

AGREEMENT

This Agreement is made and entered into this 5th ^{February} day of ~~January~~, 2003, by and between the City of Redlands, a municipal corporation (hereinafter "City"), and Lockheed Martin Corporation, a Maryland corporation (hereinafter "Lockheed").

RECITALS

WHEREAS, on February 1, 2000, the City and Lockheed entered into a settlement agreement whereby the City agreed that prior to incurring future costs, fees or other expenditures arising out of or relating to the City undertaking efforts to ensure a continuous source of drinking water to its customers as a result of or in connection with the migration of a trichloroethylene or perchlorate plume, the City would confer with Lockheed; and

WHEREAS, the City has since informed Lockheed that the City's wells located at Texas Street ("Texas Street Wellfield") have been significantly impacted by perchlorate resulting in water supply losses and requiring the City to find alternative sources of water supply to meet the drinking water needs of its citizens; and

WHEREAS, the City has also informed Lockheed of the City's intent to develop a wellfield North of the Santa Ana River, near Orange Street ("the North Orange Wellfield"), to mitigate on a capacity-for-capacity basis its water supply losses at the Texas Street Wellfield; and

WHEREAS, Lockheed has agreed to pay the City Three Million Eight Hundred Fifty Thousand (\$3,850,000) Dollars to design, permit and construct wells and develop a new water supply from the North Orange Wellfield on the terms and conditions hereinafter set forth; and

WHEREAS, rather than requesting Lockheed to replace the Texas Street Wellfield water supply, on a capacity-for-capacity basis, the City is assuming the risk that the development of its North Orange Wellfield might not replace the City's water supply losses at its Texas Street Wellfield; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration the receipt of which is hereby acknowledged, the City of Redlands and Lockheed Martin Corporation agree as follows:

Section 1. Payment. Lockheed shall, within 30 days of the City's execution of this Agreement, tender payment in the form of a wire transfer to the City in the amount of Three Million Eight Hundred Fifty Thousand (\$3,850,000) Dollars.

Section 2. Use of Funds. The City intends to use the funds obtained from Lockheed pursuant to this Agreement to acquire land, and design and construct wells and associated pipelines to replace, capacity for capacity, the City's water supply losses at its Texas Street Wellfield.

Section 3. Indemnification. The City agrees to indemnify and hold harmless Lockheed against any claims relating to the use of the monies referred to in paragraph 1 above.

Section 4. Successors. This Agreement shall be binding upon and inure to the benefit of the successors, representatives and assigns of the City and Lockheed.

Section 5. Choice of Law. This Agreement was negotiated and entered into in the State of California, and shall be governed by, construed and enforced in accordance with the laws of the State of California.

Section 6. No Admission of Liability. Pursuant to California Evidence Code sections 1152 and 1154, nothing in this Agreement is intended as, shall constitute or shall be used or admitted as evidence of any admission by Lockheed of any fact recited in this Agreement, the validity of any claim, or liability for any damages, comparative or proportionate liability or fault. Lockheed denies that it is liable to City for any of the claims that have been asserted or that may be asserted by the City or anyone else with regard to the source or extent of perchlorate contamination.


Section 7. Release. The City hereby releases Lockheed [its predecessors, successors, affiliates, parents, subsidiaries, and their respective officers, directors, shareholders, employees, agents and representatives] from any and all claims, demands, causes of actions, damages, costs, judgments and liability of any nature on account of, with respect to, or in any way connected with or arising from the City's loss of water supply from the Texas Street Wellfield.

Section 8. Authorship. This Agreement is the product of arms-length negotiations carried on between the parties and their respective counsel. As a jointly produced agreement, this Agreement shall be construed as a whole according to its fair meaning and not for or against any party hereto.

Section 9. Amendments. This Agreement may not be amended except in a written agreement executed by the parties hereto.

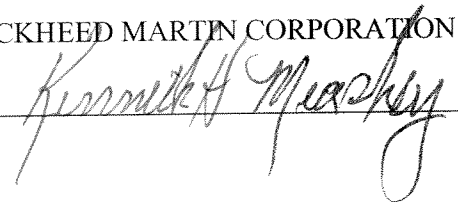
IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first set forth above.

CITY OF REDLANDS



Mayor of the City of Redlands

LOCKHEED MARTIN CORPORATION

By 

Attest:



City Clerk



Office of the
City Attorney
City of Redlands

Daniel J. McHugh, Esq.
City Attorney

Leslie E. Murad, II, Esq.
Assistant City Attorney

ATTORNEY-CLIENT PRIVILEGED
CONFIDENTIAL MEMORANDUM

TO: LORRIE POYZER
FROM: CITY ATTORNEY
DATE: 5 FEBRUARY 2003
RE: SETTLEMENT OF LOCKHEED POTENTIAL LAWSUIT

Lorrie, the City Council has had a number of discussions in closed session under "anticipated litigation" about whether to institute a lawsuit against the Lockheed Martin Corporation. As a result of those discussions, and direction given to the Municipal Utilities Department and City Attorney's Office, a settlement agreement was offered to Lockheed. Doug Headrick has just told me that Lockheed has agreed to the City's settlement proposal and has signed the settlement agreement.

The settlement will result in approximately \$3.8 million dollars being delivered immediately to the City. Because the City Council has approved this matter, in my opinion, there is no problem with the appropriate City official, be it the Mayor or another City Councilmember, signing the agreement. Then, in accordance with our standard practice, we will announce the settlement in accordance with the terms of the Brown Act. That would be done on the consent calendar in the format that we commonly employ for making these announcements.

My understanding is that there is a question about the timing of your attestation of the agreement. I think you have two options. You can attest to the agreement now, or wait until after the City Council announces the settlement agreement. The timing of your attestation will not affect the validity of the agreement.

The Municipal Utilities Department asked me whether I saw any legal problem with having a Councilmember sign now, and then making the Brown Act announcement on the 18th. Again, I see no problem with this procedure because the settlement agreement executed by Lockheed is in

the same form that was presented to Lockheed and approved by the City Council in closed session. Now that Lockheed has agreed, there is no further "action" to be taken by the City Council.

If you have any questions, please let me know.

DANIEL J. MCHUGH

cc: John Davidson
Gary Phelps
Doug Headrick