

**REAL ESTATE SERVICES AGREEMENT
BETWEEN THE
MARIN EMERGENCY RADIO AUTHORITY AND THE COUNTY OF MARIN
IN SUPPORT OF NEXT GENERATION RADIO SYSTEM IMPLEMENTATION**

THIS AGREEMENT entered into as of _____, 2020 by and between the County of Marin, a political subdivision of the State of California, hereinafter referred to as “County” and the Marin Emergency Radio Authority, hereinafter referred to as “MERA”, each a “Party, and collectively referred to herein as “Parties”, effective July 1, 2020; and

WHEREAS, MERA is a 25 member Joint Powers Agency consisting of the City of Belvedere, Bolinas Fire Protection District, Town of Corte Madera, Town of Fairfax, Inverness Public Utility District, Kentfield Fire Protection District, City of Larkspur, County of Marin, Marin Community College District, Marinwood Community Services District, City of Mill Valley, Novato Fire Protection District, City of Novato, Town of Ross, Ross Valley Fire Department, Town of San Anselmo, City of San Rafael, City of Sausalito, Southern Marin Fire District, Town of Tiburon, Tiburon Fire Protection District, Central Marin Police Authority, Marin Transit, Marin Municipal Water District, Stinson Beach Fire Protection District, organized under California law for the purpose of constructing and operating a Countywide emergency radio system; and

WHEREAS, the County and MERA entered into that certain Amended and Updated Memorandum of Understanding to confirm their mutual desire to facilitate the future construction of a new replacement system (the “Next Gen System”) and to express their mutual intent to cooperate with one another to achieve that goal, including continuing the contractual relationship with the County Department of Public Works (the “DPW”) to provide certain technical services in connection with implementation of the Next Gen System.

WHEREAS, on November 4, 2014, the voters of the County of Marin approved Measure A authorizing the County to levy and collect a special parcel tax to fund the costs of the Next Gen System.

WHEREAS, due to the magnitude of the Next Gen System project, MERA and County desire to clarify roles and responsibilities in providing the services in connection with implementing the Next Gen System.

WHEREAS, DPW has the capacity to provide real estate services which are essential to the success of the Next Gen System implementation; and

WHEREAS, MERA desires to obtain DPW Real Estate Division services to support MERA’s implementation of the Next Gen System.

NOW, THEREFORE, IT IS AGREED by and between County and MERA as follows:

1. **RECITAL**
That the above recital of facts is true and correct and is hereby incorporated into this agreement.
2. **TO BE PROVIDED BY COUNTY**
DPW shall provide MERA with the services described in Exhibit “A” (the “Services”), incorporated herein by reference.
3. **TO BE PROVIDED BY MERA**

MERA shall provide DPW with any pertinent data and records in the possession of MERA related to the performance of DPW's duties under this Agreement.

4. MUTUALLY AGREED:

The Parties budgeted \$50,000 for DPW Staff Services, which does not include reimbursement to the County for contracts the County enters into in connection with this Project. If DPW anticipates that the cost of the Services will exceed such amount, both MERA and County will cooperatively re-assess the Services and consider modifying the Services or providing additional funding to address the anticipated shortfall, if deemed appropriate.

5. AMENDMENT:

This Agreement may only be amended or modified by written agreement by the Parties.

6. INDEMNIFICATION:

Each Party agrees to indemnify, defend, and hold the other Party harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees which it may incur as a consequence of this Agreement and from any and all claims and losses to anyone who may be injured or damaged by reason of either Party's willful misconduct or negligent performance of this Agreement.

7. COMPLIANCE WITH APPLICABLE LAWS:

Each Party shall comply with any and all federal and state laws.

8. FEES:

The fees for furnishing the Services are set forth in Exhibit "B", and incorporated herein by reference, and shall not exceed the amount therein specified, unless a higher amount is agreed to by both Parties in writing. The amount of the fees may be amended by a written agreement between the Parties.

9. PAYMENT:

The County will invoice MERA for the Services on a monthly basis. The payment of fees under this Agreement shall be due within thirty (30) calendar days of receipt of County's invoice to MERA.

10. TERM OF AGREEMENT:

The term of this Agreement shall be for a period of one (1) year commencing on the date written above and expiring on June 30, 2021. Upon mutual written agreement between the Parties, the Agreement may be renewed for successive one year periods. Either Party can terminate this Agreement at any time by providing ninety (90) days written notice to the other Party. County shall be compensated for all services performed during the term of the Agreement, including the notice period.

11. RELATIONSHIP BETWEEN DPW AND MERA:

DPW and MERA Executive Officer will work together to diligently complete services outlined above in support of MERA's implementation of the Next Gen System.

11. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California and the Parties hereto agree that venue shall be in Marin County, California.

12. CONDITIONS

The term, covenants and conditions of this Agreement shall apply to and bind the successors or assigns of the Parties hereto.

13. NOTICES

Any notice, demand, request, consent, approval or communication that either Party desires or is required to give to the other Party, shall be in writing and either served personally or sent by prepaid, first-class mail. Any such notice, demand, etc., shall be addressed to the other Party at the address set forth herein below. Either Party may change its address by notifying the other Party of the change of address. Notice shall be deemed communicated within forty-eight (48) hours from the time of mailing if mailed as provided in this paragraph.

MERA: Executive Officer
Marin Emergency Radio Authority (MERA)
c/o Town of Corte Madera
300 Tamalpais Drive
Corte Madera, CA 94925

County: Public Works Director
Marin County Public Works Department
3501 Civic Center Drive, Room 304
San Rafael, CA 94903-5223

IN WITNESS whereof, the Parties hereto have executed this Agreement as of the day and year first written above.

Attest:

County of Marin

Clerk

By _____
President, Board of Supervisors

Approved as to Form

County Counsel

Attest

Marin Emergency Radio Authority

Secretary

By _____
President, Governing Board

Approved as to Form

General Counsel

EXHIBIT "A"
SERVICES TO BE PROVIDED BY COUNTY

County's DPW-Real Estate Division, through a subcontract consultant and utilization of DPW-Real Estate staff will provide the following services:

- a. County staff and consultant will obtain Marin Agricultural Land Trust (MALT) easement modification for the Coyote Peak site as it relates to MERA's proposed facility and site license.
- b. Consultant will negotiate licenses for various MERA Next Generation Radio System sites including Coyote Peak, Skyview Terrace, Wolfback Ridge, OTA-Cooley, Mill Valley Water Tank and Muir Beach.
- c. Consultant will provide license negotiation advice to County staff, MERA Executive Officer and Counsel as necessary.
- d. Consultant will provide negotiated licenses to County staff for submittal to MERA Executive Officer for approval.
- e. Provide other related real estate negotiation and consulting services as needed to MERA.

EXHIBIT "B"
COMPENSATION OR FEES TO BE PAID TO COUNTY

1. MERA shall reimburse COUNTY for real estate services costs, including staff costs and professional consulting services,
2. Fees for the Services delivered under this Agreement are as follows:

County will provide Services based on "time and material" to be billed at the following hourly rates:

DPW staff services (estimated budgeted cost \$50,000)

Chief Real Property Agent	\$132.81*
Other County Staff	Actual hourly costs, including benefits

Consultant Services, including professional services (all costs to be reimbursed)

Consultant invoices	Actual Costs
Material	Actual Costs

*hourly rates may be adjusted annually on July 1 of each year, commencing July 1, 2020, to reflect the annual increase during the preceding twelve-month period ending in October as published in October of each year in the "Consumer Price Index for all Urban Consumers in the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area" by the U.S. Department of Labor Statistics. The adjustment shall be rounded to the nearest five cent increment. February of each year County shall forward to MERA the proposed CPI increase for the next July 1.