



**RANCHO SANTA FE FIRE PROTECTION DISTRICT
BOARD OF DIRECTORS MEETING
AGENDA**

Rancho Santa Fe FPD
Board Room – 18027 Calle Ambiente
Rancho Santa Fe, California 92067

May 18, 2016
Special Meeting *in lieu of regular meeting*
1:00 pm PT

Director Hillgren will participate via teleconference
755 Golf Club Way, #A2, Sedona, AZ 86336

May 18, 2016
1:00 pm MT No DST

RULES FOR ADDRESSING BOARD OF DIRECTORS

Members of the audience who wish to address the Board of Directors are requested to complete a form near the entrance of the meeting room and submit it to the Board Clerk.

Any person may address the Board on any item of Board business or Board concern. The Board cannot take action on any matter presented during Public Comment, but can refer it to the Administrative Officer for review and possible discussion at a future meeting. As permitted by State Law, the Board may take action on matters of an urgent nature or which require immediate attention. The maximum time allotted for each presentation is FIVE (5) MINUTES.

Pledge of Allegiance

1. Roll Call
2. Closed Session
 - a. With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:
CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: 16936 El Fuego
Agency Negotiator: Tony Michel, Fire Chief
Negotiating Parties: RSF Association
Under Negotiation: Instruction to negotiators concerning price and term
3. Public Comment
4. Motion waiving reading in full of all Resolutions/Ordinances

All items listed on the Consent Calendar is considered routine and will be enacted by one motion without discussion unless Board Members, Staff or the public requests removal of an item for separate discussion and action. The Board of Directors has the option of considering items removed from the Consent Calendar immediately or under Unfinished Business.

5. Consent Calendar

a. Board of Directors Minutes

- i) Board of Directors minutes of April 13, 2016

ACTION REQUESTED: **Approve**

b. Receive and File

- i) Monthly/Quarterly Reports

- (1) List of Demands Check 27290 thru 27393 for the period April 1 – 30, 2016 totaling:

\$ 395,809.78

Payroll for the period April 1 – 30, 2016

\$ 532,510.11

TOTAL DISTRIBUTION

\$ 928,319.89

- (2) Budget Review – July 1, 2015 – March 31, 2016

- (3) Statement of Cash Assets – March 31, 2016

- (4) Activity Reports – April 2016

(a) Operations

(b) Training

(c) Fire Prevention

(d) Correspondence - letters/cards were received from the following members of the public:

(i) Captain Drew Johnson

(ii) San Diego-Imperial County Firefighters Advisory Council to the Burn Institute

ACTION REQUESTED: **Information**

c. Sale of Surplus Equipment

To discuss and/or approve the request to surplus and sell a 2003 Ford Explorer. [Staff Report 16-09](#)

ACTION REQUESTED: **Approve**

6. Public Hearing

a. Ordinance No. 2016-01

Ordinance No. 2013-01 *entitled* An Ordinance of the Board of Directors of the Rancho Santa Fe Fire Protection District Adopting Fees for Services by Reference to the California Health and Safety Code Section 13916 and Section 13919 and repealing Ordinance 2009-01.

ACTION REQUESTED: **A call for public comment (oral or written)**

7. Old Business

a. LAFCO Application – Update

To discuss the status of application for proposed “Rancho Santa Fe Fire Protection District Reorganization”: Dissolution of County Service Area No. 107 (Elfin Forest/Harmony Grove) and annexation to Rancho Santa Fe Fire Protection District

ACTION REQUESTED: **Information**

8. New Business

a. Article XIIIB California Constitution Appropriation Limit

To discuss and/or approve the change in population for the Rancho Santa Fe Fire Protection District appropriations limit [Staff Report 16-10](#)

ACTION REQUESTED: **Select a method to calculate appropriations limit**

b. Contract – Standard Industrial/Commercial Multi-Tenant Lease - Gross

To discuss and/or approve Amendment No. 2 to Standard Industrial/Commercial Multi-Tenant Lease – Gross between Rancho Santa Fe Association and Rancho Santa Fe Fire Protection District. [Report 16-11](#)

ACTION REQUESTED: **Approve**

c. Apparatus Purchase

To discuss and/or approve the request to purchase a replacement engine. [Staff Report 16-12](#)

ACTION REQUESTED: **Authorize expenditure**

d. Contract-Agreement Regarding O&M Contributions Under the Fire Service Agreement

To discuss and/or approve the agreement regarding O&M contributions under the fire service agreement between Rancho Santa Fe Fire Protection District and Cielo Homeowners Association and Rancho Cielo Estates, LTD.

ACTION REQUESTED: **Approve**

e. Contract-Agreement Regarding O&M Contributions Under the Fire Service Agreement

To discuss and/or approve the agreement regarding O&M contributions under the fire service agreement between Rancho Santa Fe Fire Protection District and The Crosby Estate at Rancho Santa Fe Master Association

ACTION REQUESTED: **Approve**

f. GASB 68 – Pension Unfunded Accrued Liability

To discuss and/or authorize accelerated payment to CalPERS to reduce or eliminate the district's obligation for the pension unfunded accrued liability. [Staff Report 16-13](#)

ACTION REQUESTED: **Authorize accelerated payment to reduce UAL and pre-pay the lump sum UAL for FY17**

9. Resolutions/Ordinances

ACTION REQUESTED: **Adopt**

a. Ordinance No. 2016-01

To introduce Ordinance No. 2016-01 *entitled* an Ordinance of the Board of Directors of the Rancho Santa Fe Fire Protection District Adopting Fees for Services by Reference to the California Health and Safety Code Section 13916 and Section 13919 and repealing Ordinance 2013-01. [Staff Report 16-14](#)

ACTION REQUESTED: **Adopt**

b. Resolution No. 2016-04

To discuss and/or adopt a resolution *entitled* A Resolution of the Board of Directors of the Rancho Santa Fe Fire Protection District Setting Benefit Charges for Fiscal Year 2016/2017

ACTION REQUESTED: **Adopt**

c. Resolution No. 2016-05

To discuss and/or adopt a resolution *entitled* A Resolution of the Board of Directors of the Rancho Santa Fe Fire Protection District Determining the 2016/2017 Appropriations of Tax Proceeds

ACTION REQUESTED: **Adopt**

d. Resolution No. 2016-06

LAFCO Application for CSA-17 To discuss and/or adopt a resolution *entitled* A CSA – 17

ACTION REQUESTED: **Adopt**

10. Oral Report

a. Fire Chief – Michel

i) District Activities

(1) Employee Recognition Dinner– April 16, 2016

(2) Symposium of the West

(3) Spirit of Courage/Maltese Cross Awards

(4) Survivor's Luncheon June 1, 2016

b) Operations – Deputy Chief

c) Training – Battalion Chief

d) Fire Prevention – Fire Marshal

- e) Administrative Manager
 - i) Board of Directors meeting June 22, 2016
 - ii) CalPERS Conference – Riverside, CA October 24-26, 2016 (*Early Bird Registration*)
- f) Board of Directors
 - i) North County Dispatch JPA – Update
 - ii) County Service Area – 17 – Update
 - iii) Comments

11. Adjournment

The next regular Board of Directors meeting to be June 22, 2016 in the Board Room located at 18027 Calle Ambiente, Rancho Santa Fe, California. The business meeting will commence at 1:00 p.m.



RANCHO SANTA FE FIRE PROTECTION DISTRICT
Board of Directors Regular Meeting Agenda
Wednesday, May 18, 2016 1:00 pm PT

CERTIFICATION OF POSTING

I certify that on May 13, 2016 a copy of the foregoing agenda was posted on the District's website and near the meeting place of the Board of Directors of Rancho Santa Fe Fire Protection District, said time being at least 72 hours in advance of the meeting of the Board of Directors (Government Code Section 54954.2)

Executed at Rancho Santa Fe, California on May 13, 2016

Karlana Rannals
Board Clerk



RANCHO SANTA FE FIRE PROTECTION DISTRICT
Regular Board of Directors Meeting
Minutes – April 13, 2016

These minutes reflect the order in which items appeared on the meeting agenda and do not necessarily reflect the order in which items were actually considered.

President Ashcraft called to order the regular session of the Rancho Santa Fe Fire Protection District Board of Directors at 1:00 pm.

Pledge of Allegiance

Battalion Chief Jim Sturtevant led the assembly in the *Pledge of Allegiance*.

1. Roll Call

Directors Present: Ashcraft, Hillgren, Malin, Stine, Tanner

Directors Absent: None

Staff Present: Tony Michel, Fire Chief; Fred Cox, Deputy Chief; Bret Davidson, Battalion Chief; Dave McQuead, Battalion; Jim Sturtevant, Battalion Chief; Renee Hill, Fire Marshal and Karlena Rannals, Board Clerk.

President Ashcraft informed the Board that pursuant to government code section 54957 there is a request to amend the agenda to include the following topics for discussion and/or action:

AMEND AGENDA ITEM

10. Closed Session (**Time Certain – 2:30 pm**)

- b. with respect to every item of business to be discussed in closed session pursuant to Section 54957:
Public Employee: Performance Evaluation
Title: Fire Chief

MOTION BY DIRECTOR HILLGREN, SECOND BY DIRECTOR STINE, APPROVED on the following roll call vote to amend the agenda as requested:

AYES: Ashcraft, Hillgren, Malin, Stine, Tanner
NOES: None
ABSENT: None
ABSTAIN: None

2. Public Comment

No one requested to speak to the Board.

3. Consent Calendar

MOTION BY DIRECTOR HILLGREN, SECOND BY DIRECTOR TANNER, CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to approve the consent calendar as submitted.

- a. *Board of Directors Minutes*
 - i) Board of Directors minutes of March 9, 2016
 - ii) Board of Directors minutes of March 31, 2016

b. Receive and File

i) *Monthly/Quarterly Reports*

1. List of Demands Check 27174 thru 27289 for the period March 1 – 31, 2016 totaling:

\$ 431,161.80

Payroll for the period March 1 – 31, 2016

\$ 559,896.58

TOTAL DISTRIBUTION

\$ 991,058.38

2. Activity Reports – March 2016

a. Operations

b. Training

c. Fire Prevention

d. Correspondence – letters/cards were received from the following members of the public:

- 1) None

4. Motion waiving reading in full all Resolutions/Ordinances

MOTION BY DIRECTOR HILLGREN, SECOND BY DIRECTOR STINE, and CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to waive reading in full of all resolutions and/or ordinances.

5. Special Presentation

a. Swift Water Rescue

Chief Davidson gave a presentation to the Board regarding a significant swift water incident that occurred on January 31 that involved rescuing three teenagers. The incident involved five different departments that performed the extreme technical rescue (successful) of the teenagers. He reported that there were no injuries of rescue personnel or the teens. As a result of the incident, he reviewed the lessons learned and improved training opportunities.

6. Old Business

a. *LAFCO Application – Update*

Chief Michel reported that he attended the LAFCO protest meeting on April 11. The property owners who attended did not exceed the 25%; therefore, the next step is that the District must review, certify and approve the terms and conditions for the reorganization with CSA-107.

Legal counsel is working to prepare the Memorandum of Understanding (MOU) for the transfer of funds including the Community Facilities District (CFD), which may not be done by the effective date. He anticipates the terms and conditions to transfer assets to be on the agenda for May 10 at the County of San Diego Board of Supervisors meeting.

He reminded the board members that as a part of the District's application to reorganize, the District may need to initiate the application for CSA-17. If the County of San Diego has not completed the application, the Fire District will initiate the application and the Board of Directors will review the resolution at the May 18 board meeting.

7. Resolutions/Ordinances

a. Resolution No. 2016-03

Chief Michel reported the resolution for consideration is the document necessary to join the CalPERS Health Benefits Program. If adopted by the board, staff will notify the current health insurance carriers of our intent to terminate the contract.

MOTION BY DIRECTOR HILLGREN, SECOND BY DIRECTOR STINE, APPROVED Resolution No. 2016-03 entitled *Electing to be Subject to the Public Employees' Medical and Hospital Care Act at Unequal Amount for Employees and Annuitants* on the following roll call vote:

AYES:	Ashcraft, Hillgren, Malin, Stine, Tanner
NOES:	None
ABSENT:	None
ABSTAIN:	None

b. Ordinance No. 2016-01

Fire Marshal Hill reviewed the staff report provided. She summarized the changes between the current and proposed ordinance. The fees did go down on average \$87. This was a direct result of the services being performed by safety vs. non-safety personnel. Staff responded to questions from the board.

The Board was informed that the next step was to schedule a public hearing. President Ashcraft requested that the Board Clerk schedule the public hearing for May 18, and publish the Notice of Intent to Adopt a New Ordinance applicable to all required codes.

8. New Business

a. LAFCO 2015-2016 Run-Off Special Districts Election

Chief Michel informed the Board members that there is a need to cast a ballot to a representative an alternate special district member to the Local Agency Formation Commission (LAFCO). The District must authorize a board member to cast the ballot. He requested that the Board of Directors authorize the Board President to cast the ballot on behalf of the Fire District

MOTION BY DIRECTOR HILLGREN, SECOND BY DIRECTOR STINE, and CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to authorize the Board President to cast the ballot on behalf of the Fire District uninstructed.

b. Budget Authorization

Chief Michel summarized the staff report provided. He stated that If approved, the improved fire resistive/drought tolerant landscape can be utilized as a community education tool as an example of a fire resistive and drought tolerant landscape. Also, the additional funding requested would be drawn from the Environmental and Sustainability Initiative reserves established by the Board a few years ago. Staff responded to questions from the board.

MOTION BY DIRECTOR HILLGREN, SECOND BY DIRECTOR TANNER, and CARRIED 5 AYES; 0 NOES; 0 ABSENT; 0 ABSTAIN to authorize the expenditure and funding sources to re-landscape and improve the irrigation system at RSF2.

9. Oral Report

a. Fire Chief – Michel

i) District Activities:

- 1) FDAC Conference – he attended the conference in Napa held April -8, 2016. He reported that it was overall a good conference. He learned that processes may change as a result of the Firefighter Bill of Rights.
- 2) RSF Science Day – participated in that event at Roger Rowe Elementary School. Students are taught how to use fire extinguishers.
- 3) Spirit of Courage Awards Banquet – to be held May 12. The District's nominated citizens and they will be recognized at the event. The District will purchase a table of ten. If any board member is interested in attending, they are to contact him.

b. Operations – Deputy Chief

Chief Cox summarized the previous month activity, noting district personnel responded to 262 calls the previous month. He reported on two significant calls both vehicle accidents on San Dieguito Road and Del Dios Highway. He also distributed the monthly seasonal weather outlook and reported that the fuel moisture remains steady, about 80%. Staff continues to meet with Elfin Forest personnel about the transition, which is progressing well. calls for the new fire station, RSF5

c. Training – Battalion Chief

Chief McQuead summarized the training activity for March for topics that included hazardous materials and a two-week academy for one new hire. The Engineer's exam was completed and personnel testing passed the exam. He noted that currently 20 district personnel are on probation.

d. Fire Prevention – Fire Marshal

Fire Marshal Hill summarized the activity for the previous month that included approximately 12,480 square feet of new construction and 61 plan reviews conducted. Beginning in May, the weed abatement notices will be sent. Inspections will start at the end of May.

e. Administrative Manager

Ms. Rannals reminded the board that the next board meeting had been moved to May 18. Also, the employee recognition event will take place on April 16.

f. Board of Directors

- i) North County Dispatch JPA – Update: Ashcraft – no report. The meeting will be May 25.
- ii) County Service Area – 17 – Update: Hillgren – a special meeting was held to discuss the new EMS Coordinator position. The new Coordinator will be employed by AMR. Rancho Santa Fe FPD has agreed to help the County until the contracts can be put in place between the County and AMR.
Comments
 - Malin – inquired about the solar project on El Camino Del Norte. Staff informed him that the District does not approve or conduct any inspections on solar projects.
 - Tanner – gave kudos to Chief Davidson and the personnel who responded to the swift water rescue on January 31st.

10. Closed Session

Pursuant to section 54957, the board met in closed session from 2:30 – 2:40 pm to discuss the following:

a. Public Employee Performance Evaluation

Title: Fire Chief

All board members listed and Stephen J. Fitch, Fitch Law, APC, via teleconference, attended the closed session.

Upon reconvening to open session, President Ashcraft reported that the Board of Directors discussed the subject and direction was given to legal counsel.

11. Adjournment

Meeting adjourned at 2:43 pm.

Karlana Rannals
Secretary

James H Ashcraft
President

Check #	Amount	Vendor	Purpose
27290	\$225.00	A to Z Plumbing Inc	Building
27291	\$1,380.54	AT&T Calnet 2/3	Telephone
27292	\$21.10	Berry, Nicole	Prevention - Meal/Lodging/Travel Exp
27293	\$1,274.00	C.A.P.F.	Disability Ins Short & Long
27294	\$369.00	CDW Government Inc.	Equipment - Minor
27295	\$135.22	Costco Inc.	Association Dues
27296	\$193.37	Dell Marketing	Computer Equipment/Parts
27297	\$2,685.74	MES California	Safety Equipment
27299	\$1,657.82	SoCo Group Inc	Fuel: Gasoline & Diesel
27300	\$44.22	Sturtevant, James F.	Station Replacement Items
27301	\$14.50	U P S	Shipping Service
27302	\$1,001.09	Uniforms Plus	Uniforms: Safety Personnel
27303	\$1,296.01	Verizon Wireless	Telephone - Cellular/MDT Broadband + ATN Line/CSA-17
27304	\$13.99	4S Ranch Gasoline & Carwash LP	Car Wash
27305	\$2,264.12	Advanced Communication Systems	2016 Engine on Order
27306	\$100.00	Appliance Repair Bookkeeping	Building
27307	\$336.32	AT&T Calnet 2/3	Telephone
27308	\$60.00	BJ's Rentals	Equipment Rental
27309	\$250.00	Carey, John	Education/Training Reimbursement
27310	\$444.80	Complete Office of California	Office Supplies
27311	\$200.00	Danner, Chris	PARAMEDIC RENEWAL - Reimbursement
27312	\$11,110.00	Draves Pipeline Inc	Building
27313	\$122.50	EDCO Waste & Recycling Inc	Trash
27314	\$10,313.70	Employment Development Dept-ED	Unemployment Insurance
27315	\$496.69	Fire ETC Inc	Safety Clothing (Protective)/Equipment
27316	\$110.00	Fitness Warehouse USA & SD Fit	Fitness Equipment Repair
27318	\$519.52	Home Depot, Inc	Station Maintenance
27319	\$491.40	Jobs Available Inc.	Advertising
27320	\$217.00	Lorenzo, Paul	PARAMEDIC RENEWAL - Reimbursement
27321	\$1,123.20	MES California	Safety Equipment
27322	\$1,189.26	Michel, Tony J	Telephone/Medical Reimbursement
27323	\$5,046.08	Motorola Solutions Inc	2016 Engine on Order

Check #	Amount	Vendor	Purpose
27324	\$301.76	NCB-North County Beverage Inc	Equipment - Minor
27325	\$22,252.80	NCDJPA	Dispatching Services
27326	\$1,494.23	Olivenhain Municipal Water Dis	Water
27327	\$478.72	Santa Fe Irrigation District	Water Admin/JPA rebill (parking)
27328	\$595.00	SimplexGrinnell LP	Station Maintenance
27329	\$1,488.59	SoCo Group Inc	Fuel: Gasoline & Diesel
27330	\$268.00	State Fire Training	Education/Training Reimbursement/Permit: Certification
27331	\$984.06	Steven Enterprises, Inc	Repair Machines & Office Equipment
27332	\$1,870.00	Synergy Database Solutions LLC	Programming - Computer & Software FP/PR
27334	\$113.00	Terminix International	Building
27335	\$435.00	Time Warner Cable	Cable
27336	\$27.28	U P S	Shipping Service
27337	\$15,410.28	U S Bank Corporate Payment Sys	Cal-Card./IMPAC program
27338	\$1,327.31	Uniforms Plus	Uniforms: Safety Personnel
27339	\$1,587.20	Waste Management Inc	Trash /rebill Patrol & JPA
27340	\$161.98	Willis, Erwin L.	Computer Equipment/Parts Reimbursement
27341	\$5,775.00	WinTech Computer Services	Consulting Services
27342	\$225.00	A to Z Plumbing Inc	Building
27343	\$708.00	Accme Janitorial Service Inc	Building
27344	\$3,496.41	All Star Fire Equipment, Inc.	Safety Clothing (Protective)
27345	\$375.28	AT&T Calnet 2/3	Telephone/Rebill JPA
27346	\$336.00	CalPERS	PERS Survivor Benefit
27347	\$243.64	Culligan	Building
27348	\$684.60	Day Wireless Systems Inc	Radio Programming
27349	\$1,582.50	Fitch Law Firm Inc	Legal Services
27350	\$1,923.34	Konica Minolta Business Inc	Copier Maintenance Contract
27351	\$1,187.50	Kronos - Telestaff	TeleStaff Maintenance
27352	\$253.44	Lincoln National Life Ins Co	Disability/Life Insurance
27353	\$236.69	MES California	Safety Equipment
27354	\$367.60	Napa Auto Parts Inc	Apparatus: Parts & Supplies
27355	\$132.00	Olson's Hand Car Wash Inc	Car Wash
27356	\$1,200.00	Pun Group	Prepaid Expense - Audit

Check #	Amount	Vendor	Purpose
27357	\$35,000.00	Rancho Santa Fe Fire Protectio	Interfund Transfer - Work Comp
27358	\$172.64	Rincon Del Diablo Municipal Wa	Water
27359	\$3,476.98	San Diego Gas & Electric	Elec/Gas/Propane
27360	\$195.00	Skyriders Window Cleaning Inc	Building
27361	\$1,532.79	SoCo Group Inc	Fuel: Gasoline & Diesel
27362	\$385.49	TelePacific Communications	Telephone
27363	\$63.00	Terminix International	Building
27364	\$1,540.50	ThyssenKrupp Elevator Inc	Elevator Service/JPA Rebill
27365	\$87.16	Time Warner Cable	Cable
27366	\$14.50	U P S	Shipping Service
27367	\$187.68	United Imaging	Office Supplies
27368	\$750.00	Sturtevant, James F.	Miscellaneous Reimbursable
27369	\$52.50	Armanino LLP	Consulting Services
27370	\$150.45	AT&T	Telephone
27371	\$224.78	AT&T - U-verse	Telephone
27372	\$128,679.45	CalPERS	PERS (Employer Paid)
27373	\$7,552.50	County of SD/RCS	800 MHz Network Admin Fees/CAP Code Paging
27374	\$192.37	Cox Communications	Telephone
27375	\$469.98	Ed Reamer's Refrigeration	Station Maintenance
27376	\$173.56	Ferrellgas Inc	Elec/Gas/Propane
27377	\$1,727.20	Fire ETC Inc	Safety Clothing (Protective)
27378	\$3,856.50	Guardian Life Insurance Co	Medical Insurance
27379	\$52,004.03	Health Net	Medical Insurance
27380	\$20,461.77	Kaiser Permanente	Medical Insurance
27381	\$301.04	Lincoln National Life Ins Co	Disability/Life Insurance
27382	\$7.57	MES California	Safety Equipment
27383	\$362.40	Metro Fire & Safety Inc	Safety: Extinguishers (Service & Purchase)
27384	\$70.00	RSF Mail Delivery Solutions, I	Mail Delivery Service
27385	\$30.00	San Diego Cnty Vector Control	Taxes & Assessments
27386	\$4,341.86	San Diego Gas & Electric	Elec/Gas/Propane
27387	\$162.00	San Dieguito Trophy Inc	Awards/Proclamations
27388	\$700.00	Santa Fe Irrigation District	NCDJPA Rebill - Parking

Check #	Amount	Vendor	Purpose
27389	\$641.86	SoCo Group Inc	Fuel: Gasoline & Diesel
27390	\$284.55	Sturtevant, James F.	Station Replacement Items/Audio/Visual Supplies Reimbursement
27391	\$14.50	U P S	Shipping Service
27392	\$351.26	Uniforms Plus	Uniforms: Safety Personnel
27393	\$412.45	United Imaging	Office Supplies
EFT0207	\$325.00	RSFPFA	RSF Prof FF Assoc/Room Setup/Clean
EFT0208	\$409.60	Rannals, Karlana	Meetings/M meal Expenses/Janitorial Supplies Reimbursement
EFT0214	\$750.00	Carey, John	Education/Training Reimbursement
Various	\$15,466.46	Various	Medical Reimbursement
Sub-total	\$395,809.78		

15-Apr-16	\$235,859.67
30-Apr-16	\$296,650.44
Sub-total	\$532,510.11

GRAND TOTAL \$928,319.89

**RANCHO SANTA FE FIRE PROTECTION DISTRICT
OPERATING EXPENDITURES FOR FISCAL YEAR 2016**

July 1, 2015 through March 31, 2016
FY16

	BUDGET EXPENDITURES FY16	ESTIMATED EXPENDITURES FY16	% OF BUDGET
PERSONNEL COSTS			
Salaries/Wages - Staff	\$5,578,071	\$4,272,096	76.6%
Holiday Pay	\$190,530	\$171,246	89.9%
Overtime	\$1,259,710	\$1,039,650	82.5%
Health Insurance + HRSA	\$1,284,654	\$1,009,207	78.6%
Life/LTD Insurance	\$25,407	\$10,357	40.8%
Retirement	\$1,259,892	\$915,885	72.7%
Unemployment Insurance	\$13,440	\$1,392	10.4%
Medicare / Social Security Tax	\$101,208	\$80,414	79.5%
Workers' Compensation/Wellness	\$152,400	\$114,641	75.2%
Labor (Temporary)	<u>\$37,438</u>	<u>\$43,276</u>	115.6%
PERSONNEL (Subtotal)	\$9,902,750	\$7,658,164	77.3%

RANCHO SANTA FE FIRE PROTECTION DISTRICT
OPERATING EXPENDITURES FOR FISCAL YEAR 2016
July 1, 2015 through March 31, 2016

	BUDGET EXPENDITURES FY16	ESTIMATED EXPENDITURES FY16	% OF BUDGET
CONTRACTURAL			
Administrative Fees	\$201,692	\$37,583	18.6%
Advertising	\$1,500	\$566	37.7%
Apparatus	\$2,748	\$0	0.0%
Association Dues	\$10,000	\$9,703	97.0%
Building/Facility Lease	\$29,151	\$0	0.0%
Dispatching	\$148,352	\$126,099	85.0%
Equipment Rental & Repairs	\$59,790	\$18,687	31.3%
Insurance	\$76,238	\$78,125	102.5%
Legal Services	\$32,150	\$28,362	88.2%
Licenses & Permits	\$8,763	\$6,898	78.7%
Meetings, Meals, Mileage	\$8,675	\$3,610	41.6%
Other Contractual Services	\$205,774	\$130,532	63.4%
Other Professional Services	\$248,804	\$176,768	71.0%
Service Agreements	\$48,968	\$25,101	51.3%
Subscriptions	\$2,130	\$585	27.5%
Training	\$84,350	\$39,074	46.3%
Utilities			
Cable	\$2,924	\$3,962	135.5%
Electricity	\$145,655	\$95,646	65.7%
Sewer	\$21,426	\$18,600	86.8%
Telephone	\$53,114	\$38,989	73.4%
Trash	\$17,123	\$12,566	73.4%
Water	\$27,002	\$13,914	51.5%
Vehicle Maintenance (Scheduled)	\$51,600	\$18,577	36.0%
Vehicle Repair	<u>\$68,340</u>	<u>\$45,958</u>	67.2%
CONTRACTURAL COSTS (Subtotal)	\$1,556,269	\$929,906	59.8%

RANCHO SANTA FE FIRE PROTECTION DISTRICT
OPERATING EXPENDITURES FOR FISCAL YEAR 2016
July 1, 2015 through March 31, 2016

	BUDGET EXPENDITURES FY16	ESTIMATED EXPENDITURES FY16	% OF BUDGET
MATERIALS & SUPPLY			
Apparatus	\$20,755	\$28,750	138.5%
Apparatus - Computers	\$14,243	\$4,082	28.7%
Audio Visual	\$350	\$29	8.2%
Books	\$3,841	\$1,102	28.7%
Cellular	\$2,144	\$173	8.1%
Computer	\$92,987	\$47,183	50.7%
Electrical Supplies	\$200	\$0	0.0%
Fire Hose, Nozzles & Supply	\$7,500	\$18,425	245.7%
Firefighting Foam	\$2,500	\$1,672	66.9%
Food for Major Emergencies	\$1,200	\$445	37.1%
Fuel	\$56,711	\$27,507	48.5%
Furnishings/Equipment	\$10,500	\$0	0.0%
Grants	\$20,000	\$0	
Hydrant Maintenance	\$2,000	\$713	35.6%
Janitorial	\$9,334	\$5,235	0.0%
Knox Replacement	\$500	\$2,817	0.0%
Landscape	\$2,000	\$27	0.0%
Lumber/Screws/Nails	\$100	\$0	0.0%
Maps	\$500	\$0	0.0%
Medical Supplies	\$48,905	\$12,576	25.7%
Miscellaneous	\$750	\$690	92.0%
Office - General	\$39,265	\$27,896	71.0%
Paint	\$100	\$4	0.0%
Program Supplies - CERT	\$3,000	\$0	
Public Education	\$30,000	\$24,879	82.9%
Radio	\$10,519	\$12,102	115.0%
Rock, Sand, Gravel	\$250	\$933	373.2%
Safety	\$101,312	\$115,026	113.5%
Special Events & Awards	\$10,500	\$2,857	27.2%
Station Maintenance	\$20,557	\$15,742	76.6%
Station Supplies/Replacements	\$4,250	\$5,632	132.5%
Street Signs & Markers	\$500	\$162	32.4%
Tools	\$901	\$235	26.1%
Training (Expendable Supplies)	\$8,272	\$5,366	64.9%
Uniforms	\$22,010	\$28,908	131.3%
MATERIAL & SUPPLY (Subtotal)	\$548,456	\$391,167	71.3%

RANCHO SANTA FE FIRE PROTECTION DISTRICT
OPERATING EXPENDITURES FOR FISCAL YEAR 2016
July 1, 2015 through March 31, 2016

	BUDGET EXPENDITURES FY16	ESTIMATED EXPENDITURES FY16	% OF BUDGET
OPERATING COST SUMMARY			
Personnel	\$9,902,750	\$7,658,164	77.3%
Contractural	\$1,556,269	\$929,906	59.8%
Material & Supply	\$548,456	\$391,167	71.3%
Depreciation	\$720,462	\$540,346.50	75.0%
 Prior Year & Misc Reclassification Expenses	 \$0	 \$0	 0.0%
 TOTAL COSTS	 <u>\$12,727,938</u>	 <u>\$9,519,585</u>	 74.8%
BEFORE CAPITAL OUTLAY			

	BUDGET EXPENDITURES FY16	ESTIMATED EXPENDITURES FY16	% OF BUDGET
CAPITAL and PLANNED PROJECTS			
Air Conditioning Units - RSF 1	\$175,000	\$0	0.0%
Ground Cover Station 2	\$20,000	\$0	0.0%
Hurst eHydraulic Rescue Tool Set	\$40,000	\$31,697	79.2%
Microwave Wireless Network (FY10)	\$38,250	\$0	0.0%
Vehicle - Ford Explorer	\$0	\$28,903	
HGV - Infrastructure	\$0	\$30,224	
HGV - Equipment	\$0	\$28,013	
HGV - Consumable	\$0	\$2,085	
 Total Capital & Projects	 <u>\$273,250</u>	 <u>\$120,922</u>	 44.3%

COMBINED SUMMARY STATEMENT CASH ASSETS LIABILITIES

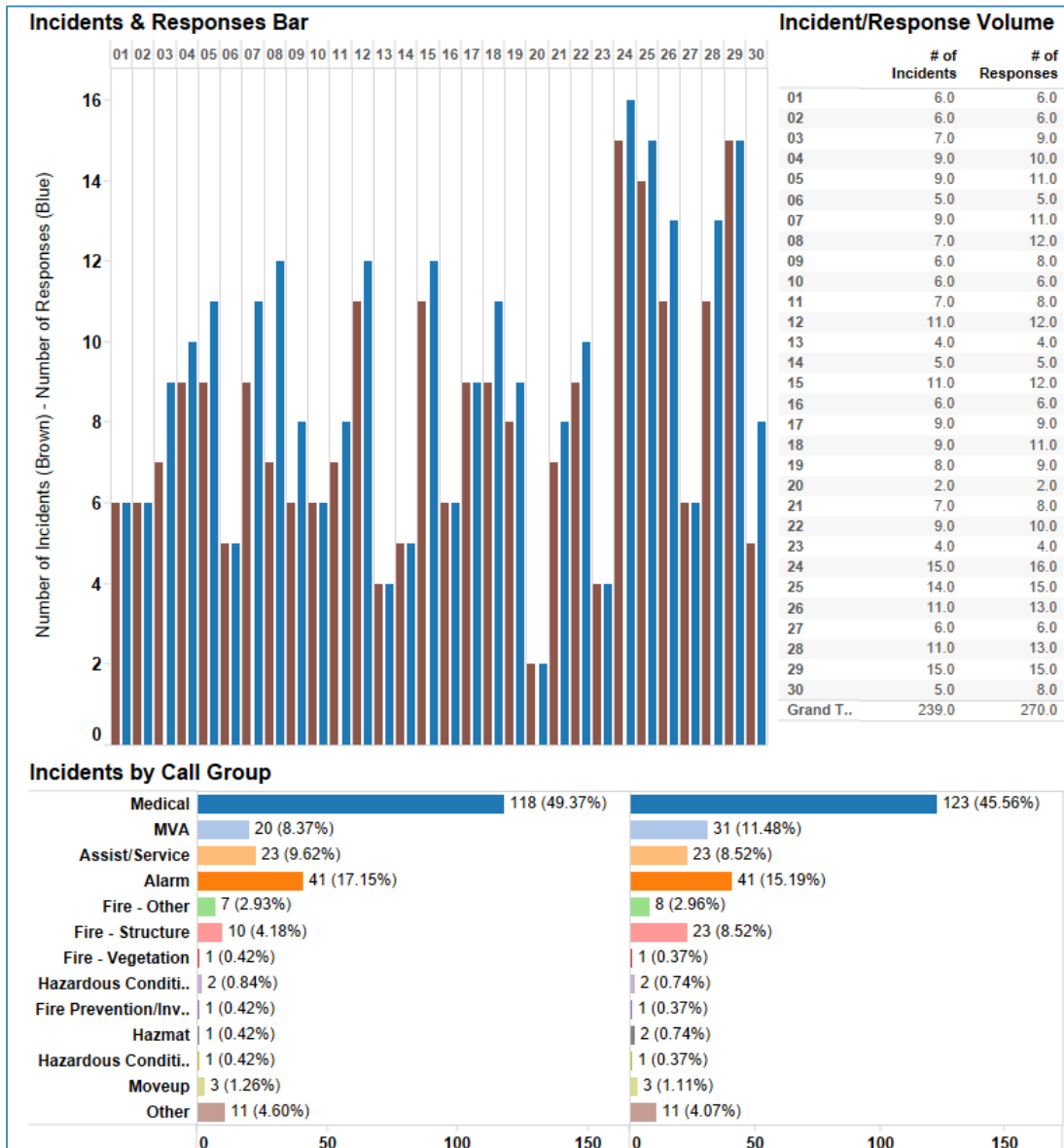
Rancho Santa Fe Fire Protection District

FY 16

PERIODS

Assets	30-Jun-15	30-Sep-15	31-Dec-15	31-Mar-16
Current Assets				
Cash	\$ 13,923,571	\$ 11,303,040	\$ 12,331,262	\$ 15,320,680
GF Accounts Receivable	\$ 801,207	\$ 647,408	\$ 863,927	\$ 816,803
ALS (Paramedic)	\$ 6,673	\$ 21,779	\$ 21,794	\$ 21,831
MDC Reserve	\$ 36,103	\$ 56,877	\$ 56,877	\$ 56,877
PASIS (Workers Compensation)	\$ 553,373	\$ 553,373	\$ 588,357	\$ 583,044
PERS Contributions (AMD)	\$ 3,929,290	\$ 3,929,290	\$ 3,929,290	\$ 3,929,290
PREPAID (Cap Assets)	\$ 350	\$ 350	\$ 350	\$ 350
TOTAL ASSETS	\$ 19,250,569	\$ 16,512,117	\$ 17,791,857	\$ 20,728,875
Liabilities				
Current Liabilities				
Accounts Payable	\$ 304,346	\$ 236,821	\$ 4,313	\$ 24,075
Accrued Expenses	\$ 271,188	\$ 388,509	\$ 302,616	\$ 431,947
Other Payables	\$ 122,092	\$ -	\$ -	\$ -
TOTAL LIABILITIES	\$ 697,626	\$ 625,330	\$ 306,929	\$ 456,022
Long Term Liabilities				
Contract Compensation	\$ 544,294	\$ 511,002	\$ 480,167	\$ 525,631
Net Pension Liability	\$ 12,520,708	\$ 12,520,708	\$ 12,520,708	\$ 12,520,708
IBNR Liability (Workers Compensation)	\$ 94,426	\$ 94,426	\$ 94,426	\$ 94,426
Soil Contamination	\$ 6,106	\$ 6,106	\$ 6,106	\$ 6,106
TOTAL LONG TERM LIABILITIES	\$ 13,165,534	\$ 13,132,242	\$ 13,101,407	\$ 13,146,871
Total Fund Balance	\$ 5,387,408	\$ 2,754,545	\$ 4,383,521	\$ 7,125,983
Fund Balance				
Restricted Reserves				
ALS / MDC Funds	\$ 57,882	\$ 78,656	\$ 78,806	\$ 78,886
PASIS (Workers Compensation)	\$ 458,948	\$ 458,948	\$ 458,948	\$ 458,948
General Fund Reserves				
CalPERS	\$ -	\$ -	\$ -	\$ -
Capital Replacement	\$ 8,134,715	\$ 8,314,830	\$ 8,494,946	\$ 8,675,061
Designated (RCS Infrastructure, P25 Radio, Enviro. Sustain.)	\$ 950,000	\$ 950,000	\$ 950,000	\$ 950,000
Operating	\$ 5,500,000	\$ 2,500,000	\$ 3,500,000	\$ 500,000
Undesignated Reserves	\$ 669,367	\$ (6,572,636)	\$ (7,735,061)	\$ (4,720,714)
PY Change in Retained Earnings	\$ (11,395,595)			
Net Income (FY16)	\$ 1,012,091	\$ (2,975,252)	\$ (1,364,118)	\$ 1,183,802
TOTAL EQUITY	\$ 5,387,408	\$ 2,754,545	\$ 4,383,521	\$ 7,125,983
Restricted Cash				
Fire Mitigation	\$ 1,029,553	\$ 1,092,384	\$ 1,141,340	\$ 1,219,740
FMF Accounts Payable	\$ -	\$ -	\$ -	\$ -
FMF Accounts Receivable	\$ 62,831	\$ 48,956	\$ 78,400	\$ 14,361
FMF Deposit In Transit	\$ -	\$ -	\$ -	\$ -
	\$ 1,092,384	\$ 1,141,340	\$ 1,219,740	\$ 1,234,100
Combined Fund Total	\$ 6,479,792	\$ 3,895,885	\$ 5,603,261	\$ 8,360,083

April Incident Count Stations 1-4



Incident Type Response Summary by Station

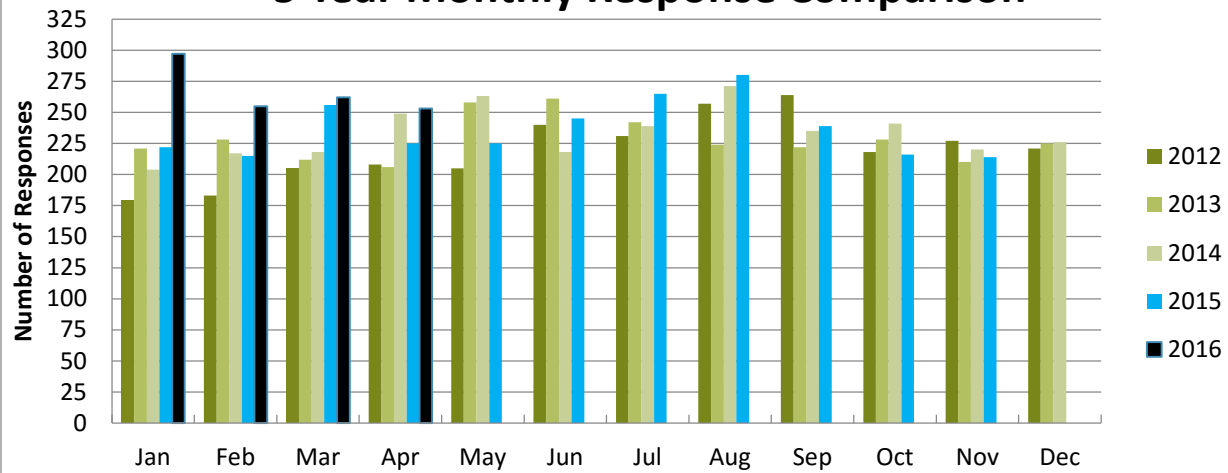
From 4/1/2016 To 4/30/2016

Station Selected: RSF 5

Incident Type Selected: All

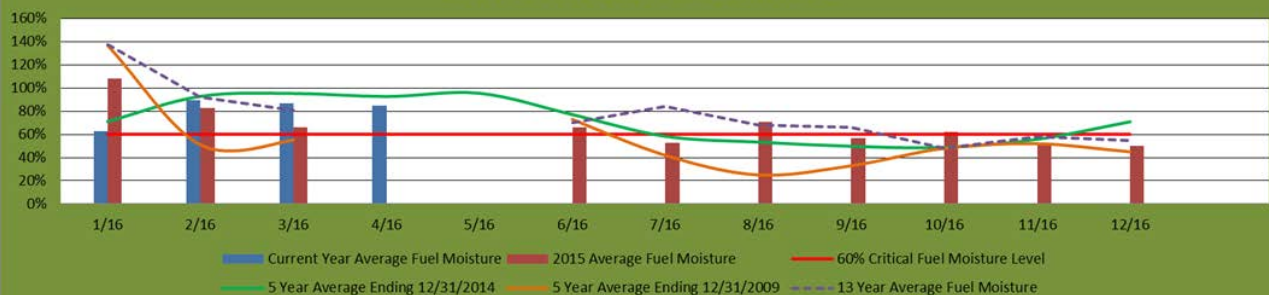
EMS/Rescue	6
Service Call	1
Good Intent	6
False Call	1
Totals:	14

5 Year Monthly Response Comparison

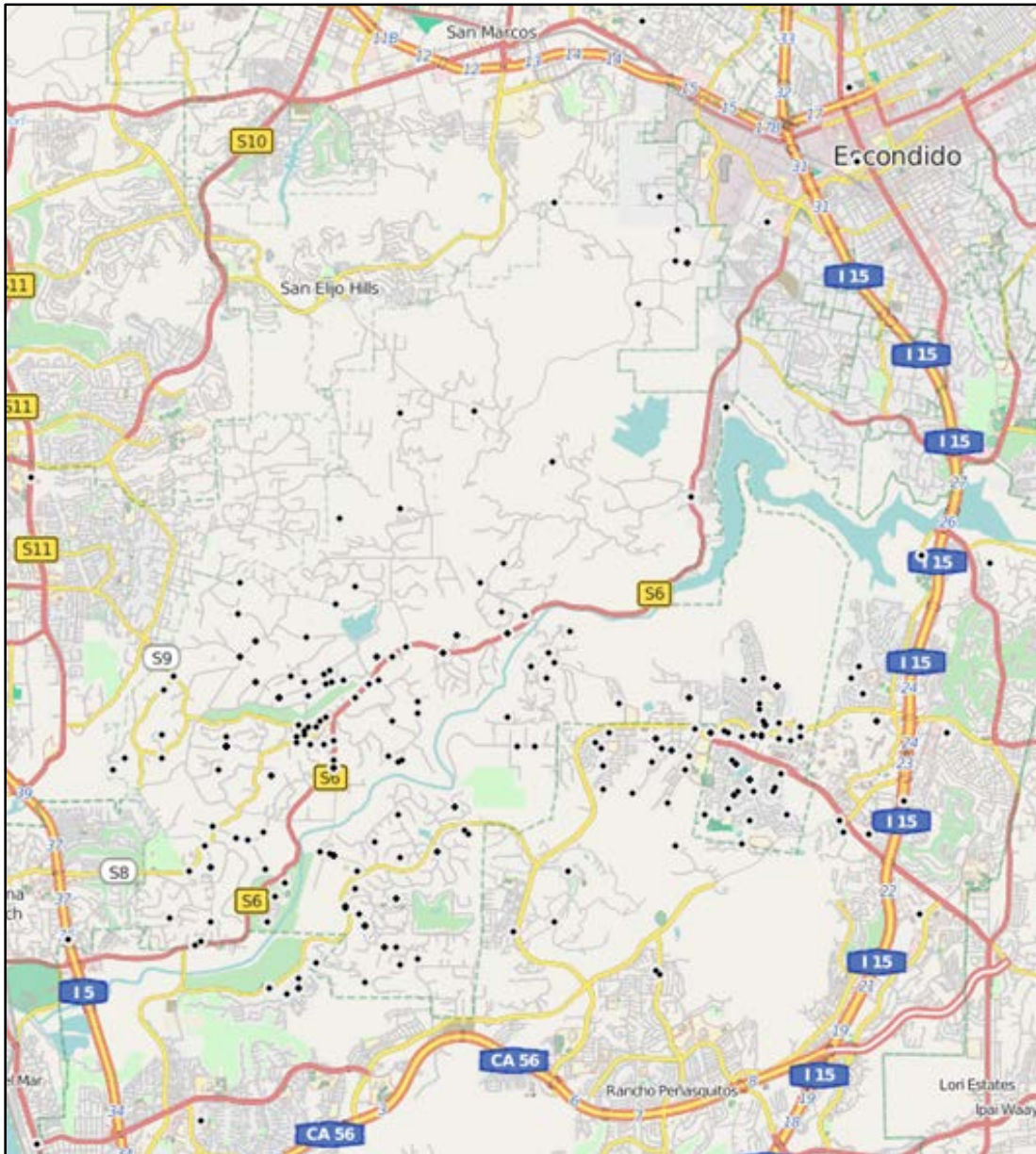


2016	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD Responses
Responses	297	255	262	253									1,067
YTD	297	552	814	1,067									16.2%
2015	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD Responses
Responses	222	215	256	225	225	245	265	280	239	216	214	237	2,839
YTD	222	437	693	918	1,143	1,388	1,653	1,933	2,172	2,388	2,602	2,839	1.3%
2014	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD Responses
Responses	204	217	218	249	263	218	239	271	235	241	220	226	2,801
YTD	204	421	639	888	1,151	1,369	1,608	1,879	2,114	2,355	2,575	2,801	2%
2013	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD Responses
Responses	221	228	212	206	258	261	242	224	222	228	210	225	2,737
YTD	221	449	661	867	1,125	1,386	1,628	1,852	2,074	2,302	2,512	2,737	3.8%
2012	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD Responses
Responses	179	183	205	208	205	240	231	257	264	218	227	221	2,638
YTD	179	362	567	775	980	1,220	1,451	1,708	1,972	2,190	2,417	2,638	11.0%

2016 District Live Fuel Moistures



April Incident Distribution

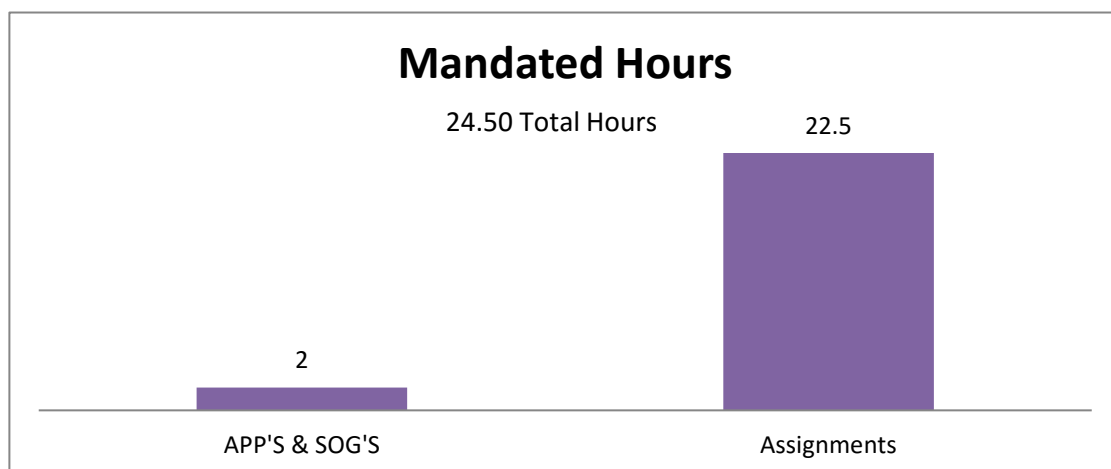
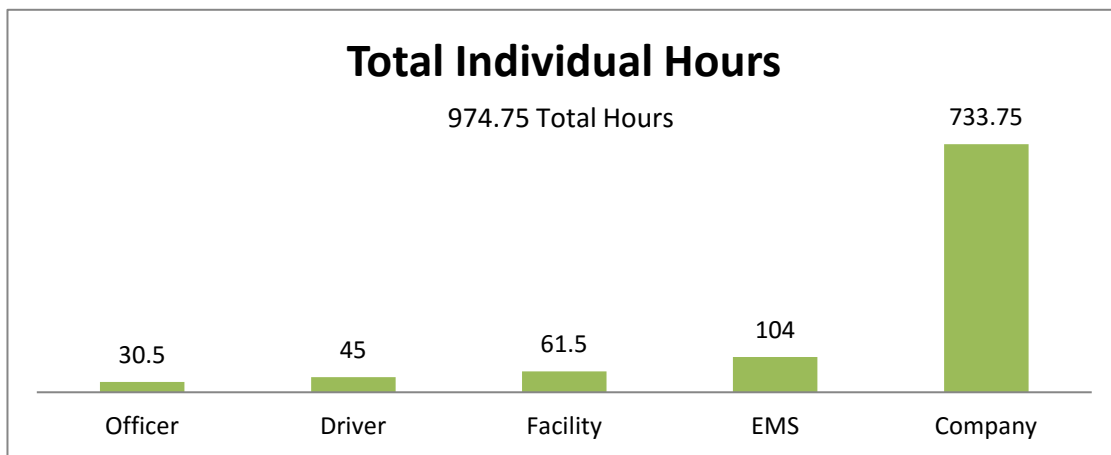
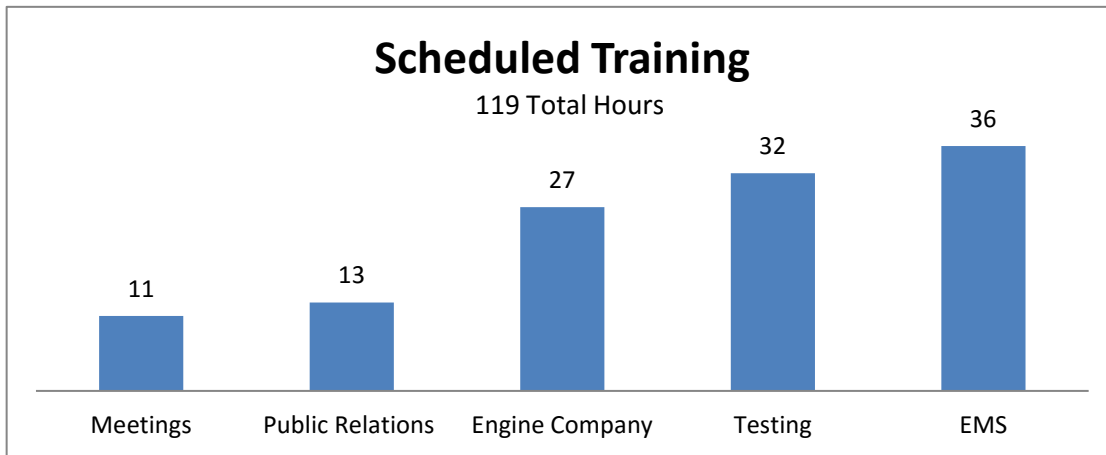


Significant Incidents/Overhead Assignments

DATE	INCIDENT/ LOCATION	TYPE	UNIT/PERSON	MISC.
04/04/2016	Avenida De Los Lobos	Structure Fire	E2612, B2604 (AR to SND)	Structure fire w/rescue
04/19/2016	Newmont Drive	Structure Fire	E2612, B2604 (AR to SND)	Structure fire
04/17/2016	El Camino Real (Encinitas)	Wildland Fire	BR2661, WT2651 (AR to ENC)	Early season brush fire
04/15/2016	Elfin Forest Rd	Traffic Accident	E2612, M2694, C2801, E2821	Major Trauma accident

Training Division

April 2016



See next page for description

Training Division - Descriptions

Scheduled Training

Training hours are planned annually. This is to maintain a well organized year and to help the firefighters be successful with the hours required by Federal, State, Local.

Total Individual Hours - 6 Subjects

Subject	Definition	Examples
Company	Documentation of all Company Training that is not Driver, Officer, Has-Mat, or Facility Training.	Aerial Ladder, Hose, Ladders, Physical Fitness, SCBA, Technical Rescue, Ventilation, etc.
Driver	This is for documenting Driver Training hours. Per ISO standards employees considered a "Driver" will be required to complete 12 hours of Driver Training annually. You can use this same form to record Driver Training hours for Non-Drivers and it will be counted towards Company Training.	Apparatus Inspections & Maintenance, Basic Hydraulics, Defensive Driving, Maps, Driving Heavy Vehicles, Etc.
Facility	This is live training conducted at an approved site. For the location to be approved it must have at least two acres on the property, a three story tower, and a burn facility. It is also important to note that the training must not just occur on the approved site, but the facility itself must be used. If your users are just sitting in a classroom at an approved site, this cannot count towards facility hours and the completion would need to be applied elsewhere. However, if the classroom portion was followed by utilization of the facility, the entire time could count towards Facility Training.	Company Evolutions, NFPA 1410 Driver/Operator, NFPA 1002 Fire Officer, NFPA 1021 Firefighter Skills, NFPA 1001 Hazardous Materials, NFPA 472 Live Fire, NFPA 1403 Other NFPA Fire Based Training
HazMat	This is for documenting Hazardous Materials Training hours. Per ISO standards all firefighters are required to complete 6 hours of Hazardous Materials Training annually.	DOT Guidebook Review, Decontamination Procedures, First Responder Operations, Etc.
Officer	Per ISO standards employees considered a "Officer" will be required to complete 12 hours of Officer Training annually. You can use this same form to record Officer Training hours for Non-Officers and it will be counted towards Company Training.	Dispatch, General Education, Meetings, Orientation, Exam, Management Principles, Personnel, Promotional, Public Relations, Etc.
EMS	EMS is not tracked or required by Insurance service Organization for Rating. EMS Continuing Education is tracked for recertification of Paramedics (48/2yrs) and EMT (24/2yrs). Through Emergency Service Medical Administration (EMSA).	Continuing Education and SIMS

Mandated Hours

Hours completed through an assignment on an online database (Target Solutions). Mandated assignments are required by either Federal, State, Local.

Rancho Santa Fe Fire Protection District
Fire Prevention Bureau Monthly Activity Summary
April 2016

PLAN REVIEW

RESIDENTIAL PLAN REVIEWS	Number of Structures	Sq Footage
Fire Marshal	0	0
Fire Inspector	0	0
Fire Inspector/Forester	3	14,360
TOTAL	3	14,360
RESIDENTIAL ADDITIONS	Original Sq Footage	Added Sq Footage
Fire Marshal	0	0
Fire Inspector	15,268	3,723
Fire Inspector/Forester	0	0
TOTAL	15,268	3,723
COMMERCIAL PLAN REVIEWS	Number of Structures	Sq Footage
Fire Marshal	0	0
Fire Inspector	0	0
Fire Inspector/Forester	2	1,767
TOTAL	2	1,767
TOTAL NEW CONSTRUCTION		Sq Footage
Based on permitted Sq footage	Total Added	19,850
FIRE SPRINKLER REVIEWS	Commercial	Residential
Fire Marshal	0	0
Fire Inspector	4	6
Fire Inspector/Forester	0	1
TOTAL	4	7
TENANT IMPROVEMENTS	Number of Structures	Sq Footage
Fire Marshal	0	0
Fire Inspector	0	0
Fire Inspector/Forester	1	0
TOTAL	1	0
LANDSCAPE REVIEWS	Number of Reviews	Staff Hours
Fire Marshal	0	0.00
Fire Inspector	0	0.00
Fire Inspector/Forester	13	6.00
TOTAL	13	6.00

Rancho Santa Fe Fire Protection District
Fire Prevention Bureau Monthly Activity Summary
April 2016

SERVICES PROVIDED- FIRE PREVENTION

DPLU -All Staff	Number	Staff Hours
Project Availability Forms	0	0.00
Use Permits	0	0.00
Zaps	0	0.00
Administrative Review	0	0.00
Habit Plans	0	0.00
Approval Letters	0	0.00
CWPP/FPP	0	0.00
TOTAL	0	0.00
INSPECTION SERVICES- All Staff	Number of Inspections	Staff Hours
Undergrounds	7	4.00
Hydros (Fire Sprinklers)	20	20.00
Finals (Structures)	27	33.00
Landscape	10	5.00
Reinspections	0	0.00
Tents/Canopy	6	3.00
Burn Permits	0	0.00
Department of Social Service Licensing	0	0.00
Knox/Strobe	2	1.00
Code Enforcement	0	0.00
Engine Company Follow Up	0	0.00
Misc.	0	0.00
TOTAL	72	66.00
HAZARD INSPECTIONS - All Staff	Number of Inspections	Staff Hours
Weed Abatement Inspection	0	0.00
Weed Abatement Reinspection	0	0.00
1st Notice	0	0.00
2nd Notice	0	0.00
Final Notice	0	0.00
Forced Abatement	0	0.00
Annual Mailers	0	0.00
Homeowner Meeting	0	0.00
WUI	0	0.00
TOTAL	0	0.00
GRADING -All Staff	Number of Inspections	Staff Hours
Plan Review	2	2.00
TOTAL	2	2.00

Rancho Santa Fe Fire Protection District
Fire Prevention Bureau Monthly Activity Summary
April 2016

ADMINISTRATIVE SERVICES- FIRE PREVENTION

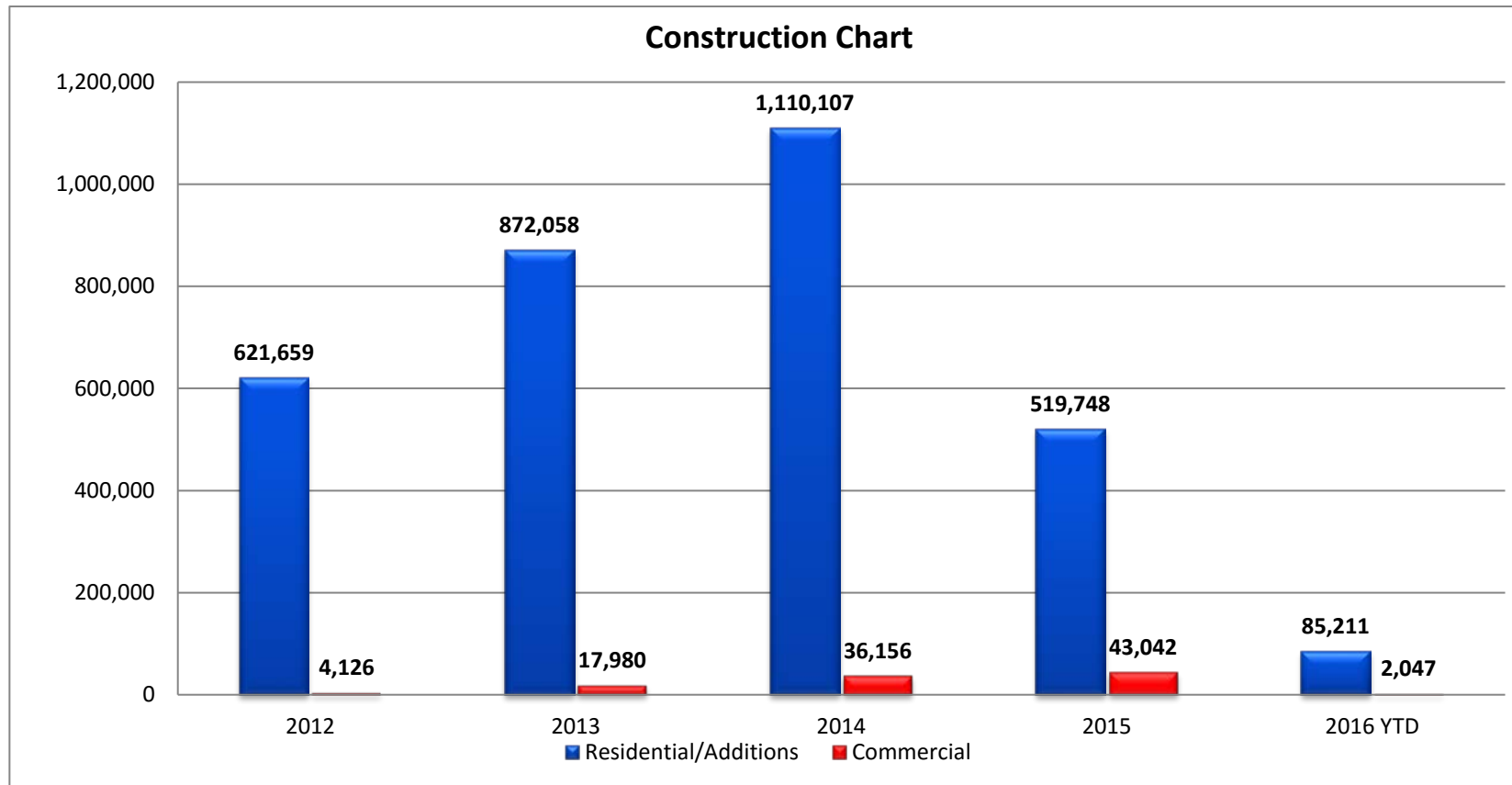
SPECIAL ACTIVITIES/EDUCATION-All Staff	Number	Staff Hours
GIS Mapping	0	0.00
CalFire Crew Projects	0	0.00
Hazmat	0	0.00
Emergency Response/Support	0	0.00
Training Classes	5	45.00
Conferences	0	0.00
Meetings	14	20.00
Other	0	0.00
Supervision	0	0.00
Fuels Reduction	0	0.00
TOTAL	19	65.00

FIRE PREVENTION -All Staff	Number	Staff Hours
Incoming Phone Calls	197	49.25
Correspondence	129	32.25
Consultations	43	43.00
Plan Review	51	51.00
Scanning	100	25.00
General Office	100	100.00
TOTAL	620	300.50

ADMINISTRATIVE SERVICES- OFFICE SUPPORT

OFFICE COORDINATOR-PREVENTION	Number	Staff Hours
Phone Calls (All Administrative Staff) Internal & External	745	37.25
Correspondence	249	62.25
Walk in/Counter (All Administrative Staff)	211	17.58
Knox Application Request	10	2.50
UPS Outgoing Shipments	2	0.17
Plan Accepted/Routed	51	12.75
Special Projects	6	6.00
Scanning Documents/Electronic Files	50	12.50
Meetings: Admin/Prevention/Admin Shift	5	2.50
Post Office Runs	1	0.50
Deposit runs and preparations	25	12.50
TOTAL	1,355	166.50

Rancho Santa Fe Fire Protection District
Fire Prevention Bureau Monthly Activity Summary
April 2016

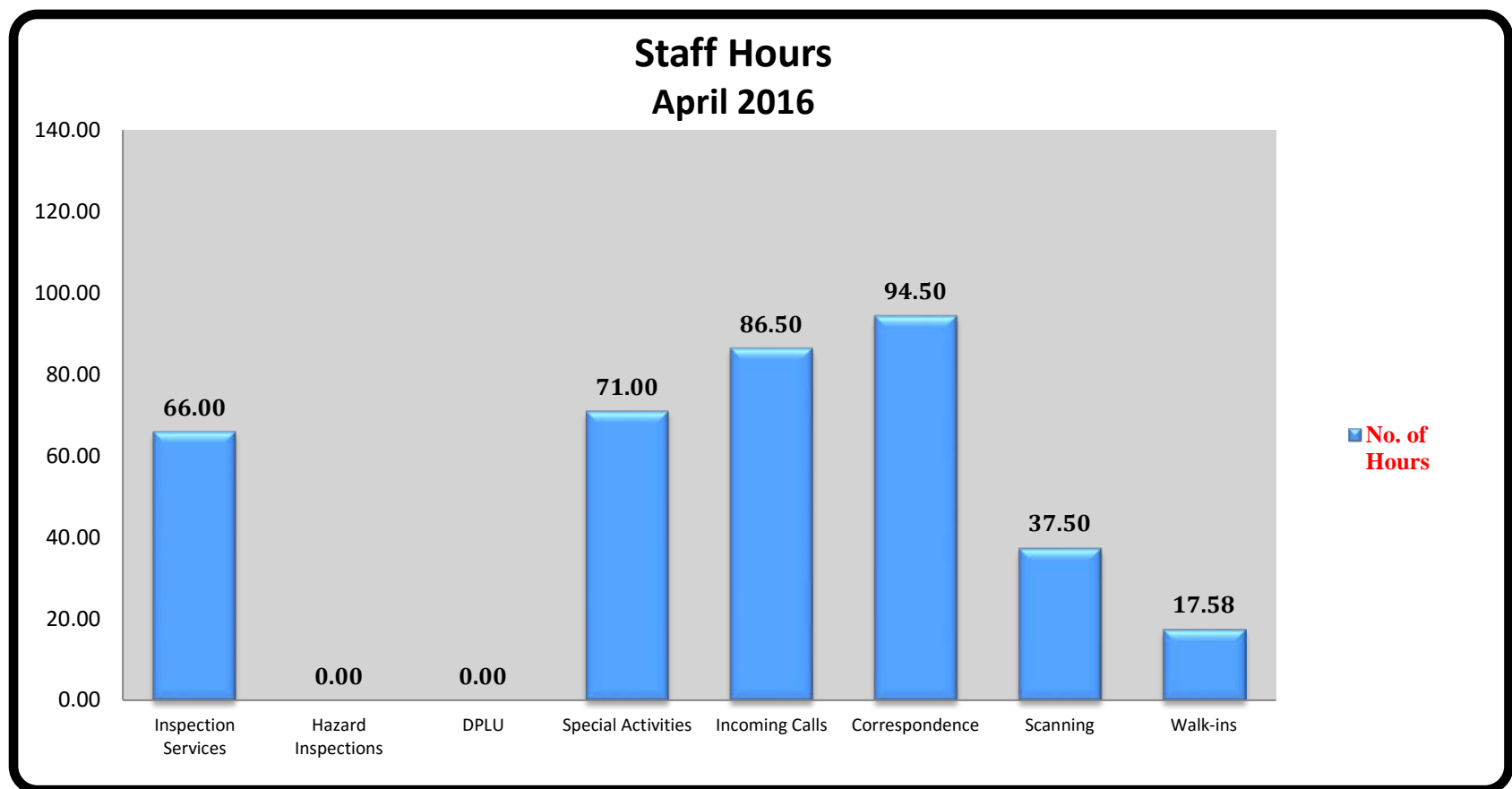
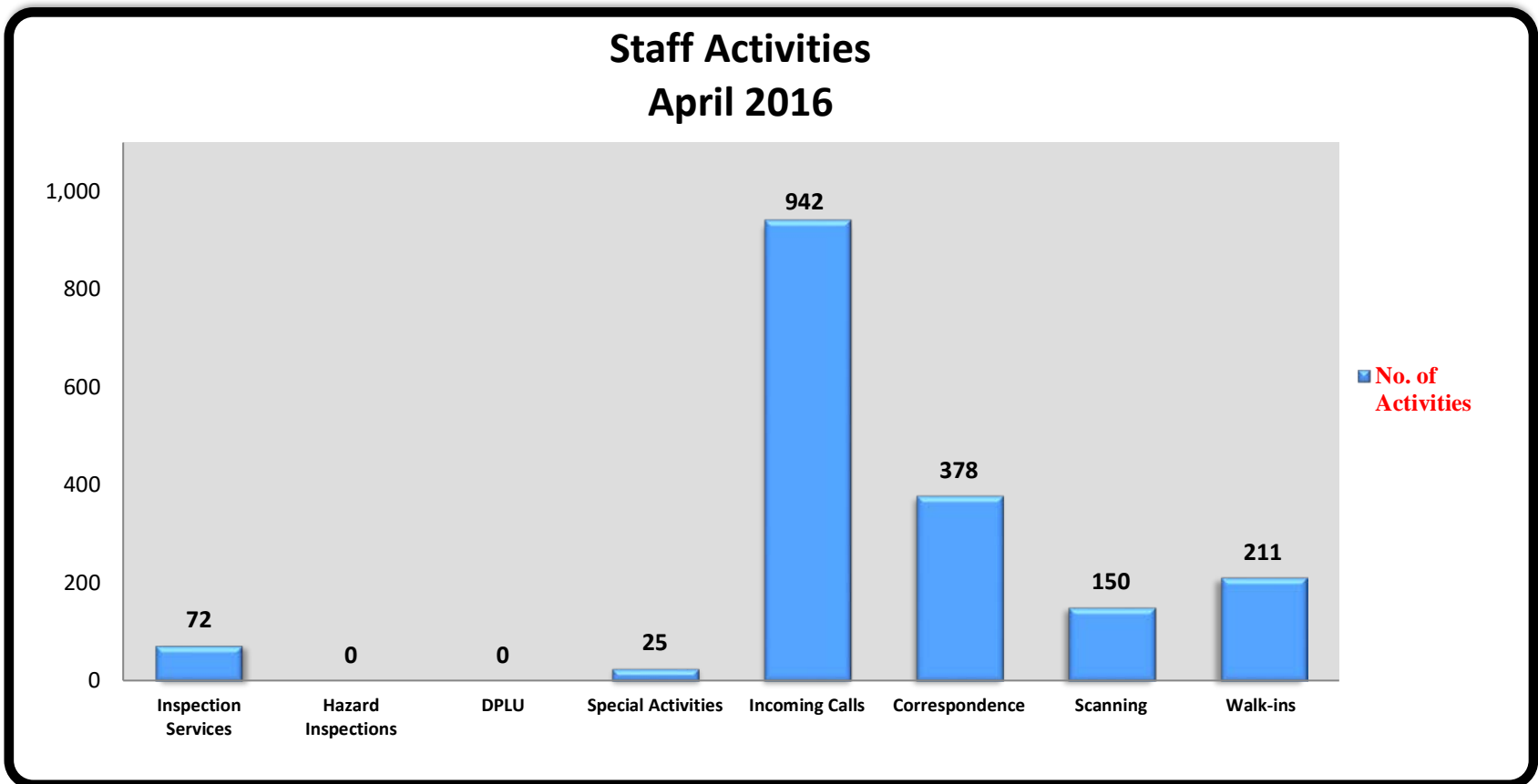


Year	Res/Add	Comm	Total
2012	621,659	4,126	625,785
2013	872,058	17,980	890,038
2014	1,110,107	36,156	1,146,263
2015	519,748	43,042	562,790
2015 YTD	172,569	1,290	173,859
2016 YTD	85,211	2,047	87,258

Comparison 2015/2016 Total Square Footage

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2015	75,647	30,699	21,404	21,404	51,601	46,651	89,960	20,996	20,996	70,781	47,216	35,865
2016	28,971	25,957	12,480	19,850								

Rancho Santa Fe Fire Protection District
Fire Prevention Bureau Monthly Activity Summary
April 2016



Comparison 2015/2016 Total Monthly Hours/Activities

2015	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Activities	1761	1490	2001	1985	1771	2474	2561	2189	2104	2145	1811	1727
Hours	423.45	301.18	411.9	416.92	323.8	486.28	444.52	422.95	387.67	414	402.48	356.05

2016	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Activities	1517	1448	1473	1778								
Hours	291.25	342.92	316.17	373.08								

NOTE: This summary report is not intended to capture all staff hours worked but only to illustrate activity.

Rancho Santa Fe Fire Protection District
Public Education Coordinator Monthly Activity Summary
April 2016

WEBSITE/INTERNET		Staff Hours
Update existing info & documents: <i>Updated home page, news, photos, etc</i>		3.0
		3.0
		0.0
Compile & write new information: <i>New Website Development</i>		10.0
		10.0
Social Media <i>Facebook "Fans" - 766</i> <i>Twitter "Followers" - 2189</i>		5.0
		2.0
		3.0
TOTAL		18.0
PUBLICATIONS		Staff Hours
Design/write brochures, flyers, etc: <i>Evacuation Brochures</i> <i>Desirable Plants Revamp</i>		4.0
		1.0
		3.0
TOTAL		4.0

Rancho Santa Fe Fire Protection District
Public Education Coordinator Monthly Activity Summary
April 2016

MEDIA RELATIONS		Staff Hours
On-scene Public Information Officer:		0.0
		0.0
Press Releases:		3.0
<i>Fire Fire of the Year</i>		1.0
<i>Wildfire Awareness Week release</i>		2.0
Other Articles/Stories/Interviews:		0.0
TOTAL		3.0

EDUCATIONAL PROGRAMS/PRESENTATIONS		Staff Hours
Children's Programs		15.0
<i>Science Discovery Day (Extinguishers and CPR)</i>		12.0
<i>FPW Pizza Party</i>		2.0
<i>Birthday Party</i>		1.0
Adult Programs:		3.0
<i>Fire Extinguisher Training at OMWD</i>		3.0
TOTAL		18.0

Rancho Santa Fe Fire Protection District
Public Education Coordinator Monthly Activity Summary
April 2016

EVENTS		Staff Hours
External/Community Events:		8.0
		2.0
		6.0
Internal Events:		2.0
		2.0
		0.0
TOTAL		10.0
CONTINUING EDUCATION		Staff Hours
Training Classes:		0.0
Conferences:		0.0
Meetings:		5.0
	<i>Staff meetings</i>	3.0
	<i>EFF Meeting</i>	1.0
	<i>Website Meetings</i>	1.0
TOTAL		5.0
CLERICAL		Staff Hours
Prevention-related:		42.0
	<i>Mailbox, email inbox, phone calls, news clips, etc.</i>	38.0
	<i>Phone Calls</i>	4.0
Non-prevention/non-minute related:		17.0
TOTAL		59.0
TOTAL HOURS		117.0

Captain Drew Johnson
P. O. Box 2628
Rancho Santa Fe, CA. 92067
Captain_drew@reagan.com
756-0293

April 20, 2016

Chief Tony Michel
Fire Chief, Rancho Santa Fe
PO Box 410
Rancho Santa Fe, CA. 92067

Dear Chief Michel;

As a 27+ year resident of Rancho Santa Fe, I would like to take this opportunity to give some well-earned kudos and words of appreciation to the men of your department!

Shortly after midnight on the morning of December 19th, I awoke, from a sound sleep, with some serious chest pains. Having had friends and acquaintances that experienced similar circumstances, I immediately assumed I was having a heart attack.

I asked my wife to call 911 and started trying to get dressed. To our complete surprise, I had just laid back in the recliner in our family room, when the ambulance, a large fire truck and an auxiliary vehicle pulled into our driveway.

It had been LESS than 10 minutes from my wife placing the 911 call!!! In a subsequent conversation with Captain Jordan, who had been one of the responders that morning, I learned that the 911 Operator had woke the crew at Station #1, from a sound sleep and they STILL pulled into our driveway less than 10 minutes after my wife made the call!!

The guys were full of hustle and in short order, they were inside, taking my “vitals” and reassuring my wife that they would get me where I needed to go. One guy shoved something in my mouth and said; “There’s 6 Children’s Aspirin, CHEW! Having spent 30 years in the Navy, I know how to follow orders, especially, when the guy giving them is “looking out” for me.

In no time, they had me strapped into the gurney and into the ambulance and on our way to Scripps Encinitas. I am not going to speculate; as it is quite certain that their prompt, professional actions saved my life that morning.

The doctors at Scripps Encinitas, after some ‘tests’, figured that what I “had going on” was more than they could deal with there and had me taken down to Scripps La Jolla, where I underwent a quadruple bypass operation.

With several post-op complications (lungs, kidneys), I spent 31 days in a semi-comatose condition in the ICU at Scripps and was then transferred to the Rehab facility on Santa Fe Dr., in Encinitas, where I spent 6 weeks, learning how to walk again.

After finally getting home, in mid-March, I found the energy to call the Fire Department and told the story to the lady who answered. She looked up the “records” for that morning and later that afternoon, Captain Marshall Jordan called, to tell me that he had been on that call and gave me the names of the others, who responded to our home:

Joe Carter
Brian Salame
Kyle Carranza

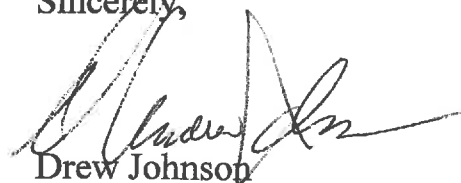
For the life of me (literally) I would never recognize any of these guys, if I passed them on the street. But, I DO owe them a DEEP debt of gratitude for their coolness and professionalism, something I well understand, having been a Naval Aviator and Airline Pilot.

I have gone by Station #1 a couple of times, on my way to the Post Office, the last week, since my Cardiologist has cleared me to drive again, but, it seems these guys are REALLY busy. Both times the crew was “out on call”, so, I decided to take a moment to drop you a line to let you know what a great group of people you have working for you!

We pay a LOT of taxes out here, as I am sure you know, but you folks –and what you “do”, are most certainly worth it!!

I thank you .. my family thanks you, for a new lease on life!

Sincerely,

A handwritten signature in black ink, appearing to read 'Drew Johnson', written over a horizontal line.

Drew Johnson
FedEx - Retired
US Navy Reserves - Retired



April 27, 2016

Chief Tony Michel
Rancho Santa Fe FPD
P.O. Box 410
Rancho Santa Fe, CA 92067

Dear Chief Michel,

On behalf of the Fire Fighters Advisory Council to the Burn Institute, I would like to thank you for your participation in the 17th Annual **“Fill the Boot for the Burn Institute”** Firefighter Boot Drive. We are both honored and proud to see our local fire service dedicating their valuable time to this cause. Thank you for your commitment to protecting and improving your community!

All proceeds collected during this drive will help fund fire and burn prevention programs, as well as crucial burn survivor support services, such as *Camp Beyond the Scars* – a therapeutic summer camp for burn-injured children. Your participation in this event greatly assists the Burn Institute in its mission to protect the community and improve the lives of burn survivors throughout the county.

And starting this year, the Burn Institute proudly establishes the Red Line of Courage Fund to provide support services to local firefighters who sustain a burn injury while on duty. The Red Line of Courage Fund is designed to supplement those services already in place for professional firefighters and to make available resources for the more immediate and long-term needs that other programs do not offer.

Again thank you for your support, to learn more about Burn Institute or other ways you can get involved with the organization, please visit www.burninstitute.org.

Best Regards,

Tom Piranio
President, FFACBI

STAFF REPORT

NO. FY16-09

TO: BOARD OF DIRECTORS
TONY MICHEL, FIRE CHIEF
FROM: CHRIS GALINDO, BATTALION CHIEF
SUBJECT: SALE OF SURPLUS PROPERTY
DATE: MAY 13, 2016



RECOMMENDATION

Staff recommends that vehicle 0382 be sold to the highest bidder in the County of San Diego Public auction in August 2016 in Ramona, California, by TNT Auctioneers.

BACKGROUND

During this fiscal year 2015/16, the district purchased a new 2016 Ford Explorer with the intent that this vehicle would eventually replace one of the districts older staff vehicles when it reaches its useful life due to high mileage or high repair and maintenance costs.

CURRENT SITUATION

Staff Vehicle 0382 is a 2003 Ford Explorer and currently assigned to Fire Prevention. This vehicle is 13 years old and has mechanical problems where the repair costs exceed the value of the vehicle

Staff recommends this vehicle be declared surplus equipment and sent to County auction for sale. This is the District's standard procedure to dispose of surplus property

STAFF REPORT

NO. 16-10

TO: BOARD OF DIRECTORS
TONY MICHEL, FIRE CHIEF
FROM: KARLENA RANNALS, ADMINISTRATIVE MANAGER
SUBJECT: GANN LIMIT COMPLIANCE
DATE: MAY 13, 2016



Pursuant to Government Code §7901, special districts may annually choose one of the following by a recorded vote of the governing body:

1. Cost of Living:
 - a. the change in California per capita personal income; or
 - b. the percentage change in the jurisdiction's assessed valuation, which is attributable to nonresidential new construction.
2. Population:
 - a. the change in population within the county;
 - b. the change in population within the unincorporated area of the county;
 - c. the use of specific formula calculations or estimates, permitted for mixed incorporated/unincorporated areas of special districts and/or special districts serving more than one county; or

Each year special districts should perform necessary calculations to determine if year-end proceeds of taxes subject to the limit have exceeded the limit. Preliminary calculations have been made for all revenue received to determine whether this district complies with the appropriations limits established for the current fiscal year. Preliminary calculations show that the district will comply with the appropriation limit.

The following recommendation is submitted for your consideration and/or action:

1. To select the change in California per capital personal income (5.37%) for the Cost of Living Factor and the change in population within San Diego County average (.78%). (A copy of the State of California Department of Finance Price & Population Data for Local Jurisdictions is attached. *The District population provided by SANDAG is also included*)
2. The Board may choose to submit population documentation to State Department of Finance Demographic Research Unit for certification by June 1, 2016. Note: there may be a charge by the State for this option. If this option is selected, the District can modify the Gann Limit after supporting documentation is received from the Department of Finance.

STAFF REPORT

NO. 16-11

TO: BOARD OF DIRECTORS
FROM: TONY MICHEL, FIRE CHIEF
SUBJECT: RANCHO SANTA FE ASSOCIATION LEASE AGREEMENT
DATE: MAY 13, 2016



RECOMMENDATION

Staff recommends the Board of Directors approve the Amendment No. 2 of the lease agreement between the Rancho Santa Fe Association (RSFA) and the Fire District as submitted and authorize the fire chief to execute the amendment.

BACKGROUND

In May 2011, the Fire District entered into a tenant lease agreement with the RSFA for a portion of the first story of the building at 16936 El Fuego. The lease agreement is a five (5) year term with five (5), five (5) year options to extend. The lease has a set annual rent adjustment of 3% for the term after the base rate is established. In 2011, the initial base rent for the lease was established at \$6,480.

During the first year of each option period to extend the lease, the base rent needs to be determined for the next option term. In the lease agreement, the base rent is determined by the two parties mutually agreeing to the base rent or if no mutual agreement can be reached within 30 days, a qualified MAI real estate appraiser must be appointed.

CURRENT SITUATION

The RSFA have requested to exercise their first option in the lease. This request requires that the base rent be established for the new option period. The Fire Chief and RSFA Staff have met and are proposing a new base rent be established at \$7,512.10 for this next option period. All other terms, provisions and conditions to the lease will remain in effect as in the original term.

Note that the agreement has been reviewed and has the concurrence of the District's legal counsel and legal counsel has made a few clarifying edits to the amendment regarding the "Antenna Space Lease" agreement dated May 1, 2015.

AMENDMENT NO. 2 TO
STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE- GROSS

This AMENDMENT NO. 2 TO LEASE (this "**Amendment No.2**") is made as of the ____ day of April, 2016, by and between RANCHO SANTA FE FIRE PROTECTION DISTRICT, a Special District under the laws of the State of California as "**Lessor**" and RANCHO SANTA FE ASSOCIATION, a California non-profit corporation as "**Lessee**".

RECITALS

A. Lessor and Lessee previously entered into that certain STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE-GROSS with Addendum dated May 25, 2011 ("**Lease**") for Lessee's lease of office space from Lessor.

B. The Lease was thereafter amended by a 1st Amendment dated May 1, 2015 (erroneously referred to as 2nd Lease Addendum) to provide for Lessee's lease of additional space for the installation and use of two microwave antennas (the "**Antenna Space Lease**").

C. The parties now wish to (i) clarify the Lease and 1st Amendment dated May 1, 2015 (erroneously referred to as 2nd Lease Addendum) documents into this Amendment No. 2, and (ii) terminate the Antenna Space Lease effective May 31, 2016 and resume the lease of the Antenna Space under this Amendment No. 2.

D. All defined terms used herein but not defined herein shall have the meaning ascribed to such terms in the Lease.

E. Lessee has exercised its option to extend the Lease an additional five (5) year term subject to the terms of Paragraph 55 of the Lease.

F. Lessor and Lessee now desire to enter into this Amendment No. 2 to amend the Lease as hereinafter provided.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows, notwithstanding anything in the Lease to the contrary:

1. **Section 1.3.** Section 1.3 of the Lease is amended to provide that the Lease Term shall be extended five (5) years commencing June 1, 2016 and ending May 31, 2021 ("**First Extension Term**").

2. **Section 1.5.** Section 1.5 of the Lease is amended to provide that the Base Rent during the First Extension Term shall be \$7,512.10 per month commencing on June 1, 2016 plus \$175 per month for each month the "Antenna Space", as defined in paragraph 66, is in effect (see paragraph 67). The Base Rent during the First Extension Term of the Lease shall be subject to annual increases as set forth in Paragraph 50.

3. **Paragraphs 57-65.** Paragraphs 57-65 in the 1st Amendment dated May 1, 2015 (erroneously referred to as 2nd Lease Addendum) are hereby deleted. Lessor and Lessee agree that the Antenna Space Lease reflected in the 1st Amendment dated May 1, 2015 (erroneously referred to as 2nd Lease Addendum) is terminated as of May 31, 2016.

4. **Paragraphs 66-74.** New Paragraphs 66-74 are added as follows:

66. **Additional Leased Premises.** Lessor further leases to Lessee on a short term basis such minimal additional space required for the installation and use of two airFiber 24 GHz microwave antennas by Lessee ("**Antenna Space**"). Such Antenna Space shall be located in RSFFPD Fire

Station #1 consisting of attachments to the hose tower and a cabinet space for equipment. The installation, maintenance and removal of the antennas will be at no cost to the Lessor. One antenna will be aimed towards the administrative offices of the Rancho Santa Fe Association, and the other antenna will be aimed towards the Player's Clubhouse at the Rancho Santa Fe Golf Club. The antennas will provide a wireless connection for data transfers from the servers at the Rancho Santa Fe Association administrative office, to the servers at the Rancho Santa Fe Golf Club only.

67. Antenna Space Additional Rent. Lessee shall pay to Lessor for the Antenna Space \$175.00 per month. The additional rent shall include access to and use of electricity for the antennas.

68. Term of Antenna Space. The term of this short term lease of the Antenna Space shall be for a period of one (1) year commencing on June 1, 2016 and ending May 31, 2017.

69. Option to Renew Use of Antenna Space. Lessee has the option to extend this lease of the Antenna Space for one (1) addition year by giving Lessor written notice on or before April 1, 2017.

70. Operation. Lessee shall maintain the antennas and equipment in the Antenna Space in good working condition at all times. The use of the antennas shall in no manner interfere with the cell tower operations of Verizon located on the Property.

71. Insurance on the Antenna Space. Lessee shall maintain insurance on the Antenna Space and its use as set forth in Section 8 of the Lease.

72. Permits. Lessee shall obtain and maintain all necessary permits and approvals for the antennas in the Antenna Space.

73. Antenna Space Termination. Notwithstanding the term set forth in paragraphs 68 and 69 either party may terminate the lease of the Antenna Space (not the Lease) upon sixty (60) days written notice to the other party.

74. Site Restoration. Upon the termination of the lease of the Antenna Space Lessee shall within thirty (30) days of such termination remove the antennas and any related equipment from the Property and restore the property to its original condition including all electrical connections.

5. Conflict. In the event of any conflict between the Lease and this Amendment No. 2, this Amendment No. 2 shall prevail. Except to the extent herein modified, the Lease, as modified by this Amendment No. 2, shall continue in full force and effect.

6. Terms. Except as specifically provided in this Amendment No. 2 all capitalized terms shall have the same meaning as defined in the Lease.

7. Counterparts. This Amendment No. 2 may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

[Signatures on next page]

IN WITNESS WHEREOF, Landlord and Tenant have entered into this Amendment No. 2 as of the date first above written.

Lessor

RANCHO SANTA FE FIRE PROTECTION DISTRICT
a special district organized under the laws of the State of California

By: _____
Name: _____
Its: _____

Lessee

RANCHO SANTA FE ASSOCIATION
a California nonprofit corporation

By: _____
Name: _____
Its: _____



AIR COMMERCIAL REAL ESTATE ASSOCIATION STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE - GROSS

1. Basic Provisions ("Basic Provisions").

1.1 **Parties:** This Lease ("Lease"), dated for reference purposes only May 25, 2011

is made by and between Rancho Santa Fe Fire Protection District, a special district organized under the laws of the State of California

("Lessor")

and Rancho Santa Fe Association, a California nonprofit corporation

("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) **Premises:** That certain portion of the Project (as defined below), including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known by the street address of 16936 El Fuego, located in the City of Rancho Santa Fe, County of San Diego, State of California, with zip code 92067, as outlined on Exhibit A attached hereto ("Premises") and generally described as (describe briefly the nature of the Premises): Suite 100 on First floor approximately 2,700 square feet

In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to any utility raceways of the building containing the Premises ("Building") and to the Common Areas (as defined in Paragraph 2.7 below), but shall not have any rights to the roof, or exterior walls of the Building or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." (See also Paragraph 2)

1.2(b) **Parking:** zero unreserved vehicle parking spaces. (See also Paragraph 2.6)

1.3 **Term:** Five years and zero months ("Original Term") commencing June 1, 2011 ("Commencement Date") and ending May 31, 2016 ("Expiration Date"). (See also Paragraph 3)

1.4 **Early Possession:** not applicable ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** \$ 6,480.00 per month ("Base Rent"), payable on the First day of each month commencing July 1, 2011. (See also Paragraph 4)

☒ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 50

1.6 **Lessee's Share of Common Area Operating Expenses:** forty-two percent (42%) ("Lessee's Share"). Lessee's Share has been calculated by dividing the approximate square footage of the Premises by the approximate square footage of the Project. In the event that that size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification.

1.7 Base Rent and Other Monies Paid Upon Execution:

(a) **Base Rent:** \$ 0.00 for the period 0

(b) **Common Area Operating Expenses:** \$ 0.00 for the period 0

(c) **Security Deposit:** \$ 0.00 ("Security Deposit"). (See also Paragraph 5)

(d) **Other:** \$ 0.00 for 0

(e) **Total Due Upon Execution of this Lease:** \$ 0.00

1.8 **Agreed Use:** Administrative offices of the Rancho Santa Fe Patrol, a service of the Rancho Santa Fe Association and Rancho Santa Fe Association's related uses. Tenant and its employees shall have access and use of the Premises seven days a week, 24 hours a day. (See also Paragraph 6)

1.9 **Insuring Party.** Lessor is the "Insuring Party". (See also Paragraph 8)

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1.10 **Real Estate Brokers:** (See also Paragraph 15)

(a) **Representation:** The following real estate brokers (the "**Brokers**") and brokerage relationships exist in this transaction (check applicable boxes):

- ☐ none _____ represents Lessor exclusively ("**Lessor's Broker**");
☐ none _____ represents Lessee exclusively ("**Lessee's Broker**"); or
☐ _____ represents both Lessor and Lessee ("**Dual Agency**").

(b) ~~Payment to Brokers:~~ Upon execution and delivery of this Lease by both Parties, ~~Lessor shall pay to the Brokers - the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of _____ or _____ % of the total Base Rent for the brokerage services rendered by the Brokers).~~

1.11 ~~Guarantor.~~ The obligations of the Lessee under this Lease are to be guaranteed by _____ ("**Guarantor**"). (See also Paragraph 37)

1.12 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

- ☒ an Addendum consisting of Paragraphs 50 through 56 ;
☒ a site plan depicting the Premises;
☐ a site plan depicting the Project;
☒ a current set of the Rules and Regulations for the Project;
☐ a current set of the Rules and Regulations adopted by the owners' association;
☐ a Work Letter;
☐ other (specify): _____

2. **Premises.**

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of size set forth in this Lease, or that may have been used in calculating Rent, is an approximation which the Parties agree is reasonable and any payments based thereon are not subject to revision whether or not the actual size is more or less. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver that portion of the Premises contained within the Building ("Unit") to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("**Start Date**"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("**HVAC**"), loading doors, sump pumps, if any, and all other such elements in the Unit, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Unit does not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with such warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations, and/or bearing walls - see Paragraph 7).

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises and the Common Areas comply with the building codes that were in effect at the time that each such improvement, or portion thereof, was constructed, and also with all applicable laws, covenants or restrictions of record, regulations, and ordinances in effect on the Start Date ("**Applicable Requirements**"). Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Unit, Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("**Capital Expenditure**"), Lessor and Lessee shall allocate the cost of such work as follows:


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(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date that on which the Base Rent is due, an amount equal to 144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 Acknowledgements. Lessee acknowledges that: (a) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (b) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, and (c) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 Lessee as Prior Owner/Occupant. The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

~~**2.6 Vehicle Parking.** Lessee shall be entitled to use the number of Parking Spaces specified in Paragraph 1.2(b) on those portions of the Common Areas designated from time to time by Lessor for parking. Lessee shall not use more parking spaces than said number. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called "Permitted Size Vehicles." Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Paragraph 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Area without the prior written permission of Lessor. In addition:~~

~~(a) Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.~~

~~(b) Lessee shall not service or store any vehicles in the Common Areas.~~

~~(c) If Lessee permits or allows any of the prohibited activities described in this Paragraph 2.6, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.~~

2.7 Common Areas - Definition. The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Unit that are provided and designated by the Lessor from time to time for the general non-exclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 Common Areas - Lessee's Rights. Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be



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permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 **Common Areas - Rules and Regulations.** Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations ("**Rules and Regulations**") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the non-compliance with said Rules and Regulations by other tenants of the Project.

2.10 **Common Areas - Changes.** Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. **Term.**

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such early possession shall not affect the Expiration Date.

3.3 **Delay In Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession as agreed, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of the delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. Except as otherwise provided, if possession is not tendered to Lessee by the Start Date and Lessee does not terminate this Lease, as aforesaid, any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession of the Premises is not delivered within 4 months after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("**Rent**").

4.2 **Common Area Operating Expenses.** Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share (as specified in Paragraph 1.6) of all Common Area Operating Expenses, as hereinafter defined, during each calendar year of the term of this Lease, in accordance with the following provisions:

(a) The following costs relating to the ownership and operation of the Project are defined as "**Common Area Operating Expenses**" :

(i) Costs relating to the operation, repair and maintenance, in neat, clean, good order and condition, but not the replacement (see subparagraph (e)), of the following:



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(aa) The Common Areas and Common Area improvements, including ~~parking areas~~, loading and unloading areas, trash areas, ~~roadways, parkways, walkways, driveways~~, landscaped areas, ~~bumpers~~, irrigation systems, Common Area lighting facilities, ~~fences~~ and gates, elevators, roofs, and roof drainage systems. [see Paragraph 51 a]

(bb) Exterior signs and any tenant directories.

(cc) Any fire sprinkler systems.

(ii) The cost of water, gas, electricity and telephone to service the Common Areas ~~and any utilities not separately metered.~~

(iii) The cost of ~~trash disposal~~, pest control services, property management, security services, owner's association dues and fees, the cost to repaint the exterior of any structures and the cost of any environmental inspections.

(iv) Reserves set aside for maintenance and repair of Common Areas and Common Area equipment.

(v) Any increase above the Base Real Property Taxes (as defined in Paragraph 10). [see paragraph 51 b]

(vi) ~~Any "Insurance Cost Increase" (as defined in Paragraph 8).~~

(vii) Any deductible portion of an insured loss concerning the Building or the Common Areas.

(viii) Auditors', accountants' and attorneys' fees and costs related to the operation, maintenance, repair and replacement of the Project.

(ix) The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such capital improvement in any given month.

(x) The cost of any other services to be provided by Lessor that are stated elsewhere in this Lease to be a Common Area Operating Expense.

(b) Any Common Area Operating Expenses and Real Property Taxes that are specifically attributable to the Unit, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Unit, Building, or other building. However, any Common Area Operating Expenses and Real Property Taxes that are not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(c) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(a) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.

(d) Lessee's Share of Common Area Operating Expenses is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the annual Common Area Operating Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses incurred during the preceding year. If Lessee's payments during such year exceed Lessee's Share, Lessor shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of the statement.

(e) Common Area Operating Expenses shall not include the cost of replacing equipment or capital components such as the roof, foundations, exterior walls or Common Area capital improvements, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.

(f) Common Area Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or insurance proceeds.

4.3 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any statement or invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from



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Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. **Use.**

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the Building or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Project. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 **Hazardous Substances.**

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so



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agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which suffered as a direct result of Hazardous Substances on the Premises prior to Lessee taking possession or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee taking possession, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to such Requirements, without regard to whether said Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of written request therefor.

7. **Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.**

7.1 **Lessee's Obligations.**

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights but excluding any items which are the responsibility of Lessor pursuant to Paragraph 7.2. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.



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(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler and pressure vessels, and (iii) clarifiers. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (ie. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance but may prepay its obligation at any time.

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Common Area Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, Common Area fire alarm and/or smoke detection systems, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the Common Areas and all parts thereof, as well as providing the services for which there is a Common Area Operating Expense pursuant to Paragraph 4.2. Lessor shall not be obligated to paint the exterior or interior surfaces of exterior walls nor shall Lessor be obligated to maintain, repair or replace windows, doors or plate glass of the Premises. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 **Utility Installations; Trade Fixtures; Alterations.**

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration.**

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility



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Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. Insurance; Indemnity.

8.1 Payment of Premium Increases.

(a) As used herein, the term "**Insurance Cost Increase**" is defined as any increase in the actual cost of the insurance applicable to the Building and/or the Project and required to be carried by Lessor, pursuant to Paragraphs 8.2(b), 8.3(a) and 8.3(b), ("**Required Insurance**"), over and above the Base Premium, as hereinafter defined, calculated on an annual basis. Insurance Cost Increase shall include, but not be limited to, requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. The term Insurance Cost Increase shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. The "**Base Premium**" shall be the annual premium applicable to the 12 month period immediately preceding the Start Date. If, however, the Project was not insured for the entirety of such 12 month period, then the Base Premium shall be the lowest annual premium reasonably obtainable for the Required Insurance as of the Start Date, assuming the most nominal use possible of the Building. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$2,000,000 procured under Paragraph 8.2(b). [see Paragraph 51 c]

~~(b) Lessee shall pay any Insurance Cost Increase to Lessor pursuant to Paragraph 4.2. Premiums for policy periods commencing prior to, or extending beyond, the term of this Lease shall be prorated to coincide with the corresponding Start Date or Expiration Date.~~

8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "**insured contract**" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender),

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including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$1,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value Insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 **Lessee's Property; Business Interruption Insurance.**

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Lessee shall provide Lessor with written evidence that such insurance is in force.

~~(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils. -~~

(c) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies.** Insurance required herein shall be by companies duly licensed or admitted to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least A-, VI, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.


8.7 **Indemnity.** Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor and its Agents from Liability.** Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 **Failure to Provide Insurance.** Lessee acknowledges that any failure on its part to obtain or maintain the insurance required


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herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. **Damage or Destruction.**

9.1 **Definitions.**

(a) "**Premises Partial Damage**" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total. Notwithstanding the foregoing, Premises Partial Damage shall not include damage to windows, doors, and/or other similar items which Lessee has the responsibility to repair or replace pursuant to the provisions of Paragraph 7.1.

(b) "**Premises Total Destruction**" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) "**Insured Loss**" shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) "**Replacement Cost**" shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) "**Hazardous Substance Condition**" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.



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9.5 **Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies.**

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. **Real Property Taxes.**

10.1 **Definitions.**

(a) **"Real Property Taxes."** As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. The term "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, (ii) a change in the improvements thereon, and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

(b) **"Base Real Property Taxes."** As used herein, the term "Base Real Property Taxes" shall be the amount of Real Property Taxes, which are assessed against the Premises, Building, Project or Common Areas in the calendar year during which the Lease is executed. In calculating Real Property Taxes for any calendar year, the Real Property Taxes for any real estate tax year shall be included in the calculation of Real Property Taxes for such calendar year based upon the number of days which such calendar year and tax year have in common.

10.2 **Payment of Taxes.** Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be included in the calculation of Common Area Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 **Additional Improvements.** Common Area Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other tenants or by Lessor for the exclusive enjoyment of such other Tenants. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Common Area Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

10.4 **Joint Assessment.** If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned



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Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities and Services.** Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. Notwithstanding the provisions of Paragraph 4.2, if at any time in Lessor's sole judgment, Lessor determines that Lessee is using a disproportionate amount of water, electricity or other commonly metered utilities, or that Lessee is generating such a large volume of trash as to require an increase in the size of the trash receptacle and/or an increase in the number of times per month that it is emptied, then Lessor may increase Lessee's Base Rent by an amount equal to such increased costs. There shall be no abatement of Rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. **Assignment and Subletting.**

12.1 **Lessor's Consent Required.**

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ie. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefore to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every

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term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default; Breach. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material data safety sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged


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within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee'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 the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover damages under Paragraph 12. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**", shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then



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notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest ("Interest") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the floor area of the Unit, or more than 25% of the parking spaces is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

~~15.1 Additional Commission. In addition to the payments owed pursuant to Paragraph 1.10 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the schedule of the Brokers in effect at the time of the execution of this Lease.~~

~~15.2 Assumption of Obligations. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.~~

15.3 Representations and Indemnities of Broker Relationships. Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "Responding Party") shall within 10 days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Estoppel Certificate" form published by the AIR Commercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably


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requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. **Notices.**

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.**

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.



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(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. Disclosures Regarding The Nature of a Real Estate Agency Relationship.

(a) ~~When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:~~

~~(i) **Lessor's Agent.** A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: *To the Lessor:* A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. *To the Lessee and the Lessor:* a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.~~

~~(ii) **Lessee's Agent.** An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. *To the Lessee:* A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. *To the Lessee and the Lessor:* a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.~~

~~(iii) **Agent Representing Both Lessor and Lessee.** A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual-agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. b. Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.~~

~~(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.~~

~~(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.~~

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions; Construction of Agreement. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. Subordination; Attornment; Non-Disturbance.

30.1 Subordination. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the



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documentation or recordation thereof.

30.2 Attornment. In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 Non-Disturbance. With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 Self-Executing. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. Attorneys' Fees. If any Party ~~or Broker~~ brings an action or proceeding involving the Premises whether founded in tort, contract or equity, ~~or~~ to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party ~~or Broker~~ who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party ~~or Broker~~ of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. Lessor's Access; Showing Premises; Repairs. Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. Auctions. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. Signs. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or ~~lesser~~ estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination



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made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. Guarantor.

37.1 Execution. The Guarantors, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association,.

37.2 Default. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. Options. If Lessee is granted an option, as defined below, then the following provisions shall apply.

39.1 Definition. "Option" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 Options Personal To Original Lessee. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 Multiple Options. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 Effect of Default on Options.

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. Security Measures. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

41. Reservations. Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, and (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights.

42. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. Authority.; Multiple Parties; Execution.

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.


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45. **Offer.** Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. **Waiver of Jury Trial.** THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

48. **Mediation and Arbitration of Disputes.** An Addendum requiring the Mediation and/or the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☐ is not attached to this Lease.

49. **Americans with Disabilities Act.** Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: Rancho Santa Fe, CA

On: June 2, 2011

Executed: Rancho Santa Fe, CA

On: June 2, 2011

By LESSOR:

Rancho Santa Fe Fire Protection District

By LESSEE:

Rancho Santa Fe Association

By: James H. Ashcraft

Name Printed: JAMES H. ASHCRAFT

Title: BOARD PRESIDENT

By: Peter B. Smith

Name Printed: PETER B. SMITH

Title: MANAGER

By: _____

Name Printed: _____

Title: _____

By: _____

Name Printed: _____

Title: _____

Address: P.O. Box 410

Rancho Santa Fe, CA 92067

Address: P.O. Box A

Rancho Santa Fe, CA 92067

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Telephone:() Telephone:()
Facsimile:() Facsimile:()
Federal ID No. Federal ID No.

BROKER:	BROKER:
not applicable	not applicable
Att:	Att:
Title:	Title:
Address:	Address:
Telephone:()	Telephone:()
Facsimile:()	Facsimile:()
Federal ID No.	Federal ID No.

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 800 W 6th Street, Suite 800, Los Angeles, CA 90017. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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ADDENDUM

Date: May 25, 2011

By and Between (Lessor) Rancho Santa Fe Fire Protection District
(Lessee) Rancho Santa Fe Association

Address of Premises: 16936 El Fuego
Rancho Santa Fe, CA 92067

Paragraph 50-56

In the event of any conflict between the provisions of this Addendum and the printed provisions of the Lease, this Addendum shall control.

50. Base Rent Increase. The amount of the Base Rent set forth in Paragraph 1.5 shall be adjusted as of the end of each "lease year" during the initial term, by one hundred three percent (103%) of the Base Rent from the preceding Lease Year. The term "lease year" shall mean a twelve (12) month period beginning on the Commencement Date.

51. Additional Terms.

51a. Paragraph 4.2(a)(1)(aa) is modified to add "but excluding parking areas, roadways, parkways, driveways and bumpers."

51b. See Paragraph 56 of this Addendum.

51c. Any Insurance Cost Increase shall not be a Common Area Operating Expense, but rather shall be the responsibility of, and paid by, Lessor.

52. Common Area Expense Cap. Notwithstanding the provisions of Section 4.2, the amount of Common Area Operating Expenses payable by Lessee shall not exceed 20¢ a square foot per month for the initial term of the Lease. At the beginning of each Extension Term (see paragraph 55) the 20¢ per square foot ("Base Cap") shall be increased by an amount equal to the then Base Cap multiplied by the percentage increase, if any, between the Consumer Price Index (All Urban Consumers Los Angeles-Riverside-Orange County) published and in effect as of month prior to the Lease Commencement Date falls (May 2011) and the Consumer Price Index published and in effect in May of the year of the date of adjustment.

If the Consumer Price Index is discontinued or revised during the Term or the Extension Terms of this Lease, such other government index or computation with which it is results as would be obtained if the

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Consumer Price Index had not been discontinued or revised.

53. Parking. Lessee has reached arrangements with the Rancho Santa Fe School District for all of its own parking requirements. Lessor is providing no parking for Lessee at the Office Building Project.

54. Utilities and Taxes. Lessee shall pay one-third (1/3) of the cost for trash disposal and one-third (1/3) of the cost of all utilities including water, sewer and other public mandated services to the Office Building Project not otherwise metered and paid directly by Lessee.

55. OPTION TO RENEW

55.1. Extension Terms. Lessee is granted five (5) options to extend the term of this Lease each, an "Extension Term" and collectively the "Extension Terms". The first Extension Term shall be for five years, commencing June 1, 2016 and ending May 31, 2021. The second Extension Term shall be for five years, commencing June 1, 2021 and ending May 31, 2026. The third Extension Term shall be for five years, commencing June 1, 2026 and ending May 31, 2031. The fourth Extension Term shall be for five years, commencing June 1, 2031 and ending May 31, 2036. The fifth Extension Term shall be for four years and 11 months, commencing June 1, 2036 and ending April 30, 2041. Each of Lessee's options shall be deemed automatically exercised by Lessee, and each Extension Term shall automatically begin without any further action or notice by Lessee, UNLESS Lessee gives Lessor written notice of its election not to exercise an option, which Lessee must give (if at all) no earlier than 270 days nor later than 150 days before the end of the applicable term, TIME BEING OF THE ESSENCE with respect to the giving of such written notice of non-exercise of the option by Lessee. The extensions of the term of this Lease and the commencement of the Extension Terms is conditioned on this Lease being in full force and effect and Lessee not in default (after Lessee's receipt of notice and the expiration of the applicable cure period) of any of the covenant's agreements, terms, provisions and conditions of this Lease at the commencement of each applicable Extension Term.

55.2. Rent During Each Extension Term. All of the covenants, agreements, terms, provisions and conditions of this Lease, insofar as applicable and relevant, shall apply during the Extension Terms except that Lessee shall pay to Lessor as Base Rent for the first year of each Extension Term an amount equal to the then "prevailing market rental" as herein determined. For the purposes hereof, the "prevailing market rental" shall be determined as follows: During the thirty (30) day period commencing one hundred forty (140) days before the commencement of the applicable Extension Term, Lessor and Lessee shall attempt to determine the annual prevailing market rental (hereinafter referred to as the "Annual Rental") of the Premises for such Extension Term. If Lessor and Lessee are unable during such period to determine the Annual Rental, they shall no later than One hundred (100) days before the commencement of the applicable Extension Term each appoint a qualified MAI real estate appraiser and the appraisers so appointed shall jointly attempt to determine the Annual Rental. If the appraisers are unable, within fifteen (15) days, to determine the Annual Rental, the appraisers shall jointly appoint a third appraiser. The three appraisers by a majority decision, rendered no later than (20) twenty days before the commencement of the applicable Extension Term shall determine the Annual Rental. In making a determination of the Annual Rental, the appraisers shall take into consideration (1) the rental value of comparable space in the immediate rental locale of the Premises (i.e. Rancho Santa Fe) and used for purposes similar to those of Lessee (i.e. office use); (2) Lessee is providing its


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own parking at its own cost and Lessor is providing Lessee with no parking rights and (3) rent concessions, if any, provided to other Lessees leasing comparable properties at such time. Each appraiser appointed hereunder shall be a MAI real estate appraiser in the State of California having at least ten (10) years experience in the appraisal of rental value of similar commercial office properties. The determination of the Annual Rental shall be given by the appraisers, in writing, to each Lessor and Lessee. Lessor and Lessee shall each pay separately the costs and expenses of the appraiser appointed by them and the parties shall jointly pay the costs and expenses of the third appraiser, if appointed. The Base Rent for the first year of an Extension Term may be more than, or less than, the Base Rent for the preceding year of the Lease. After the first year of each Extension Term, the Base Rent shall adjust in the same manner as the Base Rent adjusts during the initial term; that is, Paragraphs 50 of this Lease shall be used to determine the Base Rent for the remainder of each Extension Term.

56. Method of Calculating Lessee's Share of Increases in Base Real Property Taxes. Lessee's share of increases above Base Real Property Taxes shall be equal to the amount of the increase multiplied by a fraction, the numerator of which is 2,700 and the denominator of which is the total number of square feet in the Building occupied by tenants or users who are subject to Real Property Taxes. Thus, for example, if Lessee is the sole tenant or user in the Building subject to Real Property Taxes, Lessee shall be responsible for 100% of the increase above Base Real Property Taxes.


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STAFF REPORT

NO. FY16-12

TO: BOARD OF DIRECTORS
TONY MICHEL, FIRE CHIEF

FROM: CHRIS GALINDO, BATTALION CHIEF

SUBJECT: APPARATUS PURCHASE

DATE: MAY 13, 2016



The following budget action is requested for approval and/or modification:

Description	FY16 Budget	Funding Request	Funding Source	Action Requested
Purchase: (1) Type I Fire Apparatus		\$614,424.54	Capital Replacement	Approve Purchase
JUSTIFICATION for Funding Request: Staff requests funding to purchase (1) new Type I Fire Apparatus to replace E2614/0312. E2614/0312 will be placed into ready reserve status. Payment for this apparatus will be due upon its delivery in early FY18. This request is also contingent on the district's approval of the final specification for its 2015 unit which is currently on order with Spartan ERV and EVG, Inc.				

RECOMMENDATION:

Staff recommends authorizing the Fire Chief to enter into a formal contract with Spartan ERV for the purchase of one (1) Type I fire apparatus at a total cost not to exceed \$614,424.54

BACKGROUND:

In April 2013, the District awarded Spartan Emergency Response Vehicles (ERV) a competitively bid contract for the design and manufacture for one (1) ICS Type I Fire Apparatus. The original bid results in 2013 were as follows:

Manufacturer	Base Price	Extended w/ sales tax @ 8%
1. Spartan ERV	\$541,390	\$584,702
2. KME	\$556,274	\$600,776
3. Rosenbauer	\$578,685	\$624,980

The original Request for Proposal included a five (5) year additional purchase provision with price increases tied to Producers Price Index for transportation equipment over 14,000 lbs. GVW.

STAFF REPORT 16-12

The district has been very satisfied with the engine that was delivered in 2014 and, as a result, exercised the additional purchase provision and ordered a second Type 1 Fire Apparatus from Spartan ERV in August 2015. This unit is currently under construction by Spartan and is expected to be delivered within a few months.

In March 2016, staff presented to the Board its 2016 Apparatus Replacement Plan which included a ten (10) year capital replacement budget that identified front-line fire apparatus which are scheduled for replacement within the next ten (10) years. Based on this replacement plan, E2614/0312 is the next unit scheduled for replacement in 2017.

The district would like to, once again, exercise the additional purchase provision and procure it's third Type 1 Fire Apparatus off of the 2013 agreement.

Under the agreement, the cost of the new unit is identified below:

	2014 Purchase Price (Bid 12/2012)	2015 Pricing w/ desired options (PPI @5.8%)	2015 Negotiated Pricing w/ desired options	2016 Pricing w/ omission of 6" cab extension	Percent decrease from previous purchase
Bid Price	\$541,390	\$581,973	\$571,509	\$568,763	
Sales Tax	\$43,312	\$628,531	\$45,721	\$45,501.04	
CA Fees		\$161	\$161	\$160.00	
Sub Total	\$584,702		\$617,391	\$614,424.54	
Liquidated Damages	(\$27,152)	\$628,691.84			
Change Order (2014)	\$9,256				
Total Cost	\$566,806	\$628,692	\$617,391	\$614,425	-0.480%

The 2016 purchase will include features that are similar to the 2015 fire apparatus which is currently on order with Spartan ERV. The only modification to the 2015 fire apparatus specification is the omission of the 6" cab extension which will reduce the purchase price by \$2,966.

The Offer and Purchase Agreement (Attachment 1) has been reviewed and approved by the District's legal counsel.

ATTACHMENTS:

1. EVG Offer and Purchase Agreement (dated March 4, 2016)

Agreement Regarding O & M Contributions Under the Fire Service Agreement

This Agreement Regarding O & M Contributions Under the Fire Service Agreement (“**Agreement**”) is made and entered into as of _____, 2016 (“**Effective Date**”), by and between the RANCHO SANTA FE FIRE PROTECTION DISTRICT, a fire district duly organized under the Fire Protection District Law of 1987 (“**District**”); CIELO HOMEOWNERS ASSOCIATION, a California corporation (“**HOA**”) and RANCHO CIELO ESTATES, LTD., a California corporation (“**Developer**”). HOA and Developer shall sometimes be collectively be referred to as “**Cielo Parties**.”

NOW THEREFORE, it is agreed as follows:

1. Recitals

1.1. Upon execution of the Fire Services Agreement (defined below), Rancho Cielo Development Company (“**RCC**”) owned all of that certain real property defined in the Fire Services Agreement as the “**RCC Property**.” Developer is successor in interest to RCC.

1.2. Pursuant to an Assignment and Assumption Agreement dated March 6, 2013, Developer assigned a 9.4% interest in its rights and responsibilities under the Fire Services Agreement to CWV Cielo 41, LLC, a California limited liability company (“**Cal West**”). Developer still owns a portion of the Rancho Cielo Property, and has conveyed other portions to members of the home-buying public, a homeowners association, or other third parties.

1.3. HOA is the homeowners association for homeowners in the Rancho Cielo Property subject to certain Covenants, Conditions & Restrictions dated June 20, 2000 and recorded with the San Diego County Recorder’s Office on June 23, 2000 (“**CC&R**”).

1.4. The District and RCC are parties to that certain Amended and Restated Agreement for Provision of Fire Protection and Fire Fighting Services and Facilities and Emergency Medical Response to Rancho Cielo dated November 20, 1998 and recorded with the San Diego County Recorder’s Office on January 29, 1999 [1999-0053393] (“**Fire Services Agreement**”). Developer is successor in interest to RCC under the Fire Services Agreement.

1.5. Section 13 of the Fire Services Agreement requires RCC to make certain contributions to the ongoing operational and maintenance costs of the Rancho Cielo Fire Station (the “**O&M**”). The amount of the required contribution less the amount of credit due is sometimes referred to in this Agreement as the “**O&M Obligation**.” A dispute has arisen among the District and the Cielo Parties regarding the calculation of the O&M Obligation under the Fire Services Agreement.

1.6. By this Agreement: (a) the Cielo Parties and the District agree upon the amount of the past, current and future O&M Obligation of the Cielo Parties under the Fire Services Agreement; and (b) the District acknowledges that payment of the Settlement Sum defined below constitutes a full and final satisfaction of any and all of Cielo Parties’ payment obligations under the Fire Services Agreement.

2. O & M Contribution. The Cielo Parties and the District hereby agree that the sum of One Million Three Hundred Thousand Dollars (\$1,300,000.00), paid on the terms set forth in Section 3, below (the “**Settlement Sum**”), is the amount of good and sufficient payment to satisfy any and all past, current and future obligations of the Cielo Parties under the Fire Services Agreement, including, but not limited to, payment of the O&M Obligation to the District under the Fire Services Agreement. The Developer’s respective share of the Settlement Sum is \$424,544. The HOA’s respective share of the Settlement Sum is \$875,456.

3. Payment. The Settlement Sum shall be paid over eight years as follows: (a) on or before June 1, 2016, the Developer and the HOA will deliver to the District checks in the amounts of \$53,068 and \$109,432, respectively; and (b) Developer and HOA will deliver to the District checks in the amounts of \$53,068 and \$109,432, respectively, due on the 1st day of June each year beginning in 2017 until the Settlement Sum is paid in full (collectively referred to as “**Contribution Payments**”). Developer and the HOA shall only be responsible for the payment of their individual respective share of the Settlement Sum and Contribution Payments and such payments by Developer or HOA shall satisfy in full their respective obligations under this Agreement. Upon full payment of the Settlement Sum, each and every O&M Obligation (and any and all other payment obligations) of the Cielo Parties under the Fire Services Agreement are deemed fully satisfied and extinguished. Any further apportionment of the Settlement Sum and the Contribution Payments between Developer and HOA shall be governed by Section 17.6 of the Fire Services Agreement.

4. Non Payment. In the event Developer or HOA fails to pay a Contribution Payment within 30 days of the due date, interest will accrue on such payment at the annual rate of five percent (5%) from the date due until paid. This Section 4 supersedes Section 16 of the Fire Services Agreement.

5. Miscellaneous Provisions.

5.1. Venue. In the event of any legal or equitable proceeding to enforce or interpret the terms or conditions of this Agreement, the parties agree that venue shall lie only in the federal or state courts in the County of San Diego, State of California.

5.2. Modification. This Agreement may not be altered in whole or in part except by a written modification approved by the governing board of the District and executed by all the parties to this Agreement.

5.3. Attorneys’ Fees. In the event any action or proceeding is initiated to challenge, invalidate, enforce, or interpret any of the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees and litigation fees (including expert witness fees), costs, and expenses in addition to any other relief granted by law. This provision shall apply to this entire Agreement. Subject to the foregoing, the parties hereto shall bear their own attorneys’ fees and costs incurred in connection with all matters, including any disputes, preceding execution of this Agreement.

5.4. Entire Agreement. This Agreement, together with the Fire Services Agreement, contains all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. In the event of a conflict between the terms of the Fire Services Agreement and this Agreement, the terms of this Agreement shall supersede the terms of the Fire Services Agreement. Any prior correspondence, memoranda, or agreements, whether or not such correspondence, memoranda, or agreements are in conflict with this Agreement, are intended to be replaced in total by this Agreement. The District shall continue to honor its obligations under the Fire Services Agreement. Each party to this Agreement warrants and represents that no representative of any party to this Agreement has made any oral representations or oral agreements not contained in this Agreement. Each party to this Agreement further warrants and represents that it has not relied upon any oral statements or promises made by any representative of any party to this Agreement in executing this Agreement.

5.5. Binding Effect. Subject to the provisions of Section 17.6 of the Fire Services Agreement, this Agreement shall inure to the benefit of and be binding upon the parties and their respective purchasers, successors, heirs, and assigns.

5.6. Unenforceable Provisions. The terms, conditions, and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable.

5.7. Representation of Capacity to Contract. The parties to this Agreement each hereby warrant and represent that it has legal authority and capacity and direction from its principal to enter into this Agreement, and that all resolutions or other actions have been taken so as to enable it to enter into this Agreement.

5.8. Opportunity to be Represented by Independent Counsel. Each of the parties to this Agreement warrant and represent that it has been advised to consult independent legal counsel of its own choosing and has had a reasonable opportunity to do so prior to executing this Agreement.

5.9. Good Faith and Cooperation. In interpreting and applying the provisions of this Agreement, the parties agree to act in good faith and cooperate with each other, including each party providing the other with ten (10) days' notice and thirty (30) days to cure any breach of this Agreement.

5.10. Time of the Essence. The parties to this Agreement understand that time is of the essence in the completion of all matters contemplated by this Agreement.

5.11. No Waiver. The failure of any party to enforce any term, covenant, or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of that party's right to enforce this, or any other term, covenant, or condition of this

Agreement at any later date or as a waiver of any term, covenant, or condition of this Agreement.

5.12. Notices. All letters, statements, or notices required pursuant to this Agreement shall be deemed effective upon receipt when personally served, transmitted by facsimile machine, or sent certified mail, return receipt requested, to the following addresses

District: Rancho Santa Fe Fire Protection District
P.O. Box 410 (mailing)
a special district organized under the laws of the State of California
18027 Calle Ambiente
Rancho Santa Fe, CA 92067
Telephone: (858) 756-5971

With copy to: Stephen J. Fitch, Esq.
Fitch Law Firm, APC
3465 Camino del Rio South, Suite 250
San Diego, CA 92108
Telephone: (619) 282-8100

HOA: Cielo Homeowners Association
17623 Via Ambiente
Rancho Santa Fe, CA 92091

With copy to: Dentons US LLP
4435 Eastgate Mall, Suite 400
San Diego, CA 92091
Attn: Laurence R. Phillips, Esq.
Email: laurence.phillips@dentons.com
Telephone: (619) 595-5400

Developer: Rancho Cielo Estates, Ltd.
18029 Calle Ambiente, Ste 513
Rancho Santa Fe, CA 92067
Attn: Peter Fagrell, President
Telephone: (760) 533-7261 (mobile)

With copy to: Lamb & Kawakami LLP
333 South Grand Avenue, Suite 4200
Los Angeles, CA 90071
Attn: Kevin J. Lamb, Esq.
Email: klamb@lkfirm.com
Telephone: (213) 630 5510

5.13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Facsimile or email signature pages shall have the same force and effect as original signatures.

5.14. Defined Terms. Capitalized terms not otherwise defined in this Agreement shall be defined as provided in the Fire Services Agreement.

5.15. Execution of Additional Documents. Each of the parties hereto hereby agrees to perform such acts and execute such additional documents as might be necessary to carry out the provisions and effectuate the purposes of this Agreement, including executing a recorded memorandum of this Agreement.

[Signatures on next page]

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

District

Rancho Santa Fe Fire Protection District

By: _____

Name: _____

Its: _____

HOA

Cielo Homeowners Association

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

Developer

Rancho Cielo Estates, Ltd.

By: _____

Name: _____

Its: _____

Agreement Regarding O & M Contributions Under the Fire Service Agreement

This Agreement Regarding O & M Contributions Under the Fire Service Agreement ("**Agreement**") is made and entered into as of _____, 2016 ("**Effective Date**"), by and between the RANCHO SANTA FE FIRE PROTECTION DISTRICT, a fire district duly organized under the Fire Protection District Law of 1987 ("**District**") and THE CROSBY ESTATE at RANCHO SANTA FE MASTER ASSOCIATION, a California non-profit mutual benefit corporation ("**HOA**").

NOW THEREFORE, it is agreed as follows:

1. Recitals

1.1. Upon execution of the Santa Fe Valley Fire Services Agreement (defined below), Starwood-Santa Fe Valley Partners ("Starwood") owned all of that certain real property defined in the Santa Fe Valley Fire Services Agreement as the "**Starwood Property**".

1.2. Starwood has conveyed portions of the Starwood Property to members of the home buying public, HOA and other parties. Portions of the Starwood Property conveyed to the HOA is referred to in this Agreement as the "Crosby Property."

1.3. HOA is a homeowners association for homeowners in the Crosby Property subject to the First Amended and Restated Master Declaration of Covenants, Conditions and Restrictions for the Crosby Estate at Rancho Santa Fe dated May 22, 2001, recorded in the County of San Diego Recorder's Office as Document No. 2001-0325863 ("**CC&Rs**").

1.4. District and Starwood, among others, are parties to that certain Agreement for Provision of Fire Protection and Fire-Fighting Services and Facilities and Emergency Medical Response to the Santa Fe Valley dated November 23, 1998 and recorded with the San Diego County Recorder's Office on January 25, 1999 [1999-0040846] ("**Santa Fe Valley Fire Services Agreement**"). HOA is successor in interest to Starwood under the Santa Fe Valley Fire Service Agreement as to the Crosby Property.

1.5. The District and others are parties to that certain Amended and Restated Agreement for Provision of Fire Protection and Fire Fighting Services and Facilities and Emergency Medical Response to the Rancho Cielo dated November 20, 1998 ("**Cielo Fire Services Agreement**").

1.6. The Santa Fe Valley Fire Service Agreement requires Starwood to pay 24% of the O & M Obligation, as defined below, under the Cielo Fire Service Agreement.

1.7. Section 13 of the Santa Fe Valley Fire Services Agreement requires the parties to the Santa Fe Valley Fire Services Agreement to make certain contributions to the operation and maintenance of the Rancho Cielo Fire Station under the Cielo Fire Service Agreement (the "**O&M**"). The amount of the required contribution less the amount of credit due is sometimes referred to in this Agreement as the "**O&M Obligation**". A dispute has arisen

among the District and HOA regarding the calculation of the O&M Obligation under the Santa Fe Valley Fire Services Agreement.

1.8. By this Agreement: (a) HOA (as successor in interest of Starwood) and the District agree upon the amount of the past, current and future O&M Obligation of HOA under the Santa Fe Valley Fire Services Agreement; and (b) the District acknowledges that payment of the Settlement Sum defined below constitutes a full and final satisfaction of any and all of HOA's obligations under the Santa Fe Valley Fire Services Agreement and the Cielo Fire Services Agreement.

2. O & M Contribution. HOA and the District hereby agree that the sum of Four Hundred Fifty-five Thousand Dollars (\$455,000.00), paid on the terms set forth in Section 3, below (the "**Settlement Sum**"), is the amount of good and sufficient payment to satisfy any and all past, current, and future obligations of HOA under the Santa Fe Valley Fire Services Agreement, including, but not limited to, payment of the O&M Obligation to the District under the Santa Fe Valley Fire Services Agreement and the Cielo Fire Services Agreement.

3. Payment. The Settlement Sum shall be paid as follows: (a) on or before June 1, 2016, HOA will deliver to the District a check in the amount of \$91,000; and (b) a check in the amount of \$91,000 due on the 1st day of June each year beginning in 2017 until the Settlement Sum is paid in full (collectively referred to as "**Contribution Payments**"). Upon full payment of the Settlement Sum, each and every O&M Obligation (and any and all other payment obligations) of HOA under the Santa Fe Valley Fire Services Agreement and the Cielo Fire Services Agreement are deemed fully satisfied and extinguished. In addition to the remedies set forth in paragraph 4, failure to make any of the Contribution Payments when due shall be deemed a default under the terms of the Santa Fe Valley Fire Services Agreement.

4. Non Payment. In the event HOA fails to pay a Contribution Payment within 30 days of the due date, interest will accrue on such payment at the annual rate of five percent (5%) from the date due until paid. This Section 4 supersedes Section 16 of the Santa Fe Valley Fire Services Agreement.

5. Miscellaneous Provisions.

5.1. Venue. In the event of any legal or equitable proceeding to enforce or interpret the terms or conditions of this Agreement, the parties agree that venue shall lie only in the federal or state courts in County of San Diego, State of California.

5.2. Modification. This Agreement may not be altered in whole or in part except by a written modification approved by the governing board of the District and HOA and executed by all the parties to this Agreement.

5.3. Attorneys' Fees. In the event any action or proceeding is initiated to challenge, invalidate, enforce, or interpret any of the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and litigation fees (including expert witness fees), costs, and expenses in addition to any other relief granted by law. This provision shall

apply to this entire Agreement. Except as provided above, the parties hereto shall bear their own attorney's fees and costs incurred in connection with all matters including any disputes preceding execution of this Agreement up to and including the date of this Agreement.

5.4. Entire Agreement. This Agreement, together with the Santa Fe Valley Fire Services Agreement, contain all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. In the event of a conflict between the terms of the Santa Fe Valley Fire Services Agreement and this Agreement, the terms of this Agreement shall supersede the terms of the Santa Fe Valley Fire Services Agreement. Any prior correspondence, memoranda, or agreements, whether or not such correspondence, memoranda, or agreements are in conflict with this Agreement, are intended to be replaced in total by this Agreement. The District shall continue to honor its obligations to HOA under the Santa Fe Valley Fire Services Agreement in perpetuity.

Each party to this Agreement warrants and represents that no representative of any party to this Agreement has made any oral representations or oral agreements not contained in this Agreement. Each party to this Agreement further warrants and represents that it has not relied upon any oral statements or promises made by any representative of any party to this Agreement in executing this Agreement.

5.5. Binding Effect. Subject to the provisions of Section 17.6 of the Santa Fe Valley Fire Services Agreement, this Agreement shall inure to the benefit of and be binding upon the parties and their respective purchasers, successors, heirs, and assigns.

5.6. Unenforceable Provisions. The terms, conditions, and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable.

5.7. Representation of Capacity to Contract. Each party to this Agreement hereby warrants and represents that it has legal authority and capacity and direction from its principal to enter into this Agreement, and that all resolutions or other actions have been taken so as to enable it to enter into this Agreement.

5.8. Opportunity to be Represented by Independent Counsel. Each party to this Agreement warrants and represents that it has been advised to consult independent legal counsel of its own choosing and has had a reasonable opportunity to do so prior to executing this Agreement.

5.9. Good Faith and Cooperation. In interpreting and applying the provisions of this Agreement, the parties agree to act in good faith and cooperate with each other, including each party providing the other with ten (10) days' notice and thirty (30) days to cure any breach of this Agreement.

5.10. Time of the Essence. The parties to this Agreement understand that time

is of the essence in the completion of all matters contemplated by this Agreement.

5.11. No Waiver. The failure of any party to enforce any term, covenant, or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of that party's right to enforce this, or any other term, covenant, or condition of this Agreement at any later date or as a waiver of any term, covenant, or condition of this Agreement.

5.12. Notices. All letters, statements, or notices required pursuant to this Agreement shall be deemed effective upon receipt when personally served, transmitted by facsimile machine, or sent certified mail, return receipt requested, to the following addresses

District: Rancho Santa Fe Fire Protection District
a special district organized under the laws of the State of California
P.O. Box 410 (mailing)
18027 Calle Ambiente
Rancho Santa Fe, Ca 92067
Telephone: (858) 756-5971

With copy to: Stephen J. Fitch, Esq.
Fitch Law Firm, APC
3465 Camino del Rio South, Suite 250
San Diego, CA 92108
Telephone: (619) 282-8100

HOA: The Crosby Estates Homeowners Association Cheryl A. Moulton
On-Site General Manager
The Crosby Estate at Rancho Santa Fe Master Association
PO Box 5000, PMB 534
18029 Calle Ambiente, Ste. 515
Rancho Santa Fe, CA 92067

With copy to: Laurence R. Phillips, Esq.
Dentons US LLP
4435 Eastgate Mall, Suite 400
San Diego, CA 92121

5.13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Facsimile or email signature pages shall have the same force and effect as original signatures.

5.14. Defined Terms. Capitalized terms not otherwise defined in this Agreement shall be defined as provided in the Fire Services Agreement.

[Signatures on next page]

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

District

Rancho Santa Fe Fire Protection District

By: _____

Name: _____

Its: _____

HOA

The Crosby Estates Homeowners Association

By: _____

Name: _____

Its: _____

STAFF REPORT

NO. 16-13

TO: BOARD OF DIRECTORS
TONY MICHEL, FIRE CHIEF

FROM: KARLENA RANNALS, ADMINISTRATIVE MANAGER

SUBJECT: CALPERS PENSION UNFUNDED ACCRUED LIABILITY

DATE: MAY 13, 2016



RECOMMENDATION

Staff recommends an additional payment of \$1.5 million to the Pre-2013 Pool UAL for the 3.0% @ 50 Safety plan, and to pre-pay the entire expected contribution for FY17 at a discounted rate in July 2017.

BACKGROUND

At the Board of Directors held May 13, 2015, the Board reviewed and approved a three-year plan submitted by staff to reduce or eliminate the District's share of the Pre-2013 unfunded accrued liability (UAL) for two of the District's retirement contracts with CalPERS. In June 2015, staff remitted the following to CalPERS:

1. An accelerated payment of \$642,604 to reduce or eliminate the District's share of the Pre-2013 UAL for the 2.7% @ 55 Miscellaneous plan;
2. An accelerated payment of \$1,859,000 to reduce the District's share of the Pre-2013 UAL for the 3% @ 50 Safety plan.

The June 30, 2015 financial statements (audited) recorded for the first time \$12,520,708 that is the district's pensions unfunded liability, a requirement of GASB68. Although the cash payments were sent during FY15, the financial impact will not be realized until the June 30, 2016 statements are complete. However, the information listed in Table 1 was obtained from the annual valuation reports provided by CalPERS each year, which demonstrates how the additional payment affected the UAL for each plan.

STAFF ANALYSIS

Cash Flow Analysis

Included with the agenda material, was a "Combined Summary Statement Cash Assets/Liabilities" as of March 31, 2016. Of the approximate \$16 million in available cash, \$8.6 million is reserved for capital replacement, which does not include this year's Q4 depreciation transfer. Also, it does not include a second large distribution of property taxes (approx. \$3.7 million) that is received in April/May. Staff believes that the District can afford to transfer the recommended payment of \$1.5 million to CalPERS without affecting the cash needs for day to day operating expenses.

Annual UAL Contribution Lump-sum Prepayment

The District had traditionally paid its annual required contribution to CalPERS on a monthly basis as part of the payroll process. Beginning FY16, CalPERS offered a lump-sum prepayment option to allow employers to prepay the entire expected contribution at a discounted amount. The discount is approximately 3.5% of the total payment contribution in consideration that the funds will be invested with PERS for a longer period of time. The District took advantage of that option with concurrence from the Board. Staff recommends the Board authorize the lump-sum prepayment option. Table 2 illustrates a savings of approximately \$14,000.

SR 16-13

Table 1

Safety						
Valuation Date	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016	Totals
FY	FY13	FY14	FY15	FY16	FY17	
Side Fund		0	0	0	0	
Share of Pre-2013 POOL UAL		5,058,030	5,110,693	3,189,011	1,556,553	
Less Expected Payment		315,087	364,124	371,634	504,706	
Est Int @ 7.5%		367,750	301,442	239,176	116,741	
Additional Payment		-	1,859,000	1,500,000	1,150,000	4,509,000
Subtotal		4,742,943	2,887,569	1,317,377	(98,153)	
06/30 UAL Balance		5,110,693	3,189,011	1,556,553	18,588	
Overall Funded Ratio	73.7%	77.5%	81.0%			
Miscellaneous						
Valuation Date		6/30/2013	6/30/2014	6/30/2015	6/30/2016	Totals
FY	FY13	FY14	FY15	FY16	FY17	
Side Fund		0	0	-	-	
Share of Pre-2013 POOL UAL		608,208	629,186	-	-	
Less Expected Payment		23,763	32,572	-	-	
Est Int @ 7.5%		44,741	45,990	-	-	
Additional Payment			642,604	-	-	642,604
Subtotal		629,186	0	-	-	
Overall Funded Ratio	72.5%	76.7%	80.1%		-	
<i>Shaded cells are estimates</i>						5,151,604

Table 2

UAL Pre-paid				
Plan	Emp. Normal Cost % Rate	UAL Total Paid by Month	UAL Annual Pre- payment	Savings
2.7% @ 55	11.634	12,971	12,511	460
3.0% @ 50	19.536	385,318	371,634	13,684
				14,144

STAFF REPORT

NO. FY16-14

TO: BOARD OF DIRECTORS
FROM: TONY MICHEL, FIRE CHIEF
SUBJECT: FEE SCHEDULE UPDATE
DATE: MAY 13, 2016



RECOMMENDATION

Staff recommends the Board of Directors to approve Ordinance 2016-01 after the public hearing that authorizes changes to the District's current fee schedule.

BACKGROUND

On May 15, 2013, the Board of Directors approved and adopted Ordinance No. 2013-01, which updated the Fire District's fee schedule in order to achieve cost recovery and to balance the delivery of Fire Prevention services and other District fees which were relevant at that time. The fees are based upon actual costs incurred by the Fire District and are authorized pursuant to the *California Health and Safety Code, Sections 13916 and 13919*; and are public noticed pursuant to *Section 66014 of the California Government Code* for cost recovery for services rendered. These fees apply to services that include:

- 1) Total compensation costs of the employee(s) responsible for providing a particular service
- 2) Total personnel hours utilized for conducting a plan review and/or file review
- 3) Database information entry
- 4) Personnel travel to and from a site
- 5) Site Inspection(s)
- 6) Written response and/or correspondence.

Additionally, overhead costs such as; utilities, phone, FAX, cell phone service, vehicle operation and replacement, liability and vehicle insurance are also factored into the fee structure (Attachment "C").

CURRENT SITUATION

At the April 13, 2016 Board of Directors meeting, Ordinance 2016-01 was introduced. Changes to the previous fee schedule have been previously identified in both the staff report and attachments. This is the second and final reading of the proposed ordinance before adoption. There are two minor changes since the Ordinance was introduced at the last meeting. The changes are:

- 1) Attachment A **Administrative Policy and Procedure A100.3, Fire Prevention Services and Fees**
Paragraph III. Procedures (45 minutes in place of 30 minutes)
- 2) Attachment C **Schedule of Fire Prevention Services and Fees**
Reference number 4.9 (15.01 in place of 02-01)

Attachments:

Attachment A Administrative Policy and Procedure A100.3, Fire Prevention Services and Fees

This policy describes the procedure for the establishment, collection, and management of fire prevention services and fees.

Attachment B Administrative Policy and Procedure, Fire Prevention Services Fees and Calculation Methods

This policy and procedure worksheet illustrates the basis upon which hourly time commitments are determined for services provided in the fire prevention services and fee schedule.

Attachment C Schedule of Fire Prevention Services and Fees

This schedule details tasks, fee descriptions, average review and inspection time, and actual fee amounts. Additional supporting documents include:

- *Current Fire Prevention staff salary and total compensation schedule*
- *Administrative cost(s) breakdown*
- *Updated glossary of terms*

Attachment D Adopting Ordinance 2016-01

This is the ordinance which establishes updated fee for services and repeals Ordinance 2013-01.



Rancho Santa Fe Fire Protection District

ADMINISTRATIVE POLICY AND PROCEDURES

ATTACHMENT "A"

FIRE PREVENTION SERVICES FEES AND CALCULATION METHODS

FIRE CHIEF: _____

Section: A100.13

Date Implemented: 02-14-04

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- I. **PURPOSE:** To illustrate the basis upon which hourly time commitments are determined for services provided in the fire prevention services and fees schedule.
- II. **POLICY:** The total hourly basis for fire prevention services are determined by calculating total personnel time commitment for processing a particular service request plus associated support costs. Personnel costs are determined by calculating the total personnel time plan review, file review, database entry, inspection, billing, written response, and travel to and from the site. Total associated support costs were determined by establishing the proportionate costs to the District for administering the Fire Prevention Bureau (Admin Fees) and proportionate use of related equipment (vehicles, computers), expendable supplies and ancillary services (phone, computer, consultant, utilities, insurance), as determined on an hourly basis.
- III. **PROCEDURE:** The basis for the District's deposit fee structure for the fire prevention fee schedule is based upon the following time figures, which represent the actual average time spent on the services listed below and associated support costs. 15 minutes (.25) have been added to all plan review activities to account for database information entry and ~~30 minutes (15 minutes each way) (-.50)~~ **45 minutes (.75) for each** inspection activity to account for file review.

a. Hourly Support Costs

SERVICE	HOURLY AVERAGE	NOTES
Utilities/Supplies	\$24.00	Cost per month per hour
Phone/Fax/Cell	\$2.00	Cell phone (1 phone), fax, per hour usage.
Vehicles	\$2.60 Operation	Includes, equipment, service, fuel for one vehicle on an hourly basis. (.555 cents per mile) & depreciation expense
District Administration/ Overhead	\$16.75	2/3 Staff time hourly basis. Includes, bookkeeping, computers, office supplies, etc.
Liability & Vehicle Insurance	\$3.00	For one vehicle
COMBINED HOURLY ADMIN. FEE TOTAL	\$50.85/hr. Rounded to \$51.00/hr.	Total overhead & admin. Costs.

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b. Personnel Cost on Hourly Basis and Total Employee Compensation

Fees defined as follows:

Average time spent on service (First Number) $.75 + .25 = 1.0$

Database entry into computer system (Second Number) $.75 + .25 + .50 = 1.50$

Travel time to and from job site – not all inspection (Third Number) $.75 + .25 + .75 = 1.75$

Total time to complete entire inspection (fourth number) $.75 + .25 + .50 = 1.50$

Reference Number	SERVICE	HOURLY AVERAGE	NOTES
DEVELOPMENT PLAN REVIEW			
1.1	Project Availability Form for Minor Subdivision, Minor Use Permit (new service letter) (5 parcels or less)	$.75 + .25 = 1.0$	Includes review and written response, database entry.
1.2	Project Availability Form for Major Subdivision (new service letter) (6 parcels or more)	$1.0 + .25 = 1.25$	Includes review and written response, database entry
1.3	TPM or Minor Subdivision Service Letter Renewal (5 parcels or less)(FM)	$.5 + .25 = .75$	Includes written response, database entry
1.4	TM or Major Subdivision Service Letter Renewal	$.5 + .25 = .75$	Includes written response, database entry
1.5	Final Map/Mylar Review (signing all mylar's)	$.25 + .25 = .50$	Includes standard review and database entry
1.6	Release of Map Covenants or letters for release of other projects i.e. coastal commission, planning department, fire flow etc.	$.50 + .25 + .75 = 1.50$	Includes site inspection and written response, data base entry or letters for release of other projects i.e. coastal commission, planning department, fire flow etc.
1.7	Cellular Sites	$.25 + .50 + .75 = 1.50$	Includes site inspection and written response and data-base entry
1.8	Major Use Permit (P/ or MUP) or Site Plan (P or STP)	$1.0 + .25 = 1.25$	Includes written response and database entry
1.9	Fuel Modification Plan/EIR /Neg Dec	$1.50 + .25 = 1.75$	Includes written response, database entry
1.10	Review of fire protection plan Base Fee	6.0 + per hour	Includes review, written response, database entry, scanning documents

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Reference Number	SERVICE	HOURLY AVERAGE	NOTES
1.11	Solar Panels. Ground or Roof Mounted for Residential or Commercial	.25 + .25 = .50	Includes review of plans
1.12	Administrative (AD), Variance (VAR), Vacation Review (VAC), or Zoning (ZAP)	.25+.75= 1.00	Includes Review of access, water supply and fire code compliance for zoning (ZAP), variance (VAR) and vacation (VAC) requests
1.13	Improvement Plans	1 + .25 = 1.25	Includes written response, database entry
1.14	Fire Hydrant Underground Plan (Residential or Commercial)	.25 + .25 +.75 = 1.25	Includes travel, site inspection and written response and database entry
1.15	Conceptual Site Landscaping Plan/Consultation	1.0 + .25 = 1.25	Includes written response and database entry
1.16	Conceptual Site Plan/Consultation	.75 + .25 = 1.00	Includes written response and database entry
1.17	Code Appeals	2.25 + .75 = 3.00	Includes review, research, written response, database entry
NEW CONSTRUCTION			
2.1	Grading Plan	.50 + .25 + .75 = 1.50	Includes plan review, site inspection and database entry
2.2	New residential construction (Up to 7,999 square foot)	2.0 + .25 +.75 = 3.00	Includes plan review, site, rough & final inspections and database entry
2.3	New residential construction (8,000 – 11,999square foot)	2.75 + .25 + .75 = 3.75	Includes plan review, site, rough & final inspections, database entry
2.4	New residential construction 12,000 square foot and up)	3.0 + .25 + .75 = 4.00	Includes plan review, site, rough & final inspections, database entry
2.5	Residential addition or remodel	.50 + .25 + .75 = 1.50	Includes plan review, site, rough & final inspections, database entry

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Reference Number	SERVICE	HOURLY AVERAGE	NOTES
2.6	Residential Landscape Plans	$1.00 + .50 + .75 = 2.25$	Includes plan review, site, final inspections, database entry
2.7	Small Landscape plan reviews	$.50 + .25 = .75$	Review small landscape
2.8	Plan Change or Third and Subsequent Plan Submittals	$.25 + .25 = .50$	Includes second review of plan, database entry
2.9	Residential Building Plans Production Units (Models)	$1.5 + .25 + .75 = 2.50$	Includes plan review, site, rough & final inspections, database entry
2.10	Residential Building Plans (Production Units) each additional unit	$.75 + .25 + .75 = 1.75$	Includes additional plan review, site, rough & final inspections, database entry
2.11	Commercial Tenant Improvement	$1.00 + .50 + .75 = 2.25$	Includes plan review, site, rough & final inspections, database entry
2.12	Barns, Outbuildings, Detached Garages or Detached Outdoor Living Areas	$.50 + .25 + .75 = 1.50$	Includes plan review, site, rough & final inspections, database entry
2.13	Commercial/Industrial and Multi-Family Building Plans	$2.25 + 1.50 + .75 = 4.50$	Includes plan review for new commercial construction and site, rough, field inspection and database entry
2.14	Commercial/Industrial and Multi-Family Landscape Plans	$3.0 + .50 + .75 = 4.25$	Review of plans for fire safe planting for new construction and 1 field inspection each (site & final)

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Reference Number	SERVICE	HOURLY AVERAGE	NOTES
FIRE PROTECTION SYSTEMS AND INSTALLATIONS			
3.1	Residential fire sprinkler system, 13D or 13R	$.50 + 1.0 + .75 = 2.25$	Includes plan review, rough & final inspections, database entry
3.2	Residential fire sprinkler plans-PRD, each additional unit	$.25 + .25 + .75 = 1.25$	Includes additional plan review, rough & final inspections, database entry
3.3	Commercial fire sprinkler system	$.75 + 1.0 + .75 = 2.50$	Includes plan review, rough & final inspections, database entry
3.4	Small commercial fire sprinkler systems	$.50 + .25 + .75 = 1.50$	Includes plan review, rough & final inspections, database entry
3.5	Small residential fire sprinkler systems	$.25 + .25 + .75 = 1.25$	Includes plan review, rough & final inspections, database entry
3.6	Underground Sprinkler System Plans (Commercial)	$.25 + .75 + .75 = 1.75$	Includes plan review, rough & final inspections, database entry
3.7	Commercial sprinkler tenant improvement	$.50 + .50 + .75 = 1.75$	Includes plan review, rough & final inspections, database entry
3.8	Special Fire Protection Installations--Hood & duct system, remote extinguishing systems	$1.0 + .50 + .75 = 2.25$	Hood & duct, remote extinguishing systems, includes inspection and database entry
3.9	Special Hazard Installations-High Piled Storage, Underground/Aboveground Storage Tanks, spray booths, industrial ovens, refrigeration systems, etc. (DFM)	$2.0 + 1.0 + .75 = 3.75$	Includes plan review, rough & final inspections, database entry
3.10	Fire Alarm System	$1 + .50 + .75 = 2.25$	Includes plan review, rough & final inspections, database entry
MISCELLANEOUS FEES			

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Reference Number	SERVICE	HOURLY AVERAGE	NOTES
4.1	Stamp Approval Transfer	$.25 + .50 = .75$	Transfer stamp approval from one plan to another (maximum 2 sets)
4.2	Knox Key Installation	$.25 + .50 + .75 = 1.00$	Includes plan review, site inspection, database entry
4.3	Temporary membrane structures, tents and canopies	$.75 + .25 + .75 = 2.75$	Includes site, and final approval database entry
4.4	Special Events (not including membrane structures, tents or canopies)	$.50 + .25 + .75 = 1.50$	Includes site, plan review, database entry
4.5	Pyrotechnics Display	$2.0 + .25 + .75 = 3.00$	Includes application review, database entry, pre-site
4.6	Business License Inspection (SDSO, CCLB permit)	$.75 + .25 + .75 = 1.75$	Includes site, database entry and re-inspection
4.7	Non-compliance re-inspection	$.50 + .75 + .75 = 2.00$	Conduct inspection of existing property which remains non-compliant with codes (3rd and subsequent inspections)
4.8	Non-compliance weed abatement re-inspection	$1.0 + .25 + .75 = 2.00$	Two site inspection and database entry
4.9	Forced weed abatement administrative fee (Expense of Abatement Report and Hearing)	Expense of abatement \$500	Includes above 4.5, plus work order, description of work, hearing, contractor meetings, inspections, billing and report.
4.10	Urgent Plan Check - Overtime Plan Review/Inspection new residential construction (Up to 7,999 square foot)	$4.12 + .37 + .75 = 5.24$	Includes base plan check time plus ½ time plus travel time and database entry
4.10 (cont.)	Urgent Plan Check New residential construction (8,000 -11,999 square foot) (DFM)	$5.25 + .37 + .75 = 6.37$	Includes base plan check time plus ½ time plus travel time and database entry
	Urgent Plan Check New residential construction (12,000 square foot and up) (DFM)	$6.75 + .37 + .75 = 7.87$	Includes base plan check time plus ½ time plus travel time and database entry

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Reference Number	SERVICE	HOURLY AVERAGE	NOTES
	Urgent Plan Check Commercial/Industrial and Multi-Family Building Plans (DFM)	$6.37 + .37 + .75 = 7.49$	Includes base plan check time plus ½ time plus travel time and database entry
4.11	Reproduction of Fire District Documents	\$5.00 for the first 5 pages, \$.70 for each additional page thereafter	Staff time, plus paper, copier, toner, electricity etc.
4.12	Reproduction of Fire District Documents on CD	Per CD	Cost of CD
4.13	Copies of Large Plans (C,D & E Size)	\$25 \$55 \$85	17x22 Ansi C 22x34 Ansi D 34x44 Ansi E
4.14	Color Copy Photos	\$1.00 \$1.50	4x6 = \$1.00 8½x11=\$1.50
4.15	Documents sent electronically, or accessed via the web site (www.rsf-fire.org)	No Fee	No Fee
4.16	Annexation Fees - each acre or portion thereof:	\$1,000	\$1,000
	Annexation Fees - Each Dwelling Parcel:	\$500	\$500
	Annexation Fees - Each Commercial/Industrial Parcel:	\$1,000	\$1,000
4.17	Meeting Facilities -Category 1- for use of District-owned meeting facilities by members of the general public as noted.	\$50.00	\$50.00
4.18	Meeting Facilities - Category 2 -for use of District-owned meeting facilities by members of the general public as noted.	\$250.00	\$250.00

***FIRE PREVENTION SERVICES FEES AND
CALCULATION
ATTACHMENT “B”***

Section: **A100.13**

Date Implemented: 02-14-04

Date Revised: 05-11-16

Page: 8 of 9

Reference Number	SERVICE	HOURLY AVERAGE	NOTES
4.19	Return Check Fee	\$25.00	Addition handling fee for retuned check plus the amount of the check
4.20	Reimbursement for other bank charges	Actual Cost	Actual Cost
4.21	Other services not listed services not otherwise specified herein	Actual cost	Actual cost
4.22	Inspection Cancellation fee (FM)	Per failure	Failure to cancel field inspection within 24 hours of set appointment
4.23	Inspection Cancellation fee (FPS)	Per failure	Failure to cancel field inspection within 24 hours of set appointment
4.24	Inspection Cancellation fee (F)	Per failure	Failure to cancel field inspection within 24 hours of set appointment
4.25	Fee recovery for special services	\$200.00	Per hour per apparatus
TRAINING FACILITY FEES (for use by outside agencies)			
5.1	Training Tower with grounds	\$400/per day	\$200/half day No Burn Room Use
5.2	Propane	Actual	Propane consumed during training
5.3	Burn Room	\$200/per hour	Per hour, plus tower fee. Includes three personnel to run the burn room and fuel cost

***FIRE PREVENTION SERVICES FEES AND
CALCULATION
ATTACHMENT “B”***

Section: **A100.13**

Date Implemented: 02-14-04

Date Revised: 05-11-16

Page: 9 of 9

Reference Number	SERVICE	HOURLY AVERAGE	NOTES
5.4	Multiple burn rooms	\$50.00/hour	Additional personnel may require at a rate of \$50 per hour per employee
5.5	Training Grounds	\$200 per day	Per day fee, no tower
5.6	Ventilation Prop	\$150 per day	Outsides agency required to replace and repair all materials used on prop
5.7	Confined space Prop	\$150 per day	Per day fee
5.8	Drafting/Test Pit	\$50 per apparatus	Per fire apparatus
5.9	Clean – up	\$150 per hour	If not done by using agency
5.10	Water use	Actual Cost	

**Rancho Santa Fe Fire Protection District
Schedule of Fire Prevention Services and Fees
Effective July 5, 2016**

ATTACHMENT "C"

PLAN REVIEW, CONSTRUCTION and SERVICE FEES					
Reference Number	DEVELOPMENT PLAN REVIEW (includes plan review & written response if applicable)	Duty	Fee Description	Average Review & Inspection Time (in hrs.)	Total Fee or Cost
1.1	Project Availability Form for Minor Subdivision or Minor Use Permit (new service letter) (5 parcels or less)	FM	Review of access, water supply, clearance & fire code requirements for subdivisions or Minor use permit	1.00	\$139
1.2	Project Availability Form for Major Subdivision (new service letter) (6 parcels or more)	FM	Review of access, water supply, clearance & fire code requirements for subdivisions	1.25	\$174
1.3	TPM or Minor Subdivision Service Letter Renewal (5 parcels or less)	FM	Review of access, water supply, clearance & fire code requirements for subdivisions	0.75	\$104
1.4	TM or Major Subdivision Service Letter Renewal (6 parcels or more)	FM	Review of access, water supply, clearance & fire code requirements for subdivisions	0.75	\$104
1.5	Final Map/Mylar Review (Signing all Mylars)	FM	Review of access, water supply, clearance & fire code requirements for subdivisions. Includes standard condition letter	0.50	\$70
1.6	Release of Map Covenants or letters for release of other projects i.e. coastal commission, planning department, fire flow etc.	FM	Site inspection and written confirmation of installation of covenanted improvements.	1.50	\$209
1.7	Cellular Sites	FM	Review of access, water supply and fire code compliance	1.50	\$209
1.8	Major Use Permit (P or MUP) or Site Plan (S or STP)	FM	Review of plan for access, water supply, clearance and fire code requirements for a MUP or STP	1.25	\$174
1.9	Fuel Modification Plans or Environmental Review-Mitigated Negative Declaration	FPS/F	Review & comment of project's fire impacts & proposed mitigation	1.75	\$187
1.10	Review of Fire Protection Plan	FM	Review and comment letter, Scan fire protection plan into computer system. 6 hours base fee plus additional cost if necessary	6.00	\$834
1.11	Solar Panels. Ground or Roof Mounted for Residential or Commercial	FM	Review proposed installation of solar panels	0.50	\$70
1.12	Administrative (AD), Variance (VAR), Vacation Review (VAC), or Zoning (ZAP)	FM	Review of access, water supply and fire code compliance for zoning (ZAP), variance (VAR) and vacation (VAC) requests	1.00	\$139
1.13	Improvement Plans (Residential or Commercial)	FM	Review of roadway, turnaround, building setback, access, and water supply requirements.	1.25	\$174
1.14	Fire Hydrant Underground Plan (Residential or Commercial)	FM	Review of underground installation of fire hydrants and hydraulic calculations. Includes 2 site inspections.	1.25	\$174
1.15	Site Plan Review Landscape (single occupancy) conceptual/consultation	FS/F	Conceptual review of site plan for access, landscape, vegetation clearance and fire code requirements for a single occupancy. Fee is based on 2 reviews. Refer to 2.7 for additional review fees.	1.25	\$134
1.16	Site Plan Review (single occupancy) conceptual/consultation	FM	Conceptual review of site plan for access, water supply, clearance and fire code requirements for a single occupancy. Fee is based on 2 reviews. Refer to 2.7 for additional review fees.	1.00	\$139
1.17	Code Appeal	FM	Review of an appeal for an application of a fire code for matters other than a building permit or discretionary permit. This fee is non-fundable	3.00	\$417

a. Field inspections may include site, frame, and/or final inspections.

**Rancho Santa Fe Fire Protection District
Schedule of Fire Prevention Services and Fees
Effective July 5, 2016**

ATTACHMENT "C"

Reference Number	NEW CONSTRUCTION (Includes plan review & inspection)	Duty	Fee Description	Average Review & Inspection Time (in hrs.)	Total Fee or Cost
2.1	Grading Plan (Any kind)	FPS	Review of access requirements pertaining to grading and 1 inspection	1.50	\$153
2.2	New residential construction (Up to 7,999 square foot)	FPS	Review of plans for fire & building code compliance for new residential construction and 2 field inspections. ^a	3.00	\$306
2.3	New residential construction (8,000 -11,999 square foot)	FPS	Review of plans for fire & building code compliance for new residential construction and 2 field inspections. ^a	3.75	\$383
2.4	New residential construction (12,000 square foot and up)	FPS	Review of plans for fire & building code compliance for new residential construction and 2 field inspections. ^a	4.00	\$408
2.5	Residential addition or remodel	FPS	Review of plans for fire & building code compliance for new construction and 2 field inspections. ^a	1.50	\$153
2.6	Residential Landscape Plans	F	Review of plans for fire safe planting for new residential construction and 2 field inspections. ^a Additional charge after 2nd plan review. Refer to 2.7	2.25	\$241
2.7	Small Landscape plan review	F	Review of small landscape modification or changes for fire safe planting or landscaping structures such as a trellis. District maintains discretion to approve changes and plan modifications based on project size and plant	0.75	\$80
2.8	Plan Change or Third and Subsequent Plan Submittals.	FPS	Third plan submittal and all subsequent re-submittals.	0.50	\$51
2.9	Residential Building Plans- Planned Community (Model Homes)	FM	Review of site plan for fire & building code compliance for new construction and 2 field inspections. ^a Fee per unit	2.50	\$348
2.10	Residential Building Plans- Planned Community (Production Units), each additional unit	FM	Review of additional unit, site plan for fire & building code compliance for new construction and 2 field inspections. ^a	1.75	\$123
2.11	Commercial Tenant Improvement	FM	Review of plans for fire & building code compliance for new construction room addition and 2 field inspections. ^a	2.25	\$313
2.12	Barns, Outbuildings, Detached Garages or Detached Outdoor Living Areas	FM	Includes plan review and 2 field inspections. ^a	1.50	\$105
2.13	Commercial/Industrial and Multi-Family Building Plans	FM	Review of plans for fire & building code compliance for new commercial construction and 2 field inspections. ^a	4.50	\$626
2.14	Commercial/Industrial and Multi-family Landscape Plans	FPS/F	Review of plans for fire safe planting for new construction and 1 field inspection each (site & final)	4.25	\$455

a. Field inspections may include site, frame, and/or final inspections.

**Rancho Santa Fe Fire Protection District
Schedule of Fire Prevention Services and Fees
Effective July 5, 2016**

ATTACHMENT "C"

Reference Number	FIRE PROTECTION SYSTEMS and INSTALLATIONS	Duty	Fee Description	Average Review & Inspection Time (in hrs.)	Total Fee or Cost
3.1	Residential fire sprinkler system, 13D- or 13-R	FPS	Plan review of residential fire sprinkler system 13-D one or two family dwelling and 1 field inspection each (rough & final)	2.25	\$230
3.2	Residential fire sprinkler plans-PRD, each additional unit	FPS	Plan review of residential fire sprinkler system 13-D one or two family dwelling and 1 field inspection each (rough & final)	1.25	\$128
3.3	Commercial fire sprinkler system	FPS	Plan review of new commercial fire sprinkler system and 2 field inspections. ^a Plan review conducted by independent engineer at an additional cost.	2.50	\$255
3.4	Small commercial fire sprinkler system	FPS	Plan review of small commercial fire sprinkler system (with the addition of 4 or less sprinkler heads) and 2 field inspections. ^a Approval is contingent on field inspection for adequate water pressure.	1.50	\$153
3.5	Small residential fire sprinkler system	FPS	Plan review of small residential fire sprinkler system (with the addition of 4 or less sprinkler heads) and 2 field inspections. ^a Approval is contingent on field inspection for adequate water pressure.	1.25	\$128
3.6	Underground Sprinkler System Plans	FPS	Plan review of underground supply to sprinkler system and 1 field inspection. Plan review conducted by independent engineer at an additional cost	1.75	\$179
3.7	Commercial sprinkler tenant improvement	FPS	Plan review of existing commercial fire sprinkler system (addition of 5 or more sprinkler heads) and 1 field inspection each (rough & final). Plan review conducted by independent engineer at an additional cost	1.75	\$179
3.8	Special Fire Protection Installations--Hood & duct system, remote extinguishing systems	FPS	Plan review and 1 inspection of new special extinguishing system. Plan review conducted by independent engineer at an additional cost.	2.25	\$230
3.9	Special Hazard Installations--High Piled Storage, Underground/Aboveground Storage Tanks, spray booths, industrial ovens, refrigeration systems, etc.	FM	Plan review and 1 inspection of high piled storage, underground/aboveground tanks, spray booths, industrial ovens, refrigeration systems, etc. Plan review conducted by an independent engineer at an additional cost.	3.75	\$521
3.10	Fire Alarm System	FPS	Plan review approval and 1 inspection of a fire alarm system. Plan review conducted by an independent engineer at an additional cost.	2.25	\$230

a. Field inspections may include site, frame, and/or final inspections.

**Rancho Santa Fe Fire Protection District
Schedule of Fire Prevention Services and Fees
Effective July 5, 2016**

ATTACHMENT "C"

Reference Number	MISCELLANEOUS FEES (includes review and/or inspection as indicated)	Duty	Fee Description	Average Review & Inspection Time (in hrs.)	Total Fee or Cost
4.1	Stamp Approval Transfer	FM	Reviewing plans and transferring necessary stamps	0.75	\$53
4.2	Knox Key Installation	FPS/F	Site inspection of installation of and proper operation of knox key device.	1.00	\$70
4.3	Temporary Membrane Structures, Tents and Canopies	FPS	Permit and Inspection fee, includes permit, plan review, travel to and from and data entry	2.75	\$193
4.4	Special Events (Not including membrane structures, tents and canopies)	FPS	Site plan review, site inspection, travel to and from and data entry	1.50	\$105
4.5	Pyrotechnics Display	FPS	Application review, pre-site inspection, travel to and from and data entry	3.00	\$306
4.6	Business License Inspection (SDSO, CCLB, or other outside agency)	FPS/F	Conduct inspection of existing property which requires annual inspection by AHJ	1.75	\$179
4.7	Non-compliance re-inspection	FPS/F	Conduct inspection of existing property which remains non-compliant with codes (3rd and subsequent inspections)	2.00	\$204
4.8	Non-compliance weed abatement re-inspection	F	Conduct legal noticing and re-inspections of a property which remains non-compliant after expiration of final notice to abate hazard	2.00	\$214
4.9	Forced weed abatement administrative fee (Expense of abatement Report and Hearing) (Ordinance 15-01)	F	Includes above, plus work order, description of work, contractor meetings, expense of abatement, inspections, billing, and report.	Expense of abatement	\$500
4.10	Urgent Plan Check - Overtime Plan Review/Inspection		New residential construction Up to 7,999 square foot) Includes base plan check time plus ½ time plus travel time and data base entry	5.24	TBD
			New residential construction (8,000-11,999 square foot and up) Includes base plan check time plus ½ time plus travel time and data base entry	6.37	TBD
			New residential construction (12,000 square foot and up) Includes base plan check time plus ½ time plus travel time and data base entry	7.87	TBD
			Commercial/Industrial and Multi-Family Building Plans Includes base plan check time plus ½ time plus travel time and data base entry	7.49	TBD
4.11	Reproduction of Fire District Documents	N/A	\$5.00 for the first 5 pages, \$.70 for each additional page thereafter		\$5
4.12	Reproduction of Fire District Documents on CD	N/A	Per CD		\$9
4.13	Copies of Large Plans (C,D & E Size)	N/A	Copies - Building, site plan, Landscaping, Fire Sprinklers and Grading.	17x22Ansi C 22x34 Ansi D 34x44 Ansi E	\$25 \$55 \$85
4.14	Color Copies Photos	N/A	Size is 4" x 6" Size is 8 1/2" x 11" per page or per photo	4x6 =\$1.00 8 1/2x11 = \$1.50	TBD
4.15	Documents sent electronically, or accessed via the web site: www.rsffire.org	N/A	No Charge		\$0
4.16	Annexation Fees	N/A	each acre or portion thereof:		\$1,000
			Each Dwelling Parcel:		\$500
			Each Commercial/Industrial Parcel:		\$1,000

a. Field inspections may include site, frame, and/or final inspections.

**Rancho Santa Fe Fire Protection District
Schedule of Fire Prevention Services and Fees
Effective July 5, 2016**

ATTACHMENT "C"

Reference Number	MISCELLANEOUS FEES (includes review and/or inspection as indicated)	Duty	Fee Description	Average Review & Inspection Time (in hrs.)	Total Fee or Cost
4.17	Meeting Facilities - for use of District-owned meeting facilities by members of the general public as noted.	N/A	Category 1- not for profit non commercial community services groups which have members who reside in the District (Tax Exempt (501.C.3) - set-up/cleaning fee		\$50
4.18	Meeting Facilities - for use of District-owned meeting facilities by members of the general public as noted.	N/A	Category 2- all other organizations - set-up/cleaning fee		\$250
4.19	Returned Check Fee	N/A	Additional handling fee for returned check plus the amount of the check		\$25
4.20	Postage/supplies Cost	N/A	Actual cost	Actual	Actual
4.21	Other services not listed	N/A	Services not otherwise specified herein	Actual	Actual
4.22	Inspection Cancellation fee (Fire Marshal)	FM	Failure to cancel field inspection within 24 hours of set appointment	per failure	\$139.00
4.23	Inspection Cancellation fee (FPS)	FPS	Failure to cancel field inspection within 24 hours of set appointment	per failure	\$102.00
4.24	Inspection Cancellation fee (FPS II / Forester)	F	Failure to cancel field inspection within 24 hours of set appointment	per failure	\$107.00
4.25	Fee recovery for special services	N/A	Apparatus charge	Per hour	\$200.00
Reference Number	TRAINING FACILITY FEES - for use by outside agencies		Fee Description		Total Fee or Cost
5.1	Training Tower w/ grounds	N/A	No Burn Room (per day)		\$400/day \$200/half day
5.2	Propane	N/A	Propane consumed during training		Actual
5.3	Burn room	N/A	Per Hour, plus tower fee. Includes three personnel to run the burn room and fuel costs		\$200/hour
5.4	Multiple burn rooms	N/A	Additional personnel may be required at a rate of \$50 per hour, per employee		\$50/hour
5.5	Training Grounds	N/A	Per day fee. No Tower		\$200/day
5.6	Ventilation Prop	N/A	Per day fee. Outside agency required to replace and repair all materials use on the prop		\$150/day
5.7	Confined Space prop	N/A	Per day fee		\$150/day
5.8	Drafting/Testing Pit	N/A	Per Fire Apparatus		\$50/apparatus
5.9	Clean up	N/A	If not done by using agency		\$150/hour
5.10	Water Use	N/A	Actual cost		Actual

a. Field inspections may include site, frame, and/or final inspections.

ORDINANCE No. 2016-01

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE RANCHO SANTA FE FIRE PROTECTION DISTRICT ADOPTING FEES FOR SERVICES BY REFERENCE TO THE CALIFORNIA HEALTH AND SAFETY CODE SECTION 13916 AND SECTION 13919 AND REPEALING ORDINANCE 2013-01.

The Board of Directors of the Rancho Santa Fe Fire Protection District of the County of San Diego ordains as follows:

ARTICLE I. The Rancho Santa Fe Fire Protection District has incurred un-reimbursed discretionary development costs and is anticipating that further new discretionary development will occur within the District, which will place a greater demand on the existing staffing resources of the fire prevention bureau. Escalating demands have also been placed upon suppression personnel in conducting increasingly numerous and complex occupancy inspections.

ARTICLE II. The Rancho Santa Fe Fire Protection District is charged with the responsibility of enforcing applicable codes pertaining to fire and panic safety and other regulations of the State Fire Marshal pursuant to Section 13146 of the California Health & Safety Code.

ARTICLE III. The Rancho Santa Fe Fire Protection District incurs additional costs in lost personnel hours and expended District resources when said fire prevention services are of a recurrent nature and the result of discretionary development. The District charges fees to recover costs incurred for the provision of said services, however, said fees require periodic revision to reflect current personnel costs.

ARTICLE IV. The Fire Chief may impose a fee for recovery of expenses incurred as a result of activities undertaken pursuant to enforcing the fire prevention provisions of the fire code, pursuant Health and Safety Code Section 13916 and 13919 and Govt. Code Section 66014.

ARTICLE V. Fire district fees are based upon the actual costs incurred by the fire agency, which are based upon the total compensation of the employee(s) providing a particular service and include total personnel hours utilized for plan review, file review, database information entry, travel to and from the site, written response, and site inspection.

ARTICLE VI. The actual fee shall be paid by the applicant to the fire district at time of application or submittal to cover the actual costs in accordance with the aforementioned schedule for an *INSPECTION* or *PLAN REVIEW* or any *OTHER SERVICES* listed on the fee schedule.

ARTICLE VII. The cost for the provision of said services shall not exceed the costs reasonably borne by the District.

ARTICLE VIII. In the event that fees are not paid at the time of application or upon request for additional fees, the District shall not be obligated to process, approve, or take further action on renewable permits, installation, removal, activity or alteration permits, inspections, plan reviews, or other services necessitating a fee as delineated in the Fire District Fee Schedule.

ARTICLE IX. The Board of Directors hereby declares that should any section, paragraph, sentence or word of this ordinance or of the Fire District Fee Schedule referenced herein be declared for any reason to be invalid, it is the intent of the Board that it would have adopted all other portions of this ordinance independent of the elimination there from of any such portion as may be declared invalid.

ARTICLE X. The Board of Directors, the Fire Chief or his/her designee shall have the ability to waive any and all fees as adopted by a Resolution of the Board of Directors. When fees are waived, a report shall be provided at the next Board of Directors meeting.

ARTICLE XI. The Board of Directors of the Rancho Santa Fe Fire Protection District does hereby approve the adoption of the attached Schedule of Fire District Services and Estimated Fees therefore, (Attachment A, B & C).

ARTICLE XII. Ordinance 2013-01 is hereby repealed.

ARTICLE XIII.

The Secretary to the Board of Directors will certify to the adoption of this Ordinance and cause the same to be published in the manner required by law. This Ordinance will take effect forty-five (45) days after its final passage at a public hearing as required by law.

First Read at a regular meeting of the Board of Directors of the Rancho Santa Fe Fire Protection District of the County of San Diego, California, on the 13th day of April 2016. A public hearing and final adoption occurred on May 18, 2016 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James Ashcraft
President

ATTEST

KARLENA RANNALS
Secretary

RESOLUTION No. 2016-04

A Resolution of the Board of Directors of the Rancho Santa Fe Fire Protection District Setting Benefit Charges for Fiscal Year 2016/2017

BE IT RESOLVED, that pursuant to the Rancho Santa Fe Fire Protection District Board of Directors meeting held May 18, 2016 this board has determined that charges for providing fire protection services by the Rancho Santa Fe Fire Protection District for fiscal year 2016/2017 shall appear as a separate item on tax bills and collected at the same time and in the same manner as ordinary county ad valorem taxes and caused to be prepared and filed, written reports describing real property receiving fire protection services.

The amount of charges for each parcel for fiscal year 2016/2017 have been computed in conformity with the procedure set forth in, and charges described by applicable ordinances and resolution of the fire protection district.

THEREFORE, it is hereby determined and ordered as follows:

1. That each and every charge set forth in said report is adopted;
2. That said reports are hereby confirmed;
3. That said reports as confirmed by this board be filed with the Auditor & Controller of the County of San Diego;
4. The cost for fiscal year 2016/2017 shall be \$10.00 per benefit unit.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Rancho Santa Fe Fire Protection District on May 18, 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAMES H ASHCRAFT
President

ATTEST

Karlana Rannals
Secretary

RESOLUTION NO. 2016-05

A Resolution of the Board of Directors of the Rancho Santa Fe
Fire Protection District Determining the 2016/2017
Appropriations of Tax Proceeds

WHEREAS, in November of 1979, the California electorate did adopt Proposition 4, which added Article XIII B of the Constitution to the California Constitution; and

WHEREAS, the provisions of that Article establish maximum appropriation limitations commonly called *Gann limits* for public agencies including fire districts; and

WHEREAS, the District must establish a Gann limit for the 2016/2017 fiscal year in accordance with the provision of with Article XIII B and applicable statutory law.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Rancho Santa Fe Fire Protection District, that the calculated maximum limit applicable to the 2016/2017 appropriations of tax proceeds is \$21,884,396 in accordance with Article XIII B of the Constitution of the State of California.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Rancho Santa Fe Fire Protection District on May 18, 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAMES H ASHCRAFT
President

ATTEST:

Karlana Rannals
Secretary

RANCHO SANTA FE FIRE PROTECTION DISTRICT ARTICLE XIII B
APPROPRIATION OF PROCEEDS OF TAX LIMITATION
DETERMINATION 2016/2017

Determination of Permitted Growth Rate in Appropriations 2016/2017

Per Department of Finance:

Per Capita Personal Income = (5.37%), Converted Factor	1.0537
Population Change =0.78%, Converted	<u>1.0078</u>
Combined Factor =	1.0619
2015/16 Appropriation Limit	\$20,608,350
2016/17 Appropriation Limit Adjustment Factor	1.0619
2016/17 Appropriation Limit	<u>\$21,884,396</u>

Gann Limit Calculation Method

REVISED CALCULATION Dept of Finance

GANN LIMIT RECALCULATIONS (Proposition 111)							
			Data by DOF	Revised FY Factor	Recalculated Gann Limit	Tax Proceeds	Over (Under) Limit
FY 06/07							
		Factor		1.1925	\$12,533,599	\$8,027,170	(\$4,506,429)
		Recalculated Factor					
FY 07/08							
		Factor		1.1915	\$14,934,242	\$9,117,334	(\$5,816,909)
		Factor					
FY 08/09							
		Factor		1.1222	\$16,758,615	\$9,641,130	(\$7,117,485)
		Factor					
FY 09/10							
		Factor		1.0195	\$17,085,104	\$9,820,629	(\$7,264,475)
		Factor					
FY 10/11							
		Factor		0.9894	\$16,904,240	\$9,117,461	(\$7,786,779)
		Factor					
FY 11/12							
		Factor		1.0325	\$17,453,302	\$9,101,609	(\$8,351,692)
		Factor					
FY 12/13							
		Factor		1.0472	\$18,277,915	9,146,899	(\$9,131,016)
		Factor					
FY 13/14							
		Factor		1.0596	\$19,367,454	9,396,964	(\$9,970,490)
		Factor					
FY 14/15							
31,412	}	Factor		1.0100	\$19,560,581	9,944,052	(\$9,616,529)
		Factor					
FY 15/16							
32,066	}	Factor		1.0536	\$20,608,350	10,455,921	(\$10,152,429)
		Population (LAFCO)	2.08%				
FY 16/17							
	}	Per Capita Change =	5.37%	1.0537			
32,373		Population =	0.78%	1.0078			
		Factor		1.0619	\$21,884,396	10,801,200	(\$11,083,196)
		Population (LAFCO)	0.96%				
		Factor					

RESOLUTION NO. 2016-06

RESOLUTION OF APPLICATION
BY THE BOARD OF DIRECTORS OF THE RANCHO SANTA FE FIRE PROTECTION DISTRICT
REQUESTING THE LOCAL AGENCY FORMATION COMMISSION (LAFCO)
TO TAKE PROCEEDINGS

FOR THE ANNEXATION OF THE UNSERVED AREAS OF COUNTY SERVICE AREA (CSA) No. 107 TO CSA No. 17 (SAN DIEGUITO AMBULANCE) FOR THE PROVISION OF AMBULANCE SERVICE

RESOLVED by the Board of Directors of the Rancho Santa Fe Fire Protection District, that

WHEREAS, the Board of Directors of the Rancho Santa Fe Fire Protection District desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Government Code Section 56000, et seq. for the proposed annexation; and

WHEREAS, the Board of Directors of the Rancho Santa Fe Fire Protection District, as an affective agency, propose the annexation of approximately 2991.5 acres of CSA-107 into CSA No. 17; and

WHEREAS, annexation of the subject territory to CSA No. 17 will solve the need for Advanced Life Support ambulance services to this existing unserved area of CSA-107; and

WHEREAS, the proposed annexation to CSA No. 17 is consistent with the sphere of influence of CSA No. 17; and

WHEREAS, annexation of the subject territory to CSA No. 17 will provide existing and future residents access to Advanced Life Support (ALS) ambulance services on an automatic aid basis;

WHEREAS, surrounding jurisdictions support the annexation and provision of Advanced Life Support services on an automatic aid basis within the proposed annexation territory; and

WHEREAS, the Board of Directors of the Rancho Santa Fe Fire Protection District requests that the proposed annexation to CSA No. 17 be subject to the following terms and conditions:

1. Prior to the effective date of Reorganization, the County of San Diego shall amend the existing mutual aid contract or enter a new mutual aid contract with the City of Escondido to provide mutual aid advanced life support transport services in CSA 17 for a fee equal to the current CSA 17 non-resident transport fee rate. Residents of CSA 17 shall be billed the resident transport fee rate, and the remainder of their charges shall be billed to the County on behalf of CSA 17. Patients who are not residents of CSA 17 shall be billed the provider rate. [Government Code Sections 56886 (r) and (t)]
2. Prior to the effective date of Reorganization, the County of San Diego shall enter a mutual aid contract with the City of San Marcos to provide mutual aid advanced life support transport services in CSA 17 for a fee rate equal to the current CSA 17 non-resident transport fee rate. Residents of CSA 17 shall be billed the resident transport fee rate, and the remainder of their charges shall be billed to the County on behalf of CSA 17. Patients who are not residents of CSA 17 shall be billed the provider rate. [Government Code Sections 56886 (r) and (t)]
3. Prior to LAFCO consideration of the Reorganization, the County of San Diego shall negotiate an exchange of property tax revenue from the annual tax increment generated in the CSA 17 annexation area. CSA 17 is seeking a transfer of property tax revenue equivalent to the existing portion of CSA 17's share of the one percent annual property tax allocation. [Revenue and Taxation Code Section 99.01 et seq.]
4. Prior to the effective date of Reorganization, the CSA 17 annexation area shall be subject to the same benefit fees and other previously authorized charges, fees, assessments, or taxes applicable to existing CSA 17 residents. [Government Code Section 56886(t)]

WHEREAS, the reasons for the proposed annexation to CSA No. 17 are as follows:

1. Ensure continuity of both fire protection, emergency medical service, and Advanced Life Support ambulance services for the subject territory;
2. Provide access to long term Advanced Life Support ambulance services of communities within the subject territory;
3. Provide management, administration and oversight of Advanced Life Support ambulance services within an area that currently lacks such services on an automatic aid basis; and

WHEREAS, pursuant to the Notice of Exemption filed in 2015 and Section 15320 of the California Environment Quality Act (CEQA) Guidelines, the proposed annexation is categorically exempt from CEQA review because the project consists of changes in organization of local government functions and the changes do not change the geographical area where this function will be exercised, and, pursuant to Sections 15061(b)(3) and 15378(b)(5) of the CEQA Guidelines, the proposed action is not a "project" under CEQA because it can be seen with certainty that the annexation does not have any significant impact on the environment; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have been met;

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT, pursuant to California Government Code Section 56554, application is hereby made to the LAFCO to: ANNEX APPROXIMATELY 2991.5 ACRES OF HARMONY GROVE INTO COUNTY SERVICE AREA (CSA) No. 17 (SAN DIEGUITO AMBULANCE) IN ASSOCIATION WITH THE RANCHO SANTA FE FIRE PROTECTION DISTRICT REORGANIZATION.

IT IS FURTHER RESOLVED THAT:

1. The above recitals are true and correct
2. Fire Chief or Board President, is hereby authorized and directed to file a certified copy of this Resolution with the Executive Officer of the LAFCO; and
3. The Fire Chief, or Board President, is hereby authorized and directed to prepare the necessary LAFCO Application documents, conduct investigations, and take any action necessary to process the application.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Rancho Santa Fe Fire Protection District on May 18, 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAMES H ASHCRAFT
President

ATTEST

Karlana Rannals
Secretary

SAN DIEGO LOCAL AGENCY FORMATION COMMISSION
Application for Annexation to County Service Area No. 17
(San Dieguito Ambulance)

The following information must be submitted with the application;
additional information may be requested during proposal review.

1. Completed Application for Annexation;
2. Certified resolution of application from subject district or a landowner or registered voter petition making application (Government Code § 56700);
3. A metes-and-bounds legal (geographic) description from the perimeter of the subject area and a reproducible map. Information about mapping requirements is available at www.sdlafco.org/forms/legal_description.pdf; or from the County Assessor's Mapping Division at 619/531-6468. (NOTE: THIS REQUIREMENT DOES NOT APPLY TO THE COUNTY SERVICE AREA NO. 17 (SAN DIEGUITO AMBULANCE) ANNEXATION APPLICATION);
4. Completed CAMPAIGN CONTRIBUTION DISCLOSURE FORM and EVALUATION CHECKLIST for DISCLOSURE OF POLITICAL EXPENDITURES;
5. LAFCO processing fee or contact LAFCO staff. NOTE: THIS REQUIREMENT DOES NOT APPLY TO THE COUNTY SERVICE AREA NO. 17 (SAN DIEGUITO AMBULANCE) ANNEXATION APPLICATION;
6. Terms and Conditions. If terms and conditions are proposed, they need to conform to the requirements contained in Government Code Section 56886;
7. Completed SUBJECT AGENCY SUPPLEMENTAL INFORMATION FORM; and

SAN DIEGO LOCAL AGENCY FORMATION COMMISSION
9335 Hazard Way • Suite 200 • San Diego, CA 92123
(858) 614-7755 • www.sdlafco.org

**APPLICATION FOR ANNEXATION TO COUNTY SERVICE AREA NO. 17
(SAN DIEGUITO AMBULANCE)**

Application is hereby jointly made to San Diego Local Agency Formation Commission (LAFCO) to:

1. Annexation of approximately 2991.5 acres (Area 6B of the CSA-107/ Rancho Santa Fe Fire Protection District LAFCO reorganization) to CSA No. 17 (San Dieguito Ambulance) in association with the Rancho Santa Fe Fire Protection District Reorganization (involving dissolution of CSA No. 107 (Elfin Forest / Harmony Grove) and annexation to the Rancho Santa Fe Fire Protection District).

As a part of this application for ANNEXATION TO COUNTY SERVICE AREA NO. 17 (SAN DIEGUITO AMBULANCE), the Rancho Santa Fe Fire Protection District, as applicant, agrees to defend, indemnify, hold harmless, and release the San Diego LAFCO, its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs and expenses, including attorney fees.

The persons signing this application will be considered proponents for the proposed actions and will receive all related notices and other communications. I acknowledge that Annexation to CSA No. 17 (San Dieguito Ambulance) may result in the imposition of existing taxes, fees, or assessments within the subject districts on the effective date of consolidation. Any rights to a hearing, assessment ballot proceeding, or an election on those existing taxes, fees and assessments under Articles XIIC and XIID of the State Constitution (Proposition 218) are hereby waived.

(1)	Signature: _____	Date: _____
	Print/ Type Name: _____	
	Representing: _____	
	Address: _____	
	_____	Telephone: () _____

(2)	Signature: _____	Date: _____
	Print/Type Name: _____	
	Representing: _____	
	Address: _____	
	_____	Telephone: () _____

APPLICATION FOR ANNEXATION TO COUNTY SERVICE AREA NO. 17

(SAN DIEGUITO AMBULANCE)

*Please respond fully to the following requests for information; use additional sheets of paper as required. Respond with NA to items that do **not** apply.*

GENERAL INFORMATION

1. Why is ANNEXATION to CSA NO. 17 proposed?

The projected population growth resulting from a new housing development project is expected to impact the local ambulance services in this region. Annexing the unserved area of CSA-107 into CSA-17 will facilitate resource sharing and increase the level of emergency medical care provided to the residents of the combined region.

The benefits of annexation include the following:

- Consolidates oversight of Emergency Medical Services (EMS) activities: CSA 17 and CSA 107 are currently overseen by two separate Advisory Boards who provide input to the County Board of Supervisors regarding the provision of EMS services to their respective regions. The annexation would enable consolidating the oversight of both regions under a single advisory board, thus eliminating duplicative effort and reducing the administrative burden associated with managing two separate boards.
- Improves the level of ambulance service to citizens residing in the CSA 107 region by expanding the level of care from Basic Life Support (BLS) to Advanced Life Support (ALS).
- Consolidates the current CSA 17 area with the mutual aid covered area to provide consistent administrative oversight and provision of service to the residents in the Elfin Forest community.
- Clarifies roles and responsibilities of mutual aid providers via mutual aid agreements that will be established with adjacent jurisdictions.
- Creates opportunities for common community outreach and education that promote safe communities.

2. Identify existing dispatch providers to CSA No. 17. Discuss any changes in providers or amendments to existing agreements that would be required to accommodate the proposal.

North County Dispatch Joint Powers Authority is the current dispatch provider for CSA-17. There are two cities that border CSA 107: San Marcos and Escondido. The San Marcos Fire Department uses North County Dispatch Joint Powers Authority while Escondido Fire Department dispatches from its own police and fire dispatch center. The proposed annexation will not necessitate any change in providers or amendments to existing dispatch agreements.

3. Describe any proposed contractual changes to service agreements (e.g., mutual and automatic aid agreements / contracts) that would provide services to the subject territory.

Mutual aid agreements for ALS 9-1-1 transportation services would need to be executed with the City of Escondido and the City of San Marcos.

4. How would the proposal affect exclusive operating areas (EOA) for the subject agencies (e.g., expansion or other modifications to EOAs)?

The proposal does not affect exclusive operating areas (EOA) for the subject agencies. CSA 107 is consistent with CSA-17's sphere of influence.

5. Describe any potential changes to the CSA No. 17 Advisory Board that may be necessary as a result of the proposed annexation.

There are no changes necessary to the CSA-17 Advisory Board as a result of this annexation.

6. Discuss how the proposal will affect opportunities for furthering efficiencies, such as regional planning / service opportunities, etc. List current shared activities with other service providers, including shared facilities and staff and the CSA is planning to provide. Discuss how the proposal will further these efforts.

Pending LAFCO approval of the reorganization of CSA 107 into the Rancho Santa Fe Fire Protection District (RSFFPD), RSFFPD will provide paramedic staffing from the Harmony Grove fire station on a 24/7/365 basis. The annexation of the unserved area of CSA-107 will utilize mutual aid ALS ambulance response from the cities of Escondido and San Marcos.

	CSA No. 17
7. District Population	120,437 (2010 SANDAG)
8. Registered Voters	52,393 TOTAL (estimated) 38,909 = Encinitas 8,434 = Solana Beach 3,024 = Del Mar 2,026 = Rancho Santa Fe (estimated) (Registrar of Voters 2/11/15 and EMS estimates for RSF)
9. Acres / Square Miles	72.95 sq. miles

10. Describe prevalent land uses in the CSA; list predominant General Plan designations.

CSA 17 includes the cities of Del Mar, Encinitas, Solana Beach, the City of San Diego communities of Del Mar Heights and Del Mar Terrace, and the unincorporated communities of Rancho Santa Fe, 4-S Ranch, and part of Elfin Forest. The CSA spans approximately 72.95 square miles and is home to approximately 120,437 residents (SANDAG, 2010). Prevalent land uses vary amongst the cities and communities of the CSA, but the most prevalent land use for the region as a whole is residential, including semi-rural and rural residential. Other land uses for the region, in order of most to least prevalent, include open space, right of way/other, undeveloped, public/institutional, commercial, agriculture and industrial. The areas of CSA 17 included in the General Plan are Rancho Santa Fe, Elfin Forest, and 4-S Ranch. The General

Plan designations for these areas include residential, open space, commercial and industrial, with most of the industrial areas located in 4-S Ranch.

CSA 107 includes the unincorporated north county communities of Elfin Forest and Harmony Grove. The CSA spans 9.69 square miles and houses a resident population of approximately 927 (SANDAG, 2010). Prevalent land uses are characterized as undeveloped, rural residential, commercial, industrial, village, and semi-rural. County of San Diego (San Dieguito) General Plan designations include: residential; commercial; industrial; and open space. There will be about 736 projected residential units within the Harmony Grove village project by 2019, according to developer projections.

11. Briefly discuss anticipated development within the proposed annexation area and expected population.

Harmony Grove Village development have the potential to significantly change the resident population in Harmony Grove. Harmony Grove Village is currently under construction with 742 homes on 468 acres that will triple the population of the area. Sales to begin in late 2015 for occupancy in earlier 2016.

12. What sphere of influence changes are proposed for CSA No. 17, if any?

There are no changes to the sphere of influence for this proposed annexation.

13. Discuss the ability of the CSA No. 17 to provide services to territory within the annexation area. Include a discussion of the cost to extend services and a plan for services.

RSFFPD will staff the Harmony Grove fire station with ALS first responders. ALS transportation services will be provided by a combination of the current CSA 17 transportation provider and mutual aid agreements with adjacent jurisdictions. Pending successful negotiations with Planning and Development Services (PDS), the fiscal impact of this annexation is anticipated to be budget-neutral based on estimated parcel tax and property tax revenue. It is anticipated that these revenues will offset costs associated with mutual aid, per impact analysis completed by County EMS.

14. Briefly explain how CSA No. 17's operations have been financed; list major revenue sources and identify the percent of operational funding which each source represents.

Revenue to support CSA 17 paramedic services comes from four sources:

- Parcel taxes (Benefit Fee) 33%
- Nonresident transportation fee 19%
- Property taxes 25%
- CSA 17 resident transportation fee 21%
- Other 2%

The parcel tax charged to the residents of CSA 17 would apply to the residents of the annexed area. The property tax formula already in place for the CSA is 0.0299% of property tax.

Potential Revenue

	Housing Units	Parcel Tax Revenue (\$28.07 per dwelling)	Property Tax Revenue (.2999504 of 1%)	Transport Fees	Total Revenue
	412 (current)	\$11,564.84	\$7,729.12	\$9,600	\$28,893.96
1	1,154 (with HGV)	\$32,392.78	\$21,649.04	\$27,200	\$81,241.82

- List special taxes approved by voters that will be levied within the proposed annexation area. If CSA No. 17 will continue to levy voter-approved taxes, explain restrictions and processes concerning collection and expenditure of special tax revenue.

The County levies a voter-approved parcel tax (benefit fee) to CSA-17 property owners. Residents first voted in 1979 and then again in 1997 to have the benefit fee added to their tax bills. This parcel tax is included as a separate line item on the owner's property tax assessment bill and is collected by the County Tax Assessor. The amount of the parcel tax may be increased by a rate that is less than or equal to the rate of increase in the Consumer Price Index. The parcel tax amount is approved by the Board of Supervisors each year, even if there is no change to the amount. Expenditure of parcel tax revenue is restricted to expenses incurred for the provision of ALS paramedic services in CSA-17.

- Briefly describe if new equipment or equipment upgrades that would be required to implement proposal. Provide cost estimates and explain how capital funds will be available for purchase.

No new equipment or equipment upgrades are required to implement this proposal.

SUPPLEMENTAL FISCAL AND GENERAL INFORMATION

For the questions in this section, please submit answers on additional pages, indicate who provided the information, and attach the pages to this form.

1. Per requirements in Government Code Section 56653, submit with this application a plan for providing services within the affected territory. At a minimum the plan for services must include:
(1) An enumeration and description of the services to be provided;
(2) The level and range of services to be provided;
(3) An indication of when services can be feasibly extended to the reorganization territory; (4) An indication of any improvements or upgrades of facilities that the reorganized agency will make or require; and
(5) Information with respect to how services will be financed.
2. Discuss the opportunities for improved service delivery associated with the proposed annexation.
3. Indicate if CSA No. 17 (San Dieguito Ambulance) plans to establish improvement districts as a mechanism to continue the collection of fees and taxes in each former district's territory. If the proposed improvement district has different boundaries than the former district, provide a map and legal description. If improvement districts or tax zones are proposed to be formed, explain the rationale used to determine the boundaries and associated benefit fees, taxes, or assessments.
4. Discuss any opportunities for cost-savings or cost-avoidance. Include in the response any proposed actions to decrease or increase charges / fees; facility planning, shared facility usage, etc. if a proposed budget associated with annexation has been developed, submit the budget with the LAFCO application.
5. List any terms and conditions that are requested for this proposal.
6. List all agencies, groups and individuals contacted regarding this proposal.
7. Are there any jurisdictional issues / conflicts associated with the proposal?

☐ YES ☒ NO (If yes, please contact LAFCO staff)

1. Per requirements in Government Code Section 56653, submit with this application a plan for providing services within the affected territory. At a minimum the plan for services must include:

The Rancho Santa Fe Fire Protection District is not responsible for providing ambulance services to this area. However, RSFFPD will staff the Harmony Grove fire station with ALS first responders. ALS ambulance transportation services will be provided by a combination of the current CSA 17 transportation provider and mutual aid agreements with adjacent jurisdictions. Pending successful negotiations with Planning and Development Services (PDS), the fiscal impact of this annexation is anticipated to be budget-neutral based on estimated parcel tax and property tax revenue. It is anticipated that these revenues will offset costs associated with mutual aid, per impact analysis completed by County EMS.

2. Discuss the opportunities for improved service delivery associated with the proposed annexation.

Currently, this area of CSA-107 is an unserved area for an automatic aid ALS ambulance service. With the proposed annexation of this area, automatic aid agreements with neighboring cities can be negotiated.

3. Indicate if CSA No. 17 (San Dieguito Ambulance) plans to establish improvement districts as a mechanism to continue the collection of fees and taxes in each former district's territory. If the proposed improvement district has different boundaries than the former district, provide a map and legal description. If improvement districts or tax zones are proposed to be formed, explain the rationale used to determine the boundaries and associated benefit fees, taxes, or assessments.

This proposed annexation area is currently in CSA-107 for fire and emergency medical services and is in the sphere of influence for CSA-17. The annexed area would be required to participate in the vote approved special tax and a property tax exchange must negotiation prior to an effective date. An improvement area is not being proposed.

4. Discuss any opportunities for cost-savings or cost-avoidance. Include in the response any proposed actions to decrease or increase charges / fees; facility planning, shared facility usage, etc. if a proposed budget associated with annexation has been developed, submit the budget with the LAFCO application.

The annexed area would be required to participate in the vote approved special tax and a property tax exchange must have negotiated prior to an effective date.

5. List any terms and conditions that are requested for this proposal.

Terms and Conditions:

- a. Prior to the effective date of Reorganization, the County of San Diego shall amend the existing mutual aid contract or enter a new mutual aid contract with the City of Escondido to provide mutual aid advanced life support transport services in CSA 17 for a fee equal to the current CSA 17 non-resident transport fee rate. Residents of CSA 17 shall be billed the resident transport fee rate, and the

remainder of their charges shall be billed to the County on behalf of CSA 17. Patients who are not residents of CSA 17 shall be billed the provider rate. [Government Code Sections 56886 (r) and (t)]

- b. Prior to the effective date of Reorganization, the County of San Diego shall enter a mutual aid contract with the City of San Marcos to provide mutual aid advanced life support transport services in CSA 17 for a fee rate equal to the current CSA 17 non-resident transport fee rate. Residents of CSA 17 shall be billed the resident transport fee rate, and the remainder of their charges shall be billed to the County on behalf of CSA 17. Patients who are not residents of CSA 17 shall be billed the provider rate. [Government Code Sections 56886 (r) and (t)]
- c. Prior to LAFCO consideration of the Reorganization, the County of San Diego shall negotiate an exchange of property tax revenue from the annual tax increment generated in the CSA 17 annexation area. CSA 17 is seeking a transfer of property tax revenue equivalent to the existing portion of CSA 17's share of the one percent annual property tax allocation. [Revenue and Taxation Code Section 99.01 et seq.]
- d. Prior to the effective date of Reorganization, the CSA 17 annexation area shall be subject to the same benefit fees and other previously authorized charges, fees, assessments, or taxes applicable to existing CSA 17 residents. [Government Code Section 56886(t)]

6. List all agencies, groups and individuals contacted regarding this proposal.






- a. San Diego County Fire Authority
- b. Elfin Forest Fire Department
- c. Elfin Forest/Harmony Grove Town Council
- d. County of San Diego County Service Area no. 17 Advisory Board
- e. County EMS
- f. City of San Marcos Fire Department
- g. City of Escondido Fire Department
- h. City of Carlsbad Fire Department
- i. City of Encinitas Fire Department
- j. Rincon Del Diablo Water District
- k. San Diego LAFCO

7. Are there any jurisdictional issues / conflicts associated with the proposal?

No, not that we are aware. However, the Rancho Santa Fe Fire Protection District and San Diego LAFCO are aware of a parallel LAFCO application being worked on for the same annexation by the County EMS.

County Service Area No. 107 (Elfin Forest)

MAP 2

-  CSA 107 (Elfin Forest)
-  CSA 107 outside CSA 17
-  CSA 107 inside CSA 17
-  CSA 17
-  CSA 17 SOI
-  Rancho Santa Fe FPD
-  Rancho Santa Fe FPD SOI
-  Rincon Del Diablo MWD IDE
-  San Marcos FPD
-  Harmony Grove Village

Areas 1-5 = Unserved Fire/EMS

Area 1A = 337.2 acres
 Area 1B = 5.7 acres
 Area 2 = 335.2 acres
 Area 3 = 90.8 acres
 Area 4 = 100.3 acres
 Area 5 = 556.3 acres
 Area 6A = 171.9 acres
 Area 6B = 2991.5 acres

SOI = Sphere of Influence

SAN DIEGO **LAFCO**



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This map has been prepared for descriptive purposes only and is considered accurate according to the GIS and LAFCO data.

File: G:\GIS\PROJECTS\CSA107\CSA_107 map 2.mxd
 Printed Sept 2014.

Master Agenda
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SAN MARCOS FPD

San Marcos Fire Station 4

Harmony Grove Village

Escondido FS 6

Area 6A
 CSA 107 outside CSA 17:
 171.9 acres

CSA 17 SOI

Area 6B
 CSA 107 outside CSA 17:
 2991.5 acres

Proposed Harmony Grove Fire Station

CSA NO 107 (ELFIN FOREST)

CSA 107 inside CSA 17

Elfin Forest / Harmony Grove Volunteer Fire Station

CITY OF ESCONDIDO

Area 3

RINCON IDE

CITY OF SAN DIEGO

Area 4

RANCHO SANTA FE FPD

Rancho Santa Fe FPD SOI

CSA NO 17 (SAN DIEGUITO)

Area 5

Rancho Santa Fe FS 4

CITY OF CARLSBAD

Area 1A

Area 1B

Area 2

CITY OF ENCINITAS



0 0.25 0.5 1 1.5 2 Miles