



East Bay Regional Communications System Authority



Participating agencies include Alameda and Contra Costa Counties and the following cities and special districts: Alameda, Albany, Antioch, Berkeley, Brentwood, Clayton, Concord, Danville, Dublin, El Cerrito, Emeryville, Fremont, Hayward, Hercules, Lafayette, Livermore, Martinez, Moraga, Newark, Oakley, Pinole, Pittsburg, Pleasant Hill, Pleasanton, Richmond, San Leandro, San Pablo, San Ramon, Union City, Walnut Creek, East Bay Regional Park District, Kensington Police Community Services District, Livermore Amador Valley Transit Authority, Moraga-Orinda Fire District, Rodeo-Hercules Fire District, San Ramon Valley Fire District, California Department of Transportation, Ohlone Community College District, Contra Costa Community College District, Dublin-San Ramon Services District and University of California, Berkeley

BOARD OF DIRECTORS MEETING

NOTICE OF REGULAR MEETING

DATE: January 30, 2015

TIME: 10:00 a.m.

PLACE: Alameda County Sheriff's Office of Emergency Services and Homeland Security
4985 Broder Blvd.
Dublin, CA 94568

AGENDA

1. **Closed Session:** (None) **Time:** N/A
2. **Call to Order/Roll Call:** (Regular Session) **Time:** 10:00 a.m.
3. **Report on Closed Session:** None
4. **Public Comments (Meeting Open to the Public):**
At this time, the public is permitted to address the Board on items within the Board's subject matter jurisdiction that do not appear on the agenda. Please step to the podium and clearly state your name for the record. In accordance with State Law, no action or discussion may take place on any item not appearing on the posted agenda. If the item requires action, it will be referred to staff and/or placed on the next agenda. In order that all interested parties have an opportunity to speak, please limit comments to a maximum of three (3) minutes. If you wish to comment on an item that is on the agenda, please wait until the item is read for consideration, and then make your way to the podium. Please limit comments to a maximum of three (3) minutes.
5. **Presentations:**
6. **Approval of Minutes**
6.1 Approval of Minutes from the Special Board Meeting of December 19, 2014
7. **Written Communications:** None
8. **Public Hearings:** None

9. Action Items:

- 9.1** Consider Adoption of a Resolution Approving Agreement with Thomas G. McCarthy to Serve on a Contract Basis as the Executive Director of the East Bay Regional Communications System Authority (EBRCSA)

10. Committee Updates:

10.1 Receive Informational Report on Recent Finance Committee Activities.

10.2 Receive Informational Report on Recent Operations Committee Activities.

11. Reports:

12. Board Comments:

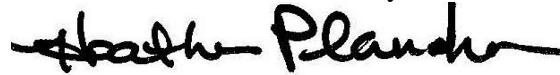
13. Next Action Steps:

14. Adjournment

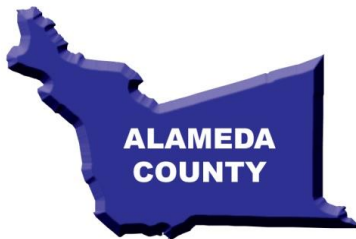
This AGENDA is posted in accordance with Government Code Section 54954.2(a) If requested, pursuant to Government Code Section 54953.2, this agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation, please contact the EBRCSA at (925) 803-7802 at least 72 hours in advance of the meeting.

I hereby certify that the attached agenda was posted 72 hours before the noted meeting.

Heather Plamondon, Secretary



Dated: January 26, 2015



East Bay Regional Communications System Authority



Participating agencies include Alameda and Contra Costa Counties and the following cities and special districts: Alameda, Albany, Antioch, Berkeley, Brentwood, Clayton, Concord, Danville, Dublin, El Cerrito, Emeryville, Fremont, Hayward, Hercules, Lafayette, Livermore, Martinez, Moraga, Newark, Oakley, Pinole, Pittsburg, Pleasant Hill, Pleasanton, Richmond, San Leandro, San Pablo, San Ramon, Union City, Walnut Creek, East Bay Regional Park District, Kensington Police Community Services District, Livermore Amador Valley Transit Authority, Moraga-Orinda Fire District, Rodeo-Hercules Fire District, San Ramon Valley Fire District, California Department of Transportation, Ohlone Community College District, Contra Costa Community College District, Dublin-San Ramon Services District and University of California, Berkeley

AGENDA ITEM 6.1

MINUTES

BOARD OF DIRECTORS MEETING

SPECIAL MEETING – December 19, 2014

1. CLOSED SESSION: *None*

2. CALL TO ORDER/ROLL CALL (Special Session):

A special meeting of the East Bay Regional Communications System Authority Board of Directors was held on Friday, December 19, 2014 in Room 1013 of the Alameda County Sheriff's Office of Homeland Security and Emergency Services, 4985 Broder Blvd., Dublin CA 94568. The meeting was called to order at 11:04 a.m. by Chair Ahern.

PRESENT:

County Representatives: Ahern, Mitchoff, Woo, Muranishi, Haggarty, Andersen

City Representatives: Cheeves, Perkins, Calabrigo, Marchand, Perkins, Dutra-Vernaci, Stepper, Catalano, Marc Roberts, Silva, Sbranti, Morris

Public Safety Representatives: Priebe, McQuiston, Nice, Metcalf, Smith, Anderson

Staff Present:

Interim Director McCarthy, Secretary Plamondon

3. **REPORT ON CLOSED SESSION:** *None*
4. **COMMENTS FROM THE PUBLIC:** *None*
5. **PRESENTATIONS:** *None*
6. **APPROVAL OF MINUTES:**

On motion of Bm. Roberts, seconded by Alt. Bm. Woo and by unanimous vote, the Board approved the minutes from the October 24, 2014 meeting.

7. **WRITTEN COMMUNICATIONS:** *None*
8. **PUBLIC HEARINGS:** *None*
9. **ACTION ITEMS:**

9.1 Consider adoption of a resolution approving the Revised 2015 EBCSA Board of Directors Meeting Schedule

Due to a conflict for many members on the January 23, 2015 meeting date Staff is requesting that the Board rescind Resolution 14-11 and replace it with Resolution 14-13 that indicates the January Meeting will be held on January 30, 2015. On a motion by BM. Silva with a second by BM. Andersen and with unanimous approval the motion passed.

10. **COMMITTEE UPDATES:**

10.1 Receive Informational Update on Recent Finance Committee Activities:

The Finance Committee held a Special Meeting on Dec 3, 2014 and decided upon a process to be used to assess candidates for the Executive Director Position so they will be able to make a recommendation to the Full Board in January. Interviews will be held on January 9, 2015 followed by discussion and a recommendation will be forthcoming at the January 30, 2015 Board Meeting. Chair Ahern asked the group if there were any question or concerns about the plan for the process on January 9 or the anticipated recommendation on January 30, there were no questions or concerns.

10.2 Receive Informational Update on Recent Operations Committee Activities:

The Operations Committee did not meet.

11. REPORTS:

Interim Director McCarthy provided an update on the talks with Oakland, and the letter signed by the City Mangers Association from Alameda County outlining the representation that Oakland is requesting was shared with the group and will be sent out to the distribution list later in the day. Interim Director McCarthy also shared that he is engaged in conversations with Caltrans.

12. BOARD COMMENTS:

The Chair expressed his appreciation for the work done by the Interim Director particularly keeping things moving with the City of Oakland, the signed letter for intent to participate is a significant accomplishment. Member Roberts expressed his gratitude for the commitment of the Board to keeping Oakland engaged. Chair Ahern wished everyone a safe and happy holiday.

13. NEXT ACTION STEPS:

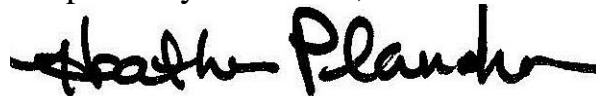
None identified.

14. ADJOURNMENT:

The meeting was adjourned at 11:25 a.m. in honor and in memory of Bill McCammon.

APPROVED BY A MOTION OF THE EAST BAY REGIONAL COMMUNICATIONS
SYSTEM AUTHORITY THIS 30 DAY OF JANUARY, 2015.

Respectfully submitted,



Heather Plamondon
Authority Secretary



**East Bay Regional
Communications
System Authority**



Participating agencies include Alameda and Contra Costa Counties and the following cities and special districts: Alameda, Albany, Antioch, Brentwood, Clayton, Concord, Danville, Dublin, El Cerrito, Emeryville, Fremont, Hayward, Hercules, Livermore, Martinez, Moraga, Newark, Oakley, Pinole, Pittsburg, Pleasant Hill, Pleasanton, Richmond, San Leandro, San Pablo, San Ramon, Union City, Walnut Creek, East Bay Regional Park District, Kensington Police Community Services District, Rodeo-Hercules Fire Protection District and San Ramon Valley Fire Protection District

AGENDA ITEM 9.1

AGENDA STATEMENT

BOARD OF DIRECTORS MEETING DATE: January 30, 2015

TO: Board of Directors
East Bay Regional Communications System Authority

FROM: Gregory A. Ahern, Board Chair
East Bay Regional Communications System Authority

SUBJECT: Adopt Resolution Approving Agreement with Thomas G. McCarthy to Serve on a Contract Basis as the Executive Director of the East Bay Regional Communications System Authority (EBRCSA) and Authorizing its Execution

RECOMMENDATIONS:

1. Adopt Resolution approving an Agreement with Thomas G. McCarthy to serve as Executive Director of the EBRCSA on a contract basis, and authorizing its execution by the EBRCSA Chairperson.

SUMMARY/DISCUSSION:

As the EBRCSA has grown, the work load and responsibilities require the continued services of an Executive Director. As described in the "Executive Director Position Responsibilities" (attached), the Executive Director is responsible for the overall day-to-day management and operations of the EBRCSA. The Executive Director responsibilities include, but are not limited to, "the general management, administration, direction and development of the Authority's operations and procedures on a daily basis with responsibility for all facilities, employees, consultants, and equipment, and their respective uses," as described in the bylaws. At its January 9, 2015 meeting, the Finance Committee conducted interviews with three potential candidates for the Executive Director Position.

The Finance Committee interviewed and discussed the candidates. The Finance Committee is recommending to the Board that the Authority enter into a contract for services with Thomas G. McCarthy to fill the position of the Executive Director. The Finance Committee reviewed the salary and agreed to recommend compensating the Executive Director at \$150 per hour with no benefits and maintain the budget as was approved by the full Board.

The Executive Director Position Responsibilities, as presented, have been incorporated into a contract for service that was reviewed by the Finance Committee. The contractor is also required to obtain and maintain general liability insurance in the amount of \$1 million dollars. The Executive Director will present bi-weekly time sheets to the Chairperson of the Board of Directors for approval and then submit them to the Auditor Controller for payment. The Executive Director serves at the will of the Board and may be terminated without cause upon 30 days' notice. The Finance Committee recommends that the Board adopt the Resolution approving the contract with Thomas G. McCarthy to serve as Executive Director of the EBRCSA, as presented.

RECOMMENDED ACTION:

It is recommended that your Board adopt a resolution with Thomas G. McCarthy to Serve on a Contract Basis as the Executive Director of the East Bay Regional Communications System Authority (EBRCSA).

East Bay Regional Communications System Authority (EBRCSA)

Executive Director Position Responsibilities

The EBRCSA is a joint powers authority established to construct and operate a two-county communications system designed to provide public agencies, including the State and Federal government, an opportunity to take advantage of its benefits and participate in an interoperable voice and data communications system.

The Executive Director is a pivotal position as the principal point of contact for all matters related to the construction, operations, and funding of the system. The Executive Director is appointed by and serves at the pleasure of a 23 member Board of Directors comprised of Elected Officials, County Administrators, City Managers, Sheriffs, Police Chiefs and Fire Chiefs representing the member agencies.

EBRCSA EXECUTIVE DIRECTOR

Definition of Services

Contractor shall serve as the Executive Director of the EBRCSA and carry out the responsibilities included but not limited to those that follow on an hourly contract-for-services basis.

Management, Administrative, Communications, and Regulatory

- For the Board of Directors and committees, schedule meetings; prepare agendas, staff reports, and minutes; present reports; and maintain all required public records.
- Process all statutory filings and noticing requirements.
- Consult with and coordinate work of legal counsel for the EBRCSA.
- Obtain and maintain appropriate insurance for the EBRCSA, member agencies, and Board members.
- Negotiate, prepare, and administer all contracts, lease agreements, Memoranda of Understanding, and other agreements (technical, financial, administrative), ensuring adherence to statutory procurement requirements and conformance with federal, state, and local laws and policies. This includes Memoranda of Understanding and other agreements with member agencies for use of public facilities and/or contracting for services.
- Oversee the work of any EBRCSA technical, financial or administrative consultants and contractors.
- Develop and manage all long-term development projects.
- Coordinate the recruitment, testing, hiring, training, evaluation, and termination of any future EBRCSA employees and manage the development of appropriate personnel practices.
- Represent the EBRCSA on various local, state, and federal committees that impact the EBRCSA mission.
- Work with non-member governmental agencies to promote their participation in the EBRCSA.
- Through a professional vendor, develop and maintain the EBRCSA website.
- Serve as the EBRCSA public information officer and media contact.

Technical

- Coordinate the acquisition, installation, replacement, testing, modification, upgrade, monitoring and maintenance of the EBRCSA radio system equipment and services and ensure compliance with specifications and contractual provisions.
- Manage ongoing system operation and provide regular reporting on system performance parameters (e.g., system occupancy, frequency utilization, talk group occupancy) and the operational readiness of associated back-up systems.
- Work to obtain federal and state grants for both network build-out/expansion and network operations.

Financial

- Develop, recommend and administer the annual budget and long-term financial plan.
- Secure and coordinate the annual audit.
- Manage the billing and collections processes for member agencies.
- Develop and manage EBRCSA financial policies, including policies related to reserves, contingencies, and capital replacement funds.

RESOLUTION NO. xx-xx

**A RESOLUTION OF THE
EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY**

*** * * * ***

**APPROVINF A STANDARD SERVICES AGREEMENT WITH
THOMAS G. Mc CARTHY
TO PROVIDE SERVICES AS EXECUTIVE DIRECTOR AND
AUTHORIZING ITS EXECUTION**

WHEREAS, the East Bay Regional Communications System Authority (“EBRCSA”) requires an Executive Director who can be responsible for overall day-to-day management and operations of the EBRCSA; and

WHEREAS, Thomas G. McCarthy has been serving as Interim Executive Director of the EBRCSA; and

WHEREAS, the Finance Committee has interviewed candidates for the position and selected Thomas G. McCarthy, has approved a list of Executive Director Position Responsibilities and incorporated them into the attached proposed Standard Services Agreement (“Agreement”), and has recommended that the EBRCSA enter into said proposed Agreement with Thomas G. McCarthy, pursuant to the terms and conditions set forth therein.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors of the East Bay Regional Communications System Authority hereby authorizes its Chairperson to execute the attached Standard Services Agreement with Thomas G. McCarthy and to take such further action as may be necessary to implement said Agreement.

On motion of xx, seconded by xx, the foregoing Resolution was passed and adopted this ___th day of _____, 2015, by the following votes:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST: _____
Heather Tannehill-Plamondon, EBRCSA
Secretary

**EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of ____th day of _____, 2015, is by and between the East Bay Regional Communications System Authority ("**EBRCSA**"), and Thomas G. McCarthy ("**Contractor**"). EBRCSA and Contractor are hereinafter collectively referred to as the "**Parties**."

RECITALS

- A. EBRCSA desires to obtain the services of an Executive Director, as more fully described in Exhibit A hereto, "Definition of Services."
- B. Contractor is professionally qualified to provide such services and is willing to provide same to EBRCSA on the terms and conditions set forth herein.

NOW, THEREFORE, the Parties agree as follows:

1. **SCOPE OF SERVICES:** Contractor agrees to perform all services described in Exhibit A, for payment pursuant to Exhibit B, in accordance with the terms and conditions of this Agreement. Exhibits A and B are attached hereto and incorporated herein by this reference.
2. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is at all times an independent contractor, and can perform work for others. Contractor is not the agent or employee of the EBRCSA in any capacity whatsoever and EBRCSA shall not be liable in any manner for any acts or omissions by Contractor or for any obligations or liabilities incurred by Contractor, his employees, or agents.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, health insurance medical care, hospital care, retirement benefits, social security, disability, workers' compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees, and Contractor agrees to indemnify and hold EBRCSA harmless from any and all liability which EBRCSA may incur because of Contractor's failure to pay such amounts.

In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of EBRCSA.

Contractor does, by this Agreement, agree to perform his said work and to function at all times in strict accordance with currently approved methods and practices in his field and acknowledges that the sole interest of EBRCSA is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the EBRCSA.

Notwithstanding the foregoing, if the EBRCSA in its discretion determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, EBRCSA may upon two (2) weeks' notice to Contractor, withhold from payments otherwise due to Contractor hereunder federal and state income taxes and to pay said sums to the federal and state governments.

3. INDEMNIFICATION: To the fullest extent permitted by law, Contractor shall release, hold harmless, defend and indemnify the EBRCSA, its Board of Directors, officers, employees and agents from and against any and all claims, losses, damages, lawsuits, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, including but not limited to those attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is in any way connected with the performance of this Agreement (collectively "**Liabilities**") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The EBRCSA may, at its option, participate in the defense of any such claim without relieving Contractor of any obligation hereunder.

4. INSURANCE: Contractor shall maintain at all times during the performance of this Agreement a commercial general liability insurance policy with a minimum occurrence coverage in the amount of \$1,000,000.00; an automobile liability insurance policy in the minimum amount of \$300,000.00; and, if any licensed professional performs services under this contract, a professional liability insurance policy in the minimum amount of \$1,000,000.00 to cover any claims arising out of Contractor's performance of services under this Agreement. All insurance, except professional liability, shall name the EBRCSA, its directors, officers, agents, volunteers and employees (if any) as additional insureds and shall provide primary coverage with respect to the EBRCSA.

All insurance policies shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said policies except upon thirty (30) days written notice to the Chairperson of the EBRCSA Board of Directors; 2) be evidenced by the original Certificate of Insurance and the insurance carrier's standard form endorsement evidencing the required coverage; and 3) be approved as to form and sufficiency by the EBRCSA Chairperson.

If the commercial general liability insurance referred to above is written on a Claims Made Form then, following termination of this Agreement, coverage shall survive for a period of not less than five (5) years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this Agreement.

If Contractor employs any person, he shall carry workers' compensation and employer's liability insurance and shall provide a certificate of insurance to the EBRCSA. The workers' compensation insurance shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said insurance except upon thirty (30) days written notice to the EBRCSA; and 2) provide for a waiver of any right of subrogation against the EBRCSA to the extent permitted by law.

Contractor shall promptly forward all insurance documents to the EBRCSA.

5. CONFORMITY WITH LAW AND SAFETY: In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services provided by Contractor.

6. PAYMENT: For services performed in accordance with this Agreement, payments will be made, and payment shall be made to Contractor as provided in Exhibit B hereto.

7. TRAVEL EXPENSES: Contractor shall be allowed and compensated for reasonable travel expenses to carry out the work of the EBRCSA as approved by the Chairperson of the EBRCSA Board of Directors in accordance with Alameda County travel reimbursement policies, as the same may be amended from time to time.

8. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.

9. OWNERSHIP OF DOCUMENTS: Contractor hereby assigns to the EBRCSA and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the EBRCSA, the Contractor, the Contractor's sub-contractors, or third parties at the request of the Contractor (collectively, **"Documents and Materials"**).

Contractor also hereby assigns to the EBRCSA and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's information system(s), respecting in any way the subject matter of this Agreement.

Contractor agrees to take such further steps as may be reasonably requested by EBRCSA to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the EBRCSA and any assignee of the EBRCSA an express, exclusive and irrevocable royalty – free license to retain and use said Documents and Materials. The rights of the EBRCSA rights under this Section 9 shall apply regardless of the degree of completion of the Documents and Materials and whether or not Contractor's services as set forth in Exhibit A to this Agreement have been fully performed or paid for.

During the term of this Agreement Contractor shall be permitted to retain copies, including computerized and reproducible copies, of said Documents and Materials.

10. CONFLICT OF INTEREST; CONFIDENTIALITY: Contractor covenants that he presently has no interest, and shall not obtain any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement, including but not limited to any provision of services to any federal, state or local regulatory or other public agency which has any interest adverse or potentially adverse to the EBRCSA, as determined in the reasonable judgment of the Board of Directors of the EBRCSA. Entering into this agreement does not preclude Contractor from working for others as long as Contractor ensures that such work does not constitute a conflict of interest.

Contractor agrees that any information, whether proprietary or not, made known to or discovered by him during the performance of or in connection with this Agreement for the EBRCSA will be kept confidential and not be disclosed to any other person or entity except as required by law. Contractor agrees to immediately notify the EBRCSA in accordance with Section 11 of this Agreement, if he is requested to disclose to others any information made known to or discovered by him during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective for five (5) years after Contractor's termination of services to the EBRCSA hereunder.

11. NOTICES: All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox.

Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To: EBRCSA: East Bay Regional Communication System Authority
Alameda County Office of Homeland Security and Emergency Services
4985 Broder Blvd.
Dublin CA. 94568

Attn: Chairperson of the EBRCSA Board of Directors

To: Contractor: Thomas G. McCarthy
3471 Strawberry Ct.
Tracy, CA 95377

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

12. USE OF EBRCSA PROPERTY: Contractor shall not use EBRCSA property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his obligations under this Agreement.

13. TERMINATION: Either party may terminate this Agreement for default upon five (5) days written notice to the other if the other party has substantially failed to fulfill any of its obligations under this Agreement in a timely manner as provided herein. The EBRCSA has and reserves the right to terminate this Agreement at its convenience and without cause upon thirty (30) days written notice to Contractor. In the event that the EBRCSA should abandon, terminate or suspend Contractor's work, Contractor shall be entitled to payment for services provided hereunder, but only for such services performed prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for services shall be limited to payment for time actually worked prior to the effective date of said suspension, termination or abandonment.

14 CHOICE OF LAW: This Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in Alameda County, California.

15 ENTIRE AGREEMENT: This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between EBRCSA and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the Parties and sets forth the entire understanding of the Parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both Parties.

16. HEADINGS: Headings herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.

17. MODIFICATION OF AGREEMENT: This Agreement may be supplemented, amended or modified only by the mutual agreement of the Parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both Parties.

18. ASSURANCE OF PERFORMANCE: If at any time EBRCSA believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the services as required by this Agreement, EBRCSA may, at its option, request from Contractor prompt written assurances of performance and a written plan acceptable to EBRCSA, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of his receipt of EBRCSA request and shall thereafter diligently commence and fully

perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time shall constitute grounds for termination pursuant to Section 12 of this Agreement.

19. SEVERABILITY: If any part of this Agreement or the application thereof is declared to be invalid for any reason, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are deemed severable.

20. SIGNATORIES: By signing this agreement, signatories warrant and represent that they have executed this Agreement in their authorized capacity.

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

EAST BAY REGIONAL COMMUNICATIONS
SYSTEM AUTHORITY

CONTRACTOR

By: _____
Signature

By: _____
Signature

Name: _____
(Printed)

Name: _____
(Printed)

EXHIBIT A DEFINITION OF SERVICES

Contractor shall serve as the Executive Director of the EBRCSA and carry out the responsibilities included but not limited to those that follow on an hourly contract-for-services basis.

Management, Administrative, Communications, and Regulatory

- For the Board of Directors and committees, schedule meetings; prepare agendas, staff reports, and minutes; present reports; and maintain all required public records.
- Process all statutory filings and noticing requirements.
- Consult with and coordinate work of legal counsel for the EBRCSA.
- Obtain and maintain appropriate insurance for the EBRCSA, member agencies, and Board members.
- Negotiate, prepare, and administer all contracts, lease agreements, Memoranda of Understanding, and other agreements (technical, financial, administrative), ensuring adherence to statutory procurement requirements and conformance with federal, state, and local laws and policies. This includes Memoranda of Understanding and other agreements with member agencies for use of public facilities and/or contracting for services.
- Oversee the work of any EBRCSA technical, financial or administrative consultants and contractors.
- Develop and manage all long-term development projects.
- Coordinate the recruitment, testing, hiring, training, evaluation, and termination of any future EBRCSA employees and manage the development of appropriate personnel practices.
- Represent the EBRCSA on various local, state, and federal committees that impact the EBRCSA mission.
- Work with non-member governmental agencies to promote their participation in the EBRCSA.
- Through a professional vendor, develop and maintain the EBRCSA website.
- Serve as the EBRCSA public information officer and media contact.

Technical

- Coordinate the acquisition, installation, replacement, testing, modification, upgrade, monitoring and maintenance of the EBRCSA radio system equipment and services and ensure compliance with specifications and contractual provisions.
- Manage ongoing system operation and provide regular reporting on system performance parameters (e.g., system occupancy, frequency utilization, talk group occupancy) and the operational readiness of associated back-up systems.
- Work to obtain federal and state grants for both network build-out/expansion and network operations.

Financial

- Develop, recommend and administer the annual budget and long-term financial plan.
- Secure and coordinate the annual audit.
- Manage the billing and collections processes for member agencies.
- Develop and manage EBRCSA financial policies, including policies related to reserves, contingencies, and capital replacement funds.

**EXHIBIT B
PAYMENT TERMS**

1. EBRCSA will pay Contractor within thirty (30) days, upon receipt of invoice.
2. Invoices will be approved in writing by the EBRCSA, Chair of the Board of Directors
3. Contractor will be compensated at the rate of One Hundred Fifty Dollars (\$150) per hour for work performed in accordance with Exhibit A, the "Definition of Services"
4. Upon execution of this Agreement by EBRCSA, the EBRCSA Chairperson of the Board and Contractor shall forthwith jointly review and determine a schedule for the timely performance of Contractor's services hereunder. The agreed upon schedule shall be convenient to both Parties and will be flexible, as opposed to having fixed hours. Contractor will be responsible to track hours worked on a daily basis and submit bi-weekly time sheets detailing hours worked. The Chairperson of the Board of Directors will approve in writing bi-weekly time sheets submitted by Contractor. Contractor will then submit the approved time sheets to the Alameda County Auditor for payment.