

**A JOINT POWERS AGREEMENT
CREATING
THE MARIN GENERAL SERVICES AUTHORITY**

This Agreement is entered into this ____ day of _____, 2005, by and between the following local agencies _____

_____ ,
pursuant to Sections 6500, et seq., of the California Government Code.

RECITALS

The local governments of Marin County find it effective and economic to collaborate in the provision of various municipal services and establish the Marin General Services Authority to administer, finance and govern those local government functions assigned, in the past, to the Marin Street Light Acquisition Joint Powers Authority, and those that may be added in the future.

For these and other reasons, the Cities, Towns and Special Districts within Marin County and the County of Marin itself have determined it is in the public interest to create the Marin General Services Authority, an entity separate from its Agencies, which will provide various municipal services to its Members.

NOW, THEREFORE, these Members agree as follows:

ARTICLE 1: DEFINITIONS

Certain words as used in this Agreement shall be defined as follows:

- A. "**Agencies**" shall mean the County, Cities and Towns and Special Districts within Marin County.
- B. "**Agreement**" shall mean this Agreement that establishes the Marin General Services Authority.
- C. "**Authority**" shall mean the Marin General Services Authority.
- D. "**Board**" shall mean the Board of Directors, which is the governing body of the Marin General Services Authority.
- E. "**County**" shall mean County of Marin.
- F. "**Cities**" shall mean the Cities of Belvedere, Larkspur, Mill Valley, Novato, San Rafael and Sausalito.

G. "**Joint Powers Authority Oversight Committee**" shall mean that committee created by Marin County Council of Mayors and Council Members (MCCMC) and its member agencies.

H. "**Towns**" shall mean Towns of Corte Madera, Fairfax, Ross, San Anselmo and Tiburon.

I. "**Special Districts**" shall mean governmental agencies created for single or limited purposes within the County of Marin.

J. "**Members**" shall mean the County, Special Districts, Cities or Towns, which are or become signatories to this Agreement.

K. "**Quorum**" shall mean a majority of the Board members.

ARTICLE 2: PURPOSE

2.1 The purpose of this Agreement is to establish a public entity separate from the County, Cities, Towns and Special Districts. This public entity is to be known as the Marin General Services Authority.

The Authority will finance, implement and manage the various municipal services assigned to it. Those services are listed and included by reference in Exhibit A.

ARTICLE 3: TERM OF AGREEMENT

3.1 This Agreement becomes effective upon a) the lawful adoption of this Agreement by seven Agencies by resolution and b) the adoption of an implementation resolution by the Board of Directors of the Marin Street Light Acquisition Joint Powers Authority. To become a Member, a local agency must execute this Agreement by September 1, 2005. It shall remain in effect until it is terminated pursuant to Article 19.

ARTICLE 4: RELATIONSHIP TO JOINT SERVICES AUTHORITY OVERSIGHT COMMITTEE

4.1 The Joint Powers Authority Oversight Committee was established to oversee the operations of the JPA's and provide a forum to review and recommend policy issues affecting their joint efforts. The General Services Authority will raise significant policy issues and respond to inquiries from the Joint Powers Authority Oversight Committee for discussion by the Joint Powers Authority Oversight Committee, and the General Services Authority will report to the Joint Powers Authority Oversight Committee annually.

ARTICLE 5: MEMBERS

- 5.1** The County, Cities, Towns and Special Districts who enter into this Agreement by September 1, 2005.
- 5.2** The County, any Special District and any City or Town may be considered for Membership in the Authority after the date the Authority is fully established, by presenting an adopted Resolution to the Board, which includes a request to become a Member of the Authority. That Resolution shall be in a form prescribed by the Board with no modifications.
- 5.3** The Board shall accept proposed Members upon a majority affirmative vote of the Board, upon payment of any Board determined fee and interest, and upon satisfaction of any conditions established by the Board as a prerequisite for Membership.
- 5.4** Member agencies may elect to participate in selected services of the Authority.

ARTICLE 6: BOARD OF DIRECTORS

- 6.1** The Authority shall be governed by the Board, which shall exercise all powers and authority on behalf of Authority. The Authority shall provide Errors and Omissions Insurance for the Board.
- 6.2** A majority of the directors of the Board shall constitute a quorum for the transaction of business. The Authority shall act upon majority vote (each member having one vote) of the Board of Directors.
- 6.3** The Board shall elect by majority vote from its directors, a President and Vice President. The President shall represent the Authority and preside at Authority meetings. The Vice President shall serve in the absence of the President.
- 6.4** The Board shall be comprised of seven directors:
- a. The Marin County Administrator. (1)
 - b. The City Managers of San Rafael and Novato. (2)
 - c. Two City or Town Managers appointed by the Marin Managers

Association. (2)

- d. Two Public Works Directors appointed by the Marin Public Works Association. (2)
- e. With the possible exception of the appointment of the County of Marin Public Works Director pursuant to paragraph 6.4.d. above, no member shall have more than one representative on the Board at any time.

6.5 Alternate directors, to act in the absence of the appointed representative, shall be appointed as follows:

- a. The Marin County Administrator shall designate an alternate for himself or herself.
- b. The City Managers for San Rafael and Novato shall each designate an alternate for himself or herself.
- c. The Marin Managers Association shall appoint another City or Town Manager/Administrator to serve as the single alternate for the two directors.
- d. The Marin Public Works Association shall appoint another Public Works Director as the single alternate for its two directors.
- e. Written confirmations of these appointments shall be transmitted to the Authority.

6.6 Agenda packets and minutes of the adjourned, regular and special meetings of the Board shall be kept by the Executive Officer and distributed to each member agency. Said minutes shall be adopted by the Board at its next meeting.

6.7 Each member of the Board shall have one vote. An alternate appointed pursuant to paragraph 6.5 above, shall have only one vote in any situation. A majority of the members of the Board will constitute a quorum. For purposes of conducting business, a majority of the Board of Directors will be authorized to act on behalf of the Authority. The Board shall act by Motions duly adopted or Resolution when required by law.

6.8 All directors shall comply with any economic or other reporting requirements under state or federal law. Upon formation of the Authority, the

Board shall adopt a conflict of interest code pursuant to Government Code § 87300.

6.9 The Board may adopt from time to time such policies, procedures, bylaws, Rules or regulations for the conduct of its affairs as deemed necessary by the Board.

6.10 The Board shall hold meetings as follows:

- a. The Board shall hold its regular meeting at 10:00 a.m. on the second Thursday of the odd numbered months.
- b. Special Meetings of the Board may be called in accordance with the provisions of Section 54956 of the California Government Code.
- c. All meetings of the Board shall be held subject to the provisions of the Ralph M. Brown Act (Sections 54950, et seq., of the California Government Code) and other applicable laws of the State of California requiring notice be given of meetings of public bodies.
- d. The agency or individual with whom the Authority contracts to provide Executive Officer services shall be the custodian of the official records of the Authority.

6.11 Other subcommittees of the Board shall hold meetings as follows:

- a. Other committees shall hold meetings as may be called by the Committee Chair or a majority of the members.
- b. Minutes of all meetings shall be kept and forwarded to members of the Committee and to each member and alternate member of the Board.

ARTICLE 7: POWERS OF THE AUTHORITY
EXERCISED BY THE BOARD OF DIRECTORS

7.1 The Authority shall have all of the necessary powers and authorities granted by law to provide the services authorized in Exhibit A, which may be amended from time-to-time pursuant to Article 13.

7.2 The Authority may contract with private companies and public agencies to create, implement and operate the programs and services outlined in Exhibit A.

7.3 The Authority may adopt budgets, determine fees and dues of Members,

retain personnel, retain legal counsel, retain consultants and engineers, acquire grants, acquire, hold, lease and dispose of real and personal property, use the power of eminent domain, accept donations, sue and be sued, and possesses all other powers associated with the operation of a joint powers authority on behalf of the citizens, and public agencies within Marin County. No property, real or personal, shall be considered property of the Authority unless the Authority formerly accepts it by Resolution. The Authority may exercise implied as well as these expressed powers.

7.4 The Authority shall have the responsibility to keep Members informed of and advise the MCCMC Legislative Committee regarding pending legislation that would affect the operations of the Authority.

7.5 The Authority shall defend, hold harmless and indemnify the Members of the Authority.

7.6 The Authority may contract with a Member for services from a Member's employees.

7.7 The Authority may exercise the powers permitted under Government Code § 6504 or any successor statute. Specifically, (a) contributions from the treasuries may be made for the purpose set forth in the Agreement, (b) payments of public funds may be made to defray the cost of such purpose, (c) advances of public funds may be made for the purpose set forth in the Agreement, such advances to be repaid as provided in the Agreement, or (d) personnel, equipment or property of one or more of the Members to the Agreement may be used in lieu of other contributions or advances.

7.8 The Authority shall determine how any Agency will become a Member subsequent to the date the Authority is fully established as provided for in Section 5.2. Specifically, the Board shall establish fees and any other conditions necessary for an Agency to become a Member. Such fees shall be calculated based upon all prior project expenditures in a manner consistent with the cost allocation of existing Members and any additional costs necessary to serve that new Member. Such a proposed new Member shall also pay interest at the rate of Bank of America prime rate, calculated on a quarterly basis, from the date this

Authority is fully established, to its date of membership. The determination of the Board regarding fees and any other required conditions for new Members shall be within its sole discretion.

7.9 The Authority shall determine the amounts each Member shall contribute to the funding of the Authority. The contribution is set forth in Article 8 of the Agreement.

7.10 The Authority may do all things necessary and lawful to carry out the purpose of the Agreement.

7.11 As is required by Government Code § 6509, one Member must be designated such that the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by that Member. The County of Marin is designated the Government Code § 6509 agency. The Members agree that by this designation they agree not to interfere with any exercise of power by the Authority, be it general or specific, that would otherwise be lawful for the County to exercise. All powers and immunities possessed by the County are therefore possessed by the Authority.

7.12 Agencies, which become Members of the Authority expressly agree to delegate all lawful power to the Authority to carry out those acts and projects of the Authority in which they participate.

7.13 In addition to the powers discussed above, the Authority shall have the following additional powers but the exercise of these following powers shall only be permitted in the manner specified below:

a. The Board possesses the following powers to be exercised as stated in Section 7.13 (b):

1. The power of eminent domain
2. The power to issue debt. Specifically, the authority can incur debt on its own under any law authorizing a joint powers authority to do so, including Government Code § 6540, et seq., and the Marks-Roos Local Bond Pooling Act of 1985, Government Code § 6584, et seq. The Authority can use lease financing, certificates of participation, installment purchase certificates, short-term notes and

any other suitable form of borrowing. The Authority may enter into an agreement with a Member regarding that Member incurring debt on behalf of the Agency.

3. The power, right and immunity to construct any facility in a member's jurisdiction without obtaining a permit of any nature from that member.

b. These powers and rights may only be exercised after a majority vote of the participating Members constituting a majority of the population of Marin County, as defined by the State Department of Finance, by resolution of each agency's governing board. Such action would be reviewed with the Joint Powers Authority Oversight Committee.

7.14 The Authority shall keep the Joint Powers Authority Oversight Committee informed of issues that may affect the duties of the JPA.

ARTICLE 8: FUNDING OF THE AUTHORITY

8.1 The Board shall adopt annual budgets for the Authority's activities within ninety (90) days of the effective date of this Agreement and by June 1 of each succeeding year. Public funds may not be disbursed by the Authority without adoption of the approved budget and all receipts and disbursements shall be in strict accordance with the approved budget. The budget shall identify the programs of the Authority and allocate funds by the program. The Board shall allocate these costs for each program with the adoption of the annual budgets.

8.2 Members shall contribute funds to the Authority. The contributions of Members shall be based on their participation in the duties specified in Exhibit A. All budget items shall be considered general unless identified as special in Exhibit B. The formula for contributions for general budget items is based on a combination of two pro rata factors designed to develop an equitable and proportional sharing. The formula uses two factors equally: assessed valuation of real property and population in an effort to develop a fair apportionment of costs. To fund general budget items, each Member shall contribute a sum equal to:

$$\frac{AVM}{PAM} (GB) (.5) + \frac{PM}{PAM} (GB) (.5) = C$$

AVAM PAM

AVM means the most current Assessed Valuation of Real Property of an individual Member as determined by the County Assessor;

AVAM means the most current Assessed Valuation of Real Property of All Members as determined by the County Assessor;

GB means general budget items;

PM means Population of Member;

PAM means Population of all Members;

C means Contribution of Member.

For the County, the variables shall be based on the unincorporated assessed value of real property and the population in the unincorporated area.

8.3 Special Districts shall only be obligated for those programs related specifically to the administration and operation of street lighting facilities. Special budget items shall be funded by the participating Members as designated in Exhibit B.

8.4 Members shall pay their contributions within thirty (30) days after a request for payment has been made by the Authority. The Authority shall have the ability to fund general and special budget items from fees charged for the use of Authority assets.

ARTICLE 9: EXECUTIVE OFFICER

9.1 There will be an Executive Officer of the Authority who shall be responsible for the administration of the Authority. The Executive Officer shall be appointed by and may be removed for any reason by a majority vote of the Board. The Executive Officer shall be designated the Government Code § 6505.1 officer who shall file an official bond. The Executive Officer is hereby delegated the authority by the Board to enter into agreements or modifications to agreements in an amount not to exceed \$25,000.00. By Resolution the Board may delegate to the Executive Officer any other power not expressly prohibited by law.

9.2 The Executive Officer shall cause an independent annual audit of the accounts and records to be conducted by a certified public accountant in compliance with the requirements of Section 6505 of the Government Code and generally accepted auditing standards.

9.3 The Authority shall solicit competitive applications, including compensation

for the services of executive officer every four years. The first application process will be within two years after ratification of the JPA.

ARTICLE 10: TREASURER / CONTROLLER

10.1

- a. The Treasurer shall be the County Auditor/Controller who shall also function as Controller of the Authority.
- b. The Treasurer shall serve as the depository and have custody of all Authority funds and establish and maintain such books, records, funds, and accounts as may be required by reasonable accounting practice. The books and records of the Authority shall be open to inspection at all reasonable times to the Members.
- c. The Treasurer, within ninety (90) days after the close of each fiscal year (which shall be from July 1 to June 30), shall give a complete written report of all financial activities for such fiscal year to the Members.
- d. The Treasurer shall prepare such financial reports as may be directed by the Board.
- e. The Authority shall reimburse the Treasurer for all costs incurred in the fulfillment of these duties.

ARTICLE 11: DEBTS AND LIABILITIES

11.1 As permitted under Government Code § 6508.1, no debt, liability, or obligation of the Authority shall constitute a debt, liability, or obligation of any Agency and each Member's obligation hereunder are expressly limited only to the appropriation and contribution of such funds as may be levied pursuant to this Agreement.

ARTICLE 12: INDEMNIFICATION

12.1 The Authority shall acquire such insurance protection as is necessary to protect the interest of the Authority, the County, Special Districts, Cities, Towns and the public. The Authority created by this Agreement shall assume the defense of and indemnify and hold harmless the County, Special Districts, Cities, Towns and each of their respective officers, agents and employees, from all claims, losses, damages, costs, injury and liability of every kind, nature and description directly or indirectly arising from the performance of any of the

activities of the Authority or the activities undertaken pursuant to this Agreement. Notwithstanding the foregoing language or that language contained in Article 7, § 6.6, the Authority shall not be obligated to defend, indemnify or hold harmless any member, its officers, agents, or employees from any and all claims, losses, damages, costs, injury and liability of every kind and nature when such claim arises from any effort of any nature by a member, either directly or indirectly, which hinders or prevents implementation of an act or project of the Authority.

ARTICLE 13: AMENDMENTS

13.1 This Agreement may be amended only upon the two-thirds (2/3) affirmative vote of all the Directors of the Board with such proposed amendment having been noticed Members thirty (30) days prior to the date of the meeting. Changes to Sections 7.13 and 5.4 must be approved by a majority of member agencies representing the majority of the population.

ARTICLE 14: WITHDRAWAL

14.1 Any City, Town, Special District or the County may withdraw from this Agreement effective July 1 of any year, by giving written notice to the Authority's Executive Officer ninety (90) days prior to that July 1. Upon withdrawal, a City, Town, Special District or the County retains its financial obligations for current contracts executed to fulfil this Agreement, and assumes that responsibility at its own expense. In the event a Member withdraws, the Authority will deed all assets within the Member's jurisdiction to the Member.

ARTICLE 15: SEVERABILITY

15.1 If any provision of this Agreement or its application to any person or circumstances is held invalid, the remainder of this Agreement and the application of the provision to other persons or circumstances shall not be affected.

ARTICLE 16: NOTICES

16.1 All notices to Members shall be deemed to have been given when mailed to the governing body of each Agency. The Board may provide for notice by e-mail or facsimile or some other reliable method by resolution. All notices to the Authority shall be delivered to its Executive Officer.

ARTICLE 17: NO RIGHTS IN THIRD PARTIES

17.1 All of the terms, conditions, rights and duties provided for in this Agreement are, and shall always be, solely for the benefit of the Members. It is the intent of the Members that no third party shall ever be the intended beneficiary of any performance, duty or right created or required pursuant to the terms and conditions of this Agreement.

ARTICLE 18: MARIN STREETLIGHT ACQUISITION JPA

18.1 The Marin Streetlight Acquisition Joint Powers Authority shall be disbanded upon the effective date of this Agreement as specified in Section 3.1 and all assets, fund balances, trust funds and/or cash shall become the assets of the Marin General Services Authority upon the effective date of this Agreement.

ARTICLE 19: TERMINATION

19.1 This Agreement may be terminated by the Board upon notice of withdrawal being received from a majority of the Members. Upon termination, payment of the obligations and division of the property of the Authority shall be as follows:

- a. In the event of termination of the Authority where there is a successor public entity, which will carry on the activities of the Authority and assume its obligations, Authority funds, including any interest earned in deposits, remaining upon termination of the Authority and after payment of all obligations shall be transferred to the successor public entity.
- b. If there is no successor public entity, which would carry on any of the activities of the Authority or assume any of its obligations, Authority funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, shall be divided in proportion to the accumulated contributions of each agency.
- c. If there is a successor public agency, which would undertake some

of the functions of the Authority and assume some of its obligations, Authority funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, shall be allocated by the Board between the successor public entity and Members.

d. In the event the Authority is terminated under circumstances falling with (b) or (c) above, all decisions of the Board with regard to determination of amounts to be transferred to Members or any successor shall be final.

ARTICLE 20: AGREEMENT COMPLETE

20.1 The foregoing constitutes the full and complete Agreement of the parties. There are no oral understandings or agreements not set forth in writing herein. Any such agreements merge into this Agreement. This Agreement can only be amended pursuant to Article 13.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their proper duly authorized officers and it will be effective as of the date of execution of all the parties hereto. This Agreement may be executed in counterparts.

Dated: _____

President, Board of Supervisors

Attested By:

Clerk

EXHIBIT A

DUTIES OF MARIN GENERAL SERVICES AUTHORITY

1. Own and insure the streetlights of member agencies that have been transferred to the Authority by the member agencies.
2. Advise the County of Marin on the non-point discharge pollution prevention system for Marin known as the Marin County Storm Water Pollution Prevention Program.
3. Govern and manage the Marin County taxicab regulation program.
4. Manage the abandoned vehicle abatement program.
5. Explore, investigate, advise, and assist member agencies on energy issues.
6. Lease access to agency owned streetlights.
7. Provide regional information management services, including PC support, networks and shared applications.
8. Manage the MarinMap Geographic Information System.

EXHIBIT B

FUNDING OF MARIN SPECIAL BUDGET ITEMS

1. Streetlights – Members shall pay the costs of this function in proportion to the number of streetlights owned by the Authority in each member’s jurisdiction.
2. Taxicab – Funded by fees set by the Authority.
3. Abandoned Vehicle Program – Funded by state imposed surcharge on vehicle registration.
4. Technology Services – Funded by user charges paid by participating agencies.
5. MarinMap – Funded by member fees, grants and special assessments on members. General Services Authority’s administration, accounting and legal costs will be reimbursed by the MarinMap budget.