

Agenda Item C-4

MARIN EMERGENCY RADIO AUTHORITY

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DATE: June 22, 2022

TO: MERA Governing Board

FROM: Maureen Cassingham, MERA Senior Advisor

SUBJECT: AGENDA ITEM **C-4**: PROPOSED NEXT GEN PROJECT MT. BURDELL (AKA OTA)
EMERGENCY COMMUNICATIONS SITE LEASE
AGREEMENT BETWEEN MERA AND TRUSTEES OF
THE BEVERLY GREY PORTER IRREVOCABLE TRUST

Recommended Action: Approve Next Gen Project Mt. Burdell (AKA OTA) Communications Site Lease Agreement between MERA and Trustees of the Beverly Grey Porter Irrevocable Trust as presented and authorize Executive Officer to execute same.

Background: The Next Gen Project System includes 18 sites, including the Proposed Mt. Burdell (AKA OTA) Communications Site. This is the final Site Lease required for NGP System completion.

The initial term of this Lease is 10 years, commencing on construction commencement or 120 days following the effective date, whichever is earlier. Four automatic 5-year extensions follow the initial term.

Proposed annual rent is \$90,000 for the exclusive use of the building second floor and other Site areas, with annual 3% increases or CPI increases (per the DOL Bureau of Labor Statistics for Urban Wage Earners – S.F., Oakland, Hayward), whichever is higher. The proposed annual rent is within the range of Governing Board approved private Site rents of \$10,500 to \$172,800. As noted in prior staff reports, new or increased Site rents will be offset in part by NGP 2024/2025 decommissioned Site rents at MERA's American Tower Corporation Burdell Mtn. Site (\$172,800 /yr.) and Incline Partners Bayhill Site (\$87,600/yr.).

In addition to rent, the Lessor is requiring MERA's assumption of any tax liability associated with its use of the property. Estimated annual liability is \$10,000 plus annual 2% increases. MERA is believed to be exempt from property and possessory interest taxes and will work with the Property Owner and County Assessor's Office to explore a new Williamson Act contract which would remove MERA's leased areas from the Lessor's property legal description and eliminate this liability exposure. However, if a new contract is not approved by the Owner and Assessor, MERA has an opt out clause should the Lease become uneconomic.

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As part of OTA Site development costs, MERA will replace the existing backup generator (Est. \$85K) and repair second floor HVAC units (Est. \$25K). MERA ownership and maintenance of same are recommended to insure control of these critical support Systems and timely refueling and repairs.

Also, MERA will own the Site Tower and assume the costs of reinforcement to meet industry standards (Est. \$110K) and removal of the existing TV antenna on it (Est. \$12K). Lessor will credit \$5K toward Tower related expenses.

Finally, MERA will establish its own PG&E service at an estimated cost range of \$2K - \$9K. These estimated Site capital improvement costs total \$236,000, with Measure A as the funding source. As you know, MERA will or has expended Project Funds as part of other Site leasing capital expenses (e.g. Coyote Peak access road, etc.).

Development of proposed Lease language and business terms has been underway since early 2020. As with many earlier iterations, the final iteration was reviewed by MERA General Counsel and technically reviewed by Federal Engineering Project Wireless Communications Consultant regarding MERA's proposed Next Gen facilities, equipment and other related Site improvements.

This is to recognize and thank MERA General Counsel Ortiz and Federal Engineering Consultant Mortimer for all their contributions and patience in finalizing this Lease.

ATTACHMENT:

C-4a Mt. Burdell Emergency Communications Site Lease Agreement between
MERA and Trustees of the Beverly Grey Porter Irrevocable Trust

(Note: Exhibits A, B and C are available on request and will be attached to
Copy for Execution)