

**LIVERMORE - PLEASANTON FIRE DEPARTMENT
HEADQUARTERS COST SHARING AGREEMENT**

This Agreement ("Agreement") dated this 11th day of May, 1998, is by and between the City of Livermore ("Livermore"), a municipal corporation, and the City of Pleasanton ("Pleasanton"), a municipal corporation.

WITNESSETH:

A. Livermore and Pleasanton have formed the Livermore-Pleasanton Fire Department Joint Powers Authority ("JPA") to provide fire suppression, fire prevention, emergency medical services, building inspection, and hazardous materials response in their combined jurisdictions.

B. To more effectively administer the JPA, the JPA Board approved a proposal to combine the Livermore-Pleasanton Fire Department headquarters with the new Fire Station #4 in Pleasanton.

C. To accommodate the new headquarters, additional real property needed to be purchased. And, to build the headquarters, each party must make a substantial capital investment.

E. The parties now desire to delineate their rights and responsibilities regarding the real property and the headquarters facility.

NOW, THEREFORE, in exchange for mutual consideration, the value of which is hereby acknowledged, the parties agree as follows:

1. **Acquisition of Additional Property.** Pleasanton will execute a Purchase Agreement with Frank Auf De Maur, and Konrad Rickenbach and Elizabeth Rickenbach as Trustee, for the purchase of unimproved real property ("Property") adjacent to the south side of Del Valle Parkway, consisting of approximately thirty six thousand nine hundred and thirty-one (36,931) square feet, more particularly described in the attached Exhibit A. Pleasanton will pay four hundred and six thousand two hundred and forty-one dollars (\$406,241.00) for the Property.

2. **Apportionment of Property Acquisition Costs.** Livermore shall appropriate and pay to Pleasanton the sum of two hundred and three thousand one hundred and twenty dollars and fifty cents (\$203,120.50), representing one-half (1/2) of the cost of the Property acquisition, as Livermore's consideration for the shared use of the Property for forty (40) years. Such payment shall be made within thirty (30) days of close of escrow of Pleasanton's purchase of the Property.

3. **Return of Property Acquisition Costs.** If Livermore and Pleasanton dissolve the Livermore-Pleasanton Fire Department Joint Powers Authority within forty (40) years of the

date of this Agreement, Pleasanton shall refund to Livermore the sum of two hundred and three thousand one hundred and twenty dollars and fifty cents (\$203,120.50). Such sum shall not be subject to any appreciation, depreciation, interest or amortization. Such sum shall be paid within ninety (90) days of the effective date of the dissolution.

4. **Ownership of Property.** The parties agree that title to the Property shall remain solely in the name of the City of Pleasanton.

5. **Construction of Headquarters.**

a. **Size and Amenities of Headquarters.** The headquarters is currently being designed to provide approximately eight thousand (8000) square feet of office space. Final design of the headquarters shall be approved by the joint executive directors of the JPA. Public works project bid specifications shall be reviewed and approved by both parties.

b. **Timing for Construction.** The parties expect that the project to build the headquarters will be put out to bid in the fall of 1998.

c. **Construction Contract and Management.** Pleasanton shall prepare the bid specifications based upon the approved design and put the project out to bid. The Pleasanton City Council shall award the bid to the lowest responsible bidder. Pleasanton shall carry out all the responsibilities related to the headquarters construction which are commonly performed by a public agency for a public works project, including, but not limited to: preparing bid specifications; holding informational meetings with interested contractors; managing contracts with architects, engineers and other professionals; awarding and executing a contract with the lowest responsible bidder; project management; and project inspections.

Pleasanton agrees to indemnify, defend, and hold harmless Livermore for any claims for damages arising from Pleasanton's negligence or misconduct in the management of the project.

The parties specifically agree that the construction contract shall provide that all contractor insurance certificates name both parties as additional insureds, and both parties shall be named as the beneficiaries of any completion, labor, and materials bonds.

6. **Apportionment of Construction Costs for Headquarters.**

a. **Payment by Each Party.** Each party shall pay one-half (1/2) of the environmental and soils testing, design and construction costs ("Construction Costs") related to the headquarters.

b. **Time for Payment.** Livermore shall appropriate and pay to Pleasanton one-half of the estimated Construction Costs at the time Pleasanton awards the construction contract for the headquarters. Pleasanton will place such funds in a separate account and provide Livermore with an accounting of the funds within ninety (90) days of the filing of a notice of completion for the headquarters.

c. Additional Costs. Once a project budget has been approved by the parties and a contract awarded, any additional costs shall be approved in advance by the joint executive directors of the JPA, and funds appropriated by the parties, as necessary.

7. Return of Construction Costs for Headquarters. If Livermore and Pleasanton dissolve the Livermore-Pleasanton Fire Department Joint Powers Authority within forty (40) years of the date of this agreement, Pleasanton shall pay to Livermore a settlement of its one-half (1/2) share of the Construction Costs, less those sums derived from a forty (40) year straight-line depreciation for the headquarters. A sample schedule of such a settlement is attached hereto as Exhibit B. Such sum shall be paid within ninety (90) days of the effective date of the dissolution.

8. Miscellaneous.

- a. This Agreement shall be governed by the laws of the State of California.
- b. This Agreement may be executed in counter-part.
- c. This Agreement represents the sole understanding and agreement of the parties, and supersedes all prior oral or written agreements regarding the matters decided herein.
- d. If an action is brought by either party against the other, the party in whose favor the final judgment is entered shall be entitled to recover court costs incurred and reasonable attorney's fees.
- e. This Agreement may only be amended in writing.
- f. Time is of essence to this Agreement.
- g. Notices to be given under this Agreement shall be in writing and sent by:
(a) certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail; (b) a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with courier; or (c) telecopy or similar means if a copy of the notice is also sent by United States Certified Mail, in which case notice shall be deemed delivered on transmittal by telecopier or other similar means, provided that a transmission report is generated by reflecting the accurate transmission of the notices, as follows:

City of Livermore
1052 South Livermore Avenue
Livermore, CA 94550-4899

City of Pleasanton
123 Main Street, P.O. Box 520
Pleasanton, CA 94566

Attn: City Manager
Fax (925) 373-5125

Attn: City Manager
Fax (925) 484-8234

These addresses may be changed by written notice to the other party, provided that no notice of change of address shall be effective until actual receipt of that notice.

- h. No waiver or any breach of covenant or provision in this Agreement shall be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

The parties hereto have executed this Agreement as of the date first set forth above.

CITY OF LIVERMORE

By: *Jerry Peeler*
Jerry Peeler, City Manager

CITY OF PLEASANTON

By: *Deborah Acosta*
Deborah Acosta, City Manager

ATTEST:

Alice Calvert
Alice Calvert, City Clerk

ATTEST:

Peggy L. Ezidro
Peggy L. Ezidro, City Clerk

APPROVED AS TO FORM:

Thomas Curry BH
Thomas Curry, City Attorney

APPROVED AS TO FORM:

Michael H. Roush
Michael H. Roush, City Attorney

LMS

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IN THE CITY COUNCIL OF THE CITY OF LIVERMORE

STATE OF CALIFORNIA

A RESOLUTION APPROVING CONSTRUCTION OF A JOINT FIRE HEADQUARTERS WITH THE CITY OF PLEASANTON AND AUTHORIZING SIGNING OF COST SHARING AGREEMENT

(LIVERMORE-PLEASANTON FIRE DEPARTMENT HEADQUARTERS)

BE IT RESOLVED by the Livermore City Council that construction of a joint fire headquarters with the City of Pleasanton for the Livermore-Pleasanton Fire Department Headquarters is approved.

BE IT FURTHER RESOLVED that the City Manager is authorized to sign, on behalf of the City of Livermore, the Livermore-Pleasanton Fire Department Headquarters Cost Sharing Agreement, a copy of which is on file in the office of the City Clerk.

APPROVED AS TO FORM:

Marville P. Whelan
DEPUTY CITY ATTORNEY

On motion of Councilmember Vargas, seconded by Councilmember Wieskamp, the foregoing Resolution was passed and adopted this 11th day of May, 1998, by the following vote:

AYES: COUNCILMEMBERS Reitter, Stein, Vargas, Wieskamp, and Mayor Brown

NOES: None

ABSENT: None

Cathie Brown
MAYOR, CITY OF LIVERMORE, CALIFORNIA

ATTEST:

Alicia Alvarez

CITY CLERK

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5/11/98

RESOLUTION NO. 98-123