

FOURTH AMENDMENT TO
SEWERAGE AGENCY OF SOUTHERN MARIN
JOINT EXERCISE OF POWERS AGREEMENT

THIS FOURTH AMENDMENT to Sewerage Agency of Southern Marin Joint Exercise of Powers Agreement, dated for convenience as of January 15, 1981, by and between ALMONTE SANITARY DISTRICT, ALTO SANITARY DISTRICT, CITY OF MILL VALLEY, RICHARDSON BAY SANITARY DISTRICT, TAMALPAIS COMMUNITY SERVICES DISTRICT and HOMESTEAD VALLEY SANITARY DISTRICT.

R E C I T A L S

WHEREAS, the parties hereto have previously entered into an Agreement entitled, "SEWERAGE AGENCY OF SOUTHERN MARIN JOINT EXERCISE OF POWERS AGREEMENT," dated for convenience as of June 1, 1979, as subsequently amended; and

WHEREAS, the parties hereto desire to further amend said Agreement in certain particulars;

NOW, THEREFORE, the parties hereto do hereby agree to amend Sections 16.1, 16.2 and 18.2 of said Agreement to read as follows:

"Section 16. Ownership and Operation of Properties.
With respect to the ownership and operation of sewerage facilities and compensation for the use thereof, it is agreed by the parties hereto that:

1. Treatment Facilities.

Effective on a date to be determined and prior to award of construction contracts, Member Entities shall allow the Agency rights in use of the wastewater treatment facilities which each owns together with the land on which such facilities are located and associated laboratory facilities and equipment all as described in Exhibit I, necessary for the operation of Joint Use Facilities, in consideration for an amount to be determined by special audit and based on the original cost of the facilities and improvements thereto. Such audit will be performed in accordance with the procedures set forth in the Financing Plan.

The manner and legal method, whether by lease, lease-leaseback, outright acquisition or other, of improvements only or land and improvements, by which the Agency will attain such rights shall be negotiated between the Agency and each such Member Entity. It is understood, however, that whatever the legal method, the Agency will attain such rights as will permit it to

exercise responsibility for operation and maintenance of these facilities and that such Member Entity will relinquish such responsibility. In the exercise of such responsibility, the Agency shall contract with the City of Mill Valley to operate and maintain such facilities and all other sanitary sewerage facilities owned by the Agency.

Also, whatever the legal method, the Agency shall have the right to construct improvements and extensions to such facilities.

The Agency will pay the costs, if any, associated with demolition and salvage of treatment or related facilities, presently existing, which are abandoned, or for the acquisition of facilities other than treatment facilities.

2. Sewerage Works Other Than Treatment Facilities.

The sewerage works described in Exhibit II are necessary for the operation of Joint Use Facilities. The Member Entities owning such works may continue to own, operate and maintain same, provided, however, that the Agency shall have the right to construct improvements and extensions thereto. If such improvements and extensions are constructed, the costs and expenses of operating such works shall be allocated between the Agency and the owner Member Entity, by agreement, on the basis of the ratio of respective use of such works by the Member Entity as an integral part of its collection system and by the Agency as an integral part of its Joint Use Facilities.

The Agency shall contract with the City of Mill Valley to operate and maintain such works with the costs thereof being allocated as hereinabove described. An agreement so providing shall be entered into within a reasonable time after such request is made and shall be of at least three years duration unless otherwise agreed.

Unless otherwise agreed, the Agency shall be solely responsible and shall assume legal liability for the operation and maintenance of such works and shall do so in manner consistent with sound practice and fiscal conservatism.

With respect to either type of agreement herein described, if the Agency and the Member Entity cannot agree on a cost allocation formula, they shall refer the matter for final determination to a mutually agreed upon arbitrator.

Section 18. Equalization Plan.

2. Reimbursement Payments.

The Agency will pay annually the amounts set forth in Exhibit III, Table 12, which amounts include five percent on the remaining unpaid balance, until the total amounts set forth in Exhibit III, Table 12, shall have been reached. Annual payments will commence not later than 6 months after commencement of the Agency's effluent discharge through the Racoon Straits outfall."

This Fourth Amendment shall become effective when all parties hereto shall have authorized execution thereof by their respective governing bodies.

CITY OF MILL VALLEY,
a Municipal Corporaton

Joan Bussinecker
Mayor

ATTEST:

Elaine Curry
City Clerk
(SEAL)

ALMONTE SANITARY DISTRICT,
a Public Corporaton

Raymond F. Douglas
President

COUNTERSIGN:

Thomas Robert
Secretary
(SEAL)

ALTO SANITARY DISTRICT,
a Public Corporation

George Hoffman
President

COUNTERSIGN:

Shawn H. [Signature]
Secretary
(SEAL)

RICHARDSON BAY SANITARY DISTRICT,
a Public Corporation

Edward J. Zetelo
President

COUNTERSIGN:

John Radwilk
Secretary (SEAL)

TAMALPAIS COMMUNITY SERVICES
DISTRICT, a Public Corporation

Eugene J. Jabe
President

ATTEST:

Leonard Mitchell
Secretary (SEAL)

HOMESTEAD VALLEY SANITARY DISTRICT
a Public Corporation

Bertram P. Davies
President

COUNTERSIGN:

Spencer Payne
Secretary (SEAL)