

MARIN EMERGENCY RADIO AUTHORITY

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DATE: August 24, 2016

TO: MERA Governing Board

FROM: Maureen Cassingham, Executive Officer

SUBJECT: AGENDA ITEM **B-1**: PROPOSED TOMALES TELECOMMUNICATION
SITE DOCUMENTS

Recommended Action: Upon Executive Board recommendation on November 12, 2014 of the proposed Tomales documents followed by substantive negotiations between the parties, approve the following final Tomales Telecommunications Site Documents and authorize the Executive Officer to execute same:

- 1) A Resolution of Necessity of the Marin Emergency Radio Authority Governing Board With Respect to the Acquisition of a Leasehold Interest Over A Portion of Real Property Necessary for the “Tomales Telecommunication Facility Project”;
- 2) A Real Property Agreement and between the Marin Agricultural Land Trust (“MALT”) Landowner Glenn A. Parks and MERA:
(1) to modify that certain Deed of Agricultural Conservation Easement in favor of MALT (the “MALT Easement”) to permit MERA to build and operate an emergency radio system on a portion of land (the “MERA Site”) subject to the MALT Easement, and (2) to place certain restrictions on the MERA Site and Related Exhibits;
- 3) A Communications Site Lease Agreement between Glenn A. Parks, Lessor and MERA for the MERA Site with lease payments commencing upon the later of (1) issuance of a building permit for the emergency radio system facilities on the MERA Site Project, or (2) compliance with CEQA and an agreement for utilities and access with Verizon; and,
- 4) A Cost Sharing Agreement between Verizon and MERA for the Parks Property with payment to Verizon for construction cost upon commencement of Communications Site Lease and ongoing shared road maintenance costs.

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Background: The Tomales Telecommunications Facility Project (aka, Tomales Emergency Radio Project) was initially funded for a future MERA tower site by the MERA Governing Board in FY09-10 as part of the System Analyses Capital Projects Agreement with County DPW. On May 2, 2012, a Notice of Exemption was filed determining that the Project is categorically exempt pursuant to Section 15303, Class 3 of the CEQA Guidelines.

In FY12-13, work was completed on the Coastal Development permit and negotiations were initiated with the property owner Parks Family and other easement holders to secure a site lease, address shared access road maintenance and address encumbrances from other agreements. In FY13-14, project negotiations continued with the stakeholders while an extension on the Coastal Permit was secured through July 26, 2018.

Estimated Project expenditures through 6/30/16, including expenses for consultants, permitting, DPW System Analyses and legal costs, are \$149,300. All eligible site costs, with the exception of the site lease, will be replenished by Measure A Parcel Taxes.

MALT informed MERA that the MALT Easement does not permit incidental governmental activity on the Tomales site and in light of this, MALT requested that MERA enter into a settlement and amendment to the MALT Easement under threat of condemnation. Accordingly, the next step in securing the Tomales site as part of the Next Gen Project is for MERA to adopt a Resolution of Necessity to acquire by eminent domain a leasehold interest for the MERA Site.

Upon approving such Resolution of Necessity, MALT proposed a Real Property Agreement with MERA: (1) to modify the MALT Easement to permit MERA to build and operate an emergency radio system on the MERA Site, and (2) to place certain restrictions on the MERA Site. According to MALT, the key terms of the Agreement include a one-time payment of approximately \$13,100, requirement of MERA to maintain the pasture-quality of the land and requirement of MERA to execute an amendment to the MALT Easement to permit MERA to use the MERA Site. At its next regular meeting following execution of the Real Property Agreement, the Governing Board should consider a resolution rescinding the Resolution of Necessity.

Upon approving the Real Property Agreement, it is appropriate for MERA to enter into a Site Lease Agreement with the owners of the Tomales Site and an Access Road Maintenance Agreement with Verizon, which has facilities adjacent to the MERA Site.

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Financial considerations include the onetime \$13,100 payment to MALT, an \$850-per-month lease payment for 10 years to Glenn A. Parks, Lessor, for the site lease and \$25,000 payment to Verizon or 50% share of road construction costs and ongoing shared road maintenance. All payments are contingent upon issuance of a building permit for the Site Project.

Approval of the above Resolution and Agreements is necessary to secure the Tomales Site which is one of the four additional sites included in the Next Gen System Project.

MERA acknowledges the considerable efforts of former and current Operations Officers Tackabery and Echols, MERA General Counsels and County Counsel and, in particular, Real Estate Division Manager Eric Lueder in coordinating and negotiating these critical documents with the Parks Family, MALT and Verizon over the last 6+ years!

ATTACHMENTS: Note: Listing of Attachments Revised from 8/17/16 distribution.

B-1a Proposed Resolution of Necessity of the Marin Emergency Radio Authority Governing Board with Respect to the Acquisition of a Leasehold Interest Over a Portion of Real Property Necessary for the “Tomales Telecommunication Facility Project”

Resolution Exhibit A

B-1b Real Property Agreement and Declaration of Restrictions on Land

B-1c Communications Site Lease Agreement

B-1d Cost Sharing Agreement