conditions of annexation; (4) the Parties' agreement regarding certain personnel matters necessitated by any annexation; (5) the existence of a negotiated agreement between the SMFPD and the Southern Marin Professional Firefighters, Sausalito Group, IAFF Local 1775 regarding the personnel actions necessitated by the proposed annexation ("Union Agreement"); and (6) LAFCO's approval of the annexation; and

C. The purpose of this Agreement is to set the agreement between the Parties regarding certain financial and personnel conditions resulting from the annexation.

City and SMFPD hereby agree as follows:

1. Financial Conditions of Annexation

- a. Revenues from GGNRA Agreement. The Parties recognize that SMFPD has entered into an agreement with the Golden Gate National Recreation Area ("GGNRA") effective as of October 1, 2010 to provide services to fire and emergency medical services (collectively "Emergency Services") to the Marin Headlands and Fort Baker, NPS managed lands, immediately north of the Golden Gate Bridge in Southwestern Marin County ("GGNRA Agreement"). The Parties also recognize that as previously agreed due to the proximity of the City to the GGNRA and the utilization of City resources to provide services to GGNRA, SMFPD has paid City an annual amount of One Hundred Thirty Three Thousand and 00/100 (\$133,000.00) from the revenue received by SMFPD from the GGNRA Agreement (the "City Share"). The Parties hereby agree that upon the effective date of the annexation of the City into SMFPD, SMFPD shall have no further obligation to pay the City Share

and that any applicable payment of the City Share for the period of time prior to the effectiveness of the annexation shall be prorated.

- b. SMEMPS Ambulance Fees. The Parties, along with numerous other public entities, are both members of the Southern Marin Emergency Medical-Paramedic System, a Joint Powers Authority ("SMEMPS"). Currently, all members of SMEMPS, including City and SMFPD, perform certain functions and receive certain ambulance fees as a result of their membership in SMEMPS ("SMEMPS Ambulance Fees"). The Parties hereby agree that upon the effective date of the annexation of the City into SMFPD SMFPD shall assume the City's obligations under SMEMPS and City shall transfer to SMFPD any revenue received by the City from SMEMPS for services performed by SMFPD, until the date, if any, that the City's rights and obligations in SMEMPS are transferred to SMFPD.

## 2. Personnel Matters

- a. Change in Employment Status of City Firefighters. Subject to the explicit terms of the Union Agreement referenced above in Recital B, number (5), upon the effective date of the annexation of the City into SMFPD, City shall at its option lay-off, terminate or accept the valid resignations of each of its firefighters who are not on medical leave or workers' compensation leave or as soon thereafter as practicable and District shall hire said firefighters the following day. With respect to each City firefighter on medical leave or workers' compensation leave as of the date of annexation, City shall layoff, terminate or accept the valid resignation of the firefighter on the date the firefighter has been cleared to return to full-duty work or as soon thereafter as practicable and District shall hire said employee the following day.
- b. Vacation and Sick Leave Payout. Subject to the explicit terms of the Union Agreement referenced above in Recital B, number (5), upon leaving City employment the City firefighters will carry over to SMFPD their accumulated and unused vacation and sick leave. Prior to City laying off, terminating or accepting the valid resignations of its firefighters, City shall calculate each firefighter's accumulated and unused vacation and sick leave. City shall pay to SMFPD an amount equivalent to: i) for employees with ten years or more of service 35% of the employee's accumulated but unused sick leave plus 1.66% for each year of service up to 25 years; and ii) the value of unused vacation calculated at each firefighter's current hourly rate.
- c. Retiree Medical Costs. Six (6) of the City's firefighters have vested or will vest in a year or less their right to receive retiree medical benefits and are not likely to have sufficient time as SMFPD employees to earn this benefit again as SMFPD employees. As a result, following annexation of the City into SMFPD and upon their retirement, SMFPD will provide these six firefighters with retiree medical benefits and the City shall pay SMFPD an amount equal to the lesser of the actual amount paid by SMFPD for the retiree medical benefit or the then applicable rate if the City were to be providing the retiree

medical benefit. For the remaining nine (9) City firefighters, upon the effective date of the annexation of the City into SMFPD, City shall pay SMFPD an amount of Fifty Eight Thousand Dollars and 00/100 (\$58,000) per year for thirty (30) years for the retiree medical costs of these firefighters that represents the years said firefighters have worked for City.

3. Miscellaneous

- a. No Waiver. No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision.
- b. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision.
- c. No Third Party Rights. The parties do not intend the benefits of this Agreement to inure to any third party not a signatory to this Agreement.
- d. Jurisdiction and Venue. This Agreement is governed by the State of California and the Parties agree that venue shall be in Marin County, California.
- e. Amendment. This Agreement may be amended or modified only by a written agreement of the Parties.
- f. Execution. By their signatures below, each of the following represent that they have the authority to execute this Agreement and to bind the party on whose behalf their execution is made.
- g. Conflict. In the event any provision of this Agreement conflicts with a provision(s) of the Lease, the terms of the Lease shall control.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in the county of Marin, State of California, on the dates set forth below.

**CITY OF SAUSALITO**

Dated: \_\_\_\_\_, 2011

By: \_\_\_\_\_  
Herb Weiner, Mayor

**ATTEST:**

\_\_\_\_\_  
City Clerk