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**Amended Joint Powers Agreement Between  
The City Of Larkspur And The Town Of  
Corte Madera**

**Creating The  
Central Marin Fire Authority**

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**October 18, 2018**

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**Amended Joint Powers  
Agreement**

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## **Amended Joint Powers Agreement**

This Amended Joint Powers Agreement (the “Agreement”) is entered into and is effective October \_\_, 2018 (the “Effective Date”) between the City of Larkspur, a municipal corporation (“Larkspur”) and the Town of Corte Madera, a municipal corporation (“Corte Madera”), each a “Member” and collectively referred to as “Members,” to create a consolidated fire authority to be known as the “Central Marin Fire Authority.”

### **Recitals**

A. Larkspur and Corte Madera each have the authority and responsibility under California law to provide fire services to their citizens within their respective jurisdictions.

B. Each Member is a public agency authorized and empowered to contract with the other Member for the joint exercise of powers under the Joint Exercise of Powers Act, Sections 6500, *et seq.* of the California Government Code (the “Act”).

C. Larkspur and Corte Madera previously formed the Twin Cities Police Authority pursuant to a Joint Powers Agreement executed January 30, 1980, under which they successfully provided consolidated police services to both jurisdictions for 32 years. On January 1, 2013, these two Members and the Town of San Anselmo created the Central Marin Police Authority which currently provides consolidated police services to all three of these jurisdictions.

D. Larkspur and Corte Madera are “like” local public entities, being municipalities in contiguous geographical proximity, having similar fire protection needs, fire departments, salaries, benefit and retirement programs and a history of coordination and cooperation between each other.

E. Larkspur and Corte Madera recently entered into an agreement under which they share fire services which has led to even greater cooperation, coordination, cost savings and higher levels of fire service to the public.

F. Consolidation of Larkspur’s and Corte Madera’s fire services into a single public entity will provide even more enhanced fire protection in both communities, a more efficient organizational structure, and significant command and administrative benefits, all resulting in less costly but better-quality fire services.

G. It is the Members’ desire, at the same time, to maintain the small-town character of their consolidated fire services, and at all times have the Authority remain administratively and operationally sensitive and responsive to the individual fire service philosophies, needs, and priorities of each individual Member.

H. The Members further desire to promptly identify fire service needs and differences that may arise from time to time between themselves, and to resolve such differences in a fair, timely, economical, equitable, and cooperative manner. It is the Members’ desire to ensure that their consolidated fire authority is governed and managed by consensus whenever possible, and the governance provisions of this Agreement are designed to achieve such a result.

I. Larkspur and Corte Madera established the Central Marin Fire Authority by entering into a Joint Powers Agreement dated January 1, 2018. Those agencies propose to amend that original agreement as provided in this Amended Joint Powers Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members agree as follows:

# **Agreement**

## **Sec 1. Authority Purpose and Composition.**

### **1.1 Purpose.**

This Agreement is made pursuant to the Act providing for the joint exercise of powers common to the Members. The purpose of this Agreement is to create and provide for the operation and management of the Central Marin Fire Authority, which will render consolidated fire services to the communities of Larkspur and Corte Madera.

### **1.2 Creation of New Authority.**

Pursuant to the Act, there is hereby created a new public entity which is a public entity separate from Larkspur and Corte Madera and which shall administer this Agreement.

### **1.3 Other Agreement(s) Superseded.**

This Agreement supersedes any and all other shared fire service agreements between the Members as of the Effective Date.

### **1.4 New Entity Name.**

The new joint powers entity created by this Agreement shall henceforth formally be referred to as the "Central Marin Fire Authority." From and after the Effective Date, the Authority shall use reasonable efforts to utilize and operate under the name "Central Marin Fire Authority" in all official communications, documents, filings and transactions, and to discontinue use of the names Larkspur Fire Department and Corte Madera Fire Department. The Authority, for the sake of historical continuity and tradition, may be informally referred to as the "Central Marin Fire Department."

### **1.5 New Members.**

The Fire Council may set the terms and conditions for admitting new Members (either individually or generally) that it deems appropriate. However, new members may be admitted to the Authority only upon majority vote of each of the Larkspur City Council and the Corte Madera Town Council.

## **Sec 2. Governance.**

### **2.1 Authority Fire Council.**

The Authority shall be governed by a Fire Council (the "Fire Council") which shall formulate and set policy and exercise the powers set forth in this Agreement to accomplish its purpose. The Fire Council shall consist of four (4) voting individuals (each a "Fire Councilmember"), two (2) of whom shall be appointed by and serve at the pleasure of the Larkspur City Council and two (2) of whom shall be appointed by and serve at the pleasure of the Corte Madera Town Council; provided, however, that each shall be an elected or appointed Councilmember of the Member by which he or she is appointed.

### **2.2 Alternates.**

Each Member shall also appoint an alternate to serve in a Fire Councilmember's place at any meeting of the Fire Council. Any such alternate shall be an elected or appointed Councilmember of that Member.

## 2.3 Meetings Of The Fire Council.

a. **Conducting Meetings.** The Fire Council shall hold regular meetings at least quarterly and may adopt such procedures and resolutions for conducting such meetings and other business as the Fire Council deems appropriate. All meetings of the Fire Council including, without limitation, regular, adjourned regular, and special meetings shall be called, noticed and conducted in accordance with the provisions of the Ralph M. Brown Act, Sections 54950 *et seq.* of the California Government Code.

b. **Quorum.** The presence of a majority of the Fire Council including at least one (1) Fire Councilmember representing each Member shall constitute a quorum for the transaction of Authority business. Less than a quorum may adjourn or continue meetings from time to time.

c. **Fire Council Officers.** The Fire Council shall appoint from its members a Chairperson to preside at and conduct all meetings and a Vice Chairperson who shall succeed the Chairperson and preside in absence of the Chairperson. The offices of Chairperson and Vice Chairperson shall be appointed annually in a manner to be determined by resolution of the Fire Council.

d. **Fire Council Secretary, Meeting Minutes.** The Clerk of the Town of Corte Madera shall also be the Secretary/Clerk to the Fire Council until and unless the Fire Council appoints a different Secretary/Clerk. The Secretary/Clerk shall cause to be kept written minutes of all Fire Council meetings and shall perform such further duties and functions as are assigned by the Fire Council.

e. **Voting, Decision-Making.** Each Fire Councilmember, or his or her alternate, in any circumstance where the alternate sits in place of a Fire Councilmember, shall be entitled to one (1) vote. Any decision of the Fire Council shall require a minimum of three (3) votes to be effective, subject to the following:

(i) **Matters Requiring a Unanimous Vote.** Any change in a Member's cost-sharing percentage (as set forth in Section 8 below) made after adoption of the annual budget, or any revision of the adopted budget that results in an increase in an annual Member's contribution, or the making of any single expenditure of Authority funds in excess of three percent (3%) of the adopted operating budget of the Authority, or the closing of any existing fire stations, or the issuance of any bonds, shall require the unanimous vote of the full Fire Council. Provided, however, that any change in a Member's contingent liability-sharing percentage (as set forth in Section 8 below) cannot occur without complying with the process set forth in Section 8.3.

(ii) **Multi-Member Majority.** In the spirit of Recital H above, all other actions of the Fire Council, except those specified in Section 2.3e(iii) below, shall require a majority vote of the Fire Council, which majority must include at least one (1) vote by a Fire Councilmember from each Member. However, if a motion fails because the majority does not include at least one (1) vote by a Fire Councilmember from each Member, then any Fire Councilmember may reintroduce that motion at a subsequent Fire Council meeting.

(iii) **Exception To Multi-Member Majority.** The Fire Council by unanimous vote may from time-to-time as needed agree to exceptions to the multiple-member majority vote requirement on such limited and unusual matters as may be required.

f. **Bylaws.** The Fire Council may adopt from time to time any and all bylaws, rules or regulations for the conduct of its meetings and affairs as are necessary for the purposes hereof, provided that all such bylaws, rules, and regulations are consistent with all provisions of this Agreement.

### **Sec 3. Powers And Duties Of Authority.**

#### **3.1 General Powers Of Authority.**

The Authority shall exercise in the manner herein provided the powers common to each of the Member Agencies and necessary to the accomplishment of the purposes of this Agreement. As provided in the Act, the Authority shall be a public entity separate from the Members.

#### **3.2 Specific Powers Of Authority.**

The powers of the Authority to be exercised by or under direction of the Fire Council shall include:

- a. Setting policies.
- b. Adopting an annual budget.
- c. Employing personnel, consultants, advisors, and independent contractors; setting parameters for labor negotiations; and entering into labor agreements.
- d. Entering into contracts, leases, and other agreements, which may include a contract for administrative and fiscal services and a contract with a Certified Public Accountant for annual audit services, and may include mutual aid or automatic response agreements or contracts for service to other jurisdictions.
- e. Applying for, receiving, and disbursing grants, loans, or other funds from any private or public agency.
- f. Setting fees for service where permitted by law.
- g. Receiving, disbursing, and investing funds.
- h. Purchasing and holding title to property, subject to the limitations of Section 9.1 hereunder.
- i. Issuing revenue bonds pursuant to California Government Code Section 6540, et seq.
- j. Obtaining in its own name all necessary permits, licenses, opinions, and rulings.
- k. Expending funds of the Authority only for the purpose of carrying out the provisions of this Agreement as they now exist or may hereafter be amended. Such powers shall be exercised in the manner provided in the Act subject only to such restrictions as set forth in this Agreement or other applicable law.
- l. Suing and being sued in its own name.
- m. Carrying out and enforcing all of the provisions of this Agreement.
- n. Other powers and duties incidental to those enumerated herein.

#### **3.3 Duties Of Authority.**

The fire services provided by the Authority to the public within the Members' respective jurisdictions, and to those persons, agencies, and/or entities who may contract with the Authority for such services, shall include:

- a. Coordination of public safety responses of all fire services and EMS programs in connection with any fire, natural disaster, catastrophic incident, and similar such event.
- b. Provision of paramedic services, either directly or by contract.
- c. Provision of code enforcement and inspection services to Members for compliance with all State and local laws and statutes, including all applicable local ordinances adopted by Members.
- d. Fire station maintenance subject to Section 9 below, and repairs of equipment and vehicles owned and/or utilized by the Authority.
- e. Training and equipping special response teams and other such specialty units as are formed and maintained from time to time.
- f. Coordination of personnel, equipment, resources, communications and mutual/automatic aid with surrounding jurisdictions.
- g. Management and supervision of staff needed to carry out the fire services provided, including a comprehensive personnel training program.
- h. Conducting and/or coordinating appropriate vegetation management, emergency preparedness and public education programs.
- i. Such other fire services as may be added in the future by resolution of the Fire Council.

### **3.4 Assumption Of Responsibilities By Authority.**

No later than 45 days after the Effective Date, the Larkspur City Council and Corte Madera Town Council shall each appoint two members to the Fire Council as set forth in Section 2 above, and the Secretary/Clerk shall give notice of the first meeting of the Fire Council. At said meeting, the Fire Council shall provide for its regular meetings and carry out such further business, consistent herewith, as it deems proper.

### **3.5 Delegation Of Powers, Transfer Of Records And Accounts.**

Each of the Members hereby delegates to the Authority consistent with the provisions herein, the power and duty to maintain, operate, manage and control all of the fire protection facilities, equipment, resources, and property of each of the Members within its respective territorial jurisdictions, including without limitation all fire stations, land, buildings, and fire equipment, and to employ the necessary personnel to do any and all other things necessary or desirable to provide continued efficient and economical fire services to the communities. Each Member shall transfer to the Authority all fire records, including personnel, accounts, and property records, which relate to the provision of fire services and which are necessary or desirable in the judgment of the Management Committee to allow the Authority to function.

## **Sec 4. Limitations On Powers.**

### **4.1 Reserved Powers.**

All powers not delegated to the Authority by this Agreement are reserved to the respective Members.



## **4.2 Members' Restrictions.**

Exercise of the common powers enumerated in Section 3.1 above shall be subject to such restrictions as exist for each Member independently.

## **4.3 Liability Of Members For All Liabilities And Obligations Of The Authority.**

Each Member's proportionate share of CalPERS liability is addressed in Section 14.4. In the event that this Agreement is terminated, the Authority becomes insolvent, or the Authority's agreement with CalPERS is terminated, each Member is responsible for its proportionate share of all other outstanding Authority liabilities and obligations incurred during the Member's membership in the Authority, allocated in accordance with Section 8, so that the Member Agencies have fiscal responsibility for 100% of the Authority's outstanding liabilities and obligations upon termination or insolvency. Except as provided in this Section 4.3 and Sections 8 and 14.4, the Member Agencies shall not be responsible for the debts, liabilities or obligations of the Authority during the operation of the Authority.

## **4.4 Existing And Future Bond Obligations.**

After the Effective Date, repayment of any preexisting bonds shall continue to be funded solely by the originating Member until such time as the bonds are fully paid off, and neither the Authority nor any other Member shall have any liability or obligation whatsoever for these bonds. For example, as a member of the MERA JPA, each Member is responsible for annual bond payments associated with the initial cost of the MERA infrastructure and the radio equipment purchase incurred prior to the Effective Date. The original 1999 MERA bonds were refinanced in 2010 and run through 2021. These MERA bond payments due after the Effective Date shall remain solely the responsibility of each Member, and the newly-constituted Authority shall have no liability or obligation with respect to such MERA bond payments. If any new bonds are issued by the Authority after the Effective Date and remain outstanding, the Members benefiting from the bonds may not withdraw from the Authority until the bonds have been paid or adequate provision has been made for such payment.

## **4.5 Reorganization.**

No Member shall, without the written consent of the other Member, which consent may be granted or denied in such Member's sole discretion, seek or support via petition or otherwise any jurisdictional reorganization under the Cortese-Knox-Hertzberg Local Government Reorganization Act, Sections 56000, *et seq.*, of the California Government Code, as amended, or otherwise, that could result in the annexation, detachment, merger, consolidation, division, or dissolution of the Authority, or any Member of the Authority.

## **Sec 5. Personnel.**

### **5.1 Management Committee.**

The management of the Authority shall be vested in a two-person Management Committee. The Management Committee shall consist of the City Manager for Larkspur and the Town Manager for Corte Madera. The Management Committee shall have the power:

a To execute any contract up to an amount consistent with any ordinance or rules adopted by the Fire Council establishing the Authority's purchasing policies and procedures, and/or policies for capital costs of special services, equipment, materials, supplies, maintenance, or repair that involves an expenditure by the Authority within budgetary limits approved by the Fire Council;

b To approve the hiring or termination of all personnel of the Authority proposed by the Fire Chief, and to consult with and give direction to the Fire Chief regarding other significant personnel decisions;

c To expend funds of the Authority and enter into contracts, whenever required for the immediate preservation of the public protection, health, or safety;

d To sell any personal property of the Authority up to a value consistent with the Authority's purchasing ordinance and/or policies;

e To authorize the settlement or compromise of damage claims against the Authority in the maximum amount provided for in the Government Code, and to recommend settlement or rejection of claims beyond said amount;

f To supervise representation of the Authority in meet-and-confer sessions;

g To administer the priorities and policies established by the Fire Council for fire services of the Authority; and

h To perform such other duties as may be assigned by the Fire Council, and to report at such times and concerning such matters as the Fire Council may require.

## **5.2 Fiscal Officer.**

The Director of Finance/Town Treasurer of the Town of Corte Madera shall also be the Fiscal Officer of the Fire Council until and unless the Fire Council appoints a different Fiscal Officer following consultation with the Management Committee. The Fiscal Officer shall be the depository for and shall have custody of all of the accounts, funds, and money of the Authority from whatever source. The Fiscal Officer shall have the duties and obligations set forth in the Act, and shall assure that there shall be strict accountability of all funds and reporting of all receipts and disbursements of the Authority. Pursuant to the Act, the Fiscal Officer shall have charge of, handle, and have access to all records relating to accounts, funds, and money of the Authority; and the Management Committee shall have charge of, handle, and have access to all physical properties of the Authority; and the Secretary/Clerk shall have charge of, handle, and have access to all other records of the Authority.

## **5.3 Fire Chief.**

The Fire Chief shall be appointed by and serve at the pleasure of the Management Committee. The Fire Chief shall report to the Management Committee.

## **5.4 Legal Advisor.**

The Fire Council shall appoint a legal advisor to the Authority who shall perform such duties as may be prescribed by the Management Committee and/or the Fire Chief.

## **5.5 Other Employees.**

All other employees shall be appointed by the Fire Chief subject to the approval of the Management Committee. These employees shall report to the Fire Chief.

## **Sec 6. Fiscal Year, Annual Budget.**

### **6.1 Fiscal Year.**

The Authority's fiscal year shall be the twelve (12) month period commencing each July 1 and ending on the following June 30.

## **6.2 Annual Budget.**

The Authority shall operate only under an approved and adopted fiscal year budget that includes appropriations for salaries and benefits, services and supplies, capital expenditures and reserves. The Authority may not operate at a deficit.

## **6.3 Budget Process.**

At the end of each fiscal year, the Management Committee and the Fire Chief shall recommend to the Fire Council a budget for the ensuing fiscal year. This draft budget shall be published at least thirty (30) days prior to adoption of the final budget. Not later than June 15th of each year, the Fire Council shall adopt a final budget for the ensuing fiscal year. The annual budget may not be modified or amended after approval except pursuant to the terms of Section 2.3(e) above.

## **6.4 Control Accounting, Records And Accounts.**

The Management Committee and the Fire Chief shall control and account for all expenditures under the adopted budget. The Authority shall cause to be kept accurate and correct books of account, showing capital costs, special services costs, and maintenance and operation costs of the Authority, and all financial transactions relating to the fire facilities, which books of account shall correctly show any receipts and also any costs, expenses, or charges to be paid by the Authority. Said books and records shall be open to inspection at all times during normal business hours by any Member. The Fiscal Officer shall cause all financial records of the Authority to be audited by an independent public accountant or certified public accountant and a copy of the audit to be delivered promptly to each Member.

## **6.5 Certain Fire Station Costs Excluded.**

In accordance with Section 9 below, the budget shall not include costs of replacement or reconstruction of any Fire Station owned by the Members, which costs shall remain the separate responsibility of the owning Member(s) as hereinafter provided.

## **Sec 7. Annual Contributions.**

### **7.1 Obligations, Notifications.**

Annually the Members shall pay to the Authority in care of its Fiscal Officer their respective Percentage Cost Shares of the Authority's adopted budget and of approved increases therein, if any, in accordance with the formula referenced in Section 8 below. Not later than June 15 of each year, the Fire Council shall notify each Member of its Percentage Cost Share for the following year.

### **7.2 Monthly Payments.**

Each Member shall pay an amount equal to one-twelfth (1/12th) of its annual Percentage Cost Share on the first day of each month, beginning on the Effective Date. The Fire Council may set a different payment schedule to provide for adequate cash flow for operations and maintenance expenses and/or capital expenditures if needed.

## **Sec 8. Cost and Liability Sharing.**

### **8.1 Members' Percentage Cost and Liability Shares.**

All costs shall be fairly and equitably allocated by the Members among themselves pursuant to an agreed-upon percentage share for each Member ("Percentage Cost Shares"). The Members hereby agree that, unless

adjusted as set forth below, each Member's Percentage Cost Share is 50%. In addition, in the event that this Agreement is terminated, the Authority becomes insolvent, or the Authority's agreement with CalPERS is terminated, the Members hereby agree that all debts, obligations, and liabilities shall be fairly and equitably allocated by the Members among themselves pursuant to an agreed-upon percentage share for each Member ("Percentage Liability Shares"). The Members hereby agree that, unless adjusted as set forth below, each Member's Percentage Liability Share is 50%. These percentage shares may be changed or adjusted pursuant to Sections 8.2, 8.3, and 8.4, as applicable.

### **8.2 Adjustments of Percentage Cost Shares.**

The Members' Percentage Cost Shares referenced in Section 8.1 above may be adjusted annually at the time of the budget process set forth in Section 6.3 above.

### **8.3 Adjustments of Percentage Liability Shares**

The Members' Percentage Liability Shares referenced in Section 8.1 above may be adjusted only upon majority vote of both the Larkspur City Council and the Corte Madera Town Councils.

### **8.4 New Member Adjustment Of Percentage Cost Shares.**

The Percentage Cost Shares set forth in Section 8.1 above may also be revised at any time by the Fire Council by unanimous vote to accommodate the addition, if any, of new members or consolidations among Members.

### **8.5 Termination Adjustment Of Percentage Cost and Liability Shares.**

In the event that a Member gives notice to withdraw from the Authority in accordance with Section 14 below, the remaining Members shall promptly enter into negotiations to determine the Percentage Cost and Liability Shares for the remaining Members following that Member's withdrawal. Such proportionate or percentage shares shall in all cases, without exception, amount to 100% of all debts, liabilities and obligations of the Authority.

## **Sec 9. Fire Stations.**

### **9.1 Ownership.**

The Authority on the Effective Date shall commence operating the four existing fire stations, two in Larkspur (Downtown Station No. 15 and Greenbrae Station No. 16) and two in Corte Madera (Paradise Drive Station No. 13 and Tamalpais Drive Station No. 14). These existing four fire stations, owned by the Members, shall remain in the ownership of the respective parties, but the Authority shall have the custody, use, and control of them during the term of this Agreement subject to lease agreements between the Authority and Members as provided in Section 9.2; provided, however, that said custody, use, and control shall be subject to review and input by any Member according to the specific needs of a Member for public purposes. The Authority and Members shall, in good faith, consider the needs of the public with respect to any request for use and control of existing fire stations.

### **9.2 Authority Occupancy Of Fire Stations.**

The Authority and Members shall enter into the appropriate lease or other agreements setting forth specific terms and conditions under which the Authority shall occupy a fire station owned by a Member subject to the term of this Agreement.

### **9.3 Fire Station Maintenance.**

a. **Maintenance By Members.** The respective Members owning a fire station shall be responsible for the maintenance, repair, replacement, and improvements to the building structure, mechanical systems, electrical, plumbing, and exterior infrastructure (i.e., roof coverings, driveway, etc.). The Members are not responsible for (i) the maintenance or repair of any systems that have been installed by the Authority and are unique to fire service operations (e.g., dispatch/radio systems, computer networks, etc.), and (ii) the cost of performing any such maintenance or repairs caused by the negligence of the Authority or its employees, agents, servants, licensees, contractors, or invitees.

b. **Maintenance By Authority.** The Authority shall be responsible for routine maintenance of fire stations, interior decorating, landscaping, and fire alarm systems. The Authority is also responsible for the maintenance, repair, replacement, and improvements of the dispatch telecommunication systems and all systems that have been installed by the Authority which are unique to fire service operations (e.g., dispatch/radio systems, computer networks, etc.).

#### **9.4 Casualty Damage.**

If any fire or other casualty (whether insured or uninsured) renders all or any portion of a fire station unsuitable for safe and healthy occupancy, then the Member(s) owning the fire station shall, with reasonable promptness after the occurrence of such damage, estimate the time that will be required to substantially complete the repair and restoration and shall notify the Authority in writing of such estimate promptly upon its completion. The owning Member(s) shall then proceed with reasonable promptness and diligence to complete the repair and restoration of the fire station to its condition as existed prior to such casualty, subject to building codes then in effect. The Authority acknowledges that the owning Member shall be entitled to the full proceeds of any insurance coverage for damage to the fire station, whether carried by the Member or the Authority, except for those proceeds of the Authority's insurance (including endorsements, if any) of its own losses such as personal property coverage. In no event shall the Authority be entitled to any compensation or damages from the owning Member for loss of use of the whole or any portion of a fire station or for any inconvenience or annoyance occasioned by any such damage, destruction, rebuilding, or restoration of a fire station or access thereto, except to the extent business interruption or similar insurance coverage is provided.

### **Sec 10. Capital Assets Other Than Fire Stations.**

#### **10.1 Existing Capital Assets.**

The capital assets, including but not limited to fire vehicles, equipment, station furnishings, office equipment, all fire service-related capital assets, and any existing judgments or other outstanding obligations as of the Effective Date of this Agreement, listed in Exhibit A attached hereto and incorporated herein by reference (collectively, the "Existing Capital Assets"), shall remain the property of the respective, designated Member until and unless the Members agree otherwise. In the event of a termination of this Agreement or the withdrawal of a Member from this Agreement, the Existing Capital Assets shall revert to the respective, designated Member(s) in the ownership proportions so stated. Provided, however, that if there is a good faith dispute regarding appropriate proportions and/or divisions, the Members shall participate in the dispute resolution process set forth in Section 15 below. Notwithstanding the foregoing, the custody, use, and control of all such assets shall be transferred on the Effective Date to the Authority, which shall be responsible for operation, maintenance, and repairs as to Existing Capital Assets.

#### **10.2 Authority Capital Assets.**

All replacements of Existing Capital Assets and all capital assets acquired by the Authority from and after the Effective Date (collectively, the "Authority Capital Assets") shall be purchased by the Authority, and the Members shall have ownership proportions in accordance with the Percentage Liability Shares referenced in Section 8.1 above. The Authority shall maintain the Existing Capital Assets and the Authority Capital Assets and monitor

their conditions so as to replace or reconstruct them in accordance with the Authority's minimum requirements based on latest technology. The Authority may undertake revenue bond financing pursuant to California Government Code Sections 6540, *et seq.*, to acquire Authority Capital Assets.

### **10.3 Existing Equipment Obligations.**

After the Effective Date, all responsibility for payments for existing equipment obligations shall continue to be the sole responsibility of the owning Member and will not transfer to the newly-constituted Authority unless otherwise agreed by the Members in writing. Thus, by way of example, Larkspur's lease of a fire truck existing as of the Effective Date shall remain the sole responsibility of Larkspur for the remaining term of this vehicle lease following the Effective Date and no obligations thereunder shall transfer to the Authority.

## **Sec 11. Transition Provisions.**

### **11.1 Transitioning Personnel Pursuant To Transition Agreement.**

A transition agreement shall be negotiated and entered into between the Authority and the two involved employee Associations covering Members' employees' incorporation into the newly-constituted Authority. Pursuant to this transition agreement, all Members' employees as of January 1, 2018 will become Authority employees as of the Effective Date. All transitioning employees will maintain their current rank and original date of hire for seniority purposes, and as of the Effective Date will be covered under the Memorandum of Understanding in effect following the transition agreement. This Memorandum of Understanding shall provide that all classic employees of the newly-constituted Authority as of the Effective Date will be covered by the CalPERS 3%@55 Safety Retirement Plan. Accrued vacation leave, sick leave, and compensatory time of Members' employees will transfer on the Effective Date to the Authority pursuant to the provisions set forth below. All obligations to retirees who retired prior to the Effective Date shall remain with the Member from which they retired (i.e., either Larkspur or Corte Madera).

### **11.2 Members' Obligations And Limitations For Pre-existing Financial Liabilities.**

a. **Limitations.** Except as expressly provided in this Agreement, the Authority shall not assume, and shall not be deemed to have assumed, or be in any way liable for or subject to or have any obligation for or with respect to, any liabilities, debts, or obligations of the Members of any kind, nature, or description whatsoever, whether absolute, accrued, contingent, known, unknown, or otherwise, that were incurred by the Members prior to the Effective Date. In addition, any payments, awards, or reimbursements to any Members accruing or arising out of events prior to the Effective Date shall remain the property of that Member.

b. **Pre-Existing Pension Liability.** Liability of the Members for their respective CalPERS Plans/Programs existing prior to the Effective Date, including any actuarially-calculated liability and any changes after the Effective Date in the actuarially-calculated liability for service by employees of a Member that occurred prior to the Effective Date, shall remain with the individual Members and shall not transfer to the Authority nor be subject to this proportionate-share liability provision.

c. **Other Post-Employment Benefits ("OPEB").** Members shall retain liability for OPEB obligations for their respective employees who retired prior to the Effective Date. Subsequent to the Effective Date, after the addition of any new Member, and, in any event, at least biennially, the Authority shall obtain an actuarial calculation of the OPEB liability for its employees. The Members shall mutually agree on the division of OPEB costs among themselves and a schedule for their respective payments of OPEB costs. Each Member shall be responsible for determining the source of funding of its respective share of Authority OPEB liability costs.

d. **Compensated Absence Liabilities.** As of the Effective Date, the Members have liabilities in the form of accrued vacation leave, sick leave, and compensatory leave (the "Compensated Absence Liabilities").

Members' employees' sick leave, vacation leave, and compensatory time balances will transfer to the Authority. Responsibility for these respective Compensated Absence Liabilities of the Members shall be negotiated by the parties and shall be resolved pursuant to a transition agreement covering these obligations.

### **11.3 Beginning Fund Balance.**

The beginning fund balance of the Authority as of the Effective Date shall be negotiated and determined by the Members prior to the Effective Date, and Members shall have ownership proportions therein in all fund balances of the Authority in accordance with their Percentage Liability Shares referenced in Section 8.1.

### **11.4 Existing Workers' Compensation, Liability And Unemployment Insurance Claim Obligations.**

Both the City and the Town are members of the Bay Cities Joint Powers Insurance Authority (BCJPIA) self-insurance pool. They each may have existing workers' compensation and third-party liability claims asserted against them prior to the Effective Date, as well as unemployment insurance claims. All such claims incurred, accrued, or asserted prior to the Effective Date shall remain the sole responsibility of the Members and shall not be transferred to or assumed by the Authority. All new such claims incurred, accrued, or asserted on or after the Effective Date shall be the responsibility of the Authority.

## **Sec 12. Indemnification; Insurance.**

### **12.1 Indemnification Of Members.**

The Authority shall defend, indemnify, and hold harmless the Members and each Member's respective Council, managers, officers, agents, and employees, from any and all claims, losses, damages, costs, injuries, and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of the Authority under this Agreement.

### **12.2 Insurance Requirements.**

The Authority shall maintain membership in one or more insurance pooling joint powers agencies established pursuant to the Act for purposes of workers' compensation, public liability, and property insurance (as to Authority Capital Assets and the Existing Capital Assets), and shall establish and maintain such self-insurance retentions or other reserves as are required by said agencies.

### **12.3 Fire Station Insurance.**

As to all fire stations, owning Member(s) shall at all times throughout the term of this Agreement maintain adequate property/casualty insurance, updated annually.

## **Sec 13. Fire Or Paramedic Service To Other Jurisdictions.**

Service to other jurisdictions or entities may be provided (a) by contract; (b) by amendment of this Agreement to add an additional Member or Members in accordance with Section 1.5 above; and/or (c) in accordance with State and County mutual aid plans.

## **Sec 14. Term, Termination And Withdrawal.**

### **14.1 Term.**

This Agreement shall commence on the Effective Date and shall continue in full force and effect for an

indefinite term until terminated as set forth below.

#### **14.2 Termination.**

This Agreement may be terminated only (a) by a unanimous vote of the Fire Council and a written agreement of all of the Members made on or before June 30th of any year, effective no sooner than June 30th two (2) years thereafter, (b) by a jurisdictional reorganization under California law affecting any of the Members, or (c) if one Member decides to withdraw pursuant to section 14.5 and there would only be one Member remaining after the withdrawing Member leaves the Authority; provided, however that in all cases the Authority shall make proper provisions for the winding up of the Authority's affairs.

#### **14.3 Effect Of Termination.**

If upon termination the responsibility for fire protection reverts to the individual Members, the remaining moneys and assets of the Authority including, but not limited to, the Existing Capital Assets, the Authority Capital Assets, the Ending Fund Balance, and any reserves of the Authority to be established, shall be apportioned and distributed to the Members in proportion to their Percentage Liability Share; provided, however, that (i) said distribution may be deferred by the Fire Council in whole or in part for a reasonable period so that the Authority maintains a sufficient reserve to meet liabilities known and unknown, and (ii) the Authority shall continue to exist for the purpose of disposing of all claims and performing all other functions necessary to wind up the Authority's affairs. Thereafter, the Authority shall be dissolved.

#### **14.4 Responsibility For Authority's CalPERS Benefit Plan(s) Upon Termination**

In the event this Agreement is terminated, or the Authority's agreement with CalPERS is terminated, responsibility for all obligations of the Authority under its CalPERS benefit plan(s) shall revert to the individual Members, which obligations shall be apportioned to and assumed by the Members in proportion to their Percentage Liability Share. The Authority shall continue to exist until agreement is reached and provision is made by the Members for the assumption of all such obligations under the benefit plan(s). However, liability of the City of Larkspur and the Town of Corte Madera for their respective CalPERS Plans/Programs existing prior to the Effective Date, including any actuarially-calculated liability and any changes after the Effective Date in the actuarially-calculated liability for service by employees of a Member that occurred prior to the Effective Date, shall remain with the individual Members and shall not transfer to the Authority nor be subject to the Percentage Liability Share.

#### **14.5 Withdrawal.**

Any Member may terminate its participation in this Agreement and withdraw from the Authority upon written notice to the other Members first given on or before June 30th of any year, effective no sooner than June 30th two (2) years thereafter.

**a Payments Upon Withdrawal.** If a Member terminates its participation in this Agreement and withdraws from the Authority, it shall pay its Percentage Cost Share of the Authority's costs for which it is responsible to pay up to the effective date of its termination and withdrawal, as well as the actual costs associated with its withdrawal including, but not limited to, Authority staff time required to change existing services and systems. In addition, a withdrawing Member shall also pay its Percentage Liability Share of (i) the Authority's remaining unpaid costs and debts as budgeted for the two (2) relevant fiscal years related to any and all tangible and intangible Authority property including, but not limited to, costs of equipment, leases, facilities, improvements, etc., (ii) any bonded indebtedness of the Authority incurred prior to the date of withdrawal, (iii) any unfunded liabilities for the Authority's CalPERS pension plan(s) that arose during the time the withdrawing Member was a Member, and (iv) any amount due, including unfunded liabilities, for post-employment benefits other than pensions ("OPEB") that arose during the time the withdrawing Member was a Member. All payments due under this Section 14.4(a) shall be paid not later than ninety (90) days following the date of termination and withdrawal.



b. **Effect Of Withdrawal.** Termination of and withdrawal from this Agreement by any Member shall not be construed as a completion of the purpose of this Agreement. Remaining monies of the Authority shall be distributed to the respective Members in proportion to their Percentage Liability Shares, provided said distribution may be deferred by the parties in whole or in part for up to five (5) years as a reserve to meet liabilities known and unknown. If a member withdraws from the Authority, then, to the extent that doing so does not substantially adversely impact the Authority's ability to continue to provide fire protection services to the remaining Members, the withdrawing Member shall be entitled to a share of the Authority's capital assets. If the withdrawing Member desires to receive a share of the Authority's capital assets existing upon the date of withdrawal, the Members shall by mutual agreement determine which capital assets the withdrawing Member shall receive as a reasonable approximation of its proportionate share of capital assets. If the withdrawing Member desires the cash equivalent of its share of the Authority's capital assets existing upon the date of withdrawal, then its share shall be equal to its Percentage Liability Share of the value of those capital assets. If there is a good faith dispute regarding whether the withdrawing Member has accrued an interest in the Authority's capital assets or regarding which Authority capital assets it will receive or the value of its Percentage Liability Share of the Authority's capital assets, the withdrawing Member shall utilize the mandatory dispute resolution process set forth in Section 15 below. Except as expressly provided otherwise in this Agreement, the Fire Council shall have the reasonable discretion and authority to determine how to address any claims of ownership and/or possession of any Authority property by a withdrawing Member, provided, however, that if there is a good faith dispute regarding whether such property is owned by the Authority or by the withdrawing Member, the withdrawing Member may utilize such dispute resolution process to determine such ownership.

#### **Sec 15. Dispute Resolution Process.**

Should any disagreement or dispute among the Members arise concerning interpretation, implementation, and/or enforcement of any of the terms or subject matter of this Agreement, the Members shall submit such dispute to mandatory mediation before an agreed-upon mediator, each involved Member to pay an equal share of the mediation fees and each involved Member to pay its own attorneys' fees and legal costs. Should the Members be unable to agree upon a mediator, they shall agree upon a mediation service and shall have that service select a mediator for them. Should mediation be unsuccessful, then the Members each agree that they shall submit their dispute to binding arbitration before a mutually-agreeable arbitrator. If they cannot agree upon an arbitrator, they shall select an arbitration service, which shall select an arbitrator for them. The arbitrator may award attorneys' fees or costs to any prevailing party where circumstances warrant, based on equitable principles. Otherwise, the involved Members each shall pay an equal portion of the arbitration fees and each Member shall pay its own attorneys' fees and legal costs, it hereby being agreed that the arbitrator shall have no authority to award attorneys' fees or costs to any prevailing party. The Members each hereby expressly waive any and all rights to have disputes under this Agreement decided by court action, court trial, jury trial, or any other legal action of any kind or type, other than the mandatory mediation and binding arbitration process specified above. However, in emergency or extraordinary circumstances, Members may seek equitable or injunctive relief to preserve the status quo pending occurrence of the mediation/arbitration process specified above. It is the express intent of each Member to have any and all disputes under this Agreement resolved by the above-specified mediation/arbitration process and in as timely and economical manner as possible.

#### **Sec 16. Entire Agreement.**

This Agreement, together with its Exhibit A (which is incorporated herein by reference) constitutes the entire agreement among the Members as to the subject matter hereof.

#### **Sec 17. Successors.**

This Agreement shall be binding upon and shall inure to the benefit of all successors to the Members hereto.

**Sec 18. Modification Or Suspension.**

This Agreement may be amended only by a written agreement executed by all Members. In the event State or Federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions herein, such provision shall be modified or suspended only to the extent necessary to comply with such laws or regulations.

**Sec 19. Severability.**

If any term or provision of this Agreement shall to any extent be determined by a court of competent jurisdiction, or as a result of binding arbitration as set forth in Section 15, to be invalid or unenforceable for any reason, the remaining terms or provisions of this Agreement are intended to be independently valid and enforceable to the full extent permitted by law.

**Sec 20. Governing Law.**

This Agreement shall be construed and interpreted in accordance with the laws of the State of California.

**Sec 21. Headings.**

The section headings and titles contained in this Agreement are for the convenience of reference only and are not intended to define, limit, or describe the scope of any provision of this Agreement.

**Sec 22. Consent.**

Whenever any consent or approval is required by this Agreement, such consent or approval shall not be unreasonably withheld, conditioned, or delayed, except as otherwise specifically set forth herein.

**Sec 23. Enforcement By Authority.**

The Authority is hereby authorized to take or seek any or all legal or equitable actions or remedies permitted by law and consistent with Section 15 hereof to enforce this Agreement. Venue shall be in the Superior Court of the County of Marin, California.

**Sec 24. Execution In Counterparts.**

This Agreement may be executed on behalf of the respective Members in one or more counterparts, all of which collectively shall constitute one document and agreement.

IN WITNESS WHEREOF, the parties hereto have signed this instrument effective as of the date stated in the first paragraph hereof.

CITY OF LARKSPUR, a municipal corporation


ATTEST:

Jamie Kuryllo  
City Clerk

By: Don Hillmer, Mayor

TOWN OF CORTE MADERA, a municipal corporation

ATTEST:

  
\_\_\_\_\_  
Town Clerk

By:   
\_\_\_\_\_  
**BOB RAVASIO**, Mayor