



# **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

## **OPERATIONS COMMITTEE MEETING**

### **NOTICE OF REGULAR MEETING**

**DATE: August 31, 2018**

**TIME:** 9:30 a.m.

**PLACE:** Alameda County Office of Homeland Security and Emergency Services,  
Room 1013  
4985 Broder Blvd., Dublin, CA 94568

### **AGENDA**

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1. Call to Order/Roll Call
2. Public Comments (Meeting Open to the Public):  
At this time, the public is permitted to address the Committee on items within the Committee's subject matter jurisdiction that do not appear on the agenda. 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.
3. Approval of Minutes of the April 27, 2018, Operations Committee Meeting.
4. Review Draft Policy and Procedure for Records Management/Retention/Destruction.
5. Review Lease with East Bay Municipal District for Senecca Site in Oakland
6. Review Aviat Care Services & Support Agreement
7. Receive an Update concerning the Multi-Year Plan of System Equipment Replacement and Upgrade
8. Receive an Update on the Time Division Multiple Access (TDMA) upgrade
9. Discuss Faria Preserve Project, City of San Ramon
10. 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*

**Alameda County Office of Homeland Security and Emergency Services  
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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.

A handwritten signature in black ink that reads "Tom McCarthy". The signature is written in a cursive, slightly slanted style.

Tom McCarthy, Executive Director

August 27, 2018



**East Bay Regional  
Communications  
System Authority**



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**AGENDA ITEM NO. 3**

**AGENDA STATEMENT  
OPERATIONS COMMITTEE MEETING  
MEETING DATE: August 31, 2018**

**TO:** Operations Committee  
East Bay Regional Communications System Authority (EBRCSA)

**FROM:** Tom McCarthy, Executive Director  
East Bay Regional Communications System Authority

**SUBJECT:** Approval of Minutes of the April 27, 2018 Regular Operations Committee Meeting

**RECOMMENDATIONS:**

Approve the minutes of the April 27, 2018 regular Operations Committee Meeting.

**SUMMARY/DISCUSSION:**

The Operations Committee will consider approval of the minutes of the April 27, 2018 Operations Committee Meeting.

**RECOMMENDED ACTION:**

It is recommended that the Committee approve the minutes of the April 27, 2018 Operations Committee Meeting.



# **East Bay Regional Communications System Authority**



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## **OPERATIONS COMMITTEE MEETING**

### **REGULAR MEETING**

**DATE:** April 27, 2018

**TIME:** 9:30 a.m.

**PLACE:** Alameda County Office of Homeland Security and Emergency Services,  
Room 1013  
4985 Broder Blvd., Dublin, CA 94568

## **MINUTES**

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### **1. Call to Order/Roll Call: 9:39 a.m.**

#### **Committee Members:**

G. Ahern, Sheriff, Alameda County Sheriff's Office  
P. Meyer, Fire Chief, San Ramon Valley Fire  
M. McQuiston, Police Chief, Albany Police  
P. Mulligan, Chief of Inspectors, Contra Costa County DA Office  
C. Simmons, Assistant Sheriff, Contra Costa County Sheriff's Office

#### **Staff:**

T. McCarthy, Executive Director  
C. Soto, Secretary

#### **Public:**

G. Poole, Motorola

### **2. Public Comments: None.**

### **3. Approval of Minutes of the February 2, 2018, Operations Committee Meeting**

On motion of Bm. Mulligan, seconded by Bm. Meyer and by unanimous vote, the Operations Committee approved the minutes of the February 2, 2018 Operations Committee meeting.

**4. Amendment to the Three-Year Agreement with Motorola for Monitoring, Intrusion Detection, Technical Support, Preventive Maintenance and Infrastructure Response for Master Site**

Director McCarthy presented the Staff Report and advised that this agreement was for monitoring all dispatch centers throughout both Counties. Motorola monitored, and would call out a County technician if necessary, monitor intrusion alarms and provide technical support. This was needed because of the addition of consoles for Oakland, Oakland Housing Authority, Piedmont, San Ramon, Brentwood and Antioch. This was an increase of \$35,761.68. Next year this would all be one contract.

On motion of Bm. Mulligan, seconded by Bm. Meyer and by unanimous vote, the Operations Committee recommended for approval to the full Board, an Amendment to the Three-Year Agreement with Motorola for Monitoring, Intrusion Detection, Technical Support, Preventive Maintenance and Infrastructure Response for Master Site.

**5. Renewal of Annual Service Agreement with Motorola for System Manager**

Director McCarthy presented the Staff Report and advised that this year-to-year agreement was for specific technical staff from Motorola to assist when County radio shop personnel could not. Because of the intricate technical knowledge needed for the System, this was a necessary investment. The Motorola staff member primarily worked at the Master Site, but he did work out at other sites, as needed.

On motion of Bm. Mulligan, seconded by Bm. Meyer and by unanimous vote, the Operations Committee recommended for approval to the full Board, Renewal of Annual Service Agreement with Motorola for System Manager.

**6. Budget Review FY 2018/2019**

Director McCarthy presented the Staff Report and advised the Authority was in good shape, financially. With the \$3 a month/per radio increase this coming fiscal year, the Authority was estimating Operating Payments of \$5,900,000, Service Payments of \$1,300,000 and interest of approximately \$50,000, for total Revenues of \$7,250,000; Total Operating Expenses were \$3,915,000. There was a noted increase in Leases line item, as there were now three new lease agreements with East Bay Municipal Utility District for three sites. Net Income was \$770,000. Total Reserves would be monitored in coming years. Reserves would be used for the upcoming TDMA upgrade.

On motion of Bm. Meyer, seconded by Bm. Mulligan and by unanimous vote, the Operations Committee recommended for approval to the Finance Committee, the Fiscal Year 2018/2019 Budget for the East Bay Regional Communications System Authority.

**7. Receive an update concerning the RFP regarding the Multi-Year Plan of System Equipment Replacement and Upgrade**

Director McCarthy advised that he was working with Alameda County on the RFP for a Multi-Year Plan of System Equipment Replacement and Upgrade. It had been decided that this would no longer move forward with Alameda County. He suggested that he would write an RFP and have one of the Counties post it. He would return with more information at a later date.

**8. Receive and update on the 7.17 upgrade**

Director McCarthy advised that the 7.17 upgrade was huge. Six or seven servers in the master site were replaced, as well as 155 computer towers at dispatch centers. Agencies were switched over in the early morning hours. The upgrade was successfully completed within two weeks of its start date.

**9. Agenda Items for Next Meeting**

- Policy and Procedure for Records Management/Retention/Destruction

**10. Adjournment:**

With no further business coming before the Operations Committee, the meeting was adjourned at 10:00 a.m.



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**AGENDA ITEM 4**

**AGENDA STATEMENT  
OPERATIONS COMMITTEE MEETING  
MEETING DATE: August 31, 2018**

**TO:** Operations Committee  
East Bay Regional Communications System Authority (EBRCSA)

**FROM:** Thomas G. McCarthy, Executive Director  
East Bay Regional Communications System Authority

**SUBJECT:** Establishment of Administrative Policy for East Bay Regional Communications System Authority concerning Records Retention and Destruction

**RECOMMENDATIONS:**

Review, and if Committee agrees, make a recommendation to the Board of Directors to adopt a Records Retention and Destruction Policy for East Bay Regional Communications System Authority (EBRCSA).

**SUMMARY/DISCUSSION:**

The East Bay Regional Communication System Authority does not have a Policy concerning the Retention and Destruction of the records created by EBRCSA. The EBRCSA records have been kept since the build and implementation of the EBRCSA and are stored in boxes and file cabinets making it difficult to find records.

The records are now categorized and organized into files which can be easily located by category. The files have been scanned into DocuWare, a digital format, which is searchable and stored in electronic form on a server which is at EBRCSA and on a redundant server off site. A draft Policy and Procedure has been included in this Staff Report, Attachment A, and it includes

the: Records Retention Schedule Legend, File Classification, Records Retention Schedule, Inventory of Records, and Records Destruction Authorization Form.

**FISCAL IMPACT**

The Policy does not have a financial impact the EBRCSA budget. The files have been built and will be maintained by the EBRCSA Staff.

**RECOMMENDED ACTION:**

It is requested that the Committee recommend to the Board of Directors to approve the EBRCSA Records Retention and Destruction Policy and Procedure.11-01.

Attachment: "A" – Records Retention and Destruction Policy 11-01



# EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY ADMINISTRATIVE POLICIES

## CHAPTER 11.0 - Records

NUMBER

Page 1 of 22

11-01

REVISION

SUPERSEDES

SUBJECT

**RECORD RETENTION AND  
DESTRUCTION POLICY**

APPROVED BY

Board of Directors

EFFECTIVE DATE

September 21, 2018

### A. POLICY STATEMENT

#### 1) Purpose

The purpose of this Policy is to ensure that necessary records and documents of the East Bay Regional Communications System (EBRCSA) are adequately protected and maintained to ensure records that are no longer needed by EBRCSA, are of no value, are discarded at the proper time. This Policy is also for the purpose of aiding employees of EBRCSA in understanding their obligations in retaining electronic documents - including e-mail, Web files, text files, sound and movie files, PDF documents, and all Microsoft Office or other formatted files.

#### 2) Policy

This Policy represents the EBRCSA's policy regarding the retention and disposal of records and the retention and disposal of electronic documents.

#### 3) Converting Hard Copy to Electronic Formats

Government Code Section 34090.5 authorizes the conversion of hard copy materials and records onto other electronic mediums (i.e., burning CDs or DVDs or other format reasonably accepted within the industry, as may be directed by the Board of Directors) as long as the following conditions are met:

- A. The record, paper, or document is photographed, micro photographed, reproduced by electronically recorded video images, recorded in electronic data processing system, recorded on optical disk, or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document;
- B. The device or method used to reproduce the record, paper, or document reproduces the original in all details and does not permit additions, deletions, or changes to the original document images;
- C. The reproductions are made accessible for public reference as the original records were; and
- D. A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes.

If the above conditions are met, subject to verification by the Clerk and Attorney, the Executive Director may convert the hard copy to a permissible electronic format and destroy the hard copy.

The following is how the process will work:

1. Scan a document into DocuWare.
  - a. Documents should be stored as JPEG, JBIG, JPEG 2000, TIFF, or PDF-A images.
2. Place the original hard copy (now scanned) in a banker box for pending destruction.

3. Now that several boxes of documents have been scanned and are electronically stored in DocuWare
  - a. Verify that the file is on the document server for DocuWare.
  - b. Back-up the DocuWare on to an Archival Grade DVD-R.
  - c. Retain the Back-up on Site.
  - d. The DocuWare files are stored off site and are also backed up by the Alameda County ITD.

#### **4) Administration**

Attached as Appendix A is a Record Retention Schedule that is approved as the initial maintenance, retention and disposal schedule for physical records of EBRCSA and the retention and disposal of electronic Documents. The Executive Director is the officer in charge of the administration of this Policy and the implementation of processes and procedures to ensure that the Record Retention Schedule is followed. The Administrator is also authorized to: make modifications to the Record Retention Schedule from time to time to ensure that it is in compliance with local, state and federal laws and includes the appropriate document and record categories for EBRCSA; monitor local, state and federal laws affecting record retention; annually review the record retention and disposal program; and monitor compliance with this Policy.

#### **5) Suspension of Record Disposal In Event of Litigation or Claims**

In the event EBRCSA is served with any subpoena or request for documents or any employee becomes aware of a governmental investigation or audit concerning EBRCSA or the commencement of any litigation against or concerning EBRCSA, such employee shall inform the Administrator, and any further disposal of documents shall be suspended until such time as the Administrator, with the advice of counsel, determines otherwise. The Administrator shall take such steps as is necessary to promptly inform the Director, Board of Directors, and all staff of any suspension in the further disposal of documents.

#### **5) Applicability**

This Policy applies to all physical records generated in the course of EBRCSA's operation, including both original documents and reproductions. It also applies to the electronic documents described above.

This Policy was approved by the East Bay Regional Communication System Authority Board of Directors of on, \_\_\_\_\_.

**APPENDIX A – RECORDS RETENTION SCHEDULE LEGEND**

**APPENDIX B – FILE CLASSIFICATION**

**APPENDIX C - RECORD RETENTION SCHEDULE: ALL RECORDS**

**APPENDIX D – INVENTORY OF RECORDS**

**APPENDIX E – FORM RM-1: RECORDS DESTRUCTION AUTHORIZATION FORM**

## RECORDS RETENTION SCHEDULE LEGEND

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**OFFR (Office of Record):** The department that keeps the original or "record copy."

**Retention No:** A number to identify the record series.

**Records Description / Folder Subject:** The record series (a group of like records).

**Transitory Records** not retained in the ordinary course of business: Preliminary drafts, notes, or interagency or intra-agency memoranda and records having only transitory value. Examples: Telephone messages, meeting room reservation schedules, logs, source records entered into a computer system that qualifies as a "trusted system", etc.

**Non-Record:** Documents, studies, books and pamphlets produced by outside agencies, preliminary drafts not retained in the ordinary course of business.

### Retention/Disposition:

**Active:** How long the file remains in the immediate office area (*guideline*)

**Inactive:** How long the file is in off-site storage, stored on Optical Disk or Microforms (*guideline*)

**Total Retention:** The total number of years the record will be retained

For file folders containing documents with different retention timeframes, use the document with the longest retention time.

**P = Permanent**

**Indefinite =** No fixed or specified retention period; used for databases, because the data fields are interrelated.

**Vital?** = Those records that are needed for basic operations in the event of a disaster.

**Media Options (*guideline*)** – the form of the record:

Mag = Computer Magnetic Media (hard drive, disks, tapes, etc.)

Mfr = Microforms (aperture cards, microfilm, microfiche, or jackets)

Ppr = Paper

OD = Optical Disk, CD, DVD or other media which does not allow changes

**Scan / Import (*guideline*):**

"S" indicates the record should be scanned into the document imaging system;

"I" indicates the record should be electronically imported into the document imaging system;

"M" indicates the record should be microfilmed

**Destroy Paper after Imaged & QC'd (*guideline, if record is imaged*):** QC'd=Quality Checked. "Yes" indicates the paper version may be destroyed if the document has been imaged (microfilmed, scanned or imported onto Optical Disk – CD-R, WORM or DVD-R), and both the images and indexing Quality Checked ("QC'd").

### Legend for legal citations (§: Section)

CC: Civil Code (CA)

CFC: California Fire Code

EVC: Evidence Code (CA)

FTB: Franchise Tax Board (CA)

HUD: Housing & Urban Develop. (US)

PC: Penal Code (CA)

UBC: Uniform Building Code

USC: United States Code (US)

B&P: Business & Professions Code (CA)

CCP: Code of Civil Procedure (CA)

CFR: Code of Federal Regulations (US)

FA: Food & Agriculture Code

GC: Government Code (CA)

LC: Labor Code (CA)

R&T: Revenue & Taxation Code (CA)

UFC: Uniform Fire Code

VC: Vehicle Code (CA)

CBC: California Building Code

CCR: California Code of Regulations (CA)

EC: Elections Code (CA)

FC: Family Code (CA)

H&S: Health & Safety Code (CA)

Ops. Atty. Gen.: Attorney General Opinions (CA)

UAC: Uniform Administrative Code

UPC: Uniform Plumbing Code

W&I: Welfare & Institutions Code (CA)

**FILE CLASSIFICATION**  
**(HOW THE FILE FOLDERS ARE ORGANIZED)**  
**July, 2009**

Conflict of Interests Statements (FPPC Form 700s)

Public Officials (4 years)  
Employees (7 years)

Contracts / Franchises / Agreements (C + 10)

All Contracts together under "C" for Contracts  
Alphabetic by Vendor, each vendor with its own folder

Alphabetic Rules:

Transpose names, even if a company (File by Last Names)  
County of Marin – Under "M"s for Marin (Marin County)  
Use the Vendors Name (e.g. Richards, Watson & Gershon, not the attorney's name)

Correspondence (2 years)

A new folder every year

Financial

Invoices with Jenny – By Vendor Name  
Audits & Financial Statements (P)  
Bonds (T+3)  
Budgets (A+5)

Insurance (C+10)

Legal (C+10)

Claims  
Litigation

Legislation & Meetings

Agenda Packets (P)  
Ordinances (P)  
Resolutions (P)  
Minutes (P)

Sites

System

**RECORDS RETENTION SCHEDULE: ALL RECORDS**

Office of Record	Record Series No.	Records Description	Retention / Disposition							Comments / Reference
			Active (in office)	Inactive (Off-site, OD or Mfr)	Total Retention	Vital?	Media Options	Image: I=Import M=Mfr S=Scan	Destroy Paper after Imaged & QC'd?	
<i>Retentions apply to the department that is NOT the Office of Record (OFR). If you are the OFR, refer to your department retention schedule. Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder. Litigation, claims, complaints, audits, pending records requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i>										
Board Secretary	EBRSCA-001	Affidavits of Publications / Public Hearing Notices / Legal Advertising / Proof of Publication / Proof of Posting	2 years		2 years		Mag, Mfr, OD, Ppr			City preference; Brown Act challenges must be filed within 30 or 90 days of action; Statute of Limitations on Municipal Government actions is 3 - 6 months; CCP §§337 et seq, 349.4; GC §§26202, 54960.1(c)(1)
Board Secretary	EBRSCA-002	Agency Formation / Member Agencies	P		P		Mag, Mfr, OD, Ppr	S	No	Historical; GC §26202
Board Secretary	EBRSCA-003	Agendas and Agenda Packets EBRCSA Board, Finance Committee, Operations Committee, Technical Advisory Committee	5 years	P	P	Yes: Before Meeting	Mag, Mfr, OD, Ppr	S	Yes: After 5 years	Department Preference; GC §26202 et seq.

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Office of Record	Record Series No.	Records Description	Active (in office)	Inactive (Off-site, OD or Mfr)	Retention	Vital?	Media Options	Image: I=Import M=Mfr S=Scan	Destroy Paper after Imaged & QC'd?	Comments / Reference
<p><i>Retentions apply to the department that is NOT the Office of Record (OFR). If you are the OFR, refer to your department retention schedule.</i></p> <p><i>Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder.</i></p> <p><i>Litigation, claims, complaints, audits, pending records requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i></p>										
Board Secretary	EBRSCA-004	Agreement or Contract includes all contractual obligations (e.g. RFP / Specifications / Successful Proposal / Scope of Work, Amendments, Insurance Certificates, and Notices of Completion)	Completion	P	P	Yes: Before Completion	Mag, Mfr, OD, Ppr	S	Yes: After 10 years	Department Preference: All infrastructure, JPAs, & Mutual Aid contracts should be permanent for emergency preparedness; Statute of Limitations is 4 years; 10 years for Errors & Omissions; land records are permanent by law; CCP §§337. 337.1(a), 337.15, 343; GC §26202, Contractor has retention requirements in 48 CFR 4.703(a)
Board Secretary	EBRSCA-005	Agreement or Contract includes all contractual obligations (e.g. RFP / Specifications / Successful Proposal / Scope of Work, Amendments, Insurance Certificates, and Notices of Completion)	Completion + 5 years		Completion + 5 years	Yes: Before Completion	Mag, Mfr, OD, Ppr	S	Yes: After QC	Department Preference: Statute of Limitations is 4 years; municipal auditing standards are audit + 4 years; CCP §§337. 337.1(a), 337.15, 343; GC §26202; GC §§12946, 34090

**RECORDS RETENTION SCHEDULE: ALL RECORDS**

Office of Record	Record Series No.	Records Description	Retention / Disposition					Comments / Reference				
			Active (in office)	Inactive (Off-site, OD or Mfr)	Total Retention	Vital?	Media Options		Image: I=Import M=Mfr S=Scan	Destroy Paper after Imaged & QC'd?		
(OFR)												
<i>Retentions apply to the department that is NOT the Office of Record (OFR). If you are the OFR, refer to your department retention schedule. Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder. Litigation, claims, complaints, audits, pending records requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i>												
Lead Staff Person	EBRSCA-006	Agreements & Contracts: <b>UNSUCCESSFUL BIDS or RESPONSES to RFPs</b> (Request for Proposals) and/or <b>RFQs</b> (Request for Qualifications) that don't result in a contract	2 years		2 years		Mag, Ppr					The RFP / RFQ and the successful proposal becomes part of the agreement or contract (Board Secretary is OFR), GC \$26202
Board Secretary	EBRSCA-007	Annual Financial Reports	10 years	P	P	Yes (all)	Mag, Mfr, OD, Ppr	S	No		Department Preference: GC \$26202	
Board Secretary	EBRSCA-008	Bylaws	P		P		Mag, Mfr, OD, Ppr	S	No		Historical: GC \$26202	

**RECORDS RETENTION SCHEDULE: ALL RECORDS**

Office of Record	Record Series No.	Records Description	Retention / Disposition					Comments / Reference				
			Active (in office)	Inactive (Off-site, OD or Mfr)	Total Retention	Vital?	Media Options		Image: I=Import M=Mfr S=Scan	Destroy Paper after Imaged & QC'd?		
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Executive Director	EBRSCA-009	<p>Capital Improvement Projects (CIP) / Jobs : Infrastructure and Facilities Construction - Administration File</p> <p>Project Administration, Asphalt Tickets / Tags, Bonds (Security); Budgets / Man hours, Certified Payrolls (confidential - don't scan), Cost Estimates, Transitory Correspondence, Daily Construction Reports / Inspections, Invoices, Insurance Certificates, Project Schedules, Progress meetings / Meeting Notes / Meeting Minutes, Rating Sheets, Real Estate Appraisals, Transmittal Memos / Faxes, etc.</p>	Upon Completion	10 years or After Funding Agency Audit, if required, whichever is longer	Completion + 10 years or After Funding Agency Audit, if required, whichever is longer	Yes: Until Completed	Mag, Mfr, OD, Ppr	S/I	Yes: After Scan, QC & OD	<p>Some grant funding agencies require audits; Statute of Limitations for Errors &amp; Omissions is 10 years; Published Audit Standards=4-7 years; Statute of Limitations: Contracts &amp; Spec's=4 years, Wrongful Death=comp. + 5 years, Developers=comp. + 10 years; Statewide guidelines propose termination + 5 years; CCP §§336(a), 337 et. seq., GC §26202</p>		



**RECORDS RETENTION SCHEDULE: ALL RECORDS**

Office of Record	Record Series No.	Records Description	Retention / Disposition				Comments / Reference												
			Active (in office)	Inactive (Off-site, OD or Mfr)	Total Retention	Vital?													
(OFR)																			
<p><i>Retentions apply to the department that is NOT the Office of Record (OFR). If you are the OFR, refer to your department retention schedule.</i></p> <p><i>Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder.</i></p> <p><i>Litigation, claims, complaints, audits, pending records requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i></p>																			
Executive Director	EBRSCA-010	Capital Improvement Projects (CIP) / Jobs: <b>Infrastructure and Facilities Construction - Permanent File</b>  Plans, Specifications, Bids/RFPs, Successful Proposal, Concrete Mix, Change Orders (copies), Important Correspondence, Materials Testing Reports, Grading Permits, Hazardous Materials Plans, Notice of Completion (copies), Construction Manager's Logs, Photos, Soils Reports, Studies, Submittals, Surveys, etc.	Upon Completion	P	P	Yes: Until Completed	Mag, Mfr, OD, Ppr	S/I	Yes: After Scan, QC & OD	All permanent project files are maintained in Engineering no matter what department was involved in the project; retained for disaster preparedness purposes (Agency Clerk does not maintain Plans, Materials Testing Reports, etc.) Statewide guidelines propose Permanent for Infrastructure plans; GC \$26202									
Executive Director	EBRSCA-011	Cell Site Histories	P		P	Yes: Until Paid	Mag, Ppr			Department Preference: GC \$26202									
Agency Attorney	EBRSCA-012	Closed Session Records (Confidential)	After Meeting		After Meeting		Mag, Ppr			Department preference (the final action is always reported in the open session); GC \$26202.7									
Executive Director	EBRSCA-013	Communications System History	P		P	Yes: Until Paid	Mag, Ppr			Department Preference: GC \$26202									

**RECORDS RETENTION SCHEDULE: ALL RECORDS**

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			Active (in office)	Inactive (Off-site, OD or Mfr)	Total Retention	Vital?		Media Options	Image: I=Import M=Mfr S=Scan	Destroy Paper after Imaged & QC'd?							
(OFR)																	
<p><i>Retentions apply to the department that is NOT the Office of Record (OFR). If you are the OFR, refer to your department retention schedule.</i></p> <p><i>Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder.</i></p> <p><i>Litigation, claims, complaints, audits, pending records requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i></p>																	
Executive Director	EBRSCA-014	Consoles and Other Equipment	Disposal + 2 year		Disposal + 2 years	Yes: Until Completed	Mag, Mfr, OD, Ppr	S/I	Yes: After Scan, QC & OD	Some grant funding agencies require audits; Statute of Limitations for Errors & Omissions is 10 years; Published Audit Standards=4-7 years; Statute of Limitations: Contracts & Spec's=4 years, Wrongful Death=comp. + 5 years; Developers=comp. + 10 years; Statewide guidelines propose termination + 5 years; CCP §§336(a), 337 et. seq., GC §26202							
	EBRSCA-015	Copies or duplicates of any record	Copies - When No Longer Required		Copies - When No Longer Required		Mag Ppr			GC §26202.7							
Lead Staff Person	EBRSCA-016	Correspondence - <b>ROUTINE</b> (e.g. Administrative, Chronological, General Files, Letters, Memorandums, Miscellaneous Reports, Press Releases, Public Records Requests, Reading File, Working Files, etc.)	2 years		2 years		Mag, Ppr			GC §26202							

**RECORDS RETENTION SCHEDULE: ALL RECORDS**

Office of Record	Record Series No.	Records Description	Retention / Disposition						Comments / Reference	
			Active (in office)	Inactive (Off-site, OD or Mfr)	Total Retention	Vital?	Media Options	Image: I=Import M=Mfr S=Scan		Destroy Paper after Imaged & QC'd?
<p><i>Retentions apply to the department that is NOT the Office of Record (OFR). If you are the OFR, refer to your department retention schedule.</i></p> <p><i>Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder.</i></p> <p><i>Litigation, claims, complaints, audits, pending records requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i></p>										
Lead Staff Person	EBRSCA-017	<p>Correspondence - <b>TRANSITORY / PRELIMINARY DRAFTS,</b> Interagency and Intraagency Memoranda not retained in the ordinary course of business</p> <p>(e.g. calendars, checklists, e-mail or social media posting <b>NOT</b> made or retained for the purpose of preserving the informational content for future reference, invitations, instant messaging, logs, mailing lists, meeting room registrations, supply inventories, telephone messages, text messages, transmittal letters, thank yous, requests from other cities, undeliverable envelopes, routing forms, visitors logs, voice mails, webpages, etc.)</p>	When No Longer Required		When No Longer Required		Mag, Ppr		Electronic and paper records are filed and retained based upon their content. E-mails, electronic records, or social media postings that ARE made or retained for the purpose of preserving the informational content for future reference re saved by printing them out and placing them in a file folder, or saving them electronically. If not mentioned here, consult the Agency Attorney to determine if a record is considered transitory / preliminary draft. GC §§26202, 6252, 6254(a), 64 Ops. Cal. Atty. Gen. 317 (1981))	
Board Secretary	EBRSCA-018	Deeds	5 years	P	P		Mag, Mfr, OD, Ppr	S / I	No	GC §26202

**RECORDS RETENTION SCHEDULE: ALL RECORDS**

Office of Record	Record Series No.	Records Description	Retention / Disposition		Vital?	Media Options	Image: I=Import M=Mfr S=Scan	Destroy Paper after Imaged & QC'd?	Comments / Reference
			Active (in office)	Inactive (Off-site, OD or Mfr)					
(OFR)									
<i>Retentions apply to the department that is NOT the Office of Record (OFR). If you are the OFR, refer to your department retention schedule. Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder. Litigation, claims, complaints, audits, pending records requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i>									
Lead Staff Person	EBRSCA-019	Drafts & Notes: Drafts that are revised (retain final version)	When No Longer Required			Mag, Ppr			As long as the drafts and notes are not retained in the "Regular Course of Business". Consult the Agency Attorney to determine if a record is considered a draft. GC §§26202, 6252, 6254(a)
Executive Director	EBRSCA-020	Drawings / As-Builts / Record Drawings of Infrastructure	3 years	P	Yes (all)	Mag, Mfr, OD, Ppr	S	Yes: After Scan, QC & OD	Drafts should be destroyed; Some maps are also retained by Planning. Selected maps are retained in Public Works for administrative purposes; GC §26202, 34090.7
Board Secretary	EBRSCA-021	Easements	5 years	P		Mag, Mfr, OD, Ppr	S / I	No	GC §26202
Board Secretary	EBRSCA-022	Economic Interest Filings (FPPC 700 Series Forms - Statement of Economic Interests): ALL	5 years	2 years	7 years	Mag, Ppr			Agency maintains original statements; GC §81009(e)(g)
Board Secretary	EBRSCA-023	Economic Interest Filings (FPPC Form 635) - Lobbyist Reporting	7 years		7 years	Mag, Ppr			2 CCR 18615(d), GC §81009(e)

**RECORDS RETENTION SCHEDULE: ALL RECORDS**

Office of Record	Record Series No.	Records Description	Active (in office)	Inactive (Off-site, OD or Mfr)	Retention	Vital?	Media Options	Image: I=Import M=Mfr S=Scan	Destroy Paper after Imaged & QC'd?	Comments / Reference
<p><i>Retentions apply to the department that is NOT the Office of Record (OFR). If you are the OFR, refer to your department retention schedule. Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder. Litigation, claims, complaints, audits, pending records requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i></p>										
Executive Director	EBRSCA-024	Engineering Studies / Surveys (Agency Built Projects)	P		P		Mag, Mfr, OD, Ppr	S/I	Yes: After Scan, QC & OD	Department Preference: GC \$26202
Board Secretary	EBRSCA-025	Ethics Training Certificates	5 years		5 years		Mag, Ppr			Department preference: GC \$812946, 29 USC 1113
Board Secretary	EBRSCA-026	FPPC Form 801 (Gift to Agency Report)	7 years		7 years		Mag, Ppr			Must post on website; 2 CCR 18944(c)(3)(G); GC \$81009€; GC \$26202.
Board Secretary	EBRSCA-027	FPPC Form 802 (Tickets Provided by Agency Report)	7 years		7 years		Mag, Ppr			Must post on website for 4 years; GC \$81009€; GC \$26202
Board Secretary	EBRSCA-028	FPPC Form 803 (Behested Payment Report)	7 years		7 years		Mag, Ppr			GC \$81009€; GC \$26202
Board Secretary	EBRSCA-029	FPPC Form 804 (Agency Report of New Positions)	P		P		Mag, Ppr			FPPC Regulation 18734(c); GC \$81009€; GC \$26202
Board Secretary	EBRSCA-030	FPPC Form 805 (Agency Report of Consultants)	P		P		Mag, Ppr			FPPC Regulation 18734(c); GC \$81009€; GC \$26202
Board Secretary	EBRSCA-031	FPPC Form 806 (Agency Report of Public Official Appointments)	7 years		7 years		Mag, Ppr			Must post on website; 2 CCR 18705.5; GC \$26202; GC \$81009(e)
Executive Director	EBRSCA-032	Geotechnical Reports	P		P		Mag Ppr			Department Preference: GC \$26202 et seq.
Lead Staff Person	EBRSCA-033	Grants (UNSUCCESSFUL Applications, Correspondence)	2 years		2 years		Mag, Ppr			GC \$26202

**RECORDS RETENTION SCHEDULE: ALL RECORDS**

Office of Record	Record Series No.	Records Description	Retention / Disposition					Comments / Reference										
			Active (in office)	Inactive (Off-site, OD or Mfr)	Total Retention	Vital?	Media Options		Image: I=Import M=Mfr S=Scan	Destroy Paper after Imaged & QC'd?								
(OFFR)																		
<p><i>Retentions apply to the department that is NOT the Office of Record (OFFR). If you are the OFFR, refer to your department retention schedule. Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder. Litigation, claims, complaints, audits, pending records requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i></p>																		
Lead Staff Person	EBRSCA-034	Grants / CDBG / Reimbursable Claims / Subventions (SUCCESSFUL Reports, other records required to pass the funding agency's audit, if required)	2 years	After Funding Agency Audit, if Required - Minimum 5 years	After Funding Agency Audit, if required - Minimum 5 years		Mag, Ppr											Meets auditing standards: Grants covered by a Consolidated Action Plan are required for 5 years. Uniform Admin. Requirements for Grants to Local Governments is 3 years from expenditure report or final payment of grantee or subgrantee; statewide guidelines propose 4 years; 2 CFR 200.33; 7 CFR 3016.42; 21 CFR 1403.36 & 1403.42(b); 24 CFR 85.42, 91.105(h), 92.505, 570.490, & 570.502(a&b); 28 CFR 66.42; 29 CFR 97.42; 40 CFR 31.42; 44 CFR 13.42; 45 CFR 92.42; OMB Circular A-110 & A-133; GC §26202

**RECORDS RETENTION SCHEDULE: ALL RECORDS**

Office of Record	Record Series No.	Records Description	Retention / Disposition				Comments / Reference			
			Active (in office)	Inactive (Off-site, OD or Mfr)	Total Retention	Vital?		Media Options	Image: I=Import M=Mfr S=Scan	Destroy Paper after imaged & QC'd?
<i>Retentions apply to the department that is NOT the Office of Record (OFR). If you are the OFR, refer to your department retention schedule. Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder. Litigation, claims, complaints, audits, pending records requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i>										
Board Secretary	EBRSCA-035	Historical Records	P		P		Mag, Mfr, OD, Ppr	S	No	Board Secretary determines historical significance; records can address a variety of subjects and media. Some media (e.g. audio and video tape) may be limited because of the media's life expectancy; GC §26202
Board Secretary	EBRSCA-036	Insurance Certificates - Miscellaneous that Cannot be Matched to a Contract or Contractor	11 years		11 years	Yes: Before Completion	Mag, Mfr, OD, Ppr	S	Yes: After 5 years	Longest Statute of Limitations is 10 years; Conforms with Agreement Retention (usually filed with agreement); statewide guidelines propose permanent; CCP §337 et seq.; GC §26202
Board Secretary	EBRSCA-037	Minutes EBRSCA Board, Finance Committee, Operations Committee, Technical Advisory Committee	10 years	P	P	Yes (all)	Mag, Mfr, OD, Ppr	S	No	GC §26202

**RECORDS RETENTION SCHEDULE: ALL RECORDS**

Office of Record	Record Series No.	Records Description	Retention / Disposition				Media Options	Image: I=Import M=Mfr S=Scan	Destroy Paper after Imaged & QC'd?	Comments / Reference
			Active (in office)	Inactive (Off-site, OD or Mfr)	Total Retention	Vital?				
(OFR)										
<i>Retentions apply to the department that is NOT the Office of Record (OFR). If you are the OFR, refer to your department retention schedule.                      Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder.                      Litigation, claims, complaints, audits, pending records requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i>										
Board Secretary	EBRSCA-038	Oaths of Office	P		P		Mag, Mfr, OD, Ppr	S	Yes: After 5 years	Department preference; Employees Oaths are maintained in their Personnel File; Statute of Limitations: Public official misconduct is discovery of offense + 4 years, retirement benefits is 6 years from last action; statewide guidelines propose Termination + 6 years; GC \$36507, 34090; PC §§801.5, 803(c); 29 USC 1113
Executive Director	EBRSCA-039	Permits	Expiration + 2 years		Expiration + 2 years		Mag, Ppr			Department Preference; GC \$26202
Board Secretary	EBRSCA-040	Public Records Requests / Request for Public Records / Subpoenas	2 years		2 years		Mag, Ppr			GC \$26202
Lead Staff Person	EBRSCA-041	Public Relations / Press Releases Maintain only those with significant historical value longer than 2 years	When No Longer Required - Minimum 2 years		When No Longer Required - Minimum 2 years		Mag, Mfr, OD, Ppr			Department preference; GC \$26202
Lead Staff Person	EBRSCA-042	Real Estate Appraisal Reports: Property NOT purchased, Loans not funded, etc.	2 years		2 years		Mag, Ppr			Not accessible to the public; Statewide Guidelines show 2 years; GC §§26202, 6254(h)



**RECORDS RETENTION SCHEDULE: ALL RECORDS**

Office of Record	Record Series No.	Records Description	Active (in office)		Inactive (Off-site, OD or Mfr)		Retention / Disposition			Comments / Reference
			Active (in office)	Inactive (Off-site, OD or Mfr)	Total Retention	Vital?	Media Options	Image: I=Import M=Mfr S=Scan	Destroy Paper after Imaged & QC'd?	
Lead Staff Person	EBRSCA-043	Real Estate Appraisal Reports: Purchased Property, Funded Loans	2 years	When No Longer Required - Minimum 3 years	When No Longer Required - Minimum 5 years	Yes: Before Purchase	Mag, Mfr, OD, Ppr	S	Yes: After Inactive	Not accessible to the public until purchase has been completed; meets grant auditing requirements; 24 CFR 85.42 & 91.105(h), & 570.502(b); 29 CFR 97.42, GC \$26202
Board Secretary	EBRSCA-044	Recordings / Tapes: Audio Recordings (Agency Council, Public Finance Authority, Dublin Information, Inc. (DI))	30 days, or After Minutes are Approved, whichever is longer		30 days, or After Minutes are Approved, whichever is longer		Mag			State law only requires for 30 days; GC \$54953.5(b)
Board Secretary	EBRSCA-045	Records Destruction Lists / Certificates of Records Destruction	10 years		10 years		Mag, Mfr, OD, Ppr	S	Yes: After 5 years	Department Preference: GC \$26202 et. seq.
Board Secretary	EBRSCA-046	Records Retention Schedules / Authorization for Amendments to Retention Schedules	P		P		Mag, Mfr, OD, Ppr	S	Yes: After 5 years	GC \$26202 et. seq.
Lead Staff Person	EBRSCA-047	Reference Materials: Policies, Procedures, Brochures, Manuals, Newsletters & Reports: Produced by EBRSCA	When No Longer Required - Minimum 2 years		When No Longer Required - Minimum 2 years		Mag, Ppr			Statewide guidelines propose superseded + 2 or 5 years; GC \$26202

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**RECORDS RETENTION SCHEDULE: ALL RECORDS**

Office of Record	Record Series No.	Records Description	Retention / Disposition		Retention / Disposition				Comments / Reference	
			Active (in office)	Inactive (Off-site, OD or Mfr)	Total Retention	Vital?	Media Options	Image: I=Import M=Mfr S=Scan		Destroy Paper after Imaged & QC'd?
<i>Retentions apply to the department that is NOT the Office of Record (OFR). If you are the OFR, refer to your department retention schedule. Retentions begin when the act is completed, and imply a full file folder (e.g. last document + 2 years), since destruction is normally performed by file folder. Litigation, claims, complaints, audits, pending records requests, and/or investigations suspend normal retention periods (retention resumes after settlement).</i>										
Executive Director	EBRSCA-048	Reports and Studies (Historically significant - e.g., Zoning Studies)	10 years	P	P		Mag, Mfr, OD, Ppr	S/I	Yes: After 10 years	Administratively and Historically significant, therefore retained permanently; GC §26202
Executive Director	EBRSCA-049	Reports and Studies (other than Historically significant reports)	10 years		10 years		Mag, Ppr			Information is outdated after 10 years; statewide guidelines propose 2 years; If historically significant, retain permanently; GC §26202
Board Secretary	EBRSCA-050	Resolutions	P		P	Yes (all)	Mag, Mfr, OD, Ppr	S	No	GC §26202 et. seq.
Board Secretary	EBRSCA-051	Secretary of State Filings	10 years	P	P	Yes (all)	Mag, Mfr, OD, Ppr	S	No	Department Preference; GC §26202

**INACTIVE RECORDS INVENTORY**  
 (For Records that are Retained in Boxes - Not Ready for Destruction Yet)

Subject / Folder Name	Start Date	End Date	Box #	Retention	Destroy	Location	Notes & Ideas
<b>BOX 1 - System Construction &amp; Permits - 2011 - 2016</b>							
RFQ / RFP: Environmental Consultants	2011	2011	1	Perm	n/a	Back Room	
P&E Easements & Electric Service Applications	2011	2012	1	Perm	n/a	Back Room	
CIP Administration: Certified Payrolls File 1 of 2	2012	2013	1	Comp. + 10 years	2025	Back Room	
CIP Administration: Certified Payrolls File 2 of 2	2013	2014	1	Comp. + 10 years	2025	Back Room	
RFP Addendum 2 SRV/FPD Station #31 Walnut Creek BART	2012	2012	1	Perm	n/a	Back Room	
BAAQMD Permits	2011	2016	1	Expiration + 2 years	review	Back Room	
RFP: Generator - Collicutt Energy Services	2012	2013	1	Perm	n/a	Back Room	
RFO: Standby Generators	2012	2012	1	Perm	n/a	Back Room	
EBMUD Generator	2012	2012	1	Perm?	review	Back Room	
FAA Applications (Structure Height)	2012	2012	1	Perm	n/a	Back Room	
FCC Structure Registration	2012	2012	1	Perm	n/a	Back Room	
<b>BOX 2 - System Construction &amp; Sites - 2007 - 2013</b>							
Pre-Fabricated Shelters	2007	2012	2	Perm	n/a	Back Room	
Fiberbound Shelters	2011	2013	2	Perm	n/a	Back Room	
Shelter RFQ	2012	2012	2	Perm	n/a	Back Room	
Shelters - Thermo Bond	2012	2013	2	Perm	n/a	Back Room	
Alan Pre-Fab Shelter (Coyote)	2010	2010	2	Perm	n/a	Back Room	
Shelter RFP Drawings	2010	2013	2	Perm	n/a	Back Room	
Proposal - KPA Engineers - System Specifications	2011	2011	2	Perm	n/a	Back Room	
Agreement: The Gordian Group	2008	2008	2	Perm	n/a	Back Room	
Agreement: Jerry Haag (CEQA)	2012	2012	2	Perm	n/a	Back Room	
Fuel Cells	2011	2011	2	Perm?	review	Back Room	
Specifications: Bid Packet #2 LMR Communications - Technical Specs	2012	2012	2	Perm	n/a	Back Room	
Specifications: Bid Packet #2 LMR Communication Sites	2012	2012	2	Perm	n/a	Back Room	
Sites: SRVFD #31 - Specifications & CIP:	2012	2012	2	Perm	n/a	Back Room	
Sites: SRVFD #31 - Structural Analysis - Tower	2012	2012	2	Perm	n/a	Back Room	
Sites: SRVFD #31 LMR Work - CIP Administration	2012	2012	2	Perm	n/a	Back Room	
Sites: SRVFD #31 Construction meetings - CIP Administration	2012	2012	2	Comp. + 10 years	2025	Back Room	
Sites: SRVFD #31 Rooftop Changes - CIP Administration	2012	2012	2	Comp. + 10 years	2025	Back Room	
Sites: Walnut Creek BART & Warm Springs - Geotechnical, Generators, etc.	2012	2013	2	Perm	n/a	Back Room	
Sites: SRVFD #31 Tank	2012	2013	2	Perm	n/a	Back Room	
Sites: Walnut Creek BART drawings	2012	2013	2	Perm	n/a	Back Room	
<b>BOX 3 - System Construction - Sites - 2011 - 2013</b>							
Sites: Peters Ranch Construction Drawings	2012	2012	3	Perm	n/a	Back Room	
Sites: Sydney Engineering, Specification Drafts, Drawings	2011	2012	3	Perm	n/a	Back Room	
Specifications: Bid Packet #1 LMR Communication Sites	2012	2012	3	Perm	n/a	Back Room	
CIP Admin: Bid Packet #1 LMR Communication Sites, Change Orders, Drafts	2012	2012	3	Comp. + 10 years	2025	Back Room	
Specifications: LMR Communication Sites	2012	2012	3	Perm	n/a	Back Room	
Specifications: System	2011	2011	3	Perm	n/a	Back Room	
Sites: Alta Mesa Construction drawings, Geotechnical	2012	2012	3	Perm	n/a	Back Room	
Sites: Alta Mesa Construction drawings, Geotechnical	2011	2011	3	Perm	n/a	Back Room	
Sites: Crockett Drawings	2011	2011	3	Perm	n/a	Back Room	
Sites: Los Vaqueros - WRA Environmental Records	2012	2012	3	Perm	n/a	Back Room	
Sites: Los Vaqueros - WRA General, Permits	2012	2012	3	Perm	n/a	Back Room	
Sites: Los Vaqueros - Environmental Records	2012	2013	3	Perm	n/a	Back Room	
Sites: Seneca Specifications	2012	2013	3	Perm	n/a	Back Room	

**INACTIVE RECORDS INVENTORY**  
 (For Records that are Retained in Boxes - Not Ready for Destruction Yet)

Subject / Folder Name	Start Date	End Date	Box #	Retention	Destroy	Location	Notes & Ideas
<b>BOX 4 - System Construction - Sites 2008-2012</b>							
Sites: Garin Reservoir Specifications, Tower Structural Analysis	2011	2012	4	Perm	n/a	Back Room	
Sites: Garin Reservoir Permit, Generac Generator.	2012	2012	4	Perm	n/a	Back Room	
Sites: Patterson Pass, Contract, Submittals, Easements, PG&E	2011	2011	4	Perm	n/a	Back Room	
Sites: Skyline, Specifications, FAA, PG&E, Tower Structural Analysis	2011	2011	4	Perm	n/a	Back Room	
Sites: Walpert Specifications, Drawings	2008	2008	4	Perm	n/a	Back Room	
Sites: Deets Electric Agreements, Various Sites	2010	2012	4	Perm	n/a	Back Room	
Sites: Deets Electric Contract Status Reports (GSRs) (Merrweather & Williams)	2011	2012	4	Perm	n/a	Back Room	
Sites: Warm Springs File 1 of 2 - Specifications, Drawings	2009	2011	4	Perm	n/a	Back Room	
Sites: Warm Springs File 2 of 2 - Specifications, Drawings	2009	2013	4	Perm	n/a	Back Room	
Sites: UC Berkeley File 1 of 2 - Contracts	2011	2011	4	Perm	n/a	Back Room	
Sites: UC Berkeley File 2 of 2 - Drawings, Topo Maps	2011	2011	4	Perm	n/a	Back Room	
Sites: UC Berkeley File 1 of 2 - Contracts	2010	2011	4	Perm	n/a	Back Room	
Sites: East Dublin Bart Specifications - Warrantees, Manuals, As Built Drawings	2010	2010	4	Perm	n/a	Back Room	
<b>BOX 5 - Cornerstone, COPS Grant - 2008 - 2012</b>							
Specifications - Project Cornerstone Network Testing RFP	2010	2010	5	Perm	n/a	Back Room	
CIP Administration - Meeting Notes / Action Items	2010	2010	5	Comp. + 10 years	2021	Back Room	
Specifications - Project Cornerstone, Motorola Agreement	2010	2012	5	Perm	n/a	Back Room	
Agreement - Andrew Seybold - Network, Testling Project Cornerstone	2010	2010	5	Perm	n/a	Back Room	
Agreement - Andrew Seybold - Network, Testing Project Cornerstone	2010	2011	5	Perm	n/a	Back Room	
COPS Grant - 2007	2007	2010	5	Min. 5 years	2018	Back Room	
COPS Grant - 2007	2009	2010	5	Min. 5 years	2018	Back Room	
COPS Grant Earmark - 2008	2008	2010	5	Min. 5 years	2018	Back Room	
COPS Grant Earmark - 2009	2009	2012	5	Min. 5 years	2018	Back Room	
COPS Grant - 2010	2010	2011	5	Min. 5 years	2018	Back Room	
COPS Grant - 2008 Application Guide	2008	2008	5	Min. 5 years	2018	Back Room	
Grants - PSIC Match	2009	2009	5	Min. 5 years	2018	Back Room	
Motorola Proposal - Glen Dyer Jail P25 Upgrade	2010	2010	5	Perm	n/a	Back Room	
Agreements - Cornerstone Project (Contra Costa County, Concord, Sunnyvale, Santa Clara, Alameda County)	2010	2010	5	Perm	n/a	Back Room	
<b>BOX 6 - Sites, Agreements, Consoles, Annual Financial Reports - 2009 - 2012</b>							
Site: UC Berkeley - Tower Analysis	2011	2011	6	Perm	n/a	Back Room	
Site: UC Berkeley - Tashjian Towers Structural Analysis	2011	2011	6	Perm	n/a	Back Room	
Site: UC Berkeley - Specifications	2011	2011	6	Perm	n/a	Back Room	
Site: UC Berkeley - Biological Resources Habitat Assessment	2011	2011	6	Perm	n/a	Back Room	
Site: East Dublin BART - Tashjian Towers Structural Analysis	2012	2012	6	Perm	n/a	Back Room	
Site: East Dublin BART - Specifications, Geotechnical Investigation, Structural Analysis	2011	2012	6	Perm	n/a	Back Room	
Site: Elmhurst PWA - Specifications, Contracts, Drawings	2011	2011	6	Perm	n/a	Back Room	
Site: Fremont Police Facility - Specifications, Contracts	2010	2010	6	Perm	n/a	Back Room	
Agreement: Orrik, Herrington & Sutcliffe, LLP (Attorneys)	2010	2010	6	Perm	n/a	Back Room	
Agreement: KNN Public Finance	2009	2009	6	Perm	n/a	Back Room	
Agreement: CG Uhlenberg, LLP CPA	2008	2008	6	Perm	n/a	Back Room	
Agreement: CTA Communications (Oakland Amendment)	2008	2008	6	Perm	n/a	Back Room	
Agreement: CTA Communications (Oakland)	2008	2008	6	Perm	n/a	Back Room	
Agreement: CTA Communications (Phases II, III, IV)	2008	2011	6	Perm	n/a	Back Room	
Annual Financial Report (2009)	2009	2009	6	Perm	n/a	Back Room	
Annual Financial Report (2010)	2010	2010	6	Perm	n/a	Back Room	
Specifications / Final Coverage Acceptance Test - Contract Costa County West	2012	2012	6	Perm	n/a	Back Room	

**INACTIVE RECORDS INVENTORY**  
**(For Records that are Retained in Boxes - Not Ready for Destruction Yet)**

Subject / Folder Name	Start Date	End Date	Box #	Retention	Destroy	Location	Notes & Ideas
Site: Patterson Pass - Environmental Mitigated Negative Declaration	2010	2010	6	Perm	n/a	Back Room	
Agreement: AECOM Technical Services (Coverage Testing)	2010	2010	6	Perm	n/a	Back Room	
Consoles: Pleasanton Dispatch Consoles	2010	2010	6	Diposal + 2 years	review	Back Room	
Consoles: Livermore Dispatch Consoles	2009	2009	6	Diposal + 2 years	review	Back Room	
Consoles: East Cell Alameda County Dispatch Consoles	2010	2010	6	Diposal + 2 years	review	Back Room	
Consoles: Glenn Dyer Prime Site Dispatch Consoles	2010	2010	6	Diposal + 2 years	review	Back Room	
Agreement / Statement of Work, Change Order - Motorola IP Upgrade	2009	2009	6	Perm	n/a	Back Room	
<b>BOX 7 - Agenda Packets &amp; Minutes - 2007 - 2008</b>							
Agenda Packets - Board of Directors	2007	2008	7	Perm	n/a	Back Room	
Agenda Packets - Finance Committee	2007	2008	7	Perm	n/a	Back Room	
Agenda Packets - Operations Committee	2007	2008	7	Perm	n/a	Back Room	
Minutes - Board of Directors	2007	2008	7	Perm	n/a	Back Room	
Minutes - Finance Committee	2007	2008	7	Perm	n/a	Back Room	
Minutes - Operations Committee	2007	2008	7	Perm	n/a	Back Room	
<b>BOX 8 - Agenda Packets &amp; Minutes - 2009 - 2012</b>							
Agenda Packets & Minutes - Board of Directors	2009	2012	8	Perm	n/a	Back Room	
Agenda Packets & Minutes - Finance Committee	2009	2012	8	Perm	n/a	Back Room	
Agenda Packets & Minutes - Operations Committee	2009	2012	8	Perm	n/a	Back Room	
<b>BOX 9 - Secretary of State, Ethics, Board Terms, FPPC 2007 - 2013</b>							
Secretary of State Filings / Admin. Docs	2007	2011	9	Perm	n/a	Back Room	
RFP - Bond Counsel, Financial Consultant, Financing Overview of EBRCSA	2010	2010	9	Perm	n/a	Back Room	
Board Member Terms, Agencies, Appointments	2012	2015	9	(none required)	n/a	Back Room	
EBRCSA Project Operating Agreement	2010	2010	9	Perm	n/a	Back Room	
Ethics Certificates	2012	2013	9	5 years	2016	Back Room	
Caiths of Office	2007	2011	9	Perm	n/a	Back Room	
FPPC Form 700s / Statement of Economic Interests	2007	2007	9	7 years	2015	Back Room	
FPPC Form 700s / Statement of Economic Interests	2008	2008	9	7 years	n/a	Back Room	
FPPC Form 700s / Statement of Economic Interests	2009	2009	9	7 years	n/a	Back Room	
FPPC Form 700s / Statement of Economic Interests	2010	2010	9	7 years	n/a	Back Room	
FPPC Form 700s / Statement of Economic Interests	2011	2011	9	7 years	n/a	Back Room	
FPPC Form 700s / Statement of Economic Interests	2012	2012	9	7 years	n/a	Back Room	
<b>BOX 10 - Resolutions 2008 - 2012</b>							
Resolutions	2008	2008	10	7 years	n/a	Back Room	
Resolutions	2009	2009	10	7 years	n/a	Back Room	
Resolutions	2010	2010	10	Perm	n/a	Back Room	
Resolutions	2011	2011	10	Perm	n/a	Back Room	
Resolutions	2012	2012	10	Perm	n/a	Back Room	

## Form RM-1: RECORDS DESTRUCTION AUTHORIZATION FORM

The records listed below (or on the attached list) are **scheduled to be destroyed**, as indicated on the Records Retention Schedule.

The records are not the subject of any claim, litigation, investigation, or audit.

(List records here, or attach a list)

Records Description	From (Start Date)	To (End Date)	Box #	Retention Period
Unsuccessful Proposals – Network Testing	2010	2010	D-01	2 years
Unsuccessful Proposals – Auditing Services	2009	2009	D-01	2 years
Correspondence	2012	2012	D-01	2 years
Unsuccessful Proposals - Generators	2012	2012	D-01	2 years
Unsuccessful Proposals – Design Consultants	2008	2008	D-01	2 years
Staff Agreement – Fawn Holman	2007	2007	D-01	Comp. + 5 years
Staff Agreement – Kay Woodson	2009	2009	D-01	Comp. + 5 years
Correspondence	2008	2012	D-01	2 years
Ethics Training Certificates	2009	2/2011	D-01	2 years

### DOCUMENTS HAVE BEEN REVIEWED AND APPROVED FOR DESTRUCTION

\_\_\_\_\_

Board Secretary

\_\_\_\_\_

Date

\_\_\_\_\_

Executive Director

\_\_\_\_\_

Date

-----  
*(Complete after destruction has been performed, if done by Employees. If destruction is performed by a commercial vendor, have them provide you with a certificate.)*

**I HEREBY CERTIFY** that the items listed above have been destroyed in accordance with policies and procedures:

\_\_\_\_\_

Board Secretary

\_\_\_\_\_

Date

## EMERGENCY COMMUNICATION SYSTEM LEASE

(Not to be Recorded)

THIS LEASE, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between East Bay Municipal Utility District, a public corporation of the State of California, hereinafter designated as “Lessor,” and East Bay Regional Communication System Authority, hereinafter designated as “Lessee.”

### WITNESSETH:

#### 1. PREMISES

Lessor, in consideration of the payment of rent hereinafter specified to be paid by Lessee and of the covenants and agreements herein contained to be performed and observed by Lessee, does hereby lease, demise and let to Lessee for the purpose hereinafter specified, that certain property (“the Premises”), located at Seneca Reservoir, Seneca St, Oakland, located in Alameda County delineated and described on **Exhibit A**, for the placement of Lessee’s equipment, including utility and access routes to the Premises as shown, and being a portion of the real property described as Assessor’s Parcel Number 43A-4760-1-6 consisting of approximately 19.7 acres as shown on **Exhibit B** (the “Property”) attached hereto and incorporated by reference.

#### 2. USE OF PREMISES

Lessee shall use the Premises only for the purpose of installing, maintaining, operating, replacing, and removing P-25 compliant communication system equipment along with the necessary cable and conduit to connect the communication equipment to the antennas and to telephone and electrical facilities, subject to the provisions of Section 8, below. Lessee shall provide a description of the facilities accompanied by a photo simulation of the proposed facility that accurately depicts the equipment to be placed on the Premises. The description and photo simulation will both be incorporated into the agreement as **Exhibit C**.

#### 3. TERM

The lease Term commences on January 1, 2018 (“Commencement Date”) and ends on December 31, 2023 (“Expiration Date”) subject to renewal and/or termination rights as may be hereinafter set forth.

#### 4. RENT

A. Base Rent: Starting with the Commencement Date, Lessee agrees to pay Lessor, in advance, as Base Rent, the annual sum of fifteen thousand dollars (\$15,000) payable within the first 30 days of full execution of this Lease and payable annually thereafter on the anniversary of the Commencement Date.

B. Base Rent Adjustment. The amount of Base Rent payable hereunder shall be adjusted by three percent (3%) annually starting January 1, 2019 and every year thereafter. The annual adjustment shall be calculated by increasing previous year’s Rent by three percent (3%).

- C. Late Rent. Should the annual Base Rent payment not be paid in full within the first thirty days of the anniversary of the Commencement Date, a fifteen percent (15%) late fee shall be added to the annual rent payment due. Lessor's right to collect a late fee shall not be deemed an extension of the Due Date nor prevent the Lessor from exercising any other rights and remedies available under this agreement and by law.
- D. All Rent Payments to Lessor shall be sent to: P.O. Box 24055, Oakland, CA 94623, MS#903.

5. UTILITIES

Lessee agrees to furnish at Lessee's sole cost and expense, all water, gas, heat, light, power and all other utilities and operating infrastructure required at the Premises.

6. LESSOR'S RIGHTS

- A. Lessor reserves the right to use the Property, including the area delineated on Exhibit A, at any and all times, for Lessor's operations and shall at all times during the Term of this Lease have the right to enter upon the Premises for any purpose necessary in the conduct of Lessor's operations.
- B. It is understood that construction, reconstruction, maintenance, and use of the reservoir, pumping plants, pipelines and other facilities or improvements of Lessor, present or future, upon the Property shall at all times be paramount to any rights under this Agreement, provided that Lessor will not unreasonably interfere with Lessee's use of the Premises.
- C. The construction, reconstruction, maintenance, and use of the facilities of Lessee, and all work upon or in connection therewith, shall at no time and in no way whatever interfere with the present or future operations of Lessor; the location of the facilities, the construction, reconstruction, and maintenance thereof, and all work in connection therewith, shall be done and made under the supervision and to the reasonable satisfaction of Lessor.
- D. Upon completion of the installation of its facilities or any improvements, Lessee shall promptly return as near as possible the surface of the ground to the condition in which it was prior to the commencement of said work and Lessee shall not commit or suffer to be committed any waste upon the Premises or any nuisance thereon and agrees to keep the Premises in a neat, clean, sanitary and orderly condition at all times during occupancy, and not to permit any amount of rubbish, garbage or refuse to accumulate and remain thereon at any time. If Lessee fails so to keep the Property as stated herein, then after thirty (30) days written notice to Lessee, Lessor may perform the necessary work at the reasonable expense of Lessee, which expense Lessee agrees to pay to Lessor upon demand.

7. ACCESS

Where Lessor holds rights of access to the Property in fee title, Lessor grants Lessee access to the Property via use of the access road as described in Exhibit "B", and a right



of access to the source of electrical and telephone facilities, twenty-four (24) hours a day, seven (7) days a week as depicted in Exhibit "A". Where Lessor does not own access rights in fee title, Lessee shall be solely responsible for obtaining any and all rights required from third parties to access the Premises. Lessor will, however, provide Lessee with copies of any applicable easement agreements granting Lessor access to the Property. If Lessee uses Lessor's existing access road, Lessor and Lessee will share equally in road maintenance costs as determined and billed by Lessor. Lessor agrees to permit Lessee free ingress and egress to the Premises to conduct such surveys, structural strength analyses, subsurface boring tests and other activities of a similar nature as Lessee may deem necessary at the sole cost of Lessee.

#### 8. PRIOR APPROVAL

Lessee agrees that prior to construction of Lessee's facilities on the Premises, Lessee shall submit to Lessor for final approval the approved building permit from the appropriate permitting agency, the final construction plans and a detailed description and photo depiction of the improvements to be built. Lessor's review of the permit and plans will be limited to checking for compliance with the terms of this agreement as to the size and location of Lessee's facilities and for conflicts with any District infrastructure on the Property. Upon Lessor's approval, the final construction plans shall replace Exhibit "A" and the detailed description and photo depiction shall replace Exhibit "C".

#### 9. CONDITION OF PREMISES

- A. The taking of possession of the Premises by Lessee shall, in itself, constitute acknowledgment by Lessee that the Premises are in good condition and satisfactory for their use.
- B. Lessee specifically acknowledges that Lessor has made no representations concerning the condition of the Premises, the soil, its bearing capacity, or the fitness of the Premises or any improvements, including but not limited to the compliance of the Premises or any improvements with any federal, state, or local building code or ordinance, and Lessee expressly waives any duty Lessor might have to make any such disclosures.
- C. Lessee acknowledges that to the best of Lessee's knowledge, the Premises will safely support the type of improvements to be constructed and maintained by Lessee under the terms and conditions of this Agreement, and that Lessee accepts the Premises in an "as is" condition.

#### 10. LIENS

Lessee shall keep the Premises free and clear from any liens arising out of any work performed, material furnished, or obligations incurred by Lessee.

#### 11. TREES

Lessee agrees that no trees will be damaged and/or removed during installation of Lessee's facilities or any improvements without mitigation approved in advance by

Lessor. During the term of this Lease, trimming of trees must be minimized and shall be subject to prior approval by Lessor.

## 12. INTERFERENCE

- A. Lessee agrees that any facilities constructed or equipment installed on the Premises or modifications to the improvements as described in Exhibit "C", shall be constructed, installed and operated at all times in such a manner that they will not interfere with Lessor's present communications transmitters and receiver stations if any, and in the event of such interference, Lessee agrees, at its own costs and expense, to take all necessary steps to eliminate such interference whether so required by the Federal Communications Commission or not. In the event that such interference shall develop and such interference is not eliminated by Lessee within seven (7) days after written notice from Lessor to do so, the facility or equipment causing such interference shall be taken out of service by Lessee until the problem is corrected to the complete satisfaction of Lessor. The term "interference" as used herein may be direct or consequential, and includes, but is not limited to, intermediation and desensitizing of Lessor's receiving equipment by Lessee's transmitter operations.
- B. Lessee agrees that any radio or cellular equipment installed on the Premises shall be frequency compatible with all other radio and cellular transmitting and receiving equipment existing on any site owned or controlled by Lessor at the time its initial radio installation is made. If at a future date a transmitter from another location other than those owned or controlled by Lessor should cause interference to previously installed equipment on any site owned or controlled by Lessor by causing interference with frequencies generated by Lessee's equipment, it shall be Lessee's responsibility to make such corrections as are necessary to eliminate such interference.

## 13. GOVERNMENTAL APPROVALS

Lessee shall, at its sole cost and expense, comply with all applicable requirements, rules, regulations and environmental documentation pertaining to facilities, equipment and operations to be conducted on the Premises, including all requirements imposed by the Bay Area Air Quality Management District, the City of Oakland, the County of Alameda, the State of California and the United States of America. Lessor agrees to cooperate with Lessee with respect to obtaining any required zoning or other governmental approvals or permits for the Premises and Lessee's facilities, including providing signatures where necessary on Lessee's governmental permit applications. Lessee acknowledges, however, that Lessor is not a permitting entity and shall not be responsible for obtaining or maintaining any necessary governmental approvals on behalf of Lessee.

## 14. MODIFICATIONS AND IMPROVEMENTS

- A. Once Lessee's improvements are installed on the Premises, as depicted in Exhibit "A" and detailed in Exhibit "C", Lessee will not make any alterations to the site without obtaining the prior written approval of Lessor. Lessee must request consent to the modifications in writing, submit proposed plans that will be submitted to the appropriate permitting agency, a copy of the permit application being submitted to the permitting agency, and a letter of authorization. If Lessee will require Lessor, as property owner to sign a permit application or other similar document to be submitted

- to the permitting agency, Lessor will require a letter from the Lessee that certifies all documentation submitted to the permitting agency is true and correct and that Lessee indemnifies the Lessor against any claims resulting from erroneous representations or misrepresentations. Any alterations to the site from the approved improvements as identified in Exhibit "A" and Exhibit "C" will require an amendment to the Lease and may require compensation from Lessee.
- B. Upon Lessee receiving approval from the appropriate permitting agency, Lessee must submit to Lessor a copy of the approved permit, a copy of the final construction plans that will supplement or replace Exhibit "A" and a written description of the improvements with a photo simulation of the modified site that will supplement or replace Exhibit "C".
  - C. Lessee shall provide Lessor, without charge or expense, space as necessary for Lessor's communications equipment either inside or on top of Lessee's improvements, to be utilized solely in connection with Lessor's operations as a municipal utility district. Lessor acknowledges and agrees that Lessor's communications equipment may not interfere with any of Lessee's approved improvements as detailed in Exhibit "A", and Lessor shall submit plans and specifications to Lessee for review to determine any impact on Lessee's improvements. Within 30 days, Lessee shall either approve Lessor's plans and specifications or deny approval if Lessee reasonably determines that either a technical or structural interference is likely to occur. Failure by Lessee to approve or deny approval of Lessor's plans and specifications within 30 days shall be deemed approval.
  - D. Lessor shall be solely responsible for all costs associated with the installation and maintenance of Lessor's equipment or improvements on the Premises.

## 15. INDEMNIFICATION AND DAMAGES

- A. Lessee expressly agrees to indemnify, defend and hold harmless Lessor, its directors, officers, and employees from and against any and all loss, liability, expense, claims, costs, suits, and damages, including attorney's fees, arising out of Lessee's operation or performance under this Agreement, including all costs, claims, and damages (including property and personal injury) arising out of any Hazardous Materials as defined in section 16.C within the Property to the extent caused and/or released by Lessee's construction, reconstruction, maintenance, operation, use or removal of its facilities.
- B. Damages: Lessee shall be responsible for and shall reimburse Lessor for any damage or loss to Lessor's present or future facilities on the Property to the extent directly or indirectly contributed to or caused by Lessee's operation or performance under this Agreement, including, but not limited to, any damage or loss due to Lessee's deposit of Hazardous Materials as defined in section 16.C on the Property.
- C. Assumption of Risk: Lessee agrees to assume all risk of damage to any property of Lessee or any other property under the control or custody of Lessee while upon the Property or rights-of-way of Lessor or in proximity thereto, caused by or contributed to in any way by Lessor's construction, reconstruction, operation, maintenance, repair, or use of pipelines, reservoirs or other facilities or improvements or roadways of Lessor, present or future.

## 16. HAZARDOUS MATERIALS

- A. Representation: Lessor represents that it has conducted no site investigation(s) for hazardous materials and has no knowledge of any hazardous materials (as defined below) existing on or about the Premises in violation of any applicable law.
- B. Lessee represents and warrants to Lessor that Lessee will not generate, store or dispose of any hazardous materials on, under or about the Premises in violation of any hazardous substance laws (as defined below).
- C. Definition of Hazardous Materials: In this Lease, "hazardous materials" includes, but is not limited to, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et. seq.; and those substances defined as hazardous, toxic, hazardous wastes, toxic wastes, or as hazardous or toxic substances by any law or statute now or after this date in effect in the state in which the Premises are located; and in the regulations adopted and publications promulgated pursuant to those laws (all collectively "hazardous substance laws").

## 17. INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Lease, and for any additional period of time as specified below, Lessee shall, at its sole cost and expense, maintain insurance in conformance with the requirements set forth below. Lessee shall submit Certificates of Insurance (attached as Exhibit "D"), utilizing Lessor provided forms, for Lessor's review and acceptance.

Acceptance of the Certificates of Insurance by Lessor shall not relieve Lessee of any of the insurance requirements set forth herein, nor decrease liability of Lessee. Liability coverage provided by Lessee shall be primary and any insurance or self-insurance procured or maintained by Lessor shall not be required to contribute with it. Lessor reserves the right to require Lessee to provide confidential copies of actual insurance policies and endorsements for review by Lessor. The Lessor may provide copies of the confidential policies to Lessor's legal counsel and/or Insurance Broker, as needed.

The Insurance Requirements under this Lease shall be the greater of (1) the minimum coverage and limits specified in this Lease; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these Insurance Requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required here. No representation is made that the minimum insurance requirements of this Lease are sufficient to cover the obligations of the Lessee under this Lease.

Lessee shall provide a written request for authorization and the Lessor will consider self-insurance in lieu of the insurance requirements listed below.

### **Claims-Made Coverage**

For any coverage that is provided on a claims-made coverage form (which type of form is permitted only where specified in this Lease):

- (i) The retroactive date must be shown, and must be before the commencement of this Lease, and before the beginning of any Services related to this Lease.
- (ii) Insurance must be maintained and Certificates of Insurance must be provided to Lessor for at least three (3) years after expiration of this Lease.
- (iii) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Lease or the start of any Services related to this Lease, Lessee must purchase an extended reporting period for a minimum of three (3) years after expiration of the Lease.
- (iv) If requested by Lessor, a copy of the policy's claims reporting requirement must be submitted to the Lessor for review.

Workers' Compensation Insurance: Lessee shall take out and maintain during the life of the Lease *Workers Compensation* insurance for all of its employees on the Property. In lieu of evidence of Workers Compensation insurance, Lessor will accept a Self-Insured Certificate issued from the State of California. Lessee shall require any agent and/or consultant to provide it with evidence of Workers Compensation Insurance coverage.

Lessee and its Workers' Compensation insurance must waive any rights of subrogation against Lessor and its directors, officers, officials, agents, volunteers, and employees, and Lessee shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier(s).

Commercial General, Automobile and Pollution Liability Insurance: Lessee shall take out and maintain during the life of the Lease *Commercial General and Automobile, and Pollution Liability* Insurance policies that provide protection from claims that may arise from operations or performance under this Lease. If Lessee elects to self-insure (self-fund) any liability exposure during the Lease period above \$50,000, Lessee is required to notify the Lessor immediately. Any request to self-insure must first be approved by the Lessor before the changed terms are accepted. Lessee shall require any agent and/or consultant to provide evidence of Automobile, Commercial General Liability Insurance Coverage, and Pollution Liability Insurance coverages for any work involving construction, excavation and/or the use or storage of any hazardous materials.

The amounts of insurance shall be not less than the following:

\$2,000,000/Occurrence, Bodily Injury, Property Damage – General Liability.  
\$2,000,000/Occurrence, Bodily Injury, Property Damage – Automobile Liability.  
\$2,000,000/Occurrence/Claims Made, Bodily Injury, Property Damage – Pollution Liability

The following coverages or endorsements must be included in the policy(ies):

- A. Lessor and its directors, officers, and employees are additional insureds in the policy(ies) as to the work being performed under this Lease;

- B. The coverage is primary and non-contributory to any other insurance carried by Lessor;
- C. The policy(ies) cover(s) contractual liability;
- D. The policy(ies) is (are) written on an occurrence basis, except for the pollution liability policy, which may be written on a claims made basis;
- E. The policy(ies) cover(s) Lessor's property in the Lessee's care, custody and control;
- F. The policy(ies) cover(s) personal injury (libel, slander, unlawful entry and eviction) liability;
- G. The policy covers explosion, collapse and underground hazards;
- H. The policy(ies) cover(s) products and completed operations;
- I. The policy to cover use of owned, non-owned, and hired automobiles;
- J. The policy shall cover pollution liability for claims related to the release or threatened release of pollutants into the environment arising out of or resulting from Lessee's performance under this Lease.
- K. Lessee and its Commercial General, Automobile and Pollution Liability Insurance must waive any rights of subrogation against Lessor and its directors, officers, officials, agents, volunteers, and employees, and Lessee shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier(s).
- L. The policy(ies) shall maintain the minimum coverage, terms and conditions as referenced in this Section, and pursuant to any and all requirements outlined in this Agreement/Lease. Without waiving any of the requirements of the Lease, Lessee shall not make any reductions in scope or limits of coverage that may affect Lessor's protection without the Lessor's prior written consent.

## 18. ASSIGNABILITY

Lessee shall not voluntarily or by operation of law assign, transfer, sublet, or otherwise transfer or encumber all or any part of Lessee's interest in the Lease or in the Premises.

## 19. DEFAULT

It is understood and agreed that if Lessee fails to pay any installment of rent as it becomes due, or if Lessee defaults on any of the other covenants, agreements or terms of this Lease, and if upon receipt of ten (10) days' written notice in the case of a monetary default, thirty (30) days' written notice in the case of a non-monetary default or seven (7) days' written notice in the case of a frequency incompatibility default, Lessee shall fail or refuse to correct the default, Lessor at its option may re-enter the Premises and remove all improvements therefrom, and may terminate this Lease or take possession of the Premises as the agent and for the account of Lessee, and may lease or rent the whole, or

any part of the Premises for the balance or any part of the term of this Lease and retain all rents received and apply them in payment on any rents owed by Lessee. The performance of any or all of these acts by Lessor shall not release Lessee from the full and strict compliance with all of the terms, conditions and covenants of this Lease, If the nature of Lessee's default is such that more than thirty (30) days are reasonably required to cure the default, then Lessee shall not be in default if Lessee commences the cure within this thirty (30) day period and thereafter diligently prosecutes such cure to completion.

20. WAIVER

The waiver by Lessor of any breach of any term, covenant or condition of this Lease shall not be deemed to be a waiver of the term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition. Lessor's subsequent acceptance of rent shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease, other than failure of Lessee to pay the particular rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of the rent.

21. REMEDIES

It is understood that the remedies provided for Lessor in case of a violation of the terms of this Lease by Lessee are not exclusive, but are in addition to any remedies provided by law, any of which Lessor shall have the right to use at its option.

22. RELOCATION

In the event Lessor's operations necessitate the relocation of Lessee's facilities, Lessee shall have no right to relocation benefits or payments from Lessor, and Lessee shall be solely responsible for all costs of any necessary relocation. Lessee hereby specifically waives any rights to, and releases Lessor from, any and all claims for relocation benefits and/or relocation payments to which Lessee might otherwise be entitled. Lessee shall hold Lessor harmless from and indemnify Lessor against any and all liability, cost, and expense suffered or incurred by Lessee and arising in connection with any such right or claim asserted by Lessee.

23. CONDEMNATION

If any part of the Premises is condemned for a public use and a part of the Premises remains that is capable of occupation and use as authorized under this Lease, this Lease shall, as to the part so taken, terminate as of the date title shall vest in the condemnor. If all of the Premises is condemned or if such part is condemned so that there does not remain a portion capable of occupation and use as herein authorized, this Lease shall thereupon terminate. If a part or all of the Premises is condemned, all compensation awarded upon such condemnation, except such compensation as shall be specifically awarded to Lessee for loss of or damages to fixtures owned by Lessee, or business interruption or moving expenses, shall go to Lessor and Lessee shall have no claim thereto and Lessee irrevocably assigns and transfers to Lessor any and all rights to all other compensation or damages to which Lessee may become entitled during the term of this Lease by reason of the condemnation.

24. TAXES AND ASSESSMENTS:

The property interest created by this Lease may be subject to property taxation and the Lessee may be subject to the payment of property taxes levied on this interest. Lessee agrees to pay all lawful taxes, assessments or charges which at any time may be levied by any tax or assessment levying body upon any interest in this Lease or any possessory right that Lessee may have in or to the Premises under this Lease.

25. TERMINATION (NONDEFAULT)

Lessor's Right to Terminate. Lessor may terminate this Lease upon at least one (1) year notice to Lessee.

After expiration of Term, if lease is in holdover, Lessor may terminate occupancy upon at least thirty (30) days' notice to Lessee.

Lessee's Right to Terminate. If the approval of any agency, board, court, or other governmental authority necessary for the construction and/or operation of Lessee's facilities is revoked or withdrawn, or if Lessor fails to have proper ownership of the Property or authority to enter into this Lease, then Lessee shall have the right to terminate this Lease upon at least 180 days written notice to Lessor.

Upon termination, neither party will owe any further obligation under the terms of this Lease except for Lessee's responsibility to remove all of Lessee's facilities from the Premises and restore the Premises to its original condition, as near as practicable in accordance with Section 28, below.

Upon any early termination of this Lease, any prepaid rent shall be prorated from the date of termination and returned to Lessee.

26. SURVIVAL

The provisions of Sections 15, 16 and 20 of this Lease will survive the expiration or termination of this Lease.

27. HOLD-OVER

Any holding over after the expiration of the Initial Term or an Extended Term, with the consent of Lessor, shall be construed to be a tenancy from month to month. All terms and conditions of the lease, excluding Base Rent shall be in full force and effect during Hold-Over.

During Hold-Over, the Base Rent shall increase by one hundred percent (100%) above the previous year's rent paid by Lessee. The full Base Rent shall be due and payable on the anniversary date of the commencement of the lease.

28. REMOVAL OF LESSEE'S FACILITIES UPON TERMINATION

A. In the event of the termination of this Lease by reason of the breach of this Lease by Lessee, or by not exercising one or both of the renewal options, or by the expiration



of this Lease, at Lessor's option all towers, buildings and improvements other than "trade fixtures" constructed on the Premises by Lessee shall become and remain the property of Lessor, at no cost to Lessor, except as otherwise provided by this Section.

- B. If Lessor decides not to retain all or a portion of the towers, buildings and improvements constructed by Lessee, upon termination of this Lease for any reason Lessee shall remove all towers, buildings and improvements as directed by Lessor within thirty (30) days following termination of this Lease. Lessee agrees to fill in all excavations with solidly compacted earth and to leave said Premises in a neat and clean condition following any such removal save and except normal wear and tear and acts beyond Lessee's control. Should Lessee fail to complete the removal of Lessee's facilities within thirty (30) days following termination of this Lease, rent shall accrue at Hold-Over rates until all equipment has been satisfactorily removed and the Premises have been left in satisfactory condition.
- C. Within thirty (30) days following termination of this Lease, Lessee shall at Lessee's expense eliminate and pay in full any encumbrances, liens and debts incurred by Lessee with respect to any improvements to remain on the property.
- D. Towers, buildings or other permanent structural improvements on the Premises shall not be considered as "trade fixtures" for the purpose of this Section.

29. NOTICE

- A. Any Notice of Default or written notice of termination of this Agreement shall be served by the Party giving notice either personally, by registered United States mail, postage prepaid, or by a national courier or express mail service, addressed to:

Manager of Real Estate Services  
East Bay Municipal Utility District  
375 Eleventh St., Mail Stop 903  
Oakland California 94607

or at such other address as shall have been last furnished in writing by Lessor to Lessee.

[Lessee's Address]

or at such other address as shall have been last furnished in writing by Lessee to Lessor.

Personal delivery or mailing in accordance with this Section shall constitute a good, sufficient and lawful notice and service in all cases.

- B. Any other notice or approval required under this Agreement may be sent to the receiving Party in the manner provided in Section 29.A, above, or by email to the following email addresses:

District: [email address (include any cc's)]

Lessee: [email address (include any cc's)]

30. EXISTING CONDITION

This Lease is made subject to all existing liens, encumbrances, conditions and restrictions of record affecting the Premises and is also subject to all existing rights, rights-of-way, licenses, leases, reservations, and easements by whomsoever held, in and to the Premises which predate this Lease.

31. BINDING PROVISIONS

Lease shall be binding upon and inure to the benefit of the executors, administrators and permitted assigns of the respective parties hereto.

32. NEUTRAL INTERPRETATION

In any action or proceeding to construe the terms of this Agreement, it shall be considered the product of negotiation by and between the Parties. No clause or provision shall be interpreted more strongly in favor of or against one Party or the other based upon the source of the draftsmanship, but shall be interpreted in a neutral manner.

33. TITLE AND QUIET POSSESSION

Lessor represents and agrees (a) that it is the owner of the Property; (b) that it has the right to enter into this Lease; (c) that the person signing this Lease has the authority to sign; (d) that Lessee is entitled to access to the Premises at all times and to the quiet possession of the Premises throughout the term so long as Lessee is not in default beyond the expiration of any cure period; and (e) that, except in case of emergency, Lessor shall not handle or otherwise disturb Lessee's antennas or PCS equipment.

34. ENTIRE AGREEMENT

This Lease (including the Exhibits) constitutes the entire agreement between the parties and supersedes all prior written and verbal representations or understandings between the parties.

35. SEVERABILITY

If any provision of this Lease is held to be invalid or unenforceable with respect to any party, the remainder will not be affected and each provision of this Lease will be valid and enforceable to the fullest extent permitted by law.

36. ATTORNEYS FEES

The prevailing party in any action or proceeding in court or mutually agreed upon arbitration proceeding to enforce the terms of this Lease is entitled to receive its reasonable attorneys' fees, limited to the rate of local independent counsel in Alameda County.

37. GOVERNING LAW

This Lease shall be governed, construed, and enforced in accordance with the laws of the State of California.

38. JURISDICTION

Lessor and Lessee agree that all disputes, disagreements, or claims arising in connection with this Lease shall be submitted to the exclusive jurisdiction of the state and federal courts of the State of California, with venue in Alameda County. This choice of venue is intended by the parties to be mandatory and not permissive in nature, thereby precluding the possibility of litigation between the parties with respect to this Lease in any jurisdiction other than that specified in this Section.

39. RELATIONSHIP OF PARTIES

Nothing contained in this Agreement shall be deemed or construed by the Parties or by any third party to create the relationship of principal and agent, joint venture, or any association between Lessor and Lessee other than that of landlord and tenant.

40. NONDISCRIMINATION

There shall be no discrimination in the performance of this Agreement against any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership status, mental disability, physical disability (including HIV and AIDS), medical condition (including genetic characteristics or cancer), veteran or military status, family or medical leave status, genetic information, or sexual orientation. Lessee shall not establish or permit any such practice(s) of discrimination with reference to the Agreement or any part. Violation of this Section shall be deemed to be in material breach of this Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Lease in duplicate, the day and year first above written.

LESSEE

EAST BAY MUNICIPAL UTILITY DISTRICT

By: \_\_\_\_\_  
Name

By: \_\_\_\_\_  
MATT ELAWADY

Its: \_\_\_\_\_

Manager of Real Estate Services

LESSEE

LESSOR

EXHIBIT "A"  
DEPICTION OF PREMISES  
(ATTACHED)

EXHIBIT "B"  
LEGAL DESCRIPTION OF PROPERTY  
(ATTACHED)

# EXHIBIT "B"

**UNKNOWN ADDRESS**

Site Address  
Parcel No. (APN) **43A-4760-1-6**  
Land Use Desc.  
Building Area  
Lot Area **858,241 SF (19.7 ACRES)**  
Building/Lot Ratio  
No. of Units  
Year Built  
Total Assd. Value  
Owner 1  
Owner 2  
Owner Address  
Last Transfer  
Last Market Sale

[Add to List](#) [Full Property Detail](#) [More](#)

**Location**

Site Address	
Parcel No. (APN)	<b>43A-4760-1-6</b>
Legal Information	
Subdivision	
Legal Lot	
Legal Block	

[Tax Map](#) [Full Property Detail](#)

**Ownership**

Owner 1	
Owner 2	

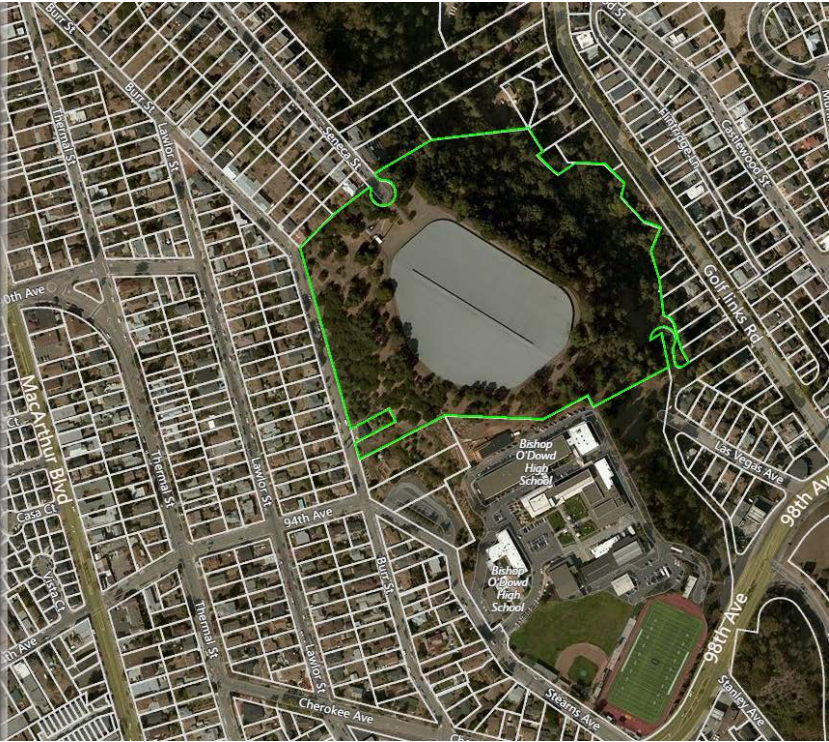


EXHIBIT "C"  
DETAILED WRITTEN DESCRIPTION AND PHOTO SIMULATION OF SITE EQUIPMENT  
AND IMPROVEMENTS

EXHIBIT "D"  
INSURANCE CERTIFICATES  
(ATTACHED)





# CERTIFICATE OF COMMERCIAL GENERAL, and AUTO LIABILITY INSURANCE

**THIS IS TO CERTIFY TO:**

East Bay Municipal Utility District (EBMUD)  
 Department: Real Estate Services  
 Street Address: 375 11<sup>th</sup> Street  
 Mailing Address: P O Box 24055, MS 903  
 City, State, Zip: Oakland, CA 94623-1055

**THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:**

District Contract Number: \_\_\_\_\_  
 Insured: \_\_\_\_\_  
 Address: \_\_\_\_\_

**LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:**

**TYPE OF INSURANCE:** Commercial General and Automobile Liability Coverage/Endorsements as required by agreement.

**LIMITS OF LIABILITY:**

(MINIMUM) \$2,000,000/Occurrence, Bodily Injury, Property Damage-General Liability  
 \$2,000,000/Occurrence, Bodily Injury, Property Damage-Auto Liability

**SELF INSURED RETENTION (\$):** (Auto) (GL) (if applicable)  
 Aggregate Limits (AUTO) (GL) (if applicable)

**INSURANCE COMPANY(IES):** (Auto) (GL)

**POLICY NUMBER(S):** (Auto) (GL)

**POLICY TERM:** From: (Auto) (GL) To: (Auto) (GL)

**THE FOLLOWING COVERAGES OR ENDORSEMENTS ARE INCLUDED IN THE POLICY(IES):**

1.  The District, its Directors, Officers and Employees are *Additional Insureds* in the policy(ies) as to work being performed under this agreement. ENDORSEMENT NO. \_\_\_\_\_
2.  The coverage is *Primary and non-contributory* to any other applicable insurance carried by the District.
3.  The policy(ies) covers *contractual liability*.
4.  The policy(ies) is written on an *occurrence* basis.
5.  The policy(ies) covers District's Property in Lessee's care, custody and control.
6.  The policy(ies) covers *personal injury* (libel, slander, and wrongful entry and eviction) liability.
7.  The policy(ies) covers *explosion, collapse, and underground hazards*.
8.  The policy(ies) covers *products and completed operations*.
9.  The policy(ies) covers the use of *owned, non-owned* and hired automobiles.
10.  The policy(ies) and/or a separate pollution liability policy shall cover pollution liability for claims related to the release or the threatened release of pollutants into the environment arising out of or resulting from Consultant's performance under this agreement.
11.  The policy(ies) will not be canceled nor the above coverages/endorsements reduced without 30 days written notice to East Bay Municipal Utility District at the address above.

**IT IS HEREBY CERTIFIED that the above policies provide liability insurance as required by the agreement between the East Bay Municipal Utility District and the insured.**

Signed \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_

Firm \_\_\_\_\_  
 Date \_\_\_\_\_  
 Phone \_\_\_\_\_



# CERTIFICATE OF POLLUTION LIABILITY INSURANCE

**THIS IS TO CERTIFY TO:**

East Bay Municipal Utility District (EBMUD)  
Department: Real Estate Services  
Street Address: 375 11<sup>th</sup> Street  
Mailing Address: P O Box 24055, MS #903  
City, State, Zip: Oakland, CA 94623-1055

**THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:**

District Contract Number: \_\_\_\_\_  
Insured: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

**LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:**

\_\_\_\_\_

**TYPE OF INSURANCE:** Pollution Liability (Claims Made Basis)

**MINIMUM LIMITS OF LIABILITY:** \$2,000,000 each claim and in the aggregate.

**INSURANCE COMPANY:** \_\_\_\_\_

**POLICY NUMBER:** \_\_\_\_\_

**POLICY TERM:** From: \_\_\_\_\_ To: \_\_\_\_\_

**POLICY TAIL:** From: \_\_\_\_\_ To: \_\_\_\_\_

The policy will not be canceled nor the above coverage reduced without 30 days written notice to East Bay Municipal Utility District at the address above.

**IT IS HEREBY CERTIFIED the above policy provides insurance as required by the agreement between East Bay Municipal Utility District and the Insured.**

Signed: \_\_\_\_\_  
Authorized Signature of Broker, Agent, or Underwriter

Date: \_\_\_\_\_ Firm: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

"This certificate or verification of insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of the policies."



# CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

**THIS IS TO CERTIFY TO:** East Bay Municipal Utility District (EBMUD)  
 Department: Real Estate Services  
 Street Address: 375 – 11<sup>th</sup> Street  
 Mailing Address: P.O. Box 24055  
 City, State, Zip: Oakland, CA 94623-1055

Attn: \_\_\_\_\_

**THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:**

District Contract Number: \_\_\_\_\_  
 Insured: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_

**LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:**

\_\_\_\_\_

**TYPE OF INSURANCE:** Workers' Compensation Insurance as required by California State Law.

**INSURANCE COMPANY:** \_\_\_\_\_

**POLICY NUMBER:** \_\_\_\_\_

**POLICY TERM:** From: \_\_\_\_\_ To: \_\_\_\_\_

The policy will not be canceled nor the above coverage reduced without 30 days written notice to East Bay Municipal Utility District at the address above.

**IT IS HEREBY CERTIFIED the above policy provides insurance as required by the agreement between East Bay Municipal Utility District at the Insured.**

Signed: \_\_\_\_\_  
 Authorized Signature of Broker, Agent, or Underwriter

Date: \_\_\_\_\_ Firm: \_\_\_\_\_

Address: \_\_\_\_\_  
 \_\_\_\_\_

Phone: \_\_\_\_\_



**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 5**

**AGENDA STATEMENT  
OPERATIONS COMMITTEE MEETING  
MEETING DATE: August 31, 2018**

**TO:** Operations Committee  
East Bay Regional Communications System Authority (EBRCSA)

**FROM:** Thomas G. McCarthy, Executive Director  
East Bay Regional Communications System Authority

**SUBJECT:** Enter into a Lease Agreement with the East Bay Municipal Utility District

**RECOMMENDATIONS:**

Review, and if Committee agrees, make a recommendation to the Board of Directors to enter into a non-revocable lease agreement with East Bay Municipal Utilities District (EBMUD) for East Bay Regional Communications System Authority (EBRCSA) equipment located at the Senecca Reservoir, Senecca St., Oakland.

**SUMMARY/DISCUSSION:**

The East Bay Regional Communications System Authority Board of Directors at the February 23, 2018, meeting approved Lease Agreements between EBRCSA and the East Bay Municipal Utilities District for the East Bay Regional Communications System Authority equipment located at Pearl, Carter (Alta Mesa), and Skyline Reservoirs.

EBMUD did not include the Senecca Reservoir when we negotiated the other locations as they were unsure if they would be selling the site or retaining it for their use and lease a portion of the land to EBRCSA. EBMUD has completed their review of the site and will be maintaining the site for their equipment, a shelter and tower which are the property of EBRCSA, and a shelter and tower which belong to the City of Oakland. EBRCSA has a revocable lease for the Senecca

location and we would like to enter into a non-revocable lease for the Seneca Site so that all four sites where EBRCSA has equipment on EBMUD property have the same terms of lease between EBRCSA and EBMUD.

A Lease agreement between East Bay Municipal Utilities District and the East Bay Regional Communications System Authority has been completed and reviewed by EBRCSA's Attorney and EBMUD. A synopsis of the terms and conditions of the lease agreement are as follows, for more detail refer to the attached proposed Lease Agreement (Attachment "A").

The term of the lease of the premises begins January 1, 2018 and ends on December 31, 2023. The base rent starting with the Commencement Date, EBRCSA agrees to pay EBMUD, in advance, as Base Rent, the annual sum of fifteen thousand dollars (\$15,000.00) payable within the first 30 days of the start of each yearly anniversary of the Commencement Date. The Base Rent Adjustment payable hereunder shall be adjusted by 3% annually starting January 1, 2019, and every year thereafter. The annual adjustment will be calculated by increasing previous year's Rent by 3%. The funding for this Agreement will require a budget change and increase of \$15,000.00 to the Lease line item for funding which will be used to pay all leases of property used by EBRCSA.

### **FISCAL IMPACT**

EBRCSA has a line item in our budget for lease payments, however, we will have to increase the amount of money to cover the additional EBMUD lease. We will identify where the money will come from in existing funds and if approved by the Committee, a budget change will be presented to the Board of Directors with this item. We have adequate funding to cover this increase and will not impact user fees in any way.

### **RECOMMENDED ACTION:**

It is requested that the Committee recommend to the Board of Directors to enter into the additional Lease agreement with East Bay Municipal Utilities District for the East Bay Regional Communications System Authority equipment located at Seneca Reservoir, Seneca St., Oakland.

Attachments: "A"



**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, Oakland, 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**

**AGENDA STATEMENT  
OPERATIONS COMMITTEE MEETING  
MEETING DATE: August 31, 2018**

**TO:** Operations Committee  
East Bay Regional Communications System Authority (EBRCSA)

**FROM:** Thomas G. McCarthy, Executive Director  
East Bay Regional Communications System Authority

**SUBJECT:** Contract with Aviat Networks for Microwave Service and Support

**RECOMMENDATIONS:**

Discuss and if the committee agrees recommend to the Board of Directors that East Bay Regional Communications System Authority (EBRCSA) enter into an agreement with Aviat Care for Services & Support. The current Contract with Aviat will expire in September 2018 and the new contract will cover the period from October 1, 2018 through September 30, 2021.

**SUMMARY/DISCUSSION:**

The EBRCSA Microwave was built by Aviat Networks and EBRCSA has maintained a contract for services which allow us to contact Aviat Care for Support and Services. The contract will expire in September 2018. Our current contract allows an EBRCSA authorized Radio Technician to call and provide a PIN number to request assistance of the Technician with Aviat Care. The technicians can discuss the Microwave problem, which might be unfamiliar to our Technician, and receive assistance over the telephone in resolving the problem. In some cases the Aviat Technician can remotely review the system status which helps in problem solving.

The Aviat system has been maintained by the Alameda and Contra Costa County Radio Technicians. We recently have had some issues with the Microwave system which needed an immediate repair due to service interruption. In one case this became an extended

period of time, approximately 8 hours, where the system was fading in and out as the technicians worked to identify the problem and make the necessary replacement of parts. During the outage the technicians were unaware why the system had not reverted to a failsafe mode where the microwave reversed direction. The technicians became aware of this during the event, however, the assistance of an Aviat Technician was necessary and it took time arrange the response by the Aviat Technician and identify the issue and make the repair.

We currently monitor the Microwave via a system known as “NetBoss” and this is monitored by the two radio shops, Alameda and Contra Costa County. In the incident just mentioned the Executive Director was notified by the Emeryville Police and Oakland Police of the system problem before the “NetBoss” detected the alert.

The current Contract is for 7X24 Technical Support/Repair Services and the recommendation to the committee is to add the additional services of Corrective Maintenance Ground, Preventative Maintenance Ground, and 7X24 remote monitoring. The services would align with those which are provided by Motorola in our maintenance agreement.

The addition of Optional Managed Services for three years provides a technician will respond for 36 events in Alameda County and 36 events in Contra Costa County over the period of 3-Years. Corrective Maintenance Ground, not equipment on the tower, is a technician responding from Aviat within 4 hours to the site for emergency on-site restoration of service. The Preventative Maintenance in Contra Costa County will consist of 26 annual visits to the sites and in Alameda County 34 annual visits to the sites where they will inspect all the equipment performance testing and provide a report to the Executive Director. The Network Monitoring provides 24X7X365 monitoring via the Aviat Networks Secure Network Operations Center (NOC). The NOC will be alerted when the system experiences an error and notify the appropriate Technicians within the Alameda and Contra Costa County Radio of the error and what is happening. The Technician from the County Radio Shop will respond and if further assistance is necessary they will place the call for an Aviat Support Technician. The Microwave maintenance has been sole sourced in the past because of the propriety engineering and parts replacement which Aviat can provide.

### **FINANCIAL IMPACT:**

The change in the services provided by Aviat will require a budget change. Our current Budget FY 2018/2019 has a line item of \$115,000 for the Aviat 7X24 Technical Support/Repair Service. The new contract from October 2018 through September 2021 will be \$98,221 annually for the 7X24 Support/Repair Services which provides technical assistance when needed via telephone and parts replacement. The Corrective Maintenance, Presentative Maintenance, and 7X24X365 Monitoring is \$496,986 for the three year contract and the annual cost of these services will be \$165,662 per year. The increase to the FY 2018/2019 budget for Microwave Maintenance will be \$148,883. The future line item cost for Microwave Maintenance, Monitoring, and Preventative Maintenance will be \$263,883 per year for the three years of the contract through September 30, 2021. EBRCSA has adequate funding in the operations budget where an increase to the subscriber fees will not be necessary. A budget change will be prepared for the Board of Directors Staff Report if the Committee recommends this to the Board of Directors.

**RECOMMENDED ACTION:**

It is recommended that the Committee recommend to the Board of Directors that the new contract with Aviat Networks with the additional services be approved and the Board of Directors make the determination concerning the Contract.

Attachments: "A" – Original Contract with Aviat

Attachments: "B" – Contract with Aviat from October 2018 through September 2021



AVIAT NETWORKS  
5200 GREAT AMERICA PARKWAY  
SANTA CLARA, CA 95054  
408.567.7000  
WWW.AVIATNETWORKS.COM



## **AVIATCARE SERVICE LEVEL AGREEMENT**

### **EBRCS – EAST BAY REGIONAL COMMUNICATIONS SERVICES (3 YEAR AGREEMENT)**

- ✓ Maintenance Services
  - a. Technical Support
  - b. Repair Services

February 26, 2015 v5

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# 1. AviatCare Maintenance Services Coverage

The following table summarizes the Service Level Support that will be delivered to EBRCS:

ITEM	SUPPORT ELEMENT	DESCRIPTION	SLA TARGET
4.1	Repair Services	Covers repair or replacement of covered FRU's beyond the manufacturer standard equipment warranty period. Please note unless otherwise agreed within this Agreement the following Turnaround times represent our commitments: North America and Caribbean: - Currently manufactured products – 20 Calendar Days	Varies (see Section 4.1), unlimited quantities
4.2	Advance Replacement	Provides advance replacement of an FRU prior to receiving the defective FRU at one of our Customer Support Centers for repair. When included within one of our AviatCare MLA programs the total number of requests received for advanced replacement units cannot exceed ten percent (10%) of the total number of Repair Service transactions during the coverage period without additional charges being incurred by the customer. NOTE – If defective FRU is not received within 30 days of RMA issuance customer will be charged the then current list price for the unit, in addition to the Advanced Replacement charges, if any. Aviat Networks is not responsible for any delays in delivery related to freight or courier delays, export or customer regulations or processes. - Standard Advanced replacement – 5 Calendar Days (based on availability)	Based on availability and regional shipping restrictions
4.3	Repair Logistics Program	Aviat Networks shall provide free freight to the Customer for all Units returned via the Aviat Networks Repair Logistics Program (RLP). Upon RMA request, Aviat Networks will dispatch the appropriate courier to the customer's facility to pick-up the defective Units. When the repaired or replacement unit is ready Aviat Networks will dispatch appropriate courier to the customer's facility to deliver the replaced/repaired unit.	See Section 4.3
4.4	Remote Technical Support 24/7	Service requests (SR's), remote technical support, and troubleshooting support, material dispatch service and general customer help desk.	24 x 7 Unlimited number of SRs

## 2. SUPPORTED PRODUCTS

- a) Unless otherwise expressly listed in the table below, all Third Party Computing Hardware and OEM are excluded from the definition of Supported Product (and therefore shall not be eligible to receive Support); and
- b) Only the Systems in the following Customer Networks shall be deemed Supported Products (and therefore shall be eligible to receive Support):

### Existing Equipment & Site Listing

EBRCS Microwave System SO: A71565, A81688			
Alameda County 32 Sites		Contra Costa County 18 Sites	
Qty	Equipment Description	Qty	Equipment Description
102	TRuepoint 5200	38	TRuepoint 5200
14	Fujitsu Mux	9	Fujitsu Mux
70	Commscope Antenna Systems	8	Commscope Antenna Systems
31	Commscope Dehydrators	8	Commscope Dehydrators
29	Emerson Chargers	10	Emerson Chargers
1	Larus Time Clock		

### New Equipment & Sites being added

EBRCS Microwave System 10 Hops (10 New Site expansion) SO: 2314941; 2315387 NA111111-01984			
Alameda County Add'l 2 Sites		Contra Costa County Add'l 8 Sites	
Qty	Equipment Description	Qty	Equipment Description
6	IRU600	18	IRU600
2	Eclipse ODU300	10	Eclipse ODU300
17	Asentria Remote Alarms	16	Asentria Remote Alarms
4	Commscope Antenna Systems	16	Commscope Antenna Systems
		5	Commscope Dehydrators
		1	Sageon Charger

### Full Network (Existing and New Equipment, All Sites)

EBRCS Microwave System SO: 2314941, 2315387, A71565, A81688			
Alameda County 34 Sites		Contra Costa County 26 Sites	
Qty	Equipment Description	Qty	Equipment Description
102	TRuepoint 5200	38	TRuepoint 5200
6	IRU600	18	IRU600
2	Eclipse ODU300	10	Eclipse ODU300
17	Asentria Remote Alarms	16	Asentria Remote Alarms
74	Commscope Antenna Systems	24	Commscope Antenna Systems
31	Commscope Dehydrators	13	Commscope Dehydrators
29	Emerson Chargers	10	Emerson Chargers
14	Fujitsu Mux	9	Fujitsu Mux
1	Larus Time Clock	1	Sageon Charger

Alameda County	Alameda County	Alameda County	Alameda County	Contra Costa County	Contra Costa County	Contra Costa County
Crane Ridge	East Dublin Bart	Hayward Annex	Oakland PD	El Cerrito PD	40 Glacier	Marsh Creek
Carol Drive - Not Included	Walpert Ridge	San Leandro Hills	Lakeside	Knob Hill	Kregor Peak	Highland Peak
Warm Springs	Newark PD	San Leandro Comm	Piedmont PD	Richmond Comm Ctr	Concord PD	Los Vaqueros
Livermore PD	Fremont PD	Seneca	Glen Dyer Jail	Pearl Reservoir	Walnut Creek Bart	San Ramon (Peters Ranch)
Pleasanton PD	Union City	San Leandro PD	Oakland APL	Turquoise	Walnut Creek PD	Santa Rita Jail Passive Repeater*
Sunol Ridge - Not Included	Patterson Pass	MSC	Santa Rita Jail Passive Repeater*	Alt4a Mesa	FS85 Stoneman	Bald Mtn*
Doolan WT	Coyote Hills	Emeryville FD	Bald Mtn*	Pine Street	Shadybrook	Rocky Ridge*
Twin Peaks	Alameda PD	Albany PD	Rocky Ridge*	Cummings Peak	Marsh Creek Passive repeater	Alameda EOC*
Berkeley PD	LALX UC Berkeley Labs	Skyline	Alameda EOC*	Pinole PD	Martinez	

\*Parallel links

Additional Sites added to EBRCS: (2) Alameda County, (8) Contra Costa County  
 Total (34) Alameda County sites  
 Total (26) Contra Costa County sites

3. SUPPORT COSTS

Annual Support Pricing				
Services	Services Part Number	Product Qty	Annual Unit Price (Per TR/ODU)	Annual Extended Pricing
<b>EBRCS (10) New Site Expansion</b>				
<b>AviatCare Services</b> SO's covered: 2314941, 2315387				(1/1/2015 through 9/26/2015)
<ul style="list-style-type: none"> <li>✓ Technical Support: Available 24 X 7</li> <li>✓ Aviat Xpress (Web Support): Available 24 X 7</li> <li>✓ Repair Services:                             <ul style="list-style-type: none"> <li>✓ 20 Calendar Day turnaround time on Aviat Networks manufactured equipment</li> <li>✓ Advance Replacement – 5 Calendar Day turnaround time; Based on availability of inventory</li> <li>✓ Repair Logistics Program</li> </ul> </li> <li>✓ OEM Repair Services is an Extension of Warranty offered by that Vendor; repair turnaround time is set by vendor</li> </ul>	<b>Contra Costa County Radios</b>			
	SNA-BNWXA1001238	• (18) IRU600 WarrantyPlus through 8/8/2015	\$338	\$1,014 Pro-rated 2 months
	SNA-BNWXA1001230	• (10) Eclipse ODU300 WarrantyPlus through 8/8/2015	\$337	\$562 Pro-rated 2 months
	<b>Contra Costa County OEM</b>			
	SWW-OMEW000012MC	(1) Charger		\$133 Pro-rated 9 months
	SWW-OMEW000012MC	(16) Asentria Remote Alarms		\$1,500 Pro-rated 9 months
	SWW-OMEW000012MC	(5) Dehydrators		\$416 Pro-rated 9 months
	<b>Alameda County Radios</b>			
	SNA-BNWXA1001238	• (6) IRU600 WarrantyPlus through 8/8/2015	\$338	\$338 Pro-rated 2 months
	SNA-BNWXA1001230	• (2) Eclipse ODU300 WarrantyPlus through 8/8/2015	\$337	\$112 Pro-rated 2 months
	<b>Alameda County OEM</b>			
	SWW-OMEW000012MC	(17)Asentria Remote Alarms		\$1,594 Pro-rated 9 months
	<b>Total AviatCare Maintenance Services (January 1 – September 26, 2015)</b>			
<b>Total Alameda County</b>				<b>\$2,044</b>

<b>Total Contra Costa County</b>	<b>\$3,625</b>
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<b>Annual Support Pricing</b>				
<b>Services</b>	<b>Services Part Number</b>	<b>Product Qty</b>	<b>Annual Unit Price (Per TR/ODU)</b>	<b>Annual Extended Pricing</b>
<b>EBRCS Full Network (Maintenance renewal)</b>				
<b>Warranty Plus</b> SO's covered: A71565, A81688, 2314941, 2315387				(9/27/2015 through 9/26/2016)
<ul style="list-style-type: none"> <li>✓ Technical Support: Available 24 X 7</li> <li>✓ Aviat Xpress (Web Support): Available 24 X 7</li> <li>✓ Repair Services:                             <ul style="list-style-type: none"> <li>✓ 20 Calendar Day turnaround time on Aviat Networks manufactured equipment</li> <li>✓ Advance Replacement – 5 Calendar Day turnaround time; Based on availability of inventory</li> <li>✓ Repair Logistics Program</li> </ul> </li> <li>✓ OEM Repair Services is an Extension of Warranty offered by that Vendor; repair turnaround time is set by vendor</li> </ul>	<b>Contra Costa County Radios</b>			
	SNA-BNWX1001233	(38) TRuepoints	\$407	\$15,466
	SNA-BNWX1001238	(18) IRU600	\$338	\$6,084
	SNA-BNWX1001230	(10) ODU300	\$337	\$3,370
	<b>Contra Costa County OEM</b>			
	SWW-OMEW000012MC	(12) Charger		\$2,124
	SWW-OMEW000012MC	(16) Asentria Remote Alarms		\$2,000
	SWW-OMEW000012MC	(13) Dehydrators		\$1,443
	SWW-OMEW000012MC	(9) Fujitsu Sonet Mux		\$9,108
	<b>Alameda County Radios</b>			
	SNA-BNWX1001233	(102) TRuepoints	\$407	\$41,514
	SNA-BNWX1001238	(6) IRU600	\$338	\$2,028
	SNA-BNWX1001230	(2) ODU300	\$337	\$674
	<b>Alameda County OEM</b>			
	SWW-OMEW000012MC	(17) Asentria Remote Alarms		\$2,125
	SWW-OMEW000012MC	(31) Dehydrators		\$3,441
	SWW-OMEW000012MC	(29) Chargers		\$5,133
	SWW-OMEW000012MC	(14) Fujitsu Sonet Mux		\$14,168
	SWW-OMEW000012MC	(1) Larus Timing Clock		\$280
	<b>Total AviatCare Maintenance Services (September 27, 2015 – September 26, 2016)</b>			
<b>Total Alameda County</b>				<b>\$69,363</b>

<b>Total Contra Costa County</b>	<b>\$39,595</b>
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<b>Total AviatCare Maintenance Services (September 27, 2016 – September 26, 2017)</b>	<b>\$108,958</b>
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<b>Total Alameda County</b>	<b>\$69,363</b>
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<b>Total Contra Costa County</b>	<b>\$39,595</b>
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<b>Total AviatCare Maintenance Services (September 27, 2017 – September 26, 2018)</b>	<b>\$108,958</b>
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<b>Total Alameda County</b>	<b>\$69,363</b>
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<b>Total Contra Costa County</b>	<b>\$39,595</b>
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## 4. SERVICE LEVEL SUPPORT DESCRIPTION

### Access to Aviat Networks Customer Online Technical Support Site

The Customer will have access to the Aviat Networks Customer Online Technical Support web site 24/7 for a variety of tools and support services. Those tools/services include:

1. RMA Request & Status Updates.
2. RMA Reporting such as repair turnaround time performance.
3. Technical Support such as Service Request opening, reporting and status.
4. Information databases such as technical notes, frequently asked questions, solutions for commonly asked technical or operational issues.
5. Software Downloads.
6. Sales Order tracking and status (Eclipse Only).

URL: <http://www.support.aviatnetworks.com/>

### 4.1 REPAIR SERVICES

Repair services are available to the Customer during the standard manufacturing equipment warranty period. This includes any repair or replacement of defective units during the stated warranty period. There may be additional charges during the warranty period for this service if customers are found to be returning a high level of NFF units, require advanced replacements, or send in a non-repairable unit. Prior to the warranty period expiring, customers may procure ongoing access to this support service through the purchase of an extended warranty program or through one of our AviatCare MLA support offerings. Otherwise the Repair service is made available for out of warranty products through a Per Incident billing process that can be enabled through our regional RMA Desk. See further details on how repair services are provided below.

All equipment under this specific Maintenance Level Agreement will be covered with our standard Repair / Replace policy. There is no limit to the number of units returned for repair but customer is subject to the same limitations for No Fault Found (NFF), damaged beyond repair units, non-returned Advanced replacement units where additional charges may apply:

- a) **Repair Center Support.** Customer shall place all RMA requests at the following link: [http://support.aviatnetworks.com/requestrma/select\\_prod\\_line.asp](http://support.aviatnetworks.com/requestrma/select_prod_line.asp). This link is available for use 24 hours a day, 7 days a week. Customers can also email or fax RMA requests to the appropriate Aviat Networks Repair Center. Aviat Networks will typically fax or email a confirmation with an RMA reference number within one (1) business day. Requests can also be made via telephone during such Aviat Networks Repair Center's Business Hours.

In order for Aviat Networks to process an RMA request, the customer must provide the following information:

- Company name;
- Shipping and billing address;
- Part Number;
- Serial Number of the defective unit(s)
- Unit software load;
- Description of the suspected failure;
- Whether any special requirements exist;
- Maintenance Level Agreement contract number (if applicable); and
- Provide a purchase order at the applicable price for billable requests. Billable requests include any request for express service regardless of warranty status. Contact your local Aviat Networks Repair Center for price information.

Important Note: The customer must include associated AviatCare Maintenance Level Agreement (MLA) contract number in all correspondence(s) in order to avoid being invoiced for services falling within the scope of such Maintenance Level Agreement.

- b) **Turnaround Time.** Aviat Networks will provide a Turnaround time on repair as per the following table:

EQUIPMENT TYPE	TAT IN CALENDAR DAYS
IRU600 ODU300 TRUEPOINT 5200	Return & Repair: 20 Calendar Days

- c) **Turnaround Time Calculation.** Turnaround time is measured from the time that a Returned Unit is received at the Aviat Networks Repair Center, which will be advised at time of issuing a RMA, until the time that it is shipped from the Aviat Networks Repair Center. Thus, the measurement of turnaround time does NOT begin when the Returned Unit is shipped from Customer's premises and does NOT include the shipping time accrued after the Returned Unit is shipped from the Aviat Networks Repair Center to Customer's premises. Additionally, Turnaround time will not be guaranteed in the following situations:

- If more than five (5) Units of the same type or more than ten (10) Units of any type are received at the same time.
- Missing information such as failure details, return shipping address, shipping instructions and/or any other information that may affect the start of the repair process of the shipment of the Returned Unit as the repair completed.
- Any Returned Unit is deemed No Fault Found.
- Any Returned Unit received due to any of the reasons listed in the [Exclusions from Repair & Return](#) Clause of this Section.
- Any Returned Unit received improperly packaged and therefore sustained physical or electrostatic damage in shipping.
- Returned Units placed in Isolation.
- Event of Excusable Delay as described under the [Excusable Delay](#) Clause of the Additional Terms & Conditions Section of this Agreement.

- d) **OEM.** For OEM, repair turnaround times are set by the OEM supplier. Aviat Networks close working relationship with OEM suppliers assures the best possible turnaround time. These times will be communicated to customer at time of RMA issuance.

- e) **Shipping Costs.** Customer is responsible for all charges associated with shipping the Returned Unit to the designated Aviat Networks Repair Center, which shall be made pursuant to the delivery term DDU (Delivered Duty Unpaid) Aviat Networks Repair Center (Incoterms:2000). Aviat Networks is responsible for the charges associated with shipping the Returned Unit back to the Customer, which shipment shall be made pursuant to the delivery term DDU (Delivered Duty Unpaid), Customer's premises (Incoterm:2000).

- f) **Packaging and Shipping Procedures.** Both Aviat Networks and the Customer are obligated to ensure that all deliveries are packaged in such manner as to achieve suitable mechanical and environmental protection during storage, handling and transport to the delivery address. Electrostatic Discharge (ESD) precautions should be followed during handling and packaging of all Units delivered. For each consignment of Units shipped to Aviat Networks, the Customer must provide a detailed Packing List and Commercial (Proforma) Invoice to support the delivery. Each Commercial Invoice must clearly state the full description, the value of each Unit and the

RMA Number. Once a Unit has been repaired and shipped to the Customer at the address provided by the Customer upon RMA request, Aviat Networks will send a pre-alert notification to the Customer comprising a faxed copy of the Commercial Invoice and Airway Bill Number pertaining to the shipment.

- g) **Exclusions from Repair & Return.** The services to be rendered by Aviat Networks under this Agreement shall not comprise any damage, defects, malfunctions or failures caused by one or more of the following:
- Damage caused by mishandling, customer or third-party negligence, abuse or operation outside the Aviat Networks environment specifications, or due to a cause not solely attributed to Aviat Networks.
  - Modifications, alterations, or repairs made other than by Aviat Networks.
  - Damages by persons other than Aviat Networks or its authorized service providers.
  - Any modification, removal or obliteration of a serial number or other identifying mark or any attempts thereof other than by Aviat Networks' authorized personnel.
  - Damage that occurs during shipment from the Customer premises to Aviat Networks' premises outside the RLP (if applicable).
  - Installed, stored, used, handled or maintained contrary to Aviat Networks' written instructions.
  - Used in conjunction or combination with third-party material or equipment without the consent of Aviat Networks.
  - Units returned for repair where there has been misuse, neglect, power failures, surges, accident or acts of nature such as fire, lightning strikes or flood.

Repairs necessitated during the Agreement period by any of the above causes may be made by Aviat Networks, and the Customer shall pay Aviat Networks' standard charges for time and materials, together with all shipping and handling charges arising from such repairs.

- h) **Stockpiling of Failed Units.** The Customer agrees to obtain an RMA Number for all failed Units from an Aviat Networks Repair Center immediately following a failure and return the Units for repair immediately after receipt of the RMA Number from Aviat Networks. The customer agrees that this Agreement will not apply retrospectively to cover any Units failed and in the Customer's possession prior to the execution date of this Agreement, and will not apply to any Units for which RMA Numbers had already been obtained from Aviat Networks prior to the date of execution of this Agreement. Following execution of this Agreement the Customer agrees not to stockpile failed Units and accepts that Aviat Networks will not be required to meet the Turnaround Times outlined in this Agreement if the Units are not returned to Aviat Networks on receipt of an RMA Number or if they are stockpiled.
- i) **No Fault Found Fee.** If the number of Returned Units that the Customer reports are defective, but are thereafter tested by Aviat Networks and found to meet the applicable Aviat Networks Product specifications, exceeds ten percent (10%) of the total number of Returned Units received by Aviat Networks from the Customer during each year of the Support period, then Aviat Networks will charge the Customer the then-current [No Fault Found](#) inspection fee for each such non-defective Returned Units in excess of such ten percent (10%).
- j) **Damaged Beyond Repair.** Returned Units that Aviat Networks (in its sole discretion) determined are damaged Beyond Repair or have been repaired (or otherwise modified) by a party other than Aviat Networks will be placed in Isolation. The Customer shall be advised by fax or e-mail, within ten (10) days working days, of the nature and extent of the damage. The Customer shall be responsible for informing Aviat Networks of the next course of action. If the Customer decides to replace the Unit(s), they must follow the usual purchasing process. Note: If

the Returned Unit is no longer in current manufacture and/or is OEM, Aviat Networks will not guarantee availability of a Unit for sale.

#### 4.2 ADVANCE REPLACEMENT

Advance Replacement provides the Customer with shipments of a limited number of Units intended as an advanced replacement of Returned Units, upon the Customer's request. The service encompasses the following:

- a) **Repair Center Support.** Customer shall place Advance Replacement requests at the following link: [http://support.aviatnetworks.com/requestrma/select\\_prod\\_line.asp](http://support.aviatnetworks.com/requestrma/select_prod_line.asp). This link is available for use 24 hours a day, 7 days a week. Customers can also email or fax the RMA request to the Aviat Networks Repair Center. Aviat Networks will typically fax or email a confirmation with an RMA Number within one (1) business day. Requests can also be made via telephone during such Aviat Networks Repair Center's Business Hours.
- b) **Shipping Costs.** Customer is responsible for all charges associated with shipping the Returned Unit to the designated Aviat Networks Repair Center, which shall be made pursuant to the delivery term DDU (Delivered Duty Unpaid) Aviat Networks Repair Center (Incoterms:2000). Aviat Networks is responsible for the charges associated with shipping the Returned Unit back to the Customer, which shipment shall be made pursuant to the delivery term DDU (Delivered Duty Unpaid), Customer's premises (Incoterm:2000).
- c) **Packaging and Shipping Procedures.** Both Aviat Networks and the Customer are obligated to ensure that all deliveries are packaged in such manner as to achieve suitable mechanical and environmental protection during storage, handling and transport to the delivery address. Electrostatic Discharge (ESD) precautions should be followed during handling and packaging of all Units delivered. For each consignment of Units shipped to Aviat Networks, the Customer must provide a detailed Packing List and Commercial (Proforma) Invoice to support the delivery. Each Commercial Invoice must clearly state the full description, the value of each Unit and the RMA Number. Once a Unit has been repaired and shipped to the Customer at the address provided by the Customer upon RMA request, Aviat Networks will send a pre-alert notification to the Customer comprising a faxed copy of the Commercial Invoice and Airway Bill Number pertaining to the shipment.
- d) **Returned Unit.** If this Agreement entitles the Customer to the RLP Program and the Customer elects to use it for the Returned Unit, the Customer will be invoiced for the List Price of the Advance Replacement Unit(s) if Aviat Networks does not receive notification to pick-up the pertinent Returned Unit, at most, ten (10) days after Customer's receipt of the Advance Replacement Unit. In the event that the Customer is not entitled to the RLP Program or the Customer elects to return the Returned Unit to Aviat Networks via a freight forwarder outside of the RLP Program, the Customer will be invoiced for the List Price of the Advance Replacement Unit if Aviat Networks does not receive the pertinent Returned Unit at the Aviat Networks Repair Center within, at most, thirty (30) days after receipt of the Advance Replacement Unit. The Returned Unit will become the property of Aviat Networks. The Customer agrees that the Returned Unit must be repairable and does not fall into any of the categories listed in the [Exclusion from Advance Replacement](#) clause.
- e) **Exclusion from Advance Replacement.** The services to be rendered by Aviat Networks under this Agreement shall not comprise any damage, defects, malfunctions or failures caused by one or more of the following:
  - Damage caused by mishandling, customer or third-party negligence, abuse or operation outside the Aviat Networks environment specifications, or due to a cause not solely attributed to Aviat Networks.

- Modifications, alterations, or repairs made other than by Aviat Networks.
  - Damages by persons other than Aviat Networks, or its authorized service providers.
  - Any modification, removal or obliteration of a serial number or other identifying mark or any attempts thereof other than by Aviat Networks' authorized personnel.
  - Damage that occurs during shipment from the Customer premises to Aviat Networks' premises outside the RLP (if applicable).
  - Installed, stored, used, handled or maintained contrary to Aviat Networks' written instructions.
  - Used in conjunction or combination with third-party material or equipment without the consent of Aviat Networks.
  - Units returned for repair where there has been misuse, neglect, power failures, surges, accident or acts of nature such as fire, lightning strikes or flood.
- f) **No Fault Found Fee.** If the number of Returned Units that the Customer reports are defective, but are thereafter tested by Aviat Networks and found to meet the applicable Aviat Networks Product specifications, exceeds ten percent (10%) of the total number of Returned Units received by Aviat Networks from the Customer during each year of the Support period, then Aviat Networks will charge the Customer the then-current [No Fault Found](#) inspection fee for each such non-defective Returned Units in excess of such ten percent (10%).
- g) **Limits.** Customer is entitled to receive a limited number of Advance Replacement Units per year. This number is not to exceed ten percent (10%) of the total Repair & Return requests during that year. Accrued Advance Replacement Units that have not been requested by the Customer may not be carried over to the next year. Additional Advance Replacement Units will be provided at Aviat Networks' then current prices, terms and conditions.
- h) **Unavailability.** If an Advance Replacement Unit is not available, then Aviat Networks will repair the Returned Unit within a mutually agreed Turnaround time. Customer agrees that repair of the Returned Unit shall be Aviat Networks' sole obligation, and the Customer's sole remedy, if an Advance Replacement Unit requested by the Customer is not available.
- i) **Turnaround Time Commitments.** Standard Advanced Replacement service ensures customer will receive a comparable unit to the one being returned within 3 to 5 business days from date of RMA. If customer requires a replacement unit in a shorter period of time there is an added charge for this and based on replacement unit availability will be delivered on a next business day basis. Customer will be informed at time of RMA request whether this service can be provided or not depending on component availability.

#### 4.3 REPAIR LOGISTICS PROGRAM (RLP)

Aviat Networks shall provide free freight to the Customer for all Units returned via the Aviat Networks Repair Logistics Program (RLP). In the event that the Customer returns Units to Aviat Networks via a freight forwarder outside of this Program, all freight expenses and damage liability will be the responsibility of the Customer. Aviat Networks is responsible for all tariffs, duties, or taxes associated with importing Units for repair. After the repair, the Units shall be returned to the Customer DDU (Delivered Duty Unpaid) Customer's premises (Incoterms 2000). To implement the return of a Unit via this Program the Customer shall request an RMA for the Unit using the link in the [Repair Services](#) or [Advance Replacement](#) Sections or the contact information as listed in the [Aviat Networks Contacts](#) Section.

- a) **Liability of Units Damaged During Shipping.** Aviat Networks will assume responsibility for insuring the Units against loss or damage that is moving via the RLP. The Customer shall examine the condition of all shipments returned from Aviat Networks via the RLP at the time of

delivery. Visible signs of damage shall be brought to the attention of the carrier and the contents shall be examined for damage immediately. Aviat Networks will not be liable for any direct reports by the Customer for Units that are found to be damaged upon receipt by the Customer that are made over seven (7) days after the Units have been delivered. Units damaged through transit shall be returned for repair at Aviat Networks through the normal return process. Damage or loss incurred to Units shipped to Aviat Networks by the Customer outside the RLP shall be the responsibility of the Customer.

#### 4.4 REMOTE TECHNICAL SUPPORT 24 X 7

##### Customer 24 X 7 Remote Support

24 X 7 Remote Support provides around-the-clock (24 X7) telephone access to Aviat Networks' Technical Assurance Center in order to resolve Critical Service Requests, Major Service Requests, Minor Service Requests and Inquiry Service Requests.

- a) **Telephone Number.** Customer may contact Aviat Networks' Technical Assistance Center (TAC) regarding such Service Requests via telephone at any time during the day or night. For night support services (after business hours in the local time zone), Aviat Networks will handle all such requests that are Critical or Major that the Customer reasonably categorizes as being High Priority. In addition with this service customer can pre-schedule after hours support when doing a new software installation or a network upgrade related to covered equipment.
- b) **Rapid Response Time.** Aviat Networks will route Critical Service Requests to the appropriate TAC subject matter expert within fifteen (15) minutes of call receipt.
- c) **Service Request Number.** Aviat Networks will assign, to each Service Request, a number that will be logged, tracked and stored in our Case Management database.
- d) **Service Request Management.** Aviat Networks will dedicate continuous attention to Critical and Major Service Requests until service is restored or request is closed. Aviat Networks will work to resolve the Service Request until Customer accepts the proposed solution, at which point the TAC will close the Service Request.
- e) **Documented Escalation Procedures.** Aviat Networks will implement internal escalation and notification procedures in order to facilitate the timely resolution of Service requests by a TAC Engineer with an adequate level of expertise. The technical support process includes rigid managerial escalations that are intended to facilitate the appropriate handling of recovery efforts and Customers being regularly updated on the status of the Service Request. Additional information on this escalation process is available in our Global Network Service Customer Support guidelines document available on our website at [www.aviatnetworks.com](http://www.aviatnetworks.com).
- f) **Service Request Submission.** Under this Agreement, there is no limit to the number of Service Requests that Customer may submit for resolution. Customer may also define and authorize specific users within its organization to have access to this Service Request Submission Service. To ensure appropriate management of this support Aviat Networks has implemented a Support Assurance Program where an Express PIN will be assigned to each customer which clearly identifies the level of service a customer is entitled to receive. All Service Request Submissions will require Express PIN information prior to being submitted.

##### Service Request Severity Classifications

There are four (4) Service Request severity classifications: (a) Critical; (b) Major; (c) Minor; and (d) Inquiry. Critical, Major and Minor Service Requests pertain to problems in the Product. Inquiry Service Requests pertain to questions about the Product or Services. The four (4) Service Request severity classifications are defined as follows:

- a) **Critical Service Requests** are those that severely affect service, traffic, billing and/or maintenance capabilities, and require immediate corrective action (regardless of the time of day or day of the week).
- b) **Major Service Requests** are those that cause conditions that seriously affect Product operation, maintenance and/or administration, and require immediate attention. The urgency is less than in Critical Service Requests because of a lesser immediate or impending effect on Product performance, customer and/or network operation and revenue.
- c) **Minor Service Requests** are problems that are tolerable during Product use, do not significantly impair the functioning of the Product and do not significantly affect service to customers.
- d) **Inquiry Service Requests** are questions about technical details concerning the usage or behavior of the Product.

## 5. AVIAT NETWORKS CONTACTS

Outlined below is the process to contact Aviat Networks once the Agreement is effect.

<b>For Support, please contact the appropriate Support function:</b>	
<p><b>NORTH AMERICA</b>  <b>Repairs, Returns &amp; Advance Replacements</b>                      Phone: 1-800-227-8332 OR (210-561-7400) selecting Option 2, then 1                      FAX: 210-561-7399                      E-mail: <a href="mailto:CustomerCare.Americas@aviatnet.com">CustomerCare.Americas@aviatnet.com</a>                      Online RMA Request:  <a href="http://support.aviatnetworks.com/rma_tracking.asp">http://support.aviatnetworks.com/rma_tracking.asp</a></p>	<p><b>NORTH AMERICA</b>  <b>Technical Assistance</b>                      Phone: 1-800-227-8332 OR (210-561-7400) selection Option 3                      FAX: 210-561-7399                      E-mail: <a href="mailto:TAC.AM@aviatnet.com">TAC.AM@aviatnet.com</a>                      Online Technical Assistance                      Request: <a href="http://support.aviatnetworks.com/requestrma/select_prod_line.asp">http://support.aviatnetworks.com/requestrma/select_prod_line.asp</a></p>
<b>For Questions or concerns on the Agreement either before or after it is in effect, please contact:</b>	
<p><b>NORTH AMERICA</b></p> <p>Contact: Ali Hirsa, Senior Sales Executive                      Phone: 408-567-6640                      Email: <a href="mailto:ali.hirsa@aviatnet.com">ali.hirsa@aviatnet.com</a></p> <p><b>Sr. Manager Services Business Development</b>                      Rick Wallace                      Phone: 919-767-3299                      E-mail: <a href="mailto:rick.wallace@aviatnet.com">rick.wallace@aviatnet.com</a></p> <p><b>Service Contract Administrator</b>                      Jenny Frederiksen                      Phone: 408-476-0302                      E-mail: <a href="mailto:jenny.frederiksen@aviatnet.com">jenny.frederiksen@aviatnet.com</a></p>	

## 6. ADDITIONAL TERMS AND CONDITIONS

This agreement is between the party purchasing services described herein (the "Customer") and, for Customers located in the United States or outside of the United States, with Aviat U.S., Inc., a wholly owned subsidiary of Aviat Networks Inc., with offices at 5200 Great America Parkway, Santa Clara, CA 95054 hereinafter referred to as "Aviat Networks".

### 6.1 SCOPE OF SERVICES

Aviat Networks will furnish the services outlined in the [Service Level Support](#) Section of this Agreement hereinafter referred to as "Services" for the Products for Customer as may be required from time to time for the period specified in the [Duration of Support Period](#) Section providing receipt and acceptance of the Customer's purchase order. The Services will be provided in conformity with the terms, conditions, specifications and other requirements of this Agreement and each request for Services will be governed by the terms and conditions stated herein.

The Customer must ensure that the Products to be included in this Agreement be in good operating condition prior to the commencement of this Agreement. Aviat Networks reserves the right to inspect any and all of the Products to be included in the Agreement prior to the commencement of the Agreement, and if the Product is found to be defective, the Customer shall be responsible for the cost of repair of the defective units.

### 6.2 PRICES/PAYMENT/TAXES/SHIPPING

All payments shall be made via bank transfer to the accounts specified on the invoice, in full in Advance of the commencement of each year of service/coverage. The total amount is due and payable to Aviat Networks within thirty (30) days of the invoice date, subject to credit approval. In the event any payment due by Customer hereunder is past due, Aviat Networks reserves the right to withhold Services until such payment is received.

All prices are exclusive of all sales, use, excise, and other taxes, duties or charges. Unless evidence of tax exempt status is provided by Customer, Customer shall pay, or upon receipt of invoice from Aviat Networks, shall reimburse Aviat Networks for all such taxes or charges levied or imposed on Customer, or required to be collected by Aviat Networks, resulting from this transaction or any part thereof.

Late payments shall result in the assessment of a late charge equal to one and one-half percent (1 ½%) per month on any outstanding balance, or the maximum amount of interest chargeable by law, whichever is less.

### 6.3 EXPORT AND RE-EXPORT RESTRICTIONS

Performance and delivery of the equipment, documents, Services and Software sold or delivered hereunder are subject to export control laws and regulations of the United States, as applicable, and conditioned upon receipt of required U.S. Government licenses and approvals by Aviat Networks. Customers shall not export or re-export Products or technical data delivered hereunder from the United States without complying with regulations of the Bureau of Export Administration of the United States Department of Commerce, as applicable. Customers shall not re-export the Products and technical data delivered hereunder from the country of delivery or to any facility engaged in the design, development, stockpiling, manufacturing or use of missile, chemical or biological weapons without fully complying with the regulations of the above United States government agencies. Customer warrants that it will comply with the United States Foreign Corrupt Practices act of 1997, as amended. Customer shall defend, indemnify and hold Aviat Networks harmless from and against any loss, damage, or liability arising out of Customer's failure to comply with this Section.



## 6.4 EXPORT DOCUMENTS

Customers shall be responsible for obtaining any necessary import licenses into the country of delivery. Aviat Networks shall provide certificates of delivery, affidavits of origin, and other information under its control which is necessary for Customer to import Products.

Customers shall provide all information, certificates and Letters of Assurance necessary for Aviat Networks to obtain any export licenses required for Aviat Networks to export Products out of the country for repair, as applicable. Aviat Networks shall be responsible for selection and/or approval of freight forwarder(s). In the event that Customer wishes to utilize a freight forwarder that is not acceptable to Aviat Networks, Customer shall be the shipper of record and shall be responsible for obtaining required export licenses which shall be in the name of the Customer.

## 6.5 EXCUSABLE DELAY

Aviat Networks shall be excused from performance under this Agreement and not be liable to Customer for delay in performance attributable in whole or in part to any cause beyond its reasonable control, including but not limited to, actions or inactions of government whether in its sovereign or contractual capacity, judicial action, war, civil disturbance, insurrection, sabotage, act of a public enemy, labor difficulties or disputes, failure or delay in delivery by Aviat Networks' suppliers or subcontractors, transportation difficulties, shortage of energy, materials, labor or equipment, accident, fire, flood, storm or other act of God, or Customer's fault or negligence.

In the event of an excusable delay, Aviat Networks shall make reasonable efforts to notify Customer of the nature and extent of such a delay and Aviat Networks (i) will be entitled to a schedule extension on at least a day-for-day basis, (ii) in the event of Customer's fault or negligence, will be also entitled to an equitable adjustment in the price of this contract.

## 6.6 TERMINATION

Either party may terminate this Agreement upon thirty (30) days written notice without cause. In such event, Aviat Networks shall refund to Customer a pro-rated amount of the annual fee paid based on the complete months remaining in the term. In the event Customer terminates the Agreement without cause earlier than the ninth (9th) month of each year of the Agreement, Aviat Networks reserves the right to retain the pro-rated amount of the annual fee through the month of termination or the actual cost incurred by Aviat Networks hereunder, whichever is greater.

Either party may terminate this Agreement immediately upon notice in writing to the other party if the other party shall breach any provision of this Agreement in any respect and such breach remains unremedied thirty (30) days after notice thereof from the non-breaching party. In the event this Agreement is terminated due to the breach of Customer, Aviat Networks shall retain the entire amount of the annual fee paid by Customer.

The right of termination provided herein is absolute and neither party shall be liable to the other for damages or otherwise by reason of such termination.

## 6.7 ASSIGNMENT

Customer may not assign this Agreement in whole or in part without the prior written consent signed by an officer of Aviat Networks. Such consent shall not be unreasonably withheld.

## 6.8 GOVERNING LAW, VENUE AND JURISDICTION

This Agreement will be governed by and construed in accordance with the laws of the **State of California**. The parties agree that any action to enforce any provision of this Agreement or arising out of or based upon this Agreement or the business relationship between Aviat Networks and Customer will be brought in a **local or Federal court** of competent jurisdiction in **Alameda County, California**.

## 6.9 ENFORCEABILITY

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall in no way be affected or impaired.

## 6.10 LIMITATION OF LIABILITY

NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY CLAIMING UNDER THE OTHER PARTY FOR SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, AND CONSEQUENTIAL OR LOSS OF PROFIT TYPES OF DAMAGES AS A RESULT OF A BREACH OF ANY PROVISION OF THIS CONTRACT. CUSTOMER SHALL INDEMNIFY AVIAT NETWORKS AGAINST ALL LOSS OR LIABILITY FROM CLAIMS BY CUSTOMER OR A THIRD PARTY ARISING OUT OF OR RELATING TO CUSTOMER'S INSTALLATION, OPERATION, OR USE OF THE SERVICES OR PRODUCTS PROVIDED HEREUNDER, WHETHER ON ACCOUNT OF NEGLIGENCE OR OTHERWISE.

## 6.11 COMPLIANCE WITH LAW

Customer agrees to assist Aviat Networks to comply with any applicable conventions, laws, rules, regulations, and bylaws incident to its activities under this Agreement, including, without limitation, United States export control regulations, the United States Foreign Corrupt Practices Act, and the United States anti-boycott regulations. Customer will promptly deliver to Aviat Networks a copy of any notice or instrument alleging a violation of any of these laws.

## 6.12 ENTIRE AGREEMENT

This Agreement supersedes all previous communications, transactions, and understandings, whether oral, or written, and constitutes the sole and entire agreement between the parties pertaining to the subject matter hereof. No modification or deletion of, or addition to these terms shall be binding on either party unless made in writing and signed by a duly authorized representative of both parties.

## 7. SIGNATURES

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in their respective names.

**AVIAT U.S., Inc.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EBRCSA**

By: Tom McCarthy  
Name: Tom McCarthy  
Title: Executive Director  
Date: 11-6-2015

**WWW.AVIATNETWORKS.COM**

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# AviatCare Service & Support Agreement

FOR:

- **East Bay Regional Communications System Authority (EBRCSA)**

**August 15, 2018**

✓ **Renewal of Services**

- a. 7 X 24 Technical Support
- b. Repair Services

✓ **Optional Services**

- c. Corrective Maintenance: Ground
- d. Preventive Maintenance: Ground
- e. 7 X 24 Remote Monitoring

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# 1. AviatCare Services: Maintenance Coverage

## 1.1. SERVICE LEVEL SUPPORT SUMMARY

The following table summarizes the Service Level Support that will be delivered to the East Bay Regional Communications System Authority (EBRCSA):

ITEM	SUPPORT ELEMENT	DESCRIPTION	SLA TARGET
5.1	Repair Services	Covers repair or replacement of covered FRU's beyond the manufacturer standard equipment warranty period. Please note unless otherwise agreed within this Agreement the following Turnaround times represent our commitments: North America and Caribbean: - Currently manufactured products – 20 Calendar Days	Varies (see Section 5.1), unlimited quantities
5.2	Advance Replacement	Provides advance replacement of a FRU prior to receiving the defective FRU at one of our Customer Support Centers for repair. When included within one of our maintenance programs the total number of requests received for advanced replacement units cannot exceed ten percent (10%) of the total number of Repair Service transactions during the coverage period without additional charges being incurred by the customer. NOTE – If defective FRU is not received within 30 days of RMA issuance customer will be charged the then current list price for the unit, in addition to the Advanced Replacement charges, if any. Standard Advanced replacement –5 business days (based on availability)	Based on availability and regional shipping restrictions
5.3	Repair Logistics Program	Aviat Networks shall provide free freight to the Customer for all Units returned via the Aviat Networks Repair Logistics Program (RLP). Upon RMA request, Aviat Networks will dispatch the appropriate courier to the customer's facility to pick-up the defective Units. When the repaired or replacement unit is ready Aviat Networks will dispatch appropriate courier to the customer's facility to deliver the replaced/repaired unit.	See Section 5.3
5.4	Remote Technical Support 24/7	Service requests (SR's), remote technical support, and troubleshooting support.	24 x 7 Unlimited number of SRs
5.6	Corrective Maintenance	4-hour onsite SLA Emergency ground technician	4-hour SLA
5.7	Preventive Maintenance	Annual maintenance plan covering all equipment as outlined in Section 4: Support Costs	Annually per site
5.8	Remote Monitoring Services	24x7x365 remote monitoring, diagnostics, troubleshooting, notification, dispatch, and reporting services through the Aviat Networks' Network Operations Center.	24 x 7 Monitoring

## 2. SUPPORTED PRODUCTS

- a) Unless otherwise expressly listed in the table below, all Third-Party Computing Hardware and OEM are excluded from the definition of Supported Product (and therefore shall not be eligible to receive Support); and
- b) Only the Systems in the following Customer Networks shall be deemed Supported Products (and therefore shall be eligible to receive Support):

### **Full Network (Existing and New Equipment, All Sites)**

<b>EBRCS Microwave System</b> <b>SO: 2314941, 2315387, A71565, A81688</b>
--

Alameda County 34 Sites		Contra Costa County 26 Sites	
Qty	Equipment Description	Qty	Equipment Description
102	Truepoint 5200	38	Truepoint 5200
6	IRU600	18	IRU600
2	Eclipse ODU300	10	Eclipse ODU300
17	Asentria Remote Alarms	16	Asentria Remote Alarms
74	Commscope Antenna Systems	24	Commscope Antenna Systems
31	Commscope Dehydrators	13	Commscope Dehydrators
29	Emerson Chargers	10	Emerson Chargers
14	Fujitsu Mux	9	Fujitsu Mux
1	Larus Time Clock	1	Sageon Charger

Alameda County	Alameda County	Alameda County	Alameda County	Contra Costa County**	Contra Costa County**	Contra Costa County**
Crane Ridge	East Dublin Bart	Hayward Annex	Oakland PD	El Cerrito PD	40 Glacier	Marsh Creek
Carol Drive – Not Included	WALPERT RIDGE	San Leandro Hills	Lakeside	Knob Hill	Kregor Peak	Highland Peak
Warm Springs	Newark PD	San Leandro Comm	Piedmont PD	Richmond Comm Ctr	Concord PD	Los Vaqueros
Livermore PD	Fremont PD	Seneca	Glen Dyer Jail	Pearl Reservoir	Walnut Creek Bart	San Ramon (Peters Ranch)
Pleasanton PD	Union City	San Leandro PD	Oakland APL	Turquoise	Walnut Creek PD	Santa Rita Jail Passive Repeater*
Sunol Ridge – Not Included	Patterson Pass	MSC	Santa Rita Jail Passive Repeater*	Alt4a Mesa	FS85 Stoneman	Bald Mtn*
Doolan WT	Coyote Hills	Emeryville FD	Bald Mtn*	Pine Street	Shadybrook	Rocky Ridge*
Twin Peaks	Alameda PD	Albany PD	Rocky Ridge*	Cummings Peak	Marsh Creek Passive repeater	Alameda EOC*
Berkeley PD	LALX UC Berkeley Labs	Skyline	Alameda EOC*	Pinole PD	Martinez	

\*Parallel links

\*\*Includes technical support and repair services. NOC and Emergency On-site Corrective Maintenance services are not included

### 3. DURATION OF SUPPORT PERIOD

The support period of the Maintenance Agreement is provided in the table below:

	START	FINISH
REMOTE TECHNICAL SUPPORT 24 X 7	October 1, 2018	September 30, 2021
REPAIR SERVICES	October 1, 2018	September 30, 2021
CORRECTIVE MAINTENANCE	October 1, 2018	September 30, 2021
PREVENTIVE MAINTENANCE	October 1, 2018	September 30, 2021
REMOTE MONITORING	October 1, 2018	September 30, 2021

#### 4. SUPPORT COSTS

Services	Services Part Number	Product Qty	Price
<b>WarrantyPlus</b> ✓ Priority Technical Support: Available 24 X 7 (Unlimited)  ✓ AviatCloud Portal: Available 24 X 7 (Unlimited) Level 2  ✓ Repair Services: ➤ 20 Calendar Day turnaround time on Aviat Networks manufactured equipment ➤ Advance Replacement  ✓ Repair Logistics Program: Shipping covered by Aviat to and from	<b>Contra Costa County</b>		
	SNA-BNWX1003638	• (18) IRU600	\$18,252
	SNA-BNWX1003633	• (38) Truepoints	\$46,398
	SNA-BNWX1003630	• (10) ODU300	\$10,110
	<b>Contra Costa County WarrantyPlus Sub-Total</b>		<b>\$74,760</b>
	<b>Alameda County</b>		
	SNA-BNWX1003638	• (6) IRU600	\$6,084
	SNA-BNWX1003633	• (102) Truepoints	\$124,542
	SNA-BNWX1003630	• (2) ODU300	\$2,022
	<b>Alameda County WarrantyPlus Sub-Total</b>		<b>\$132,648</b>
<b>OEM Extended Warranty</b> ✓ Technical Support: Available 24 X 7  ✓ AviatCloud Portal: Available 24 X 7  ✓ OEM Repair Services: All OEM is an extension of Warranty offered by the Vendor (No advanced replacement); Targeted 30 Calendar Day turnaround time; Based on availability of vendor inventory	<b>Contra Costa County Extended Warranty (OEM)</b>		
	SWW-OMEW000036MC	• (10) Emerson Charger	\$6,372
	SWW-OMEW000036MC	• (1) Sageon Charger	\$531
	SWW-OMEW000036AS	• (16) Asentria Remote Alarms	\$6,000
	SWW-OMEW000036AN	• (13) Commscope Dehydrators	\$4,329
	SWW-OMEW000036FJ	• (9) Fujitsu Sonet Mux	\$27,324
	<b>Contra Costa County Extended Warranty (OEM) Sub-Total</b>		<b>\$44,556</b>
	<b>Alameda County Extended Warranty (OEM)</b>		
	SWW-OMEW000036AS	• (17) Asentria Remote Alarms	\$6,375
	SWW-OMEW000036AN	• (31) Commscope Dehydrators	\$10,323
	SWW-OMEW000036MC	• (29) Emerson chargers	\$15,399
	SWW-OMEW000036FJ	• (14) Fujitsu Sonet Mux	\$42,504
SWW-OMEW000036LR	• (1) Larus Timing Clock	\$840	



		<b>Alameda County Extended Warranty (OEM) Sub-Total</b>		<b>\$75,441</b>		
				<b>Contra Costa County Sub-Total 3-Years</b>		
				<b>\$119,316</b>		
				<b>Alameda County Sub-Total 3-Years</b>		
				<b>\$208,089</b>		
				<b>Contra Costa and Alameda County's Sub-Total 3-Years</b>		
				<b>\$327,405</b>		
				<b>Multi-Year Discount (10%)</b>		
				<b>(\$32,741)</b>		
				<b>Contra Costa and Alameda County's Grand Total 3-Years</b>		
				<b>\$294,664</b>		
				<b>Annual Invoice</b>		
				<b>\$98,221</b>		
<b>Alameda County</b>				<b>Contra Costa County</b>		
	<b>1 year</b>	<b>3 years</b>			<b>1 year</b>	<b>3 years</b>
Radio WarrantyPlus	\$44,216	\$132,648		Radio WarrantyPlus	\$24,920	\$74,760
OEM Extended Warranty	\$25,147	\$75,441		OEM Extended Warranty	\$14,852	\$44,556
Sub-Totals	\$69,363	\$208,089		Sub-Totals	\$39,772	\$119,316
	<b>10% multi-year discount</b>	<b>(\$20,809)</b>			<b>10% multi-year discount</b>	<b>(\$11,932)</b>
<b>Grand Totals</b>	<b>\$69,363</b>	<b>\$187,280</b>		<b>Grand Totals</b>	<b>\$39,772</b>	<b>\$107,384</b>
	<b>Annual Invoice*</b>	<b>\$62,427</b>			<b>Annual Invoice*</b>	<b>\$35,795</b>
<b>Combined Annual Invoice: \$98,221</b>						

\*Multi-Year discount and annual invoice option requires PO for full 3-year amount

## Optional Managed Services (3-Years)

### Corrective Maintenance: **Ground**

<b>Corrective Maintenance Ground</b> ✓ 4-hour SLA Emergency on-site service restoration and equipment fault correction and replacement	SWW-MSCMXX003699	<ul style="list-style-type: none"> <li>• <b>Contra Costa County (26) Sites</b></li> <li>• (36) Dispatches over 3-Years</li> </ul>	\$38,981
	SWW-MSCMXX003699	<ul style="list-style-type: none"> <li>• <b>Alameda County (34) Sites</b></li> <li>• (36) Dispatches over 3-Years</li> </ul>	\$38,981

### Preventive Maintenance: **Ground**

<b>Preventive Maintenance Ground</b> ✓ Dedicated resource on-site to perform system health check ✓ Includes one-hour routine corrective maintenance, performance, and protection testing	SWW-MSPMXX003699	Contra Costa County <ul style="list-style-type: none"> <li>• (26) Annual Site Visits</li> </ul>	\$84,459
	SWW-MSPMXX003699	Alameda County <ul style="list-style-type: none"> <li>• (34) Annual Site Visits</li> </ul>	\$110,447

### Network Monitoring

<b>Remote Monitoring</b> ✓ Around-the-clock monitoring (24 X 7 X 365) via the Aviat Networks Secure Network Operation Center (NOC) ✓ Provides end-to-end operations management solutions	<b>Contra Costa County</b>		
	SWW-MSXXE2XX3699	• Truepoints	\$63,807
		• IRU600	
		• ODU300	
		• Asentria Remote Alarms	\$38,028
		• Commscope Dehydrators	
		• Emerson Chargers	
		• Sageon Charger	
		• Fujitsu Sonet Mux	\$1,935
	• Annual Fee: NOC Router C891F Monitoring Routers		
	<b>Alameda County</b>		
	SWW-MSXXE2XX3699	• Truepoints	\$106,347
		• IRU600	
		• ODU300	
• Asentria Remote Alarms		\$67,287	
• Commscope Dehydrators			
• Emerson Chargers			
• Larus Timing Clock			
• Fujitsu Sonet Mux			

		• Annual Fee: NOC Router C891F Monitoring Routers	\$1,935
<b>Contra Costa County Managed Services Sub-Total 3-Years</b>			<b>\$227,210</b>
<b>Alameda County Managed Services Sub-Total 3-Years</b>			<b>\$324,997</b>
<b>Multi-Year Discount (10%)</b>			<b>(\$55,221)</b>
<b>Contra Costa and Alameda County's Grand Total 3-Years</b>			<b>\$496,986</b>
<b>Annual Invoice</b>			<b>\$165.662</b>
<b>Purchase of 3-Year contract waives the 1-Year Start Up Fee (\$12,600)</b>			

**Pricing Notes:**

- Prices quoted and payable in US Dollars
- Pricing will be valid for 60 days
- Any Purchase Order resulting from this proposal shall be subject to Terms and conditions of sale.
- Prices reflect scope of work as specified within this proposal
- Only the equipment listed in the above table shall be eligible to receive support this includes any spare units purchased under the above Aviat Networks Sales Order Numbers. All consumable items such as cables or batteries are excluded
- Maintenance Agreement does not include any facility maintenance. It will be East Bay Regional Communications System Authority (EBRCSA) responsibility to maintain all towers, shelters, air conditioners, generators and propane tanks (if applicable)
- The Aviat Networks maintenance level agreement requires that all similar products within the network be covered under similar service levels

## 5. SERVICE LEVEL SUPPORT DESCRIPTION

### Access to Aviat Networks Customer Online Technical Support Site

The Customer will have access to the Aviat Networks Customer Online Technical Support web site 24/7 for a variety of tools and support services. Those tools/services include:

1. RMA Request & Status Updates.
2. RMA Reporting such as repair turnaround time performance.
3. Technical Support such as Service Request opening, reporting and status.
4. Information databases such as technical notes, frequently asked questions, solutions for commonly asked technical or operational issues.
5. Software Downloads.
6. Sales Order tracking and status (Eclipse Only).

URL: <http://www.aviatcloud.com/>

### 5.1 REPAIR SERVICES

Repair services are available to the Customer during the standard manufacturing equipment warranty period. This includes any repair or replacement of defective units during the stated warranty period. There may be additional charges during the warranty period for this service if customers are found to be returning a high level of NFF units, require advanced replacements, or send in a non-repairable unit. Prior to the warranty period expiring, customers may procure ongoing access to this support service through the purchase of an extended warranty program or through one of our AviatCare Maintenance support offerings. Otherwise the Repair service is made available for out of warranty products through a Per Incident billing process that can be enabled through our regional RMA Desk. See further details on how repair services are provided below.

All equipment under this specific Maintenance Level Agreement will be covered with our standard Repair / Replace policy. There is no limit to the number of units returned for repair, but customer is subject to the same limitations for

No Fault Found (NFF), damaged beyond repair units, non-returned Advanced replacement units where additional charges may apply:

- a) **Repair Center Support.** Customer shall place all RMA requests at the following link: [https://aviatcloud.com/rma\\_tracking.asp](https://aviatcloud.com/rma_tracking.asp) . This link is available for use 24 hours a day, 7 days a week. Customers can also email or fax RMA requests to the appropriate Aviat Networks Repair Center. Aviat Networks will typically fax or email a confirmation with an RMA reference number within one (1) business day. Requests can also be made via telephone during such Aviat Networks Repair Center's Business Hours.

For Aviat Networks to process an RMA request, the customer must provide the following information:

- Company name;
- Shipping and billing address;
- Part Number;
- Serial Number of the defective unit(s)
- Unit software load;
- Description of the suspected failure;
- Whether any special requirements exist;
- Maintenance Level Agreement contract number (if applicable); and
- Provide a purchase order at the applicable price for billable requests. Billable requests include any request for express service regardless of warranty status. Contact your local Aviat Networks Repair Center for price information.

- b) **Turnaround Time.** Aviat Networks will provide a Turnaround time on repair as per the following:

- 20 Calendar Day turnaround time on Aviat Networks manufactured equipment
- 45 Calendar Day turnaround on Aviat Networks Manufactured Discontinued equipment

- c) **Turnaround Time Calculation.** Turnaround time is measured from the time that a Returned Unit is received at the Aviat Networks Repair Center, which will be advised at time of issuing a RMA, until the time that it is shipped from the Aviat Networks Repair Center. Thus, the measurement of turnaround time does NOT begin when the Returned Unit is shipped from Customer's premises and does NOT include the shipping time accrued after the Returned Unit is shipped from the Aviat Networks Repair Center to Customer's premises. Additionally, Turnaround time will not be guaranteed in the following situations:

- If more than five (5) Units of the same type or more than ten (10) Units of any type are received at the same time.
- Missing information such as failure details, return shipping address, shipping instructions and/or any other information that may affect the start of the repair process of the shipment of the Returned Unit as the repair completed.
- Any Returned Unit is deemed No Fault Found.
- Any Returned Unit received due to any of the reasons listed in the [Exclusions from Repair & Return](#) Clause of this Section.
- Any Returned Unit received improperly packaged and therefore sustained physical or electrostatic damage in shipping.
- Returned Units placed in Isolation.
- Event of Excusable Delay as described under the [Excusable Delay](#) Clause of the Additional Terms & Conditions Section of this Agreement.

- d) **OEM.** For OEM, repair turnaround times are set by the OEM supplier. Aviat Networks close working relationship with OEM suppliers assures the best possible turnaround time. These times will be communicated to customer at time of RMA issuance.

- e) **Packaging and Shipping Procedures.** Both Aviat Networks and the Customer are obligated to ensure that all deliveries are packaged in such manner as to achieve suitable mechanical and environmental protection during storage, handling and transport to the delivery address. Electrostatic Discharge (ESD) precautions should be

followed during handling and packaging of all Units delivered. For each consignment of Units shipped to Aviat Networks, the Customer must provide a detailed Packing List and Commercial (Proforma) Invoice to support the delivery. Each Commercial Invoice must clearly state the full description, the value of each Unit and the RMA Number. Once a Unit has been repaired and shipped to the Customer at the address provided by the Customer upon RMA request, Aviat Networks will send a pre-alert notification to the Customer comprising a faxed copy of the Commercial Invoice and Airway Bill Number pertaining to the shipment.

- f) **Exclusions from Repair & Return.** The services to be rendered by Aviat Networks under this Agreement shall not comprise any damage, defects, malfunctions or failures caused by one or more of the following:
- Damage caused by mishandling, customer or third-party negligence, abuse or operation outside the Aviat Networks environment specifications, or due to a cause not solely attributed to Aviat Networks.
  - Modifications, alterations, or repairs made other than by Aviat Networks.
  - Damages by persons other than Aviat Networks or its authorized service providers.
  - Any modification, removal or obliteration of a serial number or other identifying mark or any attempts thereof other than by Aviat Networks' authorized personnel.
  - Damage that occurs during shipment from the Customer premises to Aviat Networks' premises outside the RLP (if applicable).
  - Installed, stored, used, handled or maintained contrary to Aviat Networks' written instructions.
  - Used in conjunction or combination with third-party material or equipment without the consent of Aviat Networks.
  - Units returned for repair where there has been misuse, neglect, power failures, surges, accident or acts of nature such as fire, lightning strikes or flood.

Repairs necessitated during the Agreement period by any of the above causes may be made by Aviat Networks, and the Customer shall pay Aviat Networks' standard charges for time and materials, together with all shipping and handling charges arising from such repairs.

- g) **Stockpiling of Failed Units.** The Customer agrees to obtain an RMA Number for all failed Units from an Aviat Networks Repair Center immediately following a failure and return the Units for repair immediately after receipt of the RMA Number from Aviat Networks. The customer agrees that this Agreement will not apply retrospectively to cover any Units failed and in the Customer's possession prior to the execution date of this Agreement and will not apply to any Units for which RMA Numbers had already been obtained from Aviat Networks prior to the date of execution of this Agreement. Following execution of this Agreement the Customer agrees not to stockpile failed Units and accepts that Aviat Networks will not be required to meet the Turnaround Times outlined in this Agreement if the Units are not returned to Aviat Networks on receipt of an RMA Number or if they are stockpiled.
- h) **No Fault Found Fee.** If the number of Returned Units that the Customer reports are defective, but are thereafter tested by Aviat Networks and found to meet the applicable Aviat Networks Product specifications, exceeds ten percent (10%) of the total number of Returned Units received by Aviat Networks from the Customer during each year of the Support period, then Aviat Networks will charge the Customer the then-current [No Fault Found](#) inspection fee for each such non-defective Returned Units in excess of such ten percent (10%).
- i) **Damaged Beyond Repair.** Returned Units that Aviat Networks (in its sole discretion) determined are damaged Beyond Repair or have been repaired (or otherwise modified) by a party other than Aviat Networks will be placed in Isolation. The Customer shall be advised by fax or e-mail, within ten (10) days working days, of the nature and extent of the damage. The Customer shall be responsible for informing Aviat Networks of the next course of action. If the Customer decides to replace the Unit(s), they must follow the usual purchasing process. Note: If the Returned Unit is no longer in current manufacture and/or is OEM, Aviat Networks will not guarantee availability of a Unit for sale.

## 5.2 ADVANCE REPLACEMENT

Advance Replacement provides the Customer with shipments of a limited number of Units intended as an advanced replacement of Returned Units, upon the Customer's request. The service encompasses the following:

- a) **Repair Center Support.** Customer shall place Advance Replacement requests at the following link: [https://aviatcloud.com/rma\\_tracking.asp](https://aviatcloud.com/rma_tracking.asp). This link is available for use 24 hours a day, 7 days a week. Customers can also email or fax the RMA request to the Aviat Networks Repair Center. Aviat Networks will typically fax or email a confirmation with an RMA Number within one (1) business day. Requests can also be made via telephone during such Aviat Networks Repair Center's Business Hours.
- b) **Shipping Costs.** Customer is responsible for all charges associated with shipping the Returned Unit to the designated Aviat Networks Repair Center, which shall be made pursuant to the delivery term DDU (Delivered Duty Unpaid) Aviat Networks Repair Center (Incoterms:2000). Aviat Networks is responsible for the charges associated with shipping the Returned Unit back to the Customer, which shipment shall be made pursuant to the delivery term DDU (Delivered Duty Unpaid), Customer's premises (Incoterm:2000).
- c) **Packaging and Shipping Procedures.** Both Aviat Networks and the Customer are obligated to ensure that all deliveries are packaged in such manner as to achieve suitable mechanical and environmental protection during storage, handling and transport to the delivery address. Electrostatic Discharge (ESD) precautions should be followed during handling and packaging of all Units delivered. For each consignment of Units shipped to Aviat Networks, the Customer must provide a detailed Packing List and Commercial (Proforma) Invoice to support the delivery. Each Commercial Invoice must clearly state the full description, the value of each Unit and the RMA Number. Once a Unit has been repaired and shipped to the Customer at the address provided by the Customer upon RMA request, Aviat Networks will send a pre-alert notification to the Customer comprising a faxed copy of the Commercial Invoice and Airway Bill Number pertaining to the shipment.
- d) **Returned Unit.** If this Agreement entitles the Customer to the RLP Program and the Customer elects to use it for the Returned Unit, the Customer will be invoiced for the List Price of the Advance Replacement Unit(s) if Aviat Networks does not receive notification to pick-up the pertinent Returned Unit, at most, ten (10) days after Customer's receipt of the Advance Replacement Unit. In the event that the Customer is not entitled to the RLP Program or the Customer elects to return the Returned Unit to Aviat Networks via a freight forwarder outside of the RLP Program, the Customer will be invoiced for the List Price of the Advance Replacement Unit if Aviat Networks does not receive the pertinent Returned Unit at the Aviat Networks Repair Center within, at most, thirty (30) days after receipt of the Advance Replacement Unit. The Returned Unit will become the property of Aviat Networks. The Customer agrees that the Returned Unit must be repairable and does not fall into any of the categories listed in the [Exclusion from Advance Replacement](#) clause.
- e) **Exclusion from Advance Replacement.** The services to be rendered by Aviat Networks under this Agreement shall not comprise any damage, defects, malfunctions or failures caused by one or more of the following:
  - Damage caused by mishandling, customer or third-party negligence, abuse or operation outside the Aviat Networks environment specifications, or due to a cause not solely attributed to Aviat Networks.
  - Modifications, alterations, or repairs made other than by Aviat Networks.
  - Damages by persons other than Aviat Networks, or its authorized service providers.
  - Any modification, removal or obliteration of a serial number or other identifying mark or any attempts thereof other than by Aviat Networks' authorized personnel.
  - Damage that occurs during shipment from the Customer premises to Aviat Networks' premises outside the RLP (if applicable).
  - Installed, stored, used, handled or maintained contrary to Aviat Networks' written instructions.
  - Used in conjunction or combination with third-party material or equipment without the consent of Aviat Networks.

- Units returned for repair where there has been misuse, neglect, power failures, surges, accident or acts of nature such as fire, lightning strikes or flood.
- f) **No Fault Found Fee.** If the number of Returned Units that the Customer reports are defective, but are thereafter tested by Aviat Networks and found to meet the applicable Aviat Networks Product specifications, exceeds ten percent (10%) of the total number of Returned Units received by Aviat Networks from the Customer during each year of the Support period, then Aviat Networks will charge the Customer the then-current [No Fault Found](#) inspection fee for each such non-defective Returned Units in excess of such ten percent (10%).
  - g) **Limits.** Customer is entitled to receive a limited number of Advance Replacement Units per year. This number is not to exceed ten percent (10%) of the total Repair & Return requests during that year. Accrued Advance Replacement Units that have not been requested by the Customer may not be carried over to the next year. Additional Advance Replacement Units will be provided at Aviat Networks' then current prices, terms and conditions.
  - h) **Unavailability.** If an Advance Replacement Unit is not available, then Aviat Networks will repair the Returned Unit within a mutually agreed Turnaround time. Customer agrees that repair of the Returned Unit shall be Aviat Networks' sole obligation, and the Customer's sole remedy, if an Advance Replacement Unit requested by the Customer is not available.
  - i) **Turnaround Time Commitments.** Standard Advanced Replacement service ensures customer will receive a comparable unit to the one being returned within 3 to 5 business days from date of RMA. If customer requires a replacement unit in a shorter period, there is an added charge for this and based on replacement unit availability will be delivered on a next business day basis. Customer will be informed at time of RMA request whether this service can be provided or not depending on component availability.

### 5.3 REPAIR LOGISTICS PROGRAM (RLP)

Aviat Networks shall provide free freight to the Customer for all Units returned via the Aviat Networks Repair Logistics Program (RLP). If the Customer returns units to Aviat Networks via a freight forwarder outside of this Program, all freight expenses and damage liability will be the responsibility of the Customer. Aviat Networks is responsible for all tariffs, duties, or taxes associated with importing Units for repair. After the repair, the Units shall be returned to the Customer DDU (Delivered Duty Unpaid) Customer's premises (Incoterms 2000). To implement the return of a Unit via this Program the Customer shall request an RMA for the Unit using the link in the [Repair Services](#) or [Advance Replacement](#) Sections or the contact information as listed in the [Aviat Networks Contacts](#) Section.

**Liability of Units Damaged During Shipping.** Aviat Networks will assume responsibility for insuring the Units against loss or damage that is moving via the RLP. The Customer shall examine the condition of all shipments returned from Aviat Networks via the RLP at the time of delivery. Visible signs of damage shall be brought to the attention of the carrier and the contents shall be examined for damage immediately. Aviat Networks will not be liable for any direct reports by the Customer for Units that are found to be damaged upon receipt by the Customer that are made over seven (7) days after the Units have been delivered. Units damaged through transit shall be returned for repair at Aviat Networks through the normal return process. Damage or loss incurred to Units shipped to Aviat Networks by the Customer outside the RLP shall be the responsibility of the Customer.

### 5.4 REMOTE TECHNICAL SUPPORT 24 X 7

Customer 24 X 7 Remote Support

24 X 7 Remote Support provides around-the-clock (24 X7) telephone access to Aviat Networks' Technical Assurance Center to resolve Critical Service Requests, Major Service Requests, Minor Service Requests and Inquiry Service Requests.

- a) **Telephone Number.** Customer may contact Aviat Networks' Technical Assistance Center (TAC) regarding such Service Requests via telephone at any time during normal business hours. **OR** Customer may contact Aviat

Networks' Technical Assistance Center (TAC) regarding such Service Requests via telephone at any time during the day or night. For night support services (after business hours in the local time zone), Aviat Networks will handle all such requests that are Critical or Major that the Customer reasonably categorizes as being High Priority. In addition, with this service customer can pre-schedule after hours support when doing a new software installation or a network upgrade related to covered equipment.

- b) **Rapid Response Time.** Aviat Networks will route Critical Service Requests to the appropriate TAC subject matter expert within fifteen (15) minutes of call receipt.
- c) **Service Request Number.** Aviat Networks will assign, to each Service Request, a number that will be logged, tracked and stored in our Case Management database.
- d) **Service Request Management.** Aviat Networks will dedicate continuous attention to Critical and Major Service Requests until service is restored or request is closed. Aviat Networks will work to resolve the Service Request until Customer accepts the proposed solution, at which point the TAC will close the Service Request.
- e) **Documented Escalation Procedures.** Aviat Networks will implement internal escalation and notification procedures in order to facilitate the timely resolution of Service requests by a TAC Engineer with an adequate level of expertise. The technical support process includes rigid managerial escalations that are intended to facilitate the appropriate handling of recovery efforts and Customers being regularly updated on the status of the Service Request. Additional information on this escalation process is available in our Global Network Service Customer Support guidelines document available on our website at [www.aviatnetworks.com](http://www.aviatnetworks.com).
- f) **Service Request Submission.** Under this Agreement, there is no limit to the number of Service Requests that Customer may submit for resolution. Customer may also define and authorize specific users within its organization to have access to this Service Request Submission Service. To ensure appropriate management of this support Aviat Networks has implemented a Support Assurance Program where an Express PIN will be assigned to each customer which clearly identifies the level of service a customer is entitled to receive. All Service Request Submissions will require Express PIN information prior to being submitted.

#### Service Request Severity Classifications

There are four (4) Service Request severity classifications: (a) Critical; (b) Major; (c) Minor; and (d) Inquiry. Critical, Major and Minor Service Requests pertain to problems in the Product. Inquiry Service Requests pertain to questions about the Product or Services. The four (4) Service Request severity classifications are defined as follows:

- a) **Critical Service Requests** are those that severely affect service, traffic, billing and/or maintenance capabilities, and require immediate corrective action (regardless of the time of day or day of the week).
- b) **Major Service Requests** are those that cause conditions that seriously affect Product operation, maintenance and/or administration, and require immediate attention. The urgency is less than in Critical Service Requests because of a lesser immediate or impending effect on Product performance, customer and/or network operation and revenue.
- c) **Minor Service Requests** are problems that are tolerable during Product use, do not significantly impair the functioning of the Product and do not significantly affect service to customers.
- d) **Inquiry Service Requests** are questions about technical details concerning the usage or behavior of the Product.

## 5.6 CORRECTIVE MAINTENANCE

Corrective maintenance provides for the dispatch of the necessary support personnel and test equipment for the purposes of diagnosing a problem, restoring service or correcting a service request that Aviat Networks has unsuccessfully attempted to resolve remotely from one of our Technical Assistance Centers.



All sites under maintenance must have undergone full commissioning and proven to be in good working condition. The Customer shall make available site commissioning and acceptance data if requested by Aviat Networks.

The service is provided according to the following Service Level Agreement (SLA):

CRITICAL FAULTS	4 Hours
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Aviat Networks shall use its best effort to be onsite within four (4) hours of the Aviat Networks first level support personnel receiving emergency onsite support requests. Notwithstanding anything contained herein to the contrary, all services provided may be performed by Aviat Networks directly or through one or more qualified Subcontractors. Aviat Networks shall coordinate, supervise, manage and be responsible for the services of all the Subcontractors.

**Limitations:** In order to meet the on-site SLA response requirements, the Customer is responsible for providing access to difficult to reach sites (i.e. site not accessible by public road using 2 wheel-drive vehicles or those requiring specialized transport vehicles) or to sites that require customer presence. The customer is responsible for provisioning and making available spare parts.

## 5.7 PREVENTIVE MAINTENANCE

Preventative Maintenance provides a resource to work with the customers in reviewing operational aspects related to the performance of Microwave equipment and associated software within the customer's network. A resource will come on-site to all customer locations covered under the associated agreement for this service. Once analysis is complete, Aviat Networks will provide a written summary of findings and recommendations related to the work that has taken place.

An engineer is deployed to site as per the customer and Aviat agreed upon schedule commitment for this service. A system health check on Aviat Networks' equipment will be completed which includes performance testing and an analysis of historical data. A visual site audit is included under this service offering, which includes the following: (Complete Checklist in Attachment 1: Preventive Maintenance Checklist)

- Spot check Internal and external grounding
- Visual inspection of indoor and outdoor equipment
- Visual inspection of all cables, connectors, weather proofing
- Verify DC power levels

During the on-site time, the Aviat Networks' resource may recommend routine maintenance to the customer – which will be the responsibility of the customer to perform - and the Aviat Networks resource may, with the customer's agreement, perform routine upgrades to operating firmware or software that do not require network downtime. This preventative service work covers all Aviat Networks Microwave radio equipment, associated OEM equipment, DC systems and the Antenna Systems.

A final report will be presented to the customer stating findings, conclusions and any further recommendations. This preventative service work includes one day of time to visit with customer and review in detail the findings from preventative analysis effort.

## 5.8 REMOTE MONITORING SERVICES

Aviat Networks' Managed Network Services solution provides customer with a bundled offering that combines traditional network monitoring and event management services with fault resolution to offer end-to-end operations management solutions. When bundled together, services in this portfolio offer a broad, all-in-one-solution set managed through a single point of contact – the Aviat Network Management Center (NMC). Aviat Networks is providing customer with the following bundled services:

- **Surveillance and Network Monitoring**
  - Continuously monitor network elements.
  - Detect / Identify Faults and Alarms
- **Event Management**

- Triage**
      - Correlate Alarms where appropriate
      - Review Maintenance Schedules / Weather Patterns / Known Issues
      - Assess Severity and Service Impact
    - Troubleshooting**
      - Diagnose and isolate the fault / alarm
      - Coordinate restoration and repair – remotely or onsite
      - Actively manage the event from "cradle to grave."
      - NOTE: Aviat Networks strives to troubleshoot and resolve issue remotely prior to or in place of dispatching field resources to site. This is facilitated through our close linkage between the NOC and our Technical Support staff who are co-located with our primary NOC facility. Allows us to bring 50+ years of Microwave and Wireless Networking experience to bear on an issue.
  - **Notification**
    - Report events to customer in real-time via Phone / Email / Portal
  - **Trouble Ticketing**
    - Document the fault
    - Manage ticket until fault is resolved
    - Generate trouble ticket reports
    - Capture lessons learned from each incident into our Knowledgebase for future reference
  - **Call out and Dispatch**
    - Dispatch field operations and vendors for physical analysis and repair
    - Coordinate all aspects of the dispatch to ensure right resource is at the right location with the right tools / equipment to resolve the problem within the SLA commitment.
  - **Failure Analysis**
    - Generate a post mortem report to document issue / lessons learned as appropriate
    - Drive continuous improvement of process and tools
  - **Reporting**
    - Monthly reports – Performance to SLA / Network Performance

Aviat Networks strives to troubleshoot and resolve issues remotely prior to or in place of dispatching field resources to site. When an alarm is received in the Aviat NOC, the team will apply their years of microwave expertise in determining the root cause. We will review and correlate all alarms, look at weather, RSL's, SNR, etc. After troubleshooting and it is determined an emergency onsite dispatch is required, the following process will be followed.

- NOC generates Case to track all aspects of identified issue
- NOC reviews site issues to ensure there are no pre-required approvals needed
- NOC requests dispatch and identifies all pre-requisites including required hardware if hardware failure is identified as the root cause from remote troubleshooting
- NOC confirms dispatch in process to all parties with estimated ETA
- Once Tech onsite, SLA time is logged into case and Conference Bridge is initiated with NOC
- Issue is resolved / workaround completed and Ticket is closed by NOC
- Email notification is sent to all identified parties to alert them to closure
- Tech takes failed unit (assuming hardware failure) and processes through the Aviat RMA process
- Tech also updates Spares inventory identifying hardware removed and what hardware is being processed via the RMA process.

#### 5.8.1 Aviat Networks Support process – NOC & TAC

- Tier 1: NOC Personnel
  - NOC Engineer receives alarm notification from our monitoring tools, opens a Support Case and based on Customer and Product data, reviews potential impact. Looks at all aspects of the site impacted to understand potential impact from Scheduled Maintenance, Weather, and finally the equipment itself. If after initial review of all aspects that NOC can access, NOC will initiate a field dispatch. At the same time, if not successful in identifying the specific issue impacting performance of the network, will escalate to the next tier of support within Aviat (Tier 2). Within the TAC team, NOC escalations take priority over all other customer issues – other than an outage that may be occurring in a customer's network.
  - The NOC Engineer will identify the severity (Critical, Major, Minor) at the time of escalation to the TAC team. This is driven based on parameters set in our agreed SLA with the customer and can also be overridden directly by customer requesting a higher level of severity.

- ~90%+ of trouble tickets are resolved within the NOC without any interaction with TAC
- Tier 2: TAC
  - If the problem is not resolved within the target resolution time – associated with each of the severity levels, then there is an automatic process by which the issue will escalate to the next level of support to pursue resolution, at this time notification also takes place to Management identifying fact issue has went beyond our accepted timeframe for resolution.
  - Tier 2 generally is required when the issue is beyond simple hardware failures. Usually involves some level of configuration, hardware not operating exactly as specified, or when problem is intermittent in nature.
  - ~8% of trouble tickets are resolved within Tier 2 after escalation from the NOC.
- Tier 3: TAC
  - If the problem is not resolved within the target resolution time, after Aviat Networks initiates the troubleshooting process, then Aviat Networks will escalate to management and next level of support to pursue resolution.
  - Tier 3 TSE typically gets involved when there are complex interoperability issues identified between the microwave and other components in the network, when problem appears to be software related (i.e., a bug), or when new products or software have been introduced into the network and cause issues not previously seen before.
  - ~2% of trouble tickets are resolved within Tier 3 after escalation from Tier 2.

#### 5.8.2 SLA

SR Priority Level	Alarm Severity	Event / Alarm Ack	Customer Event Alarm Notification	Aviat Reaction Time	Usage	Response
<u>1</u>	<u>CRITICAL (Service Affecting)</u>	<u>&lt; 5 min</u>	<u>&lt; 10 min</u>	<u>&lt; 15 min</u>	<u>Used for events that is currently impacting service or ability to view network elements (LOV).</u>	<u>Outages are referred to Emergency Recovery immediately. Immediate and continuous effort and escalation until resolved or restored to pre-incident condition or work around is implemented. Resolved or referred to Tier II/III support group.</u>
<u>2</u>	<u>MAJOR (Non-Service Affecting)</u>	<u>&lt; 30 min</u>	<u>&lt; 60 min</u>	<u>&lt; 75 min</u>	<u>Used for in-service trouble conditions that does not affect service nor qualify as a loss of redundancy. Typically, these conditions if unresolved will not result in a Priority 1 event.</u>	<u>Resolved or referred to Tier II/III support group. Continuous effort until either a) service level is restored to pre-incident, b) acceptable workaround is implemented, or c) an action plan is instated that will meet MTTR requirements.</u>
<u>3</u>	<u>MINOR</u>	<u>&lt; 30 min</u>	<u>Monthly Summary</u>	<u>&lt; 12 hrs.</u>	<u>Used for non-service affecting conditions that if not resolved will not result in a Priority 1 or 2 events or issue.</u>	<u>Resolved or referred to Tier II/III support group</u>

- Phone call wait time: Answer calls by live person within 30 seconds (average) with a maximum wait time of 5 minutes. A direct line will be provided.
- Email response time: Acknowledge email requests by live person within 15 minutes
- The maximum amount of time between the occurrence of condition that requires crew dispatch and the crew dispatch phone call is made: < 60 minutes

## 6. PAY-PER-INCIDENT SERVICES & PRICING

Customer may purchase, subject to availability, one (1) or more Pay-Per-Incident Services for any Aviat Networks Product. A summary of the current pricing applicable to the Pay-Per-Incident Services is set forth further in this Section. The current pricing may be revised by Aviat Networks at any time. Pay-Per-Incident definitions, descriptions and pricing is listed and regularly updated in the Aviat Networks Global Network Service [Customer Support Guidelines](#) document located on our website, in the [Services » AviatCare » Support Services](#) section. The Customer will be invoiced for any Pay-Per-Incident Services promptly following Aviat Networks performance thereof.

PAY-PER-INCIDENT SERVICE	PRICING APPLICABLE TO IN-WARRANTY (PER UNIT)	PRICING APPLICABLE TO MAINTENANCE COVERED (PER UNIT)	PRICING APPLICABLE TO OUT-OF-WARRANTY (PER UNIT)
Repair	Free of charge	Free of charge	Fixed Repair price based on the current list price of the defective unit. Contact the local Aviat Networks Repair Center.
Advance Replacement <sup>1</sup>	Based on list price of the unit for standard Advanced Replacement requests, Expedited Advanced Replacement is an additional \$750/FRU	Subject to terms in the Agreement – Can be no additional charge	Fixed Replacement price. Contact the local Aviat Networks Repair Center.
No Fault Found	No Charge, as long as total NFF does not exceed 10% of returns	Free of charge providing quantity does not exceed ten percent (10%) of the total number of Returned Units received by Aviat Networks from Customer during each year of the Support Period.	Standard Unit Repair price. Contact the local Aviat Networks Repair Center.

## 7. AVIAT NETWORKS CONTACTS

Outlined below is the process to contact Aviat Networks once the Agreement is effect.

<b>For Questions or concerns on the Agreement either before or after it is in effect, please contact:</b>	
<b>NORTH AMERICA</b> <b>Repairs, Returns &amp; Advance Replacements</b> Phone: 1--800-227-8332 (selecting Option 2, then 1)  Direct number: 1-210-526-6345  Fax: 1-210-526-6315  E-mail: <a href="mailto:CustomerCare.Americas@aviatnet.com">CustomerCare.Americas@aviatnet.com</a>  Online RMA Request: <a href="https://aviatcloud.com/rma_tracking.asp">https://aviatcloud.com/rma_tracking.asp</a>	<b>NORTH AMERICA</b> <b>Technical Assistance</b> Phone: 1-800-227-8332 (Option1, enter PIN, press 1 to confirm PIN, then Option 1 for TAC)  Direct number: 1-210-526-6345  Fax: 1-210-526-6315  E-mail: <a href="mailto:TAC.AM@aviatnet.com">TAC.AM@aviatnet.com</a>  Online Technical Assistance Request: <a href="http://www.aviatcloud.com">www.aviatcloud.com</a>
	NOC Program Manager:

<p><b>NORTH AMERICA</b></p> <p><b>Network Operations Center (NOC)</b></p> <p>Aviat NOC Contacts:  Email: <a href="mailto:noc.notifications@aviatnet.com">noc.notifications@aviatnet.com</a>  Phone: 877-662-7871 opt 1, 24x7</p>	<p>Kevin Baxter  Phone: 210-526-6352 Email: <a href="mailto:kevin.baxter@aviatnet.com">kevin.baxter@aviatnet.com</a></p> <p>NOC Escalation Contacts:  Sr. Manager  Ramon Morales  Phone: 210-526-6426  Email: <a href="mailto:ramon.morales@aviatnet.com">ramon.morales@aviatnet.com</a></p>
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## 8. ADDITIONAL TERMS AND CONDITIONS

This agreement is between the party purchasing services described herein (the “Customer”) and, for Customers located in the United States or outside of the United States, with Aviat U.S., Inc., a wholly owned subsidiary of Aviat Networks Inc., with offices at 860 N McCarthy Blvd, Suite 200, Milpitas, CA 95035 hereinafter referred to as “Aviat Networks”.

### 8.1 SCOPE OF SERVICES

Aviat Networks will furnish the services outlined in the [Service Level Support](#) Section of this Agreement hereinafter referred to as “Services” for the Products for Customer as may be required from time to time for the period specified in the [Duration of Support Period](#) Section providing receipt and acceptance of the Customer’s purchase order. The Services will be provided in conformity with the terms, conditions, specifications and other requirements of this Agreement and each request for Services will be governed by the terms and conditions stated herein.

The Customer must ensure that the Products to be included in this Agreement be in good operating condition prior to the commencement of this Agreement. Aviat Networks reserves the right to inspect any and all of the Products to be included in the Agreement prior to the commencement of the Agreement, and if the Product is found to be defective, the Customer shall be responsible for the cost of repair of the defective units.

An authorization to return Units to Aviat Networks under this Agreement must be obtained from an Aviat Networks representative prior to making shipment to the Aviat Networks’ Repair Center. Aviat Networks warrants that each Unit that is repaired or replaced under this Agreement, shall, at the time of return to Customer, for a period of ninety (90) days thereafter or until the expiration or termination of this Agreement, whichever is longer, be free from defects in materials and workmanship. Such warranty shall not include any consumable components to which a specific manufacturer’s guarantee applies. If any Unit shall prove to be defective in materials or workmanship under normal intended usage, operation and maintenance during the term of this Agreement, as determined by Aviat Networks after examination of the Unit claimed to be defective, then Aviat Networks shall repair or replace, at Aviat Networks’ sole option, such defective Unit, in accordance with procedures specified herein, at no additional cost, exclusive, however, of the cost of labor by the Customer’s own employees, agents or contractors in identifying, removing or replacing the defective part(s) of the Units.

Liability of Aviat Networks for breach of any and all warranties hereunder is expressly limited to the repair or replacement of defective Units as set forth in this Agreement, and in no event shall Aviat Networks be liable for special, incidental or consequential damages by reason of any breach of warranty or defect in materials or workmanship. Aviat Networks shall not be responsible for repair or replacement of Products which have been subjected to neglect, accident (including fire, flood, storm, lightning strike, or other act of God), Customer’s fault or negligence or improper use, or Products which have been altered by anyone other than Aviat Networks or an agent authorized by Aviat Networks or Products that are not repairable due to component availability.

Expedited Services such as Emergency Repair may be requested and will be executed based on inventory availability only. Expedited Services such as but not limited to Emergency Repair, etc. are not included in the Program and will be quoted at time of service request.

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER ORAL, WRITTEN, EXPRESSED, IMPLIED, OR STATUTORY. IN PARTICULAR, THE IMPLIED WARRANTIES OF FITNESS FOR PARTICULAR PURPOSE AND MERCHANTABILITY ARE HEREBY DISCLAIMED AND SHALL NOT BE APPLICABLE EITHER FROM AVIAT NETWORKS OR ANY OTHER EQUIPMENT MANUFACTURER. AVIAT NETWORKS’ WARRANTY OBLIGATIONS AND CUSTOMER’S REMEDIES THEREUNDER ARE SOLELY AND

EXCLUSIVELY AS STATED HEREIN. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CONTRACT, UNDER NO CIRCUMSTANCES SHALL AVIAT NETWORKS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY CLAIMING UNDER CUSTOMER FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, OR LOSS OF CAPITAL, REVENUE OR PROFITS AS A RESULT OF A BREACH OF ANY PROVISION OF THIS CONTRACT. CUSTOMER HEREBY INDEMNIFIES AVIAT NETWORKS AGAINST ALL LOSS OR LIABILITY FROM CLAIMS BY CUSTOMER OR A THIRD PARTY ARISING OUT OF OR RELATING TO THE INSTALLATION, OPERATION, OR USE OF THE EQUIPMENT, WHETHER ON ACCOUNT OF NEGLIGENCE OR OTHERWISE. IN NO EVENT SHALL AVIAT NETWORKS' LIABILITY TO CUSTOMER, OR ANY PARTY CLAIMING THROUGH CUSTOMER EXCEED THE LESSER OF \$100,000.00 USD OR THE ACTUAL SALES PRICE PAID BY CUSTOMER FOR ANY ITEMS SUPPLIED HEREUNDER.

## 8.2 PRICES/PAYMENT/TAXES/SHIPPING

All payments shall be made via check to the accounts specified on the invoice, in full in Advance of the commencement of each year of service/coverage. The total amount is due and payable to Aviat Networks within thirty (30) days of the invoice date, subject to credit approval. In the event any payment due by Customer hereunder is past due, Aviat Networks reserves the right to withhold Services until such payment is received. Prices and payment terms for Services or Products not included in this Agreement, such as Emergency Repair, etc., will be established on a case-by-case basis subject to the mutual agreement of the parties.

All prices are exclusive of all sales, use, excise, and other taxes, duties or charges. Unless evidence of tax exempt status is provided by Customer, Customer shall pay, or upon receipt of invoice from Aviat Networks, shall reimburse Aviat Networks for all such taxes or charges levied or imposed on Customer, or required to be collected by Aviat Networks, resulting from this transaction or any part thereof.

All shipments made by Aviat Networks under this Agreement are made via the methods (as applicable) outlined in the [Repair Services](#) and/or [Advance Replacement](#) Sections or the [Repair Logistics Program](#) Section (if purchased) of this Agreement. Unless instructed otherwise, Aviat Networks will arrange for standard commercial shipping. In the event Customer requires other than standard commercial shipping, Customer will be responsible for any additional costs incurred. Responsibilities regarding the export of items delivered under this Agreement are detailed in the [Export and Re-Export Restrictions](#) and [Export Documents](#) Sections below.

Late payments shall result in the assessment of a late charge equal to one and one-half percent (1 ½%) per month on any outstanding balance, or the maximum amount of interest chargeable by law, whichever is less.

## 8.3 EXPORT AND RE-EXPORT RESTRICTIONS

Performance and delivery of the equipment, documents, Services and Software sold or delivered hereunder are subject to export control laws and regulations of the United States, as applicable, and conditioned upon receipt of required U.S. Government licenses and approvals by Aviat Networks. Customers shall not export or re-export Products or technical data delivered hereunder from the United States without complying with regulations of the Bureau of Export Administration of the United States Department of Commerce, as applicable. Customers shall not re-export the Products and technical data delivered hereunder from the country of delivery or to any facility engaged in the design, development, stockpiling, manufacturing or use of missile, chemical or biological weapons without fully complying with the regulations of the above United States government agencies. Customer warrants that it will comply with the United States Foreign Corrupt Practices act of 1997, as amended. Customer shall defend, indemnify and hold Aviat Networks harmless from and against any loss, damage, or liability arising out of Customer's failure to comply with this Section.

## 8.4 EXPORT DOCUMENTS

Customer shipments, under this Agreement, to Aviat Networks shall be made via the methods (as applicable) outlined in the [Repair Services](#) and/or [Advance Replacement](#) Sections or the [Repair Logistics Program](#) Section (if purchased) of this Agreement. Customer shall be responsible for insurance and for clearing incoming Products through customs in their country.

Customers shall be responsible for obtaining any necessary import licenses into the country of delivery. Aviat Networks shall provide certificates of delivery, affidavits of origin, and other information under its control which is necessary for Customer to import Products.

Customers shall provide all information, certificates and Letters of Assurance necessary for Aviat Networks to obtain any export licenses required for Aviat Networks to export Products out of the country for repair, as applicable. Aviat Networks shall be responsible for selection and/or approval of freight forwarder(s). In the event that Customer wishes to utilize a freight forwarder that is not acceptable to Aviat Networks, Customer shall be the shipper of record and shall be responsible for obtaining required export licenses which shall be in the name of the Customer.

#### 8.5 EXCUSABLE DELAY

Aviat Networks shall be excused from performance under this Agreement and not be liable to Customer for delay in performance attributable in whole or in part to any cause beyond its reasonable control, including but not limited to, actions or inactions of government whether in its sovereign or contractual capacity, judicial action, war, civil disturbance, insurrection, sabotage, act of a public enemy, labor difficulties or disputes, failure or delay in delivery by Aviat Networks' suppliers or subcontractors, transportation difficulties, shortage of energy, materials, labor or equipment, accident, fire, flood, storm or other act of God, or Customer's fault or negligence.

In the event of an excusable delay, Aviat Networks shall make reasonable efforts to notify Customer of the nature and extent of such a delay and Aviat Networks (i) will be entitled to a schedule extension on at least a day-for-day basis, (ii) in the event of Customer's fault or negligence, will be also entitled to an equitable adjustment in the price of this contract.

#### 8.6 TERMINATION

Either party may terminate this Agreement upon ninety (90) days written notice without cause. In such event, Aviat Networks shall refund to Customer a pro-rated amount of the annual fee paid based on the complete months remaining in the term. In the event Customer terminates the Agreement without cause earlier than the ninth (9th) month of each year of the Agreement, Aviat Networks reserves the right to retain the pro-rated amount of the annual fee through the month of termination or the actual cost incurred by Aviat Networks hereunder, whichever is greater.

Either party may terminate this Agreement immediately upon notice in writing to the other party if the other party shall breach any provision of this Agreement in any respect and such breach remains un-remedied thirty (30) days after notice thereof from the non-breaching party. In the event this Agreement is terminated due to the breach of Customer, Aviat Networks shall retain the entire amount of the annual fee paid by Customer.

The right of termination provided herein is absolute and neither party shall be liable to the other for damages or otherwise by reason of such termination.

#### 8.7 ASSIGNMENT

Customer may not assign this Agreement in whole or in part without the prior written consent signed by an officer of Aviat Networks. Such consent shall not be unreasonably withheld.

#### 8.8 GOVERNING LAW, VENUE AND JURISDICTION

This Agreement will be governed by and construed in accordance with the laws of the **State of California**. The parties agree that any action to enforce any provision of this Agreement or arising out of or based upon this Agreement or the business relationship between Aviat Networks and Customer will be brought in a **local or Federal court** of competent jurisdiction in **East Bay Regional Communications System Authority (EBRCSA), California**.

#### 8.9 ENFORCEABILITY

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall in no way be affected or impaired.

#### 8.10 LIMITATION OF LIABILITY

NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY CLAIMING UNDER THE OTHER PARTY FOR SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, AND CONSEQUENTIAL OR LOSS OF

PROFIT TYPES OF DAMAGES AS A RESULT OF A BREACH OF ANY PROVISION OF THIS CONTRACT. CUSTOMER SHALL INDEMNIFY AVIAT NETWORKS AGAINST ALL LOSS OR LIABILITY FROM CLAIMS BY CUSTOMER OR A THIRD PARTY ARISING OUT OF OR RELATING TO CUSTOMER'S INSTALLATION, OPERATION, OR USE OF THE SERVICES OR PRODUCTS PROVIDED HEREUNDER, WHETHER ON ACCOUNT OF NEGLIGENCE OR OTHERWISE.

8.11 COMPLIANCE WITH LAW

Customer agrees to assist Aviat Networks to comply with any applicable conventions, laws, rules, regulations, and bylaws incident to its activities under this Agreement, including, without limitation, United States export control regulations, the United States Foreign Corrupt Practices Act, and the United States anti-boycott regulations. Customer will promptly deliver to Aviat Networks a copy of any notice or instrument alleging a violation of any of these laws.

8.12 ENTIRE AGREEMENT

This Agreement supersedes all previous communications, transactions, and understandings, whether oral, or written, and constitutes the sole and entire agreement between the parties pertaining to the subject matter hereof. No modification or deletion of, or addition to these terms shall be binding on either party unless made in writing and signed by a duly authorized representative of both parties.

## 9. SIGNATURES

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in their respective names.

**AVIAT U.S., Inc.**

**East Bay Regional Communications System Authority (EBRCSA)**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Attachment 1: preventive maintenance checklist



Checklist.xlsx

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