

**LICENSE AGREEMENT RELATING TO THE USE OF AN IRRIGATION  
WELL ON BCPUD LANDS**

**RECITALS**

The Bolinas Community Public Utility District ("BCPUD" or "Licensor") is the owner of certain real property situated in the county of Marin, California, which is identified by Assessor Parcel Number 193-030-38 ( "BCPUD Lands").

The Fire House Community Park Agency ("Licensee") was created by virtue of a Joint Exercise of Powers Agreement dated January 21, 1985 by and between the BCPUD and the Bolinas-Stinson Beach Union School District as an entity separate from the two parties. Mesa Park was created for the purpose of providing recreational opportunities for the benefit of persons residing within the Bolinas Planning District and attending the Bolinas-Stinson Union School District. To that end, among other things, Licensee leases from the BCPUD a 12-acre parcel of land, Assessor Parcel Numbers 193-020 45, 47 & 59, which has been developed into sports fields and related recreational activity areas (i.e., skate park, playground, basketball court, etc.) known as "Mesa Park"

For many years Licensee has endeavored to secure a source of water to irrigate its sports fields. In 2007, the BCPUD approved the installation by Licensee of an irrigation well on BCPUD Lands to determine whether there was a potential source of water to, among other things, irrigate Licensee's sports fields. An irrigation well was successfully installed in 2009 and was determined by a licensed hydro-geologist to be adequate to serve Licensee's irrigation needs without impacting nearby groundwater quality or quantity, assuming certain limitations on the use of water by Licensee.

The parties now desire to enter into this License Agreement to set forth the terms and conditions under which Licensee may use the irrigation well.

**TERMS OF LICENSE AGREEMENT**

Effective as of the date on which this Grant of License is executed, for good and valuable consideration set forth below, the parties hereby agree as follows:

1. License Relating to Installation, Operation and Maintenance of an Irrigation Well. BCPUD hereby grants to Licensee a license to install, operate, and maintain an irrigation well on the BCPUD Lands (the approximate location of which is indicated on the attached Exhibit A). Licensee's use of the irrigation well shall be conducted on the following terms and conditions:

a. Licensee acknowledges that the irrigation well also is used by the Resource Recovery Project for operational purposes, as well as by a small on-site agricultural project, and further acknowledges that the irrigation well also will be used by the BCPUD in connection with its groundwater resource exploration efforts;

b. Licensee shall be entitled to use the water from the irrigation well for the sole purposes of irrigating the sports fields at Mesa Park and flushing toilets at Mesa Park and the Firehouse & Clinic buildings, and shall not otherwise license any other uses for this water.

c. Licensee shall not withdraw more than an average of 14,800 gallons of water per day from the irrigation well, subject to the BCPUD's sole and exclusive right, in its absolute discretion, to require Licensee at any time to reduce the amount of water withdrawn from the well. BCPUD makes no warranties regarding either the quantity or quality of the water available from the well.

d. Licensee shall install a meter at the irrigation well and submit monthly reports to the BCPUD no later than the 10<sup>th</sup> day of the following month documenting the average daily amount of water withdrawn from the irrigation well.

e. Licensee, its representatives and agents shall have the right to access the BCPUD Lands for the ongoing operation and maintenance of the irrigation well, subject to the reasonable direction and control of BCPUD staff and on the condition that such access does not interfere with BCPUD operations.

2. Term: The term of this License Agreement shall be for 20 years commencing on the date of execution of this agreement ("Term"). Thereafter, this License Agreement may be extended for such additional time period as mutually agreed by the parties. Notwithstanding the foregoing, BCPUD expressly reserves the right to terminate the License upon written notice to Licensee at any time if: (1) it is required or advised to do so by any federal, state or other court of competent jurisdiction or public agency with due authority over the operations of the district or by its insurance authority, ACWA/JPIA and/or (2) the BCPUD determines in good faith that the Licensee's use of the irrigation well has or will create unacceptable operational difficulties for the BCPUD's operations and/or (3) the BCPUD determines in good faith that the Licensee's use of the irrigation well creates a nuisance or otherwise poses a public health or safety risk to BCPUD staff or the public; and/or (4) Licensee violates any term of this License Agreement. Any notification of termination of this License by the BCPUD may be protested by Licensee for a final determination to the BCPUD Board of Directors.

3. Appurtenant Nature of License. This License is appurtenant to the BCPUD Lands.

4. Hold Harmless. Licensee hereby agrees to hold the BCPUD, its directors, officers, employees and authorized volunteers harmless from any costs, damages, or liability arising from any injury to any person or property, real or personal, caused by activities of the Licensee or its officers, directors, employees, agents, authorized volunteers or contractors arising from or relating to this License Agreement. Licensee hereby agrees to hold the BCPUD harmless for any cost or damage to the irrigation well installed by Licensee, unless such cost or damage to the well is the result of the sole

willful and/or intentional acts of the BCPUD, or its officers, directors, employees, agents, or authorized volunteers.

5. Indemnity. To the fullest extent permitted by law Licensee shall indemnify, defend and hold harmless BCPUD, its directors, officers, employees and/or authorized volunteers, and each of them, from and against:

A. Any and all claims, demands, causes of action, damages, costs, expenses (including attorneys' fees), penalties, losses or liabilities, in law or in equity, of every kind or nature whatsoever including, but not limited to, injury to or death of any person, including the BCPUD, or Licensee or their respective directors, officers, employees or authorized volunteers, and damages to or destruction of property of any person, including but not limited to, the BCPUD or Licensee or their respective directors, officers, employees, or authorized volunteers, arising out of or in any manner directly or indirectly connected with this License Agreement and/or Licensee's use of the irrigation well; and

B. Any and all claims, demands, causes of action, damages, costs, expenses (including attorneys' fees), penalties, losses or liabilities, in law or equity, of every kind or nature whatsoever, including, but not limited to, injury to or death of any person, including the BCPUD or Licensee or their respective directors, officers, employees or authorized volunteers, and damages to or destruction of property of any person, including but not limited to, the BCPUD or Licensee or their respective directors, officers, employees, or authorized volunteers, arising out of or in any manner directly or indirectly resulting from or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of the Licensee.

Licensee shall defend, at Licensee's own cost, expense and risk, any and all such aforesaid suits, actions, or other legal proceedings of every kind that may be brought or instituted against the BCPUD or its directors, officers, employees, or authorized volunteers. Licensee shall pay and satisfy any judgment, award or decree that may be rendered against the BCPUD or its directors, officers, employees, or authorized volunteers, in any and all such suits, actions, or other legal proceedings.

6. Consideration. Licensee shall pay to the BCPUD during the Term a cash licensee fee of \$100.00 (One Hundred Dollars) per year, payable in one annual installment on October 1<sup>st</sup> of each year during the Term beginning on October 1, 2014 and made payable to the BCPUD at 270 Elm Road, Bolinas.

7. Waiver. The waiver of a breach of any of the provisions of this License Agreement shall not be deemed to be a waiver of any other provision or a subsequent breach of a provision.

8. No Assignment. Neither party may assign this License Agreement or any of their rights and obligations hereunder to any other person or entity.

9. Entire Agreement. This License Agreement contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this License Agreement shall be of no force or effect. This License Agreement may be modified only by a writing signed by the parties hereto. This License Agreement shall be interpreted as if equally drafted by all parties hereto. Licensee acknowledges that it has been provided the opportunity to have this License Agreement reviewed by legal counsel.

10. Venue and Jurisdiction. The venue for any action relating to this License Agreement shall be Marin County Superior Court. No party may challenge venue or remove the case to another jurisdiction. Licensee and its officers, directors, employees, and authorized volunteers may not challenge the court's personal jurisdiction and shall accept service via mailed notice and acknowledgment procedures.

11. Attorneys' Fees. In any dispute between the parties arising out of or relating to this License Agreement, the parties shall bear their own attorneys' fees and costs, including those of expert witnesses, incurred in the action.

12. Counterparts. This License Agreement may be executed in counterparts. When each party has signed and delivered at least one counterpart, each counterpart shall be deemed an original, and when taken together with other signed counterparts, shall constitute one agreement, which shall be binding on all parties.

LICENSOR: BOLINAS COMMUNITY PUBLIC UTILITY DISTRICT

By: \_\_\_\_\_

Jennifer Blackman  
General Manager

Dated: \_\_\_\_\_

7/21/14

LICENSEE: FIRE HOUSE COMMUNITY PARK AGENCY

By: \_\_\_\_\_

Bryan Lee  
Mesa Park Board of Commissioners

Dated: \_\_\_\_\_

7/19/14