



East Bay Regional Communications System Authority



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

BOARD OF DIRECTORS MEETING

NOTICE OF REGULAR MEETING

DATE: May 3, 2024

TIME: 10:00 a.m.

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

AGENDA

1. Call to Order/Roll Call: (Regular Session) Time: 10:00 a.m.

2. Public Comments (Meeting Open to the Public):

At this time, the public is permitted to address the Board on items within the Board's subject matter jurisdiction that do not appear on the agenda. Please step to the podium and clearly state your name for the record. In accordance with State Law, no action or discussion may take place on any item not appearing on the posted agenda. If the item requires action, it will be referred to staff and/or placed on the next agenda. In order that all interested parties have an opportunity to speak, please limit comments to a maximum of three (3) minutes. If you wish to comment on an item that is on the agenda, please wait until the item is read for consideration, and then make your way to the podium. Please limit comments to a maximum of three (3) minutes

3. Consent Calendar

Consent Calendar items are typically non-controversial in nature and are considered for approval by the East Bay Regional Communications System Authority Board with one single action. Members of the public, staff or the Board of Directors who would like an item removed from the Consent Calendar for purposes of public input may request the Board Chair to remove the item.

3.1 Consider adoption of a resolution approving Redwood Public Law LLP as the attorney for EBRCSA

3.2 Approval of Minutes of December 1 and 21, and March 1, 2024 Board Meetings

3.3 Consider adoption of a resolution approving Radio Interoperability MOU

3.4 Consider adoption of a resolution approving CSI Telecommunications Contract for Specialized Services

3.5 Consider adoption of a resolution approving Motorola Solutions Incorporated Maintenance Agreement

3.6 Consider adoption of a resolution approving County of Contra Costa MOU for Information Technology Services

**Alameda County Office of Homeland Security and Emergency Services
4985 Broder Blvd, Dublin CA 94568 • (925) 803-7802 • www.ebrcsa.org**

4. **Written Communications:** None
5. **Public Hearings:** None
6. **Action Items:**
 - 6.1 Consider Adoption of a Resolution Approving Agreement with David L. Swing to Serve on a Contract Basis as the Executive Director of the East Bay Regional Communications System Authority (EBRCSA)
 - 6.2 Consider Adoption of the FY 2024/25 EBRCSA Budget
 - 6.3 Consider Adoption of Subscriber Fee Increase
7. **Committee Updates:**
 - 7.1 Receive Informational Report on Recent Finance Committee Activities
 - 7.2 Receive Informational Report on Recent Operations Committee Activities
8. **Reports:**
 - 8.1 Receive Informational Report on Capital Replacement Project
 - 8.2 Receive Informational Report on MPLS Project Update
 - 8.3 Receive Informational Report on Cyber Security Active Eye Update
 - 8.4 Receive Informational Report on SUA Update
 - 8.5 Receive Informational Report on Encryption
 - 8.6 Receive Informational Report on Walton Lane Site
 - 8.7 Receive Informational Report on Wiedemann Project San Ramon
9. **Board Comments**
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 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.



David Swing, Executive Director
April 29, 2024



**East Bay Regional
Communications
System Authority**



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AGENDA ITEM NO. 3.1

**AGENDA STATEMENT
BOARD OF DIRECTORS MEETING
MEETING DATE: May 3, 2024**

TO: Board of Directors
East Bay Regional Communications System Authority (EBRCSA)

FROM: David L. Swing, Executive Director
East Bay Regional Communications System Authority

SUBJECT: Approval of Redwood Public Law Contract and Fee Agreement

RECOMMENDATION:

Adopt a resolution authorizing the Board Chair to execute and the Executive Director to implement the contract with Redwood Public Law, LLP to represent East Bay Regional Communications System Authority (EBRCSA) as its Attorney.

SUMMARY/DISCUSSION:

Meyers Nave advised staff they were restructuring and EBRCSA needed to determine if they wanted to stay with Meyers Nave, switch to Redwood Public Law, LLP or find another law firm. Richard D. Pio Roda oversaw legal services to EBRCSA while at Meyers Nave, and is now a founding partner of Redwood Public Law, LLP. Similar to Meyers Nave, Redwood Public Law will provide legal services, public law advice, and counsel to EBRCSA as outlined in Attachment "A". EBRCSA's decision to move to Redwood Public Law LLP ensures that it will be represented by a team that has worked closely with EBRCSA and understands its history and legal needs. Staff recommends switching to Redwood Public Law LLP for continuity of representation.

FINANCIAL IMPACT:

Redwood Public Law LLP provided the rate for General Legal Services Staff Level, Attachment B. The Meyers Nave Rates from April 2022 is Attachment C. EBRCSA will be represented by Sr. Partner Richard D. Pio Roda at the current rate of \$400.00 per hour. The Meyers Nave rate for similar representation was \$495.00 per hour according to their rate sheet from April 2022.

The budget has adequate funding to cover the anticipated amount of legal services EBRCSA will utilize in FY 24/25.

COMMITTEE RECOMMENDATION:

The Finance and Operations Committee reviewed the proposed contract and recommended its approval by the Board of Directors.

RECOMMENDED ACTION:

Authorize the Board Chair to execute the contract with Redwood Public Law, LLP to represent East Bay Regional Communications System Authority (EBRCSA) as its Attorney.

Attachments:

Attachment "A" – Redwood Public Law LLP Contract and Fee Agreement

Attachment "B" – General Legal Services Rate Redwood Public Law

Attachment "C" – General Legal Services Meyers Nave April 2022

Attachment "D" – Meyers Nave Representation Letter

Attachment "E" – Board Resolution

March 27, 2024

Via Email
Personal, Privileged and Confidential

Tom McCarthy
Executive Director
East Bay Regional Communications Systems Authority
4985 Broder Boulevard
Dublin, CA 94568
tmccarthy@acgov.org

Re: Confirmation of Engagement and Fee Agreement

Dear Tom:

We are grateful that the East Bay Regional Communications Systems Authority (“Client” or “Authority”) has decided to hire Redwood Public Law, LLP (“Redwood” or “we/us”) as its attorney. This letter explains the terms of our attorney-client relationship and outlines the fees Redwood charges for its services. If the Authority agrees to the terms, please sign below, return the letter to me, at which point this letter will become the “Agreement,” and we can get started representing the Authority.

1. Scope of Services

As we discussed, the Board is hiring us to provide Authority Counsel legal services, including but not limited to public law advice and counsel, and transactional, labor & employment, and risk management legal services. Redwood will provide those legal services reasonably required to represent the Authority. We will take reasonable steps to keep the Board and you informed of progress and will promptly respond to all inquiries. We will also provide additional services pursuant to the terms of this letter, if we both agree in writing, which may be in an email exchange.

2. Staffing

Although I intend to have primary responsibility for handling these matters, the Authority is retaining Redwood and not any specific attorney. I will use other attorneys and legal assistants in the best exercise of my professional judgment. If, at any time, you or the Board have any questions, concerns, or comments about how a matter is staffed, or anything else, please contact me or any other Redwood partner.

3. No Deposit

No initial deposit is expected or required prior to the provision of legal services, although Redwood reserves the right to require a deposit in advance of further legal services should the need arise.

4. Fees and Billing Practices

As compensation for our services, the Authority agrees to pay by the hour at our hourly rates for all time spent on Authority matters by Redwood's legal personnel. Current hourly rates for legal personnel working on Authority matters are listed in Attachment 1. Time is billed in minimum increments of one-tenth (0.1) of an hour. The rates on this schedule are typically revised July 1. If the Board declines to pay increased rates, Redwood will have the right to withdraw as attorney if allowed under the Rules of Professional Conduct of the State Bar of California and/or applicable law. The time charged will include, but is not limited to, the time attorneys spend on telephone calls, e-mails and other electronic communications relating to Authority matters, including calls and e-mails with you and Board members and other parties and attorneys. Attorneys will charge for waiting time and for travel time, both locally and out of town.

We will provide the Authority with a monthly statement of all attorney fees and costs incurred during the applicable billing period, as described in section 6 below. If applicable, Redwood will apply any deposit made to the balance shown on the statement. If attorney fees and costs exceed the amount of the deposit, the Authority will pay any additional balance due on receipt of Redwood's monthly statement. The Authority will also replenish the deposit each month in the amount of all payments made to Redwood from the deposit. At the conclusion of the matter, the deposit will be applied to the final statement. The Authority will be responsible for any amount due over and above the deposit. If the amount due from the Authority in the final statement is less than the amount of the deposit, the difference will be refunded to the Authority.

5. Costs and Other Charges

a. Costs, generally

Redwood will incur various costs and expenses in performing legal services under this Agreement. The Authority agrees to pay for all costs, disbursements, and expenses in addition to the hourly fees.

b. External costs

External costs and expenses commonly include notary fees, long distance telephone charges, messenger and other delivery fees, postage, outside photocopying and other reproduction costs, travel costs including parking, mileage, transportation, meals and hotel costs, investigation expenses, translator/interpreter fees, consultants' fees and/or special master fees and other similar items. The foregoing external costs and expenses will be charged at Redwood's cost. Costs will be advanced by Redwood and then billed to the Authority unless the costs can be met out of deposits that are applicable toward costs. However, for substantial cost items, we may, at our option, require that the Authority make advance payment.

c. Internal costs



Internal charges include, but are not limited to, storage of electronic and physical client files and other documents and files kept as part of providing legal services, legal research services, duplicating, facsimile charges, telephone and video and teleconference system charges, postage, mileage, and other administrative expenses. We have found that the most effective method of accounting for these administrative costs is to charge a flat 5% of the professional fees incurred.

d. Travel

The Authority will be charged our hourly rates for the time legal personnel spend traveling from our office to the Authority's business office or Board meetings.

e. Experts, Consultants, and Investigators

To aid in Authority matters, it might become necessary to hire expert witnesses, consultants, or investigators. The Authority agrees to pay such fees and charges. After consulting with the Authority, we will select any expert witnesses, consultants, or investigators to be hired, and we will inform the Authority of who is chosen and their charges.

f. Pre-approval for large-cost items

We will obtain Authority consent before incurring any costs more than \$1,000.

6. Statements and Payments

Redwood will send monthly statements showing attorney fees and costs incurred and their bases, any amounts applied from the deposit(s), and any current balance owed. If no attorney fees or costs are incurred for a particular month, or if they are minimal, the statement may be held and combined with that for the following month unless the Authority requests a statement. We request that any balance be paid in full within 30 days after the statement is sent. The Authority agrees to promptly review all statements we send and communicate any objections, questions, or concerns about them. If a statement is not paid when due, interest will be charged on the principal balance (consisting of any unpaid fees, costs, and/or expenses) shown on the bill. Interest will be calculated by multiplying the unpaid balance by the periodic rate of 0.833% per month. The unpaid balance will bear interest until paid.

7. Arbitration

a. Arbitration of All Claims Including Claims of Malpractice

Any dispute between Redwood and the Authority regarding the construction, application, or performance of any services under this Agreement, and any claim arising out of or relating to this Agreement or its breach, including, without limitation, claims for breach of contract, professional negligence, breach of fiduciary duty, misrepresentation, fraud, and disputes regarding attorney fees and/or costs charged under this Agreement (except as provided in 7.b. below) shall be submitted to binding arbitration upon the written request of one party after the service of that request on the other party. The parties shall appoint one person to hear and determine the dispute in Alameda County, California before the American Arbitration Association, following its then prevailing rules, unless the parties agree in writing to a different arbitration method or forum. The Authority and Redwood confirm that each has read and understands this subsection and voluntarily agrees to binding arbitration. In doing so, the Authority and Redwood voluntarily give up important constitutional rights to



trial by judge or jury, as well as rights to appeal. The Authority may consult with an independent lawyer of its choice to review these arbitration provisions, and this entire agreement, prior to signing this Agreement.

b. Mandatory Fee Arbitration

Notwithstanding 7.a. above, the parties acknowledge that in any dispute over attorneys' fees, costs or both subject to the jurisdiction of the State of California over attorneys' fees, charges, costs, or expenses, the Authority has the right to elect arbitration pursuant to procedures as set forth in California Business and Professions Code Sections 6200-6206 (the Mandatory Fee Arbitration Act). If, after receiving a Notice of Client's Right to Fee Arbitration, the Authority does not choose to proceed under the Mandatory Fee Arbitration Act procedures by failing to file a request for fee arbitration within 30 days, any dispute over fees, charges, costs, or expenses will be resolved by binding arbitration as provided in 7.a. above. Arbitration pursuant to the Mandatory Fee Arbitration Act is non-binding unless the parties agree in writing, after the dispute has arisen, to be bound by the arbitration award. The Mandatory Fee Arbitration Act procedures allow a court trial after non-binding arbitration, or a subsequent binding contractual arbitration if the parties have agreed to binding arbitration, if either party rejects the award within 30 days after the award is mailed to the parties.

8. Client Approval Necessary for Settlement

Redwood will not make any settlement or compromise of any nature of any claims without prior Board approval. The Board has the absolute right to accept or reject any settlement.

9. Termination of Representation

The Board of Directors may terminate our attorney-client relationship at any time. Redwood may withdraw with the Board's consent or for good cause or if allowed under the Rules of Professional Conduct of the State Bar of California and/or applicable law. Among the circumstances under which Redwood may withdraw are: (a) with Board consent; (b) Authority conduct makes it unreasonably difficult for Redwood to carry out the representation effectively; and/or (c) the Authority does not pay Redwood's fees or costs as required by this Agreement. Notwithstanding the discharge, the Authority will remain obligated to pay Redwood at the agreed rates for all services provided and to reimburse Redwood for all costs advanced. Following any termination of representation, we will release Authority files only following its delivery to us of a signed release letter containing appropriate directions and an acknowledgment of the obligation to pay outstanding fees. The Authority will be charged for the reasonable costs of retrieval, assembly, copying, processing, and transfer of all files or materials.

10. Conclusion of Services

When Redwood's services conclude, whether by completing the services covered by this Agreement, or by discharge or withdrawal, all unpaid charges for fees or costs will be due and payable immediately.

11. Document Retention.

During Redwood's representation, the Authority might provide us with, and we might obtain documents that are relevant to, the representation. Some of those documents might be



important to the Authority and so that there is no confusion we find that it is useful at the start of the representation for us to communicate our document retention policy. Our policy reflects our commitment to using less paper and eliminating unnecessary copies of documents. Documents of record can be either hard copies or digital, regardless of the form they took originally when created or received by Redwood. Whenever it is proper and practical, Redwood prefers documents of record (official version) to be in digital format. Further, if a record is stored electronically, then paper copies may be destroyed. This helps us manage information, helps the environment, and helps control your and our costs. The materials pertaining to our representation belong to the Authority and the Authority may access them or have duplicates provided to it at any time during our engagement apart from certain Redwood accounting information. Redwood's policy is for clients to take immediate possession of paper records after the conclusion of the matter and to maintain electronic records for a period of 5 years after the conclusion of the matter. If the Authority does not notify us that it wants to take possession of paper records, we will destroy them in a secure manner. Electronic records held for five years will subsequently be destroyed unless the Authority lets us know that it wishes to take possession of them.

12. Disclaimer of Guaranty and Estimates

Nothing in this Agreement and nothing in Redwood's statements will be construed as a promise or guarantee about the outcome of a matter. Redwood makes no such promises or guarantees. Redwood's comments about the outcome of a matter are expressions of opinion only, are neither promises nor guarantees, and will not be construed as promises or guarantees. Any deposits made or estimate of fees given by Redwood are not a representation of a flat fee and will not be a limitation on fees or a guarantee that fees and costs will not exceed the amount of the deposit or estimate. Actual fees may vary significantly from estimates given.

13. Professional Liability Insurance Disclosure

Pursuant to California Rule of Professional Conduct 1.4.2.(a), Redwood confirms that it has professional liability insurance. We maintain the following insurance, at a minimum:

General liability and property damage	\$2,000,000 per occurrence
	\$4,000,000 aggregate
Professional errors and omission	\$5,000,000 aggregate

14. Reserved.

15. Notices

The Authority may give written notice to Redwood using the address set forth above, and Redwood may give the Authority notice using the address set forth above. Either party may change its address for notifications by notifying the other party in writing in accordance with this paragraph.

16. Consent to Use of E-Mail and Cloud Services

To provide the Authority with efficient and convenient legal services, the Authority and Redwood will frequently communicate and transmit documents using e-mail. There may be



risks communicating in this manner, including risks related to confidentiality and security. By entering into this Agreement, the Authority consents to such e-mail transmissions with its representatives and agents.

In addition, Redwood uses cloud computing services with servers located in a facility other than Redwood's office. Most of Redwood's electronic data, including emails and documents, are stored in this manner. By entering into this Agreement, the Authority understands and consents to having communications, documents, and information pertinent to its matters stored in such a cloud-based service. Rest assured that Redwood takes reasonable precautions to ensure Authority data is maintained securely.

17. Conflicts of Interest

Redwood's practice involves the representation of many public entities in the State of California of all types. It is not uncommon for such entities to have strong views on matters of public policy that diverge from one another.

Redwood performs a variety of professional services for its clients, and it is possible that Redwood will represent clients or entities that are adverse to the Authority on other, unrelated matters or that Redwood will represent another client that has views on public policy or legal matters that differ from the Authority's views on those policies or matters. The Authority expressly agrees that it waives any actual or potential conflicts that might arise from such future representations, that it will not attempt to disqualify Redwood on such matters, and that Redwood is free to represent its clients on such matters.

By executing this Agreement, the Authority acknowledges that it and Redwood have discussed these matters and that it confirms that it does not object to Redwood's representation of clients on matters where those clients' legal, governmental, or political objectives and/or positions may be different from or adverse to the Authority, and that Authority waive any conflicts of interest with respect to our representation of such clients with differing legal, governmental or political interests. The Authority further confirms that it will not assert any conflict of interest concerning such representations or attempt to disqualify Redwood from representing such clients notwithstanding such adversity.

The Authority agrees that, while it may terminate the attorney-client relationship with Redwood, Redwood would be free to represent such clients even on those matters that it consider adverse, and that the Authority waives any conflict of interest in connection therewith. Of course, the Authority's acknowledgments and consents above do not permit Redwood to represent another client in the same matter in which Redwood is adverse to the Authority and do not permit Redwood to represent another client if there would be a significant risk that Redwood's representation of the Authority would be materially limited by the representation of the other client. Any such representation would require Redwood to obtain the Authority's informed written consent and the same from the other client.

18. Entire Agreement

This is our entire agreement. No other agreement, statement, or promise made on or before the effective date of this agreement will bind either of us.



19. Severability in Event of Partial Invalidity

If any provision of this letter, as agreed to by the Authority, is held in whole or in part to be unenforceable for any reason, the remainder of that provision and the letter will be severable and remain in effect.

20. Modification By Subsequent Agreement

The Authority and Redwood may only modify this Agreement by our mutual subsequent written amendment.

21. Governing Law

This Agreement is governed by, and must be interpreted under, California law, and any court proceedings relating to this Agreement must be instituted in the County of Alameda.

22. Effective Date

This Agreement will govern all legal services performed by Redwood on the Authority's behalf commencing with the date Redwood first performed services. The date at the beginning of this Agreement is for reference only. Even if this Agreement does not take effect, the Authority will be obligated to pay Redwood the reasonable value of any services Redwood may have performed for it.

Very truly yours,



REDWOOD PUBLIC LAW, LLP
Richard D. Pio Roda, Partner

Agreed:
East Bay Regional Communications
Systems Authority

By: _____
Name: Chief Paige Meyer
Its: Chairman of the Board



ATTACHMENT 1

General Legal Services

Staff Level	Rate
Sr. Partner	\$400
Partner	\$390
Sr. Of Counsel	\$370
Of Counsel	\$350
Sr. Associate	\$340
Mid-level Associate	\$330
Associate	\$325
Paralegal	\$180
Law Clerk	\$180

Rates increase every January 1st by the greater of 3% or the relevant local CPI increase over the prior 12 month period, rounded to the nearest \$5.00.



ATTACHMENT 1

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Law Clerk	\$180

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ATTACHMENT 1

**MEYERS NAVE
RATE SHEET**

Sr. Principal	\$495
Principal	\$435
Sr. Of Counsel	\$350
Of Counsel	\$330
Sr. Associate	\$290
Mid-level Associate	\$270
Junior Associate	\$250
Sr. Paralegal	\$200
Paralegal	\$180
Law Clerk	\$240
Litigation Support Specialist	\$230

Our rates adjust every January (appropriate date) by the greater of 3% or the relevant local CPI increase over the prior 12 month period, rounded to the nearest \$5.

March 11, 2024

VIA ELECTRONIC MAIL ONLY

Chief Paige Meyer
Chairperson of the Board
East Bay Regional Communications
Systems Authority
4985 Broder Boulevard
Dublin, CA 94568
Email: pmeyer@srvfire.ca.gov

Re: Representation of East Bay Communications Systems Authority (MN File Nos. 1308.002—all matters)

Dear Chief Meyer:

We are writing to inform you that effective as of the close of business on March 14, 2024, Richard D. Pio Roda will be leaving Meyers Nave, a Professional Corporation ("Meyers Nave") to join Redwood Public Law LLP. In the interim, Rich will remain at Meyers Nave and continue to be available to you at his existing Meyers Nave email and cell phone.

As a client, the East Bay Regional Communications Systems Authority (EBRCSA) has several options for the matters presently being handled for you by Rich. You can either: (i) keep the matters at Meyers Nave; (ii) direct that the matters be transferred to Mr. Pio Roda at his new law firm; or (iii) retain new counsel to assist you in these matters.

Whatever your decision, we want to assure you that EBRCSA's interests will at all times be protected fully during the transition process. Should the matters be transferred from Meyers Nave, we will see that all necessary steps in the process are completed promptly and professionally to facilitate a smooth transition. If the matters are to be transferred, we will need written confirmation from you of that fact, along with express authorization for Meyers Nave to release files to the firm you have selected.

As soon as possible, please return the enclosed form to advise us of your decision regarding the matters presently being handled by Meyers Nave. Please send the completed form by pdf copy to both David Skinner, Chief Executive Officer at dskinner@meyersnave.com and to Richard Pio Roda at richard@redwoodpubliclaw.com.

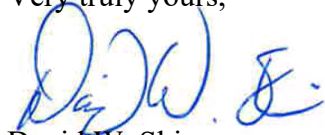
Chief Paige Meyer
Chairperson of the Board
March 11, 2024
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We will do our best to minimize any inconvenience these changes may cause and urge you to contact either of the undersigned with any questions or concerns you might have. For your reference, beginning on March 15, 2024, Richard's contact information will be as follows:

Redwood Public Law LLP
66 Franklin Street, Suite 300
Oakland, CA 94607
415.533.4321 (Mobile)
richard@redwoodpubliclaw.com

Thank you very much for your prompt attention to this matter.

Very truly yours,



David W. Skinner
Chief Executive Officer/Managing Principal



Richard D. Pio Roda

5671594.1

Disposition of Matters

Please respond via email to David Skinner, Chief Executive Officer/Managing Principal at dskinner@meyersnave.com and Richard D. Pio Roda at richard@redwoodpubliclaw.com.

Richard D. Pio Roda at Meyers Nave is presently representing EBRCSA in the following matters:

MN Client/ Matter No.	Matter Name
1308	All matters.

In light of Mr. Pio Roda's departure from Meyers Nave, EBRCSA directs as follows:

- Keep the matters at Meyers Nave.
- Direct that the matters of 1308—all matters be transferred to Richard D. Pio Roda at Redwood Public Law.
- The physical and electronic files for the matters identified above are to be returned to EBRCSA **or** transferred to another attorney, as indicated below. Please return any retainer that Meyers Nave is holding to me.

New Attorney Name:

Address: _____

Phone: _____

Dated: _____

**East Bay Regional Communications Systems
Authority**

By: Chief Paige Meyer

Title: Chairman of the Board

RESOLUTION NO. 24-xx

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

ADOPT A RESOLUTION AUTHORIZING THE BOARD CHAIR TO EXECUTE AND THE EXECUTIVE DIRECTOR TO IMPLEMENT THE CONTRACT WITH REDWOOD PUBLIC LAW, LLP TO REPRESENT EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY (EBRCSA) AS ITS ATTORNEY.

WHEREAS, the East Bay Regional Communications System Authority (“EBRCSA”) desires to maintain continuity in its legal representation, the Board Chair and Executive Director have evaluated the Board’s legal counsel and, according to the accompanying Staff Report; and

WHEREAS, the Board of Directors of the EBRCSA has reviewed and considered the selection of Redwood Public Law, LLP and the accompanying Staff Report, has heard all comment thereon, and finds good cause therefor.

NOW, THEREFORE, the Board of Directors of the East Bay Regional Communications System Authority does **RESOLVE** that it confirms Redwood Public Law, LLP as its attorney of record.

On motion of xx, seconded by xx, the foregoing Resolution was passed and adopted this 3rd day of May, 2024, by the following votes:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Caroline P. Soto, Secretary



**East Bay Regional
Communications
System Authority**



Participating agencies include Alameda and Contra Costa Counties and the following cities and special districts: Alameda, Albany, Antioch, 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 NO. 3.2

**AGENDA STATEMENT
BOARD OF DIRECTORS MEETING
MEETING DATE: May 3, 2024**

TO: Board of Directors
East Bay Regional Communications System Authority (EBRCSA)

FROM: Chief P. Meyer, Board Chair
East Bay Regional Communications System Authority

SUBJECT: Approval of Minutes of the December 1, 2023, December 21, 2023 and March 1, 2024 Board of Directors Meetings

RECOMMENDATIONS:

Approve the minutes of the December 1, 2023, December 21, 2023 and the March 1, 2024 Board of Directors meetings.

SUMMARY/DISCUSSION:

Due to a discrepancy between the verbiage for the item regarding approval of minutes on the agenda, and the staff report and attachment in the agenda packet for the March 1, 2024 Board meeting, the Board of Directors will consider approval of the minutes of the December 1, 2023, December 21, 2023 and the March 1, 2024 Board of Directors meetings.

RECOMMENDED ACTION:

It is recommended that the Board of Directors approve the minutes of the December 1, 2023, December 21, 2023 and the March 1, 2024 Board of Directors meetings.

Attachments

Attachment "A" – Minutes of the December 1, 2023 Board of Directors Meeting
Attachment "B" – Minutes of the December 21, 2023 Board of Directors Meeting
Attachment "C" – Minutes of the March 1, 2024 Board of Directors Meeting



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

BOARD OF DIRECTORS MEETING

REGULAR MEETING

DATE: December 1, 2023

TIME: 10:00 a.m.

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

DRAFT MINUTES

1. Call to Order/Roll Call: 10:02 a.m.

Boardmembers Present: Bms. C. Andersen, G. Beaudin, J. Calabrigo, E. Christy, D. Covington, J. Diaz, T. Dupuis, D. Haubert, J. King, A. Love, P. Meyer, S. Perkins, M. Rodriguez, M. Salinas, M. Shorr, D. Swing, and J. Vorhauer

Staff Present: T. McCarthy, C. Boyer, L. McKinney, C. Soto

2. Public Comments: None.

3. Consent Calendar

On motion of Bm. Vorhauer, seconded by Bm. King and by unanimous vote, the Board of Directors took the following actions:

3.1 Approved the Minutes of the Board Meeting of September 29, 2023;

3.2 Adopted Resolution No. 23-07 **Authorizing the Chair to Execute and the Executive Director to Implement Four Lease Agreements with the East Bay Municipal Utility District at the Seneca, Pearl, Carter (Alta Mesa) and Skyline Reservoirs;**

3.3 Approved the EBRCSA 2024 Meeting Calendar.

4. Written Communications: None.

5. Public Hearings: None.

6. Action Items:

6.1 Annual Election of Board Chair and Vice Chair as Required by the JPA Agreement and Bylaw

On motion of Bm. King, seconded by Bm. Andersen and by majority vote (Bm. Meyer abstaining), the Board of Directors elected Bm. Meyer as Chair for a period of one-year.

On motion of Bm. King, seconded by Bm. Salinas and by unanimous vote, the Board of Directors elected Bm. Love as Vice Chair for a period of one-year.

Bm. J. Diaz arrived at 10:08 a.m.

7. Committee Updates:

7.1 Receive Informational Report on Recent Finance Committee Activities

All items for today were approved. The Finance Committee is still looking for the CIP. Motorola listed all items that will be updated on the SUA and this will assist with the CIP. They know as they go forward what items will be upgraded for the next two years. All items of microwave and MLPS project have been given to the Executive Director. He is still gathering information and justification for the rate increase. They discussed the lease with EBMUD. They have four years to work out another solution.

7.2 Receive Informational Report on Recent Operations Committee Activities

See Item 7.1 above.

8. Reports:

8.1 Receive Informational Report on Time Division Multiple Access

EBRCSA has done all its work on this project. Now it is up to the agencies to change out their equipment to be current. He will set a date for full move over to the TDMA. Agencies now need to get their radios done as they have had a couple of years to get this done.

8.2 Receive Informational Report on Encryption

Encryption has been put in all consoles. EBRCSA has done all the work it needed to do. EBRCSA has drafted the fleet map and code plugs. Radios shops can now work with the agencies to put the encryption in the radios. State of California DOJ mandated agencies have encryption, but is not pressing on timeline.

8.3 Receive Informational Report on Microwave/Ethernet/MPLS Status

EBRCSA has been working on this project for the last two years. The project is down to the last microwave dish that needs to be replaced. Installation plans have been approved. They are just waiting on an installation date.

8.4 Receive Informational Report on the City of Antioch Site at Walton Lane

This site had been a problem for years. The Executive Director is looking at not working with Antioch and see who he can work with. The personnel at Antioch has changed many times over the years. Contra County Sheriff, Contra Costa County Fire, EBRPD, and the ambulances need radio connectivity there. Antioch is trying a different LTE radio with Motorola that can connect with the internet and transmit that way. He has information for two companies that own towers in that area and will see what can be done with them. It will come back to the Board for reapproval to work with other companies. EBRCSA has equipment for this site in storage.

8.5 Receive Informational Report on Contra Costa County Site in Martinez Replacing 651 Pine Street

Executive Director McCarthy stated the site is up and running and working well. EBRPD owns the land the site is on. It is all wired in. All the upgrades were done and the generator is running.

8.6 Receive Informational Report on Wiedemann Project in San Ramon

The Wiedemann project is going well. It is a site being paid for by developers. They are waiting for a permit from Contra Costa County to get it squared away. They installed the dish on top of the master site. They are taking the loop and cut into it with the Wiedemann site and the new San Ramon Fire dispatch center. The last part is the redundancy with the ethernet line in case the System goes down, they can keep the dispatch center up and running.

8.7 Receive Informational Report on Alameda County Parking Garage Adjacent to East Dublin BART

A garage was built at the East Dublin BART station and interfered with the System's microwave. They were able to get the microwave lifted up 30 feet on the tower for optimum reception.

8.8 Receive Information on Engagement of Recruiter for Executive Director Recruitment

Chair Meyer stated WBCP has been retained. They have an aggressive timeline which they believe is doable. He will need a subcommittee appointed to handle the live interview process. Recruitment will be from December 13, 2023 – January 5, 2024. The recruiter will produce a short list by January 15, 2024. They will have a first and second round of interviews in the same week with the subcommittee, January 25 and 26, 2024. It will give EBRCSA the opportunity to call a special meeting February 1 to have the Board vote on the appointment of the Executive Director. It would give EBRCSA a month's overlap with Executive Director McCarthy. Also, a survey will be sent to the Board asking what they want to see in a new Executive Director. If you have pictures of your agency, send it to Executive Director McCarthy so they can cut and paste in recruitment packet. There was an email sent out to Boardmembers that might be interested in the Executive Director position, please refer to it. It was a 1099 Confidential memo to the Board. If you would like to be on the subcommittee, send your name to the

Executive Director. February 7-9, 2024 would not be good for a Board meeting. When recruitment comes out, it has to be an employee, not a contractor. There will be a salary range with some negotiation ability in the recruitment.

In response to a question regarding why this would be an employee and not a contractor, Authority Attorney Laura McKinney stated she will have to have a conversation with the Executive Director because she has not yet seen the job description and how it will be structured and if it will comply with AB 5 and changes that were adopted in 2020.

9. **Board Comments:** None.

10. **Adjournment:** With no further business coming before the Board, the meeting was adjourned at 10:47 a.m.

Caroline P. Soto
Authority Secretary



East Bay Regional Communications System Authority



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BOARD OF DIRECTORS MEETING

SPECIAL MEETING

DATE: December 21, 2023

TIME: 10:00 a.m.

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

DRAFT MINUTES

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1. **Closed Session:** None.
 2. **Call to Order/Roll Call:** 10:02 a.m.

Boardmembers Present: J. Calabrigo, E. Christy, T. Dupuis, J. King, A. Love, P. Meyer, M. Nichelini, M. Nino, M. Rodriguez, Y. Sanchez, L. Smith, K. Stepper, and J. Vorhauer

Staff Present: T. McCarthy, C. Soto

On motion of Bm. King, seconded by Bm. Stepper and by unanimous vote, the Board agreed to allow Bm. Meyer to attend the meeting remotely due to illness.

3. **Report on Closed Session:** None.
4. **Public Comments:** None.
5. **Presentations:** None.
6. **Approval of Minutes:** None.
7. **Written Communications:** None.
8. **Public Hearings:** None.
9. **Action Items:**

9.1 Transitional Assistance Agreement with Director McCarthy

Executive Director McCarthy stated this item was an agreement between the Executive Director and the East Bay Regional Communications System Authority to continue in an advisory capacity. He will be leaving on February 29, 2024 and

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someone else will be hired as the Executive Director. This contract will be for the period of March 1, 2024 through April 30, 2024. This will allow for a smooth transition.

On motion of Bm. Calabrigo, seconded by Bm. King and by unanimous vote the Board adopted **Resolution No. 23-08 Authorizing the Chair to Execute and the Executive Director to Implement a Transitional Assistance Agreement.**

Vice Chair Love stated the transition plan would include someone in the interim to focus on EBRCSA priorities. The full transition plan would finalize the outstanding CIP, review the organizational structure and make recommendations; review the financial health – short-and long-term; review and understand all the contract costs and efforts to explore savings and effectiveness. It will also allow time to establish what the Executive Director’s recruitment will look like and how, if needed, to comply with AB5. This has not been established yet.

EBRCSA Attorney Ms. McKinney stated they could contract in a business-to-business sense with another individual that is offering their services to agencies outside of EBRCSA. There is going to be exploration of what is best for the agency.

Vice Chair Love stated there was no established timeline for the interim’s length of service. He understood that it would take a long time to complete the Board’s list of focused priorities as well as learning the history of the System.

Bm. Sanchez arrived at 10:15 a.m.

Chair Meyer stated it could be a one-year term, not a specific time frame necessarily. He took a step back and considered the timeline of the recruitment and reasoned it was too quick. They needed to take a look at the AB5 issue, whether it be benefits or compensation factors. There also needed to be a review of the organizational structure. There are difficult decisions to be made in the next six months to a year, both financial and organizational. He does not want the Board to move too rapidly.

Bm. Nino asked that when the AB5 analysis is complete that there be an oral presentation.

Ms. McKinney stated it could be a scheduled closed session.

Vice Chair Love stated the recommendation for Executive Chair selection would be made up of a small group of Board members. If you are interested, please let him know.

Chair Meyer stated that recommendation would be brought back to the full Board for approval.

10. **Adjournment:** With no further business coming before the Board of Directors, the meeting as adjourned at 10:27 a.m.

Caroline P. Soto
Authority Secretary



East Bay Regional Communications System Authority



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BOARD OF DIRECTORS MEETING

REGULAR MEETING

DATE: March 1, 2024

TIME: 10:00 a.m.

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

DRAFT MINUTES

1. Call to Order/Roll Call: 10:02 a.m.

Boardmembers Present: C. Andersen, G. Beaudin, J. Beltran*, J. Calabrigo, M. Casten, E. Christy, D. Covington, T. Dupuis, N. Gallo, D. Haubert, A. Love, P. Meyer, M. Nino, S. Perkins, B. Prebula, M. Rodriguez, M. Salinas, C. Silva, L. Smith, K. Stepper

Note: *Non-Voting Alternate

Staff Present: J. Bakker, C. Boyer, C. Soto

Chair Meyer stated there would be changes to the agenda as Items 8. through 10. would be hear at a later date.

Alternate Bm. Beltran, C. Boyer, and C. Soto left the meeting at 10:05 a.m.

2. Closed Session/Adjournment to Closed Session: 10:05 a.m.

Consider Appointment of New Independent Contractor to Function as an Officer Pursuant to Government Code § 54957(b)(4). Officer: Executive Director

10:34 a.m. C. Boyer and C. Soto returned to the meeting.

3. Report Out of Closed Session: 10:34 a.m.

Acting Authority Attorney John Bakker stated the Board of Directors appointed David Swing to serve as the Executive Director effective April 2024, by unanimous vote of those Boardmembers present.

4. Public Comments: None.

5. **Consent Calendar:**

On motion of Bm. Andersen, seconded by Bm. Stepper and by unanimous vote, the Board of Directors adopted Consent Calendar Items 5.1 through 5.3 and took the following actions:

5.1 Approved the Minutes of the Board Meeting of December 21, 2023

5.2 Adopted **Resolution No. 24-01 Authorizing the Chair to Execute and the Executive Director to Implement an Amendment No. 2 to the Master License Agreement with the San Francisco Bay Area Rapid Transit District and the West Walnut Creek Site License**

5.3 Adopted **Resolution No. 24-02 Authorizing the EBRCSA Chair to Execute, and the Executive Director to Implement, an Agreement with Aviat U.S., Inc. for Maintenance, Repair and Technical Support Services for the Microwave System.**

6. **Written Communications:** None.

7. **Public Hearings:** None.

8. **Committee Updates:** (To be heard at a future meeting.)

8.1 Receive Informational Report on Recent Finance Committee Activities

8.2 Receive Informational Report on Recent Operations Committee Activities

9. **Reports:** (To be heard at a future meeting.)

9.1 Receive Informational Report on Encryption

9.2 Receive Informational Report on Microwave/Ethernet/MPLS/ Project Update

9.3 Receive Informational Report on City of Antioch Walton Lane

9.4 Receive Informational Report on Central Cell Outage February 5, 2024

10. **Agenda Items for Next Meeting**

- MOU for interoperability with neighboring agencies

11. **Board Comments:**

Bms. thanked the subcommittee members for their work on interviews and recommendation for the Interim Executive Director.

Chair Meyer stated there will be an upcoming discussion re: Meyers Nave and future legal representation for EBRCSA.

12. **Adjournment:** With no further business coming before the Board of Directors, the meeting was adjourned at 10:42 a.m.

DRAFT



**East Bay Regional
Communications
System Authority**



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AGENDA ITEM NO. 3.3

**AGENDA STATEMENT
BOARD OF DIRECTORS MEETING
MEETING DATE: May 3, 2024**

TO: Board of Directors
East Bay Regional Communications System Authority (EBRCSA)

FROM: David L. Swing, Executive Director
East Bay Regional Communications System Authority

SUBJECT: Approval of Radio Interoperability Memorandum of Understanding

RECOMMENDATION:

Adopt a resolution authorizing the Board Chair to execute and the Executive Director to implement the Memorandum of Understanding between the cities of Fremont, Menlo Park and Milpitas and the East Bay Regional Communications System Authority (EBRCSA) regarding radio interoperability.

SUMMARY/DISCUSSION:

Fire and EMS first responders in the South Bay areas of the Dumbarton and San Mateo Bridges are often simultaneously dispatched to emergencies and rely on each other to coordinate their response and communicate with each other to provide lifesaving services to patients. Radio services are provided by either EBRCSA or Silicon Valley Regional Interoperability Authority (SVRIA). EBRCSA and SVRIA are built similarly allowing their public safety members to have interoperability with the simple sharing of frequencies with each other. By creating this MOU, EBRCSA can outline the parameters and practice of sharing frequencies and connecting any of these agencies during an emergency response.

The MOU ensures EBRCSA and SVRIA know who is utilizing their system and the ability to communicate any changes to the system to the known users and guests.

FINANCIAL IMPACT:

The proposed MOU has no financial impact. Visiting users of the system are not charged and do not incur licensing expenses.

COMMITTEE RECOMMENDATION:

The Finance and Operations Committees reviewed the proposed MOU and recommended its approval by the Board of Directors.

RECOMMENDED ACTION:

It is recommended that the Board of Directors approve the Memorandum of Understanding between the cities of Fremont, Menlo Park and Milpitas and the East Bay Regional Communications System Authority (EBRCSA) regarding radio interoperability.

Attachments:

Attachment "A" – Memorandum of Understanding

Attachment "B" - Resolution

Memorandum of Understanding
Between The Cities Of Milpitas , Menlo Park, Fremont and the East Bay Regional
Communications System Authority Regarding Radio Interoperability

This Memorandum of Understanding (“**MOU**”) is made this day of _____, 2024 (“**Effective Date**”) by and among the East Bay Regional Communications System Authority, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California (“**EBRCSA**”), the City of Fremont (“**City**”), and the Cities of Milpitas and Menlo Park. The parties may be individually referred to as a “**Party**” and collectively “**Parties.**”

RECITALS

A. EBRCSA is a joint exercise of powers authority duly organized and existing under the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “**Act**”), formed by the local agencies (the “**Members**”) that are signatories to a Joint Exercise of Powers Agreement dated as of September 11, 2007 (the “**JPA Agreement**”). The Authority has developed a P25 compliant communications system that allows the highest level of interoperable communication in digital mode, which serves Alameda and Contra Costa Counties and individual political jurisdictions therein (the “**System**”).

B. EBRCSA has also entered into Operating Agreements with other local agencies whereby EBRCSA owns and operates the System for the benefit of those agencies (collectively, the “**Users**”). Pursuant to those Operating Agreements, **Users** agreed to pay a portion of the cost of the System, consisting of a buy-in cost based on the number of radios in use in the System, the cost of the System and the cost of annual operation of the System (collectively, “**User Payments**”).

C. EBRCSA as the Grantor, and City as a Member, wish to facilitate radio interoperability for the Cities of Milpitas, Fremont, and Menlo Park (collectively, “**Grantees**”). The Grantees are not a Member or User and therefore this MOU is necessary to enable Grantees’ authorized personnel to communicate with Members and Users (collectively, the “**Participants**”) with whom its authorized personnel work on a regular and recurring basis under the terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the Parties hereby agree as follows:

AGREEMENT

1. Recitals. The foregoing recitals are true and correct and hereby incorporated herein.
2. Term. This MOU shall become effective on the Effective Date and shall remain in effect until December 31, 2030 unless sooner terminated pursuant to Section 26 (“**Term**”).

3. Authorized Personnel. Grantees shall permit only their authorized personnel to use Radios as defined in Section 6 and transmit on the Channels as defined in Section 5. Grantees shall not allow any unauthorized personnel to access the Radios or the Channels.
4. Authorized Use. Grantees' authorized personnel may use the Channels only in the following circumstances: (1) during joint operations with Participants performing emergency response; (2) during Priority 1 circumstances as defined in the California Law Enforcement Mutual Aid Radio System Plan ("**CLEMARS**") – disaster and extreme emergency operations for mutual aid and interagency communications with Participants; or (3) during Priority 2 circumstances as defined in the CLEMARS - emergency or urgent operations involving imminent safety of life or protection of property with Participants. With the prior written approval of EBRCSA, Grantees may also use the Channels for training purposes when conducting joint trainings with Participants.
5. Talkgroups and Channels. Grantees and its authorized personnel may access and transmit only on the following talkgroups and channels: EBRCSA (Regional Interoperability) Talk Groups: XAL DSP 1, XAL DSP 2, XAL TAC 3, XAL TAC 4, XAL TAC 5, XAL TAC 6, XAL TAC 7, XAL TAC 8, XAL TAC 9, XAL TAC 10, XAL TAC 11, XAL CMD 16, XAL CMD 17, XAL CMD 18, XALFIR10 and XAL EMRG 21A (collectively "**Channels**") provided that such Channels which are encrypted require AES 256 encryption in order to access, and Grantees shall ensure its use of such encrypted Channels complies with all applicable law, regulations, guidance and administrative interpretations/orders regarding such use. All EBRCSA Channels are recorded.
6. Radio Capabilities. Grantees shall obtain its own radios capable of operation on a Motorola Phase 2 Digital TDMA P25 system with the most current version upgrade installed in order to access Channels on Grantor's 700/800 MHz Interoperability System ("**Radios**"). Grantees shall not utilize FDMA Radios on the Channels.
7. Radio System Maintenance and Upgrades. Grantor may perform periodic System upgrades and/or decommission parts of its radio systems. Grantor shall take all reasonable steps to ensure the System is backward compatible with the Radios. Notwithstanding that, Grantor does not guarantee that Grantees' Radios will be compatible for use throughout the Term.
8. Radio Programming and Costs. Upon EBRCSA's request, Grantees shall provide the Radios to the Alameda County Radio Shop and Contra Costa County Radio Shop, Motorola and other programming entities selected by EBRCSA (collectively, "**Radio Shop**") to program, apply firmware upgrades, perform radio alignment and/or perform any other programming to enable the Radios to function on the System (collectively "**Services**"). Once the Radios are provided to the Radio Shop pursuant to this Section, Radio Shop will send an invoice to Grantees for the Services and Grantees shall remit payment to the Radio Shop prior to the Radio Shop performing the Services. Radio Shop will complete the programming and performance tests within 30 days of receipt of payment by Grantees or delivery by Grantees

of the Radios to the Radio Shop, whichever is later. Grantees shall be responsible for all maintenance and repair costs on the Radios.

9. Radio Identification Sheet. Grantees shall provide the Radio Shop with a completed Radio Identification Sheet substantially in the form attached hereto and incorporated herein as Exhibit A for each Radio provided to it to allow Grantor to track transmissions on Grantor's Channels. Within fifteen (15) calendar days of Grantees' personnel change to an assigned Radio, Grantees shall provide an updated Radio Identification Sheet to the Radio Shop responsible for the programming of such Radio identifying the change.
10. Radio Limit. Grantees are authorized to use a maximum of [insert numbers for Fremont, Milpitas and Menlo Park] Radios for use on the Channels.
11. Lost or Stolen Radio. In the event a Radio is lost or stolen, Grantees shall immediately, and in any event no later than 24 hours, contact EBRCSA and advise it of the six-or eight-digit radio number assigned to such Radio for deactivation from its System. If the Radio is subsequently found, Grantees shall notify EBRCSA of the same and it may be enabled again for use on the Channels.
12. Radio Identification. Radio Shop will designate and log a unique Radio call sign to each Radio it performs Services upon ("**Call Sign**"). Grantees shall ensure its personnel identify themselves with such Call Sign when they utilize the Radios on the Channels.
13. Patching Prohibited. Grantees shall ensure that their personnel are prohibited from using frequency bridging equipment, a dispatch console or any other similar mechanism to "patch" or link any Channel to any other system, channel, sub-system or communications bridging equipment.
14. Communication Over Radio. Grantees shall ensure that its personnel use plain speech when communicating on the Channels. In the event of inappropriate language or behavior, or misuse of the radio system by any of Grantees' personnel, Grantor may disallow that individual from using the Channels, or may terminate this MOU upon written notice to Grantees prior to such action.
15. Disabling Radios. Grantor may disable a Radio temporarily or permanently in Grantor's sole discretion. Examples of when Grantor may determine to disable a Radio include, but are not limited to, (1) if the Radio is malfunctioning, (2) if Grantees' authorized personnel assigned to that Radio are using it in violation of the terms of this MOU, or (3) if the Radio is in any way interfering with the Grantor's communications.
16. CLETS Transactions Prohibited. Grantees shall not run or request to run any California Law Enforcement Telecommunications System ("**CLETS**") transactions through Grantor's Channels. Should Grantees require a CLETS transaction, it will switch to its primary channel to request the transaction through its agency ORI.

17. Access to EBRCSA Records. If Grantees seeks access to EBRCSA records regarding radio transmissions, it shall submit a written request to the EBRCSA Custodian of Records. The request shall specify the CAD or incident number (if known), the date and location of the incident, and the name, phone number and address of Grantees' contact for the request who is authorized to obtain the information. Grantees agree to treat any unredacted records produced pursuant to this Section as confidential, to the extent permitted by law, and to use such records for official purposes only.
18. Notices. Unless otherwise specifically provided herein, all notices and other communications shall be in writing, addressed to the person and address set forth below and shall be (a) deposited in the U.S. mail, first class, certified with return receipt requested and with appropriate postage, (b) hand delivered or (c) sent via email:

To EBRCSA:

East Bay Regional Communications System Authority
4985 Broder Blvd
Dublin, CA 94569
Attention: Tom McCarthy, Executive Director
Email Address: Tmccarthy@acgov.org

To FREMONT:

City of Fremont
3300 Capitol Avenue
Fremont, CA 94538
Attention: Zoraida Diaz, Fire Chief
Email Address: zdiaz@fremont.gov

To MILPITAS:

City of Milpitas
Address:
Address:
Attention:
Email:

To MENLO PARK

City of MENLO PARK
Address:
Address:
Attention:
Email:

Menlo Park Fire District

Michael Stahl

Fire Captain

Menlo Park Fire Protection District

(650) 688-8434

michaels@menlofire.org

Jason Schoonover

Fire Chief

Milpitas Fire Department

(408) 586-2811

jschoonover@milpitas.gov

From time to time any Party may designate a new address or recipient for notice for purposes of this Section 18 by written notice to the other Party.

19. Contact Information. Each Party shall provide the other Party with a list of appropriate contact personnel for notices and notifications under this MOU. Each Party is responsible for updating the list to ensure it is current.

20. Hold Harmless and Indemnification. Grantees agree to protect, indemnify, defend with counsel acceptable to Grantor and each Grantor member City, and hold harmless Grantor and its elective or appointive boards, officers, agents, and employees and each Grantor member City and their individual elected officials, officers, employees and agents from and against any and all claims, liabilities, demands, and expenses, or damages of any nature, including court, litigation and dispute resolution costs and attorneys' fees, for damages of any nature, including but not limited to injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with Grantees' use of the Radio and/or Channels or performance or lack of performance under the MOU by Grantees, Grantees' agents, officers, employees, contractors or subcontractors (collectively,

the “**Claims**”), except for Claims resulting from the sole negligence or willful misconduct of Grantor in which case Grantees’ obligations pursuant to this Section shall inure to each Grantor member City or sole negligence or willful misconduct of City in which case Grantees’ obligations pursuant to this Section shall inure to Grantor. Grantees’ obligation to indemnify and defend Grantor and each Grantor member City shall apply to all liability regardless of whether any insurance policies are applicable. Any such policy limits shall not act as a limitation upon the amount of indemnification to be provided by Grantees.

This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly understood and agreed that the obligation of the Grantees to indemnify the Grantor and each Grantor member City shall be as broad and inclusive as permitted by the laws of the State of California and shall survive termination of this MOU.

21. No Guaranty or Warranty of Performance. Grantor does not guarantee, and there is no warranty, express or implied, that the Radios or Channels will function completely or properly. Neither Grantor nor any Grantor member City assumes any responsibility, liability for any radio call that is lost, dropped or unable to be made with any radios used by Grantees under this MOU. Grantees assume all liability for the failure of the Radios or Channels to complete, initiate or continue any radio call.
22. No Assignment or Subcontracting. Grantees may not subcontract or assign any rights, duties or obligations under this MOU. Any assignment made in violation of this provision shall confer no rights on any Party and shall be null and void.
23. Independent Agencies. None of the provisions of this MOU are intended to create, and none shall be deemed or construed to create any relationship between the Parties other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of the MOU. Neither Party nor its employees is an employee of the other Party; nor is either Party or its employees entitled to any of the benefits and protections afforded to employees of the other Party. The Parties to this MOU shall have no authority, express or implied, to act on behalf of each other’s signatories in any capacity whatsoever as an agent. The Parties shall have no authority, express or implied, pursuant to this MOU to bind each other to any obligation whatsoever outside of this MOU. The Parties agree that the provisions of this MOU are not intended to directly benefit any third Party, and shall not be enforceable by any person or entity not a Party to this MOU. This MOU is not intended to confer any legal rights or benefits on any person or entity other than the Parties to this MOU.
24. Proprietary or Confidential Information of EBRCSA. Grantees understand and agree that in accessing and using the Channels under this MOU, Grantees may have access to private or confidential information that may be owned or controlled by EBRCSA or to which EBRCSA has authorized access, and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to EBRCSA or to third parties. Grantees agree that all information disclosed by EBRCSA to Grantees or to which Grantees

have access by virtue of this MOU shall be held in confidence and used only in performance of the MOU.

25. Modification of MOU. This MOU may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this MOU.
26. Termination. Any Party may terminate this MOU for any reason at any time upon ten (10) business days written notice to the other Parties.
27. Entire MOU. This MOU sets forth the entire agreement between the Parties, and supersedes all other oral or written provisions. This MOU may be modified only as provided in Section 25, "Modification of MOU."
28. Severability. Should the application of any provision of this MOU to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this MOU shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the Parties and shall be reformed without further action by the Parties to the extent necessary to make such provision valid and enforceable
29. Interpretation, Jurisdiction and Venue. The formation, interpretation and performance of this MOU shall be governed by the laws of the State of California. Venue for any litigation relative to the formation, interpretation and performance of this MOU shall be in Alameda County, California.
30. Execution in Counterpart. This MOU may be executed in counterparts, either manually or digitally, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterpart, shall constitute one MOU, which shall be binding upon and effective as to all Parties. This MOU may be signed by an electronic signature as defined in California Civil Code Section 1633.2.
31. Compliance with Laws. In performing any services required under this MOU, the Parties shall observe and comply with all applicable Federal, State and local laws and regulations.
32. No Waiver. The failure of any Party hereto to enforce any of the provisions of this MOU, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment on its part of any such provision, and said provision shall nevertheless be and remain in full force and effect.
33. Authority to Enter into MOU. Each Party warrants that the individuals who have signed this MOU have the legal power, right, and authority to execute this MOU and to bind each of their respective Parties.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties hereby have executed this MOU on the dates specified herein.

Agency: East Bay Regional Communications System Authority

Contact : David L. Swing

Contact Ph # 510-225-5930

Rank/Position: Executive Director

Email: David.Swing@acgov.org

Date: _____

Signature _____

Approved as to form:

Richard D. Pio Roda, Authority Counsel

Agency: City of Fremont _____

Contact : Zoraida Diaz _____

Contact Ph Rank/Position: Fire Chief _____

Email: zdiaz@fremont.gov _____

Date: _____

Signature _____

Agency: City of Milpitas _____

Contact : _____

Position: _____

Email: _____

Date: _____

Signature _____

Agency: City of Menlo Park _____

Contact : _____

Position: _____

Email: _____

Date: _____

Signature _____

EXHIBIT A

Radio Identification Sheet

Owner: _____

Radio Brand: Motorola or Compatible Subscriber

Radio Serial #: See Attachment B

Call Sign: See Attachment B

Agent Assigned: Insert name of authorized personnel
Last First M.I.

Agent Badge Number: (Various)

To be completed by Authorized EBRCSA Programming Entity - Radio Shop

Date programmed on 700/800 MHz Interoperability System:

Radio ID #: _____

Radio Alias: _____

24/7 POC for any issues with this Unit is required.

Name: _____

Email: _____

Phone#: _____

5594814.1

RESOLUTION NO. 24-xx

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

ADOPT A RESOLUTION AUTHORIZING THE BOARD CHAIR TO EXECUTE AND THE EXECUTIVE DIRECTOR TO IMPLEMENT THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITIES OF FREMONT, MENLO PARK AND MILPITAS AND THE EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY (EBRCSA) REGARDING RADIO INTEROPERABILITY.

WHEREAS, the East Bay Regional Communications System Authority (“EBRCSA”) desires to enhance the response to emergencies in adjoining areas through consistent radio communications; and

WHEREAS, the Board of Directors of the EBRCSA has reviewed and considered the Memorandum of Understanding (MOU) with the Cities of Fremont, Menlo Park and Milpitas and the accompanying Staff Report, has heard all comment thereon, and finds good cause therefor.

NOW, THEREFORE, the Board of Directors of the East Bay Regional Communications System Authority does **RESOLVE** that it wishes to enter into a MOU for sharing of radio communication systems with the Cities of Fremont, Menlo Park and Milpitas.

On motion of xx, seconded by xx, the foregoing Resolution was passed and adopted this 3rd day of May, 2024, by the following votes:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Caroline P. Soto, Secretary



**East Bay Regional
Communications
System Authority**



Participating agencies include Alameda and Contra Costa Counties and the following cities and special districts: Alameda, Albany, Antioch, 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 NO. 3.4

**AGENDA STATEMENT
BOARD OF DIRECTORS MEETING
MEETING DATE: May 3, 2024**

TO: Board of Directors
East Bay Regional Communications System Authority (EBRCSA)

FROM: David L. Swing, Executive Director
East Bay Regional Communications System Authority

SUBJECT: CSI Telecommunications Contract for Specialized Services

RECOMMENDATION:

Authorize the Board Chair to execute and the Executive Director to implement the contract with CSI Telecommunications to provide East Bay Regional Communications System Authority (EBRCSA) with technological services, engineering services, assistance with FCC Licensing and the Capital Replacement Program.

SUMMARY/DISCUSSION:

CSI Telecommunications, Inc. is a team of Consulting Engineers that are subject matter experts in radio communication, microwave systems, and radio interference. CSI has assisted EBRCSA in securing radio frequencies from the FCC for several years. CSI engineers have also provided subject matter expertise reviewing projects for EBRCSA and providing expertise on changes to the EBRCSA System.

CSI participates in the EBRCSA Technical Advisory Committee meetings and provides assistance to the two radio shops that work with EBRCSA. CSI performs all deconfliction management for our radio frequencies and Microwave Paths. The services provided by CSI cannot be provided by the Alameda or Contra Costa Counties Radio Shops. CSI is also providing technical expertise on the Capital Replacement Project.

The attached proposal (Attachment "A") provided by CSI provides additional information as to the scope of work proposed. The current contract with CSI has expired. However, CSI has

continued to provide services. The term of the contract is January 1, 2024 and terminates on June 30, 2025. The cost of the contract is based on time and materials and is not to exceed \$200,000 per fiscal year.

FINANCIAL IMPACT:

The proposed contract is part of the existing operating budget. The not to exceed amount of \$200,000 has historically been sufficient to cover the work performed by the contractor.

COMMITTEE RECOMMENDATION:

The Finance and Operations Committees reviewed the proposed contract and recommended its approval by the Board of Directors after making minor modifications.

RECOMMENDED ACTION:

It is recommended that the Board of Directors approve the contract with CSI Telecommunications to provide East Bay Regional Communications System Authority (EBRCSA) with technological services, engineering services, assistance with FCC Licensing and the Capital Replacement Program.

Attachments:

Attachment "A" – CSI Contract

Attachment "B" – CSI Resolution

1. **Contract Identification.**

Subject: Telecommunications Engineering, Analysis and Frequency Services

2. **Parties.** The East Bay Regional Communications System Authority (EBRCSA) and the following named Contractor mutually agree and promise as follows:

Contractor: CSI Telecommunications, Inc.

Capacity: California Corporation

Address: Six Hamilton Landing, Suite 170, Novato, CA 94949

3. **Term.** The effective date of this Contract is January 1, 2024. It terminates on June 30, 2025 unless sooner terminated as provided herein.

4. **Payment Limit.** EBRCSA's total payments to Contractor under this Contract shall not exceed \$ 200,000.00 per fiscal year.

5. **EBRCSA's Obligations.** EBRCSA shall make to the Contractor those payments described in the Payment Provisions attached hereto which are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

6. **Contractor's Obligations.** Contractor shall provide those services and carry out that work described in the Service Plan attached hereto which is incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

7. **General and Special Conditions.** This Contract is subject to the General Conditions and Special Conditions (if any) attached hereto, which are incorporated herein by reference.

8. **Project.** This Contract implements in whole or in part the following described Project, the application and approval documents of which are incorporated herein by reference.

N/A

9. **Legal Authority.** This Contract is entered into under and subject to the following legal authorities:

Government Code Section 31000

10. **Signatures.** These signatures attest the parties' agreement hereto:

EAST BAY REGIONAL RADIO COMMUNICATION SYSTEM AUTHORITY

CHAIRMAN, BOARD OF DIRECTORS

By: _____

Fire Chief Paige Meyer

CONTRACTOR

Signature A

Name of business entity:

CSI Telecommunications, Inc.

By: _____

Catherine F. Newman, President

1. **Payment Amounts.** Subject to the Payment Limit of this Contract and subject to the following Payment Provisions, EBRCSA will pay Contractor the following fee as full compensation for all services, work, expenses or costs provided or incurred by Contractor:

[Check one alternative only.]

- a. \$ monthly, or
- b. \$ per unit, as defined in the Service Plan, or
- c. \$ after completion of all obligations and conditions herein.
- d. Other: As set forth in Section C (Payment Provisions) of the attached Service Plan.

2. **Payment Demands.** Contractor shall submit written demands for payment on their stationary in a manner and form acceptable to EBRCSA . Contractor shall submit said demands for payment no later than 30 days from the end of the month in which the contract services upon which such demand is based were actually rendered. Upon approval of payment demands by EBRCSA's Executive Director, or his designee, EBRCSA will make payments as specified in Paragraph 1. (Payment Amounts) above.

3. **Penalty for Late Submission.** If EBRCSA is unable to obtain reimbursement from the State of California as a result of Contractor’s failure to submit to EBRCSA a timely demand for payment as specified in Paragraph 2. (Payment Demands) above, EBRCSA shall not pay Contractor for such services to the extent EBRCSA's recovery of funding is prejudiced by the delay even though such services were fully provided.

4. **Right to Withhold.** EBRCSA has the right to withhold payment to Contractor when, in the opinion of EBRCSA expressed in writing to Contractor, (a) Contractor's performance, in whole or in part, either has not been carried out or is insufficiently documented, (b) Contractor has neglected, failed or refused to furnish information or to cooperate with any inspection, review or audit of its program, work or records, or (c) Contractor has failed to sufficiently itemize or document its demand(s) for payment.

5. **Audit Exceptions.** Contractor agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions by appropriate county, state or federal audit agencies resulting from its performance of this Contract. Within 30 days of demand, Contractor shall pay EBRCSA the full amount of EBRCSA's obligation, if any, to the state and/or federal government resulting from any audit exceptions, to the extent such are attributable to Contractor's failure to perform properly any of its obligations under this Contract.

Initials: _____
Contractor EBRCSA

- A. **Contractor's Obligations:** During the term of this Contract, Contractor will work with EBRCSA employees, under the direction of the Executive Director, to provide telecommunications permitting assistance, Federal Communications Commission ("FCC") license application engineering/frequency coordination, and preparation of specifications for EBRCSA's Microwave and Public Safety Radio Systems.
- B. **Scope of Work:** Under the terms of this Service Plan, Contractor will perform the following professional services, which include but are not limited to the following:
1. Radio frequency coordination, permitting, application, selection, radio site construction period filing, monitoring of all County microwave and land mobile radio frequency licensing;
 2. Resolution of radio frequency interference reports or complaints against EBRCSA;
 3. Creation and/or filing of radio frequency interference reports on EBRCSA's behalf;
 4. Radio frequency coordination for application of new frequencies or changes to existing frequencies;
 5. Monitor, locate, coordinate and resolve radio frequency interference;
 6. Provide radio frequency and system performance or usage analysis;
 7. Provide radio or microwave infrastructure engineering;
 8. FCC Part 90 radio frequency license monitoring, protection, and licensing services;
 9. FCC Part 91 Microwave frequency protection services;
 10. Attend EBRCSA meetings, National Public Safety Planning Advisory Committee Region 6 Meetings, and other appropriate meetings and/or conferences at the request of the Executive Director;
 11. Preparation and electronic filing of FCC applications;
 12. Preparation of other FCC documents and filings as directed by the Executive Director;
 13. Radio systems engineering;
 14. Oversight of projects pertaining to the EBRCSA system.
- C. **Payment Provisions:** Contractor shall submit said invoices no later than 30 days after the end of the month in which the services upon which such demand is based were rendered. Subject to the payment limit set forth in Section 4 (Payment Limit) of this Contract, EBRCSA will pay Contractor for services rendered under this Contract at the rate of \$250.00 per hour. Subject to the Payment Limit, the Department may revise the foregoing payment provisions through an Administrative Amendment to this contract as provided by Section 8(b) of the attached General Conditions. Contractor may pay fees on behalf of EBRCSA for registration, permits, and licenses related to EBRCSA's radio frequency rights after receiving written approval from EBRCSA. EBRCSA will reimburse Contractor for the payment of these fees in the amount of the payment, without markup. Contractor will be reimbursed for incidental expenses such as mileage, copying costs, meals, etc.

Initials:

Contractor	EBRCSA

- 1. **Compliance with Law.** Contractor is subject to and must comply with all applicable federal, state, and local laws and regulations with respect to its performance under this Contract, including but not limited to, licensing, employment, and purchasing practices; and wages, hour, and conditions of employment, including nondiscrimination.
- 2. **Inspection.** Contractor’s performance, place of business, and records pertaining to this Contract are subject to monitoring, inspection, review and audit by authorized representatives of EBRCSA, the State of California, and the United States Government.
- 3. **Records.** Contractor must keep and make available for inspection and copying by authorized representatives of EBRCSA, the State of California, and the United States Government, the Contractor’s regular business records and such additional records pertaining to this Contract as may be required by EBRCSA.
- 4. **Retention of Records.** Contractor must retain all documents pertaining to this Contract for five years from the date of submission of Contractor’s final payment demand or final Cost Report; for any further period that is required by law; and until all federal/state audits are complete and exceptions resolved for this Contract’s funding period. Upon request, Contractor must make these records available to authorized representatives of EBRCSA, the State of California, and the United States Government.
- 5. **Access to Books and Records of Contractor, Subcontractor.** Pursuant to Section 1861(v)(1) of the Social Security Act, and any regulations promulgated thereunder, Contractor must, upon written request and until the expiration of five years after the furnishing of services pursuant to this Contract, make available to EBRCSA, the Secretary of Health and Human Services, or the Comptroller General, or any of their duly authorized representatives, this Contract and books, documents, and records of Contractor necessary to certify the nature and extent of all costs and charges hereunder.

Further, if Contractor carries out any of the duties of this Contract through a subcontract with a value or cost of \$10,000 or more over a twelve-month period, such subcontract must contain a clause to the effect that upon written request and until the expiration of five years after the furnishing of services pursuant to such subcontract, the subcontractor must make available to EBRCSA, the Secretary, the Comptroller General, or any of their duly authorized representatives, the subcontract and books, documents, and records of the subcontractor necessary to verify the nature and extent of all costs and charges thereunder.

This provision is in addition to any and all other terms regarding the maintenance or retention of records under this Contract and is binding on the heirs, successors, assigns and representatives of Contractor.

- 6. **Reporting Requirements.** Pursuant to Government Code section 7550, Contractor must include

Initials: _____
 Contractor EBRCSA

in all documents and written reports completed and submitted to EBRCSA in accordance with this Contract, a separate section listing the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of each such document or written report. This section applies only if the Payment Limit of the Contract exceeds \$5,000.

7. Termination and Cancellation.

- a. **Written Notice.** This Contract may be terminated by either party, in its sole discretion, upon thirty-days advance written notice thereof to the other, and may be cancelled immediately by written mutual consent.
- b. **Failure to Perform.** EBRCSA, upon written notice to Contractor, may immediately terminate this Contract should Contractor fail to perform properly any of its obligations hereunder. In the event of such termination, EBRCSA may proceed with the work in any reasonable manner it chooses. The cost to EBRCSA of completing Contractor's performance will be deducted from any sum due Contractor under this Contract, without prejudice to EBRCSA's rights to recover damages.
- c. **Cessation of Funding.** Notwithstanding any contrary language in Paragraphs 5 and 11, in the event that federal, state, or other non-EBRCSA funding for this Contract ceases, this Contract is terminated without notice.

8. Entire Agreement. This Contract contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Contract will be deemed to exist or to bind any of the parties hereto.

9. Further Specifications for Operating Procedures. Detailed specifications of operating procedures and budgets required by this Contract, including but not limited to, monitoring, evaluating, auditing, billing, or regulatory changes, may be clarified in a written letter signed by Contractor and EBRCSA's Executive Director, or designee, on whose behalf this Contract is made. No written clarification prepared pursuant to this Section will operate as an amendment to, or be considered to be a part of, this Contract.

10. Modifications and Amendments.

- a. **General Amendments.** In the event that the Payment Limit of this Contract is \$100,000 or less, this Contract may be modified or amended only by a written document executed by Contractor and EBRCSA's Executive Director, subject to any required state or federal approval. In the event that the Payment Limit of this Contract exceeds \$100,000, this Contract may be modified or amended only by a written document executed by Contractor and EBRCSA, subject to any required state or federal approval.
- b. **Minor Amendments.** The Payment Provisions and the Service Plan may be amended by a written administrative amendment executed by Contractor and EBRCSA's Executive Director, subject to any required state or federal approval, provided that such administrative amendment may not increase the Payment Limit of this Contract or reduce the services Contractor is obligated to provide pursuant to this Contract.

Initials: _____
 Contractor EBRCSA

11. **Disputes.** Disagreements between EBRCSA and Contractor concerning the meaning, requirements, or performance of this Contract shall be subject to final written determination by the Executive Director of EBRCSA, or his designee, or in accordance with the applicable procedures (if any) required by the state or federal government.

12. **Choice of Law and Personal Jurisdiction.**

- a. This Contract is made in Alameda County and is governed by, and must be construed in accordance with, the laws of the State of California.
- b. Any action relating to this Contract must be instituted and prosecuted in the courts of either Alameda County or Contra Costa County, in the State of California.

13. **Conformance with Federal and State Regulations and Laws.** Should federal or state regulations or laws touching upon the subject of this Contract be adopted or revised during the term hereof, this Contract will be deemed amended to assure conformance with federal or state requirements.

14. **No Waiver by EBRCSA.** Subject to Paragraph 11. (Disputes) of these General Conditions, Inspections or approvals or statements by any officer, agent or employee of EBRCSA indicating Contractor’s performance or any part thereof complies with the requirements of this Contract, or acceptance of the whole or any part of said performance, or payments therefore, or any combination of these acts, do not relieve Contractor’s obligation to fulfill this Contract as prescribed; nor is EBRCSA thereby prevented from bringing any action for damages or enforcement arising from any failure to comply with any of the terms and conditions of this Contract.

15. **Subcontract and Assignment.** This contract binds the heirs, successors, assigns and representatives of Contractor. Prior written consent of the Executive Director or his designee, subject to any required state or federal approval, is required before the Contractor may enter into subcontracts for any work contemplated under this Contract, or before the Contractor may assign this Contract or monies due or to become due, by operation of law or otherwise.

16. **Independent Contractor Status.** The parties intend that Contractor, in performing the services specified herein, is acting as an independent contractor and that Contractor will control the work and the manner in which it is performed. This Contract is not to be construed to create the relationship between the parties of agent, servant, employee, partnership, joint venture, or association. Additionally, Contractor is not entitled to participate in any pension plan, workers’ compensation plan, insurance, bonus, or similar benefits EBRCSA provides to its employees. In the event that EBRCSA exercises its right to terminate this Contract, Contractor expressly agrees that it will have no recourse or right of appeal under any rules, regulations, ordinances, or laws applicable to employees.

17. **Conflicts of Interest.** Contractor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this Contract, no person having any such interests will be employed by Contractor. If requested to do so by EBRCSA,

Initials: _____
Contractor EBRCSA

Contractor will complete a “Statement of Economic Interest” form and file it with EBRCSA and will require any other person doing work under this Contract to complete a “Statement of Economic Interest” form and file it with EBRCSA. Contractor covenants that Contractor, its employees and officials, are not now employed by EBRCSA and have not been so employed by EBRCSA within twelve months immediately preceding this Contract. Contractor will indemnify, defend, and hold EBRCSA harmless from any and all claims, liabilities, or damages resulting from or related to any and all alleged conflicts of interest.

- 18. Confidentiality.** Contractor agrees to comply and to require its officers, partners, associated, agents and employees to comply with all applicable state or federal statutes or regulations respecting confidentiality, including but not limited to, the identity of persons served under this Contract, their records, or services provided them, and assures that:
- a. All applications and records concerning any individual made or kept by Contractor or any public officer or agency in connection with administration of or relating to services provided under this Contract will be confidential, and will not be open to examination for any purpose not directly connected with the administration of such service.
 - b. No person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service. Contactor agrees to inform all employees, agents and partners of the above provisions, and that any person knowingly and intentionally disclosing such information other than as authorized by law may be guilty of a misdemeanor.
- 19. Nondiscriminatory Services.** Contractor agrees that all goods and services under this Contract will be available to any qualified persons regardless of age, gender, race, religion, color, national origin, ethnic background, disability, or sexual orientation, and that none will be used, in whole or in part, for religious worship.
- 20. Indemnification.** Contractor will defend, indemnify, save, and hold harmless EBRCSA and its officers and employees from any and all claims, demands, losses, costs, expenses, and liabilities for any damages, fines, sickness, death or injury to person(s) or property, including any and all administrative fines, penalties or costs imposed as a result of an administrative or quasi-judicial proceedings, arising directly or indirectly from or connected with the services provided hereunder that are caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors, subcontractors, or any persons under its direction or control. If requested by EBRCSA, Contractor will defend any such suits at its sole cost and expense. If EBRCSA elects to provide its own defense, Contractor will reimburse EBRCSA for any expenditures, including reasonable attorney’s fees and costs, Contractor’s obligations under this section exist regardless of concurrent negligence or willful misconduct on the part of EBRCSA or any other person; provided, however, that Contractor is not required to indemnify EBRCSA for the portion of liability a court determines is attributable to the sole negligence or willful misconduct of EBRCSA, its officers and employees. This provision will survive the expiration or termination of this Contract.
- 21. Insurance.** During the entire term of this Contract any extension or modification thereof,

Initials: _____
 Contractor EBRCSA

Contractor shall keep in effect insurance policies meeting the following insurance requirements unless otherwise expressed in the Special Conditions:

- a. **Commercial General Liability Insurance.** For all contracts where the total payment limit of the contract is \$500,000 or less, Contractor will provide commercial general liability insurance, including coverage for business losses and for owned and non-owned automobiles, with a minimum combined single limit coverage of \$500,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damaged ton or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance must be endorsed to include EBRCSA and its officers and employees as additional insureds as to all services performed by Contractor under this Contract. Said policies must constitute primary insurance as to Policies held by them or their self-insurance program(s) will not be required to contribute to any loss covered under the Contractor's insurance policy or policies. For all contracts where the total payment limit is greater than \$500,000, the aforementioned insurance coverage to be provided by Contractor must have a minimum combined single limit coverage of \$1,000,000, and the Contractor must provide EBRCSA with a copy of the endorsement making EBRCSA an additional insured on all commercial general liability, worker's compensation, and, if applicable, all professional liability insurance policies as required herein no later than the effective date of this Contract.
 - b. **Workers' Compensation.** Contractor must provide workers' compensation insurance coverage for its employees.
 - c. **Certificate of Insurance.** The Contractor must provide EBRCSA with (a) certificates(s) of insurance evidencing liability and worker's compensation insurance as required herein no later than the effective date of this Contract. If Contractor should renew the insurance policy(ies) or acquire a new insurance policy(ies) or amend the coverage afforded through and endorsement to the policy at any time during the term of this Contract, then Contractor must provide (a) current certificate(s) of insurance.
 - d. **Additional Insurance Provisions.** The insurance policies provided by the Contractor must include a provision for thirty (30) days written notice to EBRCSA before cancellation or material change of the above-specified coverage.
- 22. Notices.** All notices provided for by this Contract must be in writing and may be delivered by deposit in the United States mail, postage prepaid. Notices to EBRCSA must be addressed to the Executive Director of EBRCSA. Notices to Contractor must be addressed to the Contractor's address designated herein. The effective date of notice is the date of deposit in the mails or of other delivery, except that the effective date of notice to EBRCSA is the date of receipt by the Executive Director of EBRCSA.
- 23. Primacy of General Conditions.** In the event of a conflict between the General Conditions and the Special Conditions, the General Conditions govern unless the Special Conditions of Service Plan expressly provide otherwise.
- 24. Nonrenewal.** Contractor understands and agrees that there is no representation, implication, or

Initials: _____
 Contractor EBRCSA

understanding that the services provided by the Contractor under this Contract will be purchased by EBRCSA under a new contract following expiration or termination of this Contract, and Contractor waives all rights or claims to notice or hearing respecting any failure to continue purchasing all or any such services from Contractor.

- 25. Possessory Interest.** If this Contract results in Contractor having possession of, claim or right to the possession of land or improvements, but does not vest ownership of the land or improvements in the same person, or if this Contract results in the placement of taxable improvements on tax exempt land (Revenue & Taxation Code Section 107), such interest or improvements may represent a possessory interest subject to property tax, and Contractor may be subject to the payment of property taxes levied on such interest. Contractor agrees that this provision complies with notice requirements of Revenue & Taxations Code Section 107.6, and waives all rights to further notice or to damages under that or any comparable statute.
- 26. No Third-Party Beneficiaries.** Nothing in this Contract may be construed to create, and the parties do not intend to create, any rights in third parties.
- 27. Copyrights and Rights in Data.** Contractor will not publish or transfer any materials produced or resulting from activities supported by this Contract without the express written consent of the Executive Director. If any material is subject to copyright, EBRCSA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such materials, in whole or in part, and to authorize others to do so.
- 28. Endorsements.** In its capacity as a contractor with EBRCSA, Contractor will not publicly endorse or oppose the use any particular brand name or commercial product without the prior written approval of EBRCSA. In its EBRCSA-contractor capacity, Contractor will not publicly attribute qualities or lack of qualities to a particular brand name or commercial product in the absence of a well-established and widely accepted scientific basis for such claims or without the prior written approval of EBRCSA. In its EBRCSA-contractor capacity, Contractor will not participate or appear in any commercially produced advertisements designed to promote a particular brand name or commercial product, even if Contractor is not publicly endorsing a product, as long as the Contractor's presence in the advertisement can reasonably be interpreted as an endorsement of the product by or on behalf of EBRCSA. Notwithstanding the foregoing, Contractor may express its views on products to other contractors, the Board of Directors, EBRCSA officers, or others who may be authorized by the Board of Directors or by law to receive such views.
- 29. Required Audit.** (A) If Contractor is funded by \$500,000 or more in federal grant funds in any fiscal year from any source, Contractor must provide to EBRCSA, at Contractor's expense, an audit conforming to the requirements set forth in the most current version of Office of Management and Budget Circular A-133. (B) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year from any source, but such grant imposes specific audit requirements, Contractor must provide EBRCSA with an audit conforming to those requirements. (C) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year from any source, Contractor is exempt from federal audit requirements for that year; however, Contractor's records must be available for and audit may be required by, appropriate

Initials: _____
 Contractor EBRCSA

officials of the federal awarding agency, the General Accounting Office (GAO), the pass-through entity and/or EBRCSA. If any such audit is required, Contractor must provide EBRCSA with such audit. With respect to the audits specified in (A), (B) and (C) above, Contractor is solely responsible for arranging for the conduct of the audit, and for its cost. EBRCSA may withhold the estimated cost of the audit or 10 percent of the contract amount, whichever is greater, or the final payment, from Contractor until EBRCSA receives the audit from the Contractor.

30. Authorizations. Contractor, or the representative(s) signing this Contract on behalf of Contractor, represents and warrants that it has full power and authority to enter into this Contract and to perform the obligations set forth herein.

31. No Implied Waiver. The waiver by EBRCSA of any breach of any term or provision of this Contract will not be deemed to be a waiver of such term or provision or of any subsequent breach of the same or any other term or provision contained herein.

Initials: _____
Contractor EBRCSA

RESOLUTION NO. 24-xx

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

ADOPT A RESOLUTION AUTHORIZING THE BOARD CHAIR TO EXECUTE AND THE EXECUTIVE DIRECTOR TO IMPLEMENT THE CONTRACT WITH CSI TELECOMMUNICATIONS TO PROVIDE EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY (EBRCSA) WITH TECHNOLOGICAL SERVICES, ENGINEERING SERVICES, ASSISTANCE WITH FCC LICENSING AND THE CAPITAL REPLACEMENT PROGRAM.

WHEREAS, the East Bay Regional Communications System Authority (“EBRCSA”) P-25 compliant communications system serving Alameda and Contra Costa counties and individual political jurisdictions therein (the “System”); and

WHEREAS, the EBRCSA has been working with CSI Telecommunications, Inc. (“CSI”) for several years through a contract between the Contra Costa Department of Information Technology and CSI; and

WHEREAS, the EBRCSA has an increased need for CSI’s services as it moves forward with the maintenance and upgrades to the System, and develops a Capital Replacement plan, and therefore desires to contract directly with CSI; and

WHEREAS, staff and CSI have negotiated an eighteen-month contract on a time-and-materials basis at a \$250.00 hourly charge for the term of the contract with a not-to-exceed fiscal year price of \$200,000; and

WHEREAS, funds are available for the agreement and will be identified as to specific source; and

WHEREAS, the Finance Committee recommends entering into the agreement.

NOW, THEREFORE, the Board of Directors of the East Bay Regional Communications System Authority does **RESOLVE** that it adopts the CSI Telecommunications Contract to the accompanying Staff Report.

On motion of xx, seconded by xx, the foregoing Resolution was passed and adopted this 3rd day of May 2024 by the following votes:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Caroline P. Soto, Secretary



**East Bay Regional
Communications
System Authority**



Participating agencies include Alameda and Contra Costa Counties and the following cities and special districts: Alameda, Albany, Antioch, 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 NO. 3.5

**AGENDA STATEMENT
BOARD OF DIRECTORS MEETING
MEETING DATE: May 3, 2024**

TO: Board of Directors
East Bay Regional Communications System Authority (EBRCSA)

FROM: David L. Swing, Executive Director
East Bay Regional Communications System Authority

SUBJECT: Approval of Motorola Solutions Maintenance Agreement

RECOMMENDATION:

Adopt a resolution authorizing the Board Chair to execute and the Executive Director to implement the renewal of the Services Agreement with Motorola Solutions Inc. to continue System support and training for the East Bay Regional Communications System Authority (EBRCSA).

SUMMARY/DISCUSSION:

Representatives from Alameda County, Contra Costa County, and EBRCSA, have been working with Motorola Solutions Inc. ("Motorola") since the EBRCSA System was completed in 2012 to maintain the system and ensure the system is functioning correctly. EBRCSA relies on Motorola to provide ongoing Technical Support:

- Provide technical and managerial assistance during critical response situations
- Zone Controller Roles and coordination with Dispatch Centers
- Technical Support and Training to County Radio Shops
- User Support and Interaction

In the past, EBRCSA had a contract with Motorola to provide a System Manager and Technician who, through a contract with Motorola, were referred to as the Network Administration. With the upgrades to the EBRCSA System in the past year and the new System Upgrade Agreement

(SUA), EBRCSA now has a system agreement instead of a contract. The system agreement is a service as needed agreement rather than personnel at EBRCSA. The model is more efficient for managing the cost of services provided. Contract for Network Administration was approximately \$248,000 per year. For the past year the cost of the Service Agreement was \$96,000 and this was the most efficient method of managing the Motorola interaction as it allowed EBRCSA to separate new projects from ongoing maintenance and security upgrades.

FINANCIAL IMPACT:

Changing to a service as needed model is anticipated to save \$150,000 annually. Approving the contract will not require a budget adjustment.

COMMITTEE RECOMMENDATION:

The Finance and Operations Committees reviewed the proposed maintenance agreement renewal and recommended its approval by the Board of Directors.

RECOMMENDED ACTION:

It is recommended that the Board of Directors approve the renewal of the Services Agreement with Motorola Solutions Inc. to continue System support and training for the East Bay Regional Communications System Authority (EBRCSA) System.

Attachments:

Attachment "A" – Motorola Solutions Service Agreement

Attachment "B" – Motorola Solutions Resolution



SERVICE AGREEMENT

500 W Monroe Street
Chicago, IL. 60661
(888) 325-9336

Quote Number : QUOTE-2072667
Contract Number: USC000007120
Contract Modifier: R03-MAR-23 11:23:43

Date:03/03/2023

Company Name: EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY
Attn:
Billing Address: 4985 BRODER BLVD
City, State, Zip: DUBLIN , CA, 94568
Customer Contact: Tom McCarthy
Phone: 510-255-5930

Required P.O. :
PO # :
Customer # :1036520494
Bill to Tag # :
Contract Start Date :01-Jul-2023
Contract End Date :30-Jun-2024
Payment Cycle :ANNUALLY

Qty	Service Name	Service Description	Extended Amt
	SVC01SVC2012C	CONTRACT ADMINISTRATION SERVICE	\$96,000.00
		Subtotal - Recurring Services	\$8,000.00
		Subtotal - One-Time Event Services	\$0.00
		Total	\$96,000.00
THIS SERVICE AMOUNT IS SUBJECT TO STATE AND LOCAL TAXING JURISDICTIONS WHERE APPLICABLE, TO BE VERIFIED BY MOTOROLA			

SPECIAL INSTRUCTIONS:

2023 - 2024 Managed Services
Services described in attached SOW performed by Motorola FSO

Technical Support

1. Provide technical and managerial assistance during critical response situations.
2. Zone controller roles -- coordinate dispatch centers.
3. Provide County Radio shops with technical support/training (8 hours a month) -- In person and Webinar. 8 hours a month will not be banked, if 8 hours are not utilized they expire at the end of each month.

User Support and Interaction

1. Establish procedures to review user needs.
2. Establish procedures to respond to end user system questions and concerns.
3. Provide regular meetings with user groups regarding system performance and capabilities.
4. Field Service Operations to manage open PO for System Technician time. "\$50,000 open PO to be billed against System Technician time".



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Cyber Services / Opt-In Acknowledgement Section:

Note: This section is to be completed by the CSM, in conjunction and cooperation with Customer during dialog.

	Opt-In: Service Included in this Contract?	*Service Opt-Out?	** Not Applicable (add reason code)
Security Update Service (SUS)	<input type="checkbox"/>	<input type="checkbox"/>	# <u>3</u>
Remote Security Update Service (RSUS)	<input type="checkbox"/>	<input type="checkbox"/>	# <u>3</u>
Managed Detection and Response (MDR)	<input type="checkbox"/>	<input type="checkbox"/>	# <u>2</u>

* Service Opt-out - I have received a briefing on this service and choose not to subscribe.

** If Selecting "Not Applicable", please consider the following, and enter reason code:

- 1 ----- Infrastructure / Product / Release Not Supported
- 2 ----- Tenant or User Restrictions
- 3 ----- Customer Purchased / Existing Service(s)

I have received Applicable Statements of Work which describe the Services and cybersecurity services provided on this Agreement. Motorola's Terms and Conditions, including the Cybersecurity Online Terms Acknowledgement, are attached hereto and incorporate the Cyber Addendum (available at https://www.motorolasolutions.com/en_us/managed-support-services/cybersecurity.html) by reference. By signing below Customer acknowledges these terms and conditions govern all Services under this Service Agreement.

AUTHORIZED CUSTOMER SIGNATURE

TITLE

DATE

CUSTOMER (PRINT NAME)

CUSTOMER SUPPORT MANAGER

08/31/2023

MOTOROLA REPRESENTATIVE(SIGNATURE)

TITLE

DATE



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Chicago, IL. 60661
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Quote Number : QUOTE-2072667
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Cheri Lynn Root

925-453-1837

MOTOROLA REPRESENTATIVE(PRINT NAME)

PHONE

Company Name : EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY
Contract Number : USC000007120
Contract Modifier : R03-MAR-23 11:23:43
Contract Start Date : 01-Jul-2023
Contract End Date : 30-Jun-2024



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Service Terms and Conditions

Motorola Solutions Inc. ("Motorola") and the customer named in this Agreement ("Customer") hereby agree as follows:

Section 1. APPLICABILITY

These Maintenance Service Terms and Conditions apply to service contracts whereby Motorola will provide to Customer either (1) maintenance, support, or other services under a Motorola Service Agreement, or (2) installation services under a Motorola Installation Agreement.

Section 2. DEFINITIONS AND INTERPRETATION

2.1 "Agreement" means these Maintenance Service Terms and Conditions; the cover page for the Service Agreement or the Installation Agreement, as applicable; and any other attachments, all of which are incorporated herein by this reference. In interpreting this Agreement and resolving any ambiguities, these Maintenance Service Terms and Conditions take precedence over any cover page, and the cover page takes precedence over any attachments, unless the cover page or attachment states otherwise.

2.2 "Equipment" means the equipment that is specified in the attachments or is subsequently added to this Agreement.

2.3 "Services" means those installation, maintenance, support, training, and other services described in this Agreement.

Section 3. ACCEPTANCE

Customer accepts these Maintenance Service Terms and Conditions and agrees to pay the prices set forth in the Agreement. This Agreement becomes binding only when accepted in writing by Motorola. The term of this Agreement begins on the "Start Date" indicated in this Agreement.

Section 4. SCOPE OF SERVICES

4.1 Motorola will provide the Services described in this Agreement or in a more detailed statement of work or other document attached to this Agreement. At Customer's request, Motorola may also provide additional services at Motorola's then-applicable rates for the services.

4.2 If Motorola is providing Services for Equipment, Motorola parts or parts of equal quality will be used; the Equipment will be serviced at levels set forth in the manufacturer's product manuals; and routine service procedures that are prescribed by Motorola will be followed.

4.3 If Customer purchases from Motorola additional equipment that becomes part of the same system as the initial Equipment, the additional equipment may be added to this Agreement and will be billed at the applicable rates after the warranty for that additional equipment expires.

4.4 All Equipment must be in good working order on the Start Date or when additional equipment is added to the Agreement. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment. Customer must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. Customer's obligation to pay Service fees for this Equipment will terminate at the end of the month in which Motorola receives the written notice.

4.5 Customer must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.

4.6 If Equipment cannot, in Motorola's reasonable opinion, be properly or economically serviced for any reason, Motorola may modify the scope of Services related to that Equipment; remove that Equipment from the Agreement; or increase the price to Service that Equipment.

4.7 Customer must promptly notify Motorola of any Equipment failure. Motorola will respond to Customer's notification in a manner consistent with the level of Service purchased as indicated in this.

Section 5. EXCLUDED SERVICES

5.1 Service excludes the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.

5.2 Unless specifically included in this Agreement, Service excludes items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes.; upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.



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Section 6. TIME AND PLACE OF SERVICE

Service will be provided at the location specified in this Agreement. When Motorola performs service at Customer's location, Customer will provide Motorola, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. Waivers of liability from Motorola or its subcontractors will not be imposed as a site access requirement. Customer will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Agreement, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Agreement, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services, Customer agrees to reimburse Motorola for those charges and expenses.

Section 7. CUSTOMER CONTACT

Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable Customer's personnel to maintain contact, as needed, with Motorola.

Section 8. INVOICING AND PAYMENT

8.1 Customer affirms that a purchase order or notice to proceed is not required for the duration of this service contract and will appropriate funds each year through the contract end date. Unless alternative payment terms are stated in this Agreement, Motorola will invoice Customer in advance for each payment period. All other charges will be billed monthly, and Customer must pay each invoice in U.S. dollars within twenty (20) days of the invoice date

8.2 Customer will reimburse Motorola for all property taxes, sales and use taxes, excise taxes, and other taxes or assessments that are levied as a result of Services rendered under this Agreement (except income, profit, and franchise taxes of Motorola) by any governmental entity. The Customer will pay all invoices as received from Motorola. At the time of execution of this Agreement, the Customer will provide all necessary reference information to include on invoices for payment in accordance with this Agreement.

8.3 For multi-year service agreements, at the end of the first year of the Agreement and each year thereafter, a CPI percentage change calculation shall be performed using the U.S. Department of Labor, Consumer Price Index, all Items, Unadjusted Urban Areas (CPI-U). Should the annual inflation rate increase greater than 3% during the previous year, Motorola shall have the right to increase all future maintenance prices by the CPI increase amount exceeding 3%. All items, not seasonally adjusted shall be used as the measure of CPI for this price adjustment. Measurement will take place once the annual average for the new year has been posted by the Bureau of Labor Statistics. For purposes of illustration, if in year 5 the CPI reported an increase of 8%, Motorola may increase the Year 6 price by 5% (8%-3% base).

Section 9. WARRANTY

Motorola warrants that its Services under this Agreement will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. In the event of a breach of this warranty, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Section 10. DEFAULT/TERMINATION

10.1 If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. The non-performing party will have thirty (30) days thereafter to provide a written plan to cure the default that is acceptable to the other party and begin implementing the cure plan immediately after plan approval. If the non-performing party fails to provide or implement the cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.

10.2 Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by Customer to Motorola will become due and payable immediately upon termination of this Agreement. Upon the effective date of termination, Motorola will have no further obligation to provide Services.

10.3 If the Customer terminates this Agreement before the end of the Term, for any reason other than Motorola default, then the Customer will pay to Motorola an early termination fee equal to the discount applied to the last three (3) years of Service payments for the original Term.

Section 11. LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Service provided under this Agreement.



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ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account. This limitation of liability will survive the expiration or termination of this Agreement and applies notwithstanding any contrary provision.

Section 12. EXCLUSIVE TERMS AND CONDITIONS

12.1 This Agreement supersedes all prior and concurrent agreements and understandings between the parties, whether written or oral, related to the Services, and there are no agreements or representations concerning the subject matter of this Agreement except for those expressed herein. The Agreement may not be amended or modified except by a written agreement signed by authorized representatives of both parties.

12.2 Customer agrees to reference this Agreement on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement will not affect its applicability. In no event will either party be bound by any terms contained in a Customer purchase order, acknowledgement, or other writings unless: the purchase order, acknowledgement, or other writing specifically refers to this Agreement; clearly indicate the intention of both parties to override and modify this Agreement; and the purchase order, acknowledgement, or other writing is signed by authorized representatives of both parties.

Section 13. PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS

13.1 Any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer under this Agreement will remain Motorola's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Motorola's request. Customer may not disclose, without Motorola's written permission or as required by law, any confidential information or data to any person, or use confidential information or data for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section survive the expiration or termination of this Agreement.

13.2 Unless otherwise agreed in writing, no commercial or technical information disclosed in any manner or at any time by Customer to Motorola will be deemed secret or confidential. Motorola will have no obligation to provide Customer with access to its confidential and proprietary information, including cost and pricing data.

13.3 This Agreement does not grant directly or by implication, estoppel, or otherwise, any ownership right or license under any Motorola patent, copyright, trade secret, or other intellectual property, including any intellectual property created as a result of or related to the Equipment sold or Services performed under this Agreement.

Section 14. FCC LICENSES AND OTHER AUTHORIZATIONS

Customer is solely responsible for obtaining licenses or other authorizations required by the Federal Communications Commission or any other federal, state, or local government agency and for complying with all rules and regulations required by governmental agencies. Neither Motorola nor any of its employees is an agent or representative of Customer in any governmental matters.

Section 15. COVENANT NOT TO EMPLOY

During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.

Section 16. MATERIALS, TOOLS AND EQUIPMENT

All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction.

Section 17. GENERAL TERMS

17.1 If any court renders any portion of this Agreement unenforceable, the remaining terms will continue in full force and effect.

17.2 This Agreement and the rights and duties of the parties will be interpreted in accordance with the laws of the State in which the Services are performed.

17.3 Failure to exercise any right will not operate as a waiver of that right, power, or privilege.



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17.4 Neither party is liable for delays or lack of performance resulting from any causes that are beyond that party's reasonable control, such as strikes, material shortages, or acts of God.

17.5 Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

17.6 Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event.

17.7 THIS AGREEMENT WILL RENEW, FOR AN ADDITIONAL ONE (1) YEAR TERM, ON EVERY ANNIVERSARY OF THE START DATE UNLESS EITHER THE COVER PAGE SPECIFICALLY STATES A TERMINATION DATE OR ONE PARTY NOTIFIES THE OTHER IN WRITING OF ITS INTENTION TO DISCONTINUE THE AGREEMENT NOT LESS THAN THIRTY (30) DAYS OF THAT ANNIVERSARY DATE. At the anniversary date, Motorola may adjust the price of the Services to reflect its current rates.

17.8 If Motorola provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and Customer agrees to pay for those services on a time and materials basis at Motorola's then effective hourly rates.

17.9 This Agreement may be executed in one or more counterparts, all of which shall be considered part of the Agreement. The parties may execute this Agreement in writing, or by electronic signature, and any such electronic signature shall have the same legal effect as a handwritten signature for the purposes of validity, enforceability and admissibility. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document.

Revised Sept 03, 2022



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Cybersecurity Online Terms Acknowledgement

This Cybersecurity Online Terms Acknowledgement (this "Acknowledgement") is entered into between Motorola Solutions, Inc. ("Motorola") and the entity set forth in the signature block below ("Customer").

1. Applicability and Self Deletion. This Cybersecurity Online Terms Acknowledgement applies to the extent cybersecurity products and services, including Remote Security Update Service, Security Update Service, and Managed Detection & Response subscription services, are purchased by or otherwise provided to Customer, including through bundled or integrated offerings or otherwise.

NOTE: This Acknowledgement is self deleting if not applicable under this Section 1.

2. Online Terms Acknowledgement. The Parties acknowledge and agree that the terms of the *Cyber Subscription Renewals and Integrations Addendum* available at <http://www.motorolasolutions.com/cyber-renewals-integrations> are incorporated in and form part of the Parties' agreement as it relates to any cybersecurity products or services sold or provided to Customer. By signing the signature block below, Customer certifies that it has read and agrees to the provisions set forth and linked on-line in this Acknowledgement. To the extent Customer is unable to access the above referenced online terms for any reason, Customer may request a paper copy from Motorola. The signatory to this Acknowledgement represents and warrants that he or she has the requisite authority to bind Customer to this Acknowledgement and referenced online terms.

3. Entire Agreement. This Acknowledgement supplements any and all applicable and existing agreements and supersedes any contrary terms as it relates to Customer's purchase of cybersecurity products and services. This Acknowledgement and referenced terms constitute the entire agreement of the parties regarding the subject matter hereof and as set out in the referenced terms, and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter.

4. Execution and Amendments. This Acknowledgement may be executed in multiple counterparts, and will have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing or by electronic signature. An electronic signature, facsimile copy, or computer image of a signature, will be treated, and will have the same effect as an original signature, and will have the same effect, as an original signed copy of this document. This Acknowledgement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The Parties hereby enter into this Acknowledgement as of the last signature date below.

Revised Sept 03, 2022

EBRCSA
Managed Services
07/01/2023 – 06/30/2024
Scope of Work

Technical Support

1. Provide technical and managerial assistance during critical response situations.
 - a. Motorola FSO personnel will be available during critical outages to help coordinate response and restoration efforts for Contra Costa and Alameda County. These outages would include any unplanned event that effects the EBRCS system and users. A request to engage the FSO critical response needs to be made to the CSM.
2. Zone controller roles – coordinate dispatch centers.
 - a. During planned Zone controller rolls, the FSO will coordinate will the dispatch centers to confirm that no emergency situations exist before the roll. After the roll the FSO will confirm with the dispatch centers to confirm functionality and coordinate any maintenance that may need to happen from the planned zone controller roll.
3. Provide County Radio shops with technical support/training (8 hours a month) – In person and Webinar. 8 hours a month will not be banked, if 8 hours are not utilized, they expire at the end of each month.
 - a. FSO will provide a monthly training event for a combined audience of Contra Costa and Alameda techs that shall not last longer than 1 man day/8 hours. Said session may be recorded for future use. The topic covered in training session shall be determined in the month prior. Unused training hours are not bankable.

User Support and Interaction

1. Establish procedures to review user needs.
 - a. FSO will attend monthly user meetings to gather concerns and issues from users. If new procedures need to be developed from said concerns, FSO will work with Contra Costa and Alameda technical representatives to establish these procedures.
2. Establish procedures to respond to end user system questions and concerns.

- a. A formal process for end-users to contact FSO with technical questions will be established.
- 3. Provide regular meetings with user groups regarding system performance and capabilities.
 - a. FSO will attend monthly TAC meeting to cover these topics.
- 4. Field Service Operations to manage open PO for System Technician time. "\$50,000 open PO to be billed against System Technician time".
 - a. ST Time will need to be requested formally from EBRCS. Once requested, ST resource time will be billed out at \$235/hr until PO is exhausted. Scheduling of ST will be handled between FSO and SI counterparts.

RESOLUTION NO. 24-xx

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

ADOPT A RESOLUTION AUTHORIZING THE BOARD CHAIR TO EXECUTE AND THE EXECUTIVE DIRECTOR TO IMPLEMENT THE RENEWAL OF THE SERVICES AGREEMENT WITH MOTOROLA SOLUTIONS INC. TO CONTINUE SYSTEM SUPPORT AND TRAINING FOR THE EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY (EBRCSA)

WHEREAS, the East Bay Regional Communications System Authority (“EBRCSA”) P-25 compliant communications system serving Alameda and Contra Costa counties and individual political jurisdictions therein (the “System”); and

WHEREAS, the EBRCSA has been working with Motorola Solutions Inc.(Motorola) for several years through a contract between to provide maintenance services for the radio system; and

WHEREAS, the EBRCSA system is a proprietary Motorola system and Motorola has provided services in advance of the contract approval; and

WHEREAS, staff and Motorola have negotiated an one-year contract on a time-and-materials basis at a \$250.00 hourly charge for the term of the contract with a not-to-exceed fiscal year price of \$200,000; and

WHEREAS, funds are available for the agreement and will be identified as to specific source; and

WHEREAS, the Finance Committee recommends entering into the agreement.

NOW, THEREFORE, the Board of Directors of the East Bay Regional Communications System Authority does **RESOLVE** that it adopts the Motorola Solutions Inc. Contract to the accompanying Staff Report.

On motion of xx, seconded by xx, the foregoing Resolution was passed and adopted this 3rd day of May 2024 by the following votes:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Caroline P. Soto, Secretary



**East Bay Regional
Communications
System Authority**



Participating agencies include Alameda and Contra Costa Counties and the following cities and special districts: Alameda, Albany, Antioch, 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 NO. 3.6

**AGENDA STATEMENT
BOARD OF DIRECTORS MEETING
MEETING DATE: May 3, 2024**

TO: Board of Directors
East Bay Regional Communications System Authority (EBRCSA)

FROM: David L. Swing, Executive Director
East Bay Regional Communications System Authority

SUBJECT: Approval of Memorandum of Understanding with Contra Costa County
Information Technology

RECOMMENDATION:

Adopt a resolution authorizing the Board Chair to execute and the Executive Director to implement the Memorandum of Understanding between Contra Costa County and the East Bay Regional Communications System Authority (EBRCSA) for information technology services.

SUMMARY/DISCUSSION:

On December 4, 2012, EBRCSA and Contra Costa County (the "County") entered into an agreement for the County's provision of Department of Information Technology Telecommunications services including radio services, installation, and maintenance of radio sites and 911 Dispatch centers to support EBRCSA's System at an hourly rate to be paid by the Authority with a term of three years ("Original Agreement"). EBRCSA and the County amended the Original Agreement repeatedly over the course of the following eleven (11) years to increase the term, increase the hourly rate and correspondingly increase the payment limit amount with the last amendment terminating on June 30, 2023.

The proposed MOU will establish an hourly rate of \$148 per hour which is necessary to compensate for the labor rates and cost of materials used performing the work and have an effective date of June 20, 2023 in order to avoid any lapse in service. (See Attachment A). The

proposed MOU has a hourly rate escalator that is commensurate with negotiated wage increases by the County of Contra Costa and the represented employee groups.

FINANCIAL IMPACT:

The cost of Services per the proposed amendment is \$345,000 for the next year. The approved FY 2024/2025 EBRCSA Budget has included \$345,000 for such Services and, thus, the cost can be covered by projected operating revenue and will not require an increase in Subscriber Fees.

COMMITTEE RECOMMENDATION:

The Finance and Operations Committee reviewed have not reviewed the MOU; however, the agreement is a matter of routine business.

RECOMMENDED ACTION:

It is recommended that the Board of Directors approve the Memorandum of Understanding between the County of Contra Costa and the East Bay Regional Communications System Authority for information technology services.

Attachments:

Attachment "A" – Memorandum of Understanding

Attachment "B" - Resolution

**Memorandum of Understanding
Between the East Bay Regional Communications System Authority and County of Contra Costa
Regarding Department of Information Technology Telecommunications Services**

This Memorandum of Understanding (“**MOU**”) is made and entered into effective June 30, 2024 (“**Effective Date**”), by and between the East Bay Regional Communications System Authority, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California (the “**Authority**”), and the County of Contra Costa, a political subdivision of the State of California (the “**County**”). The Authority and the County are sometimes individually referred to herein as “**Party**” and collectively as “**Parties.**”

RECITALS

- A. The Authority is a joint exercise of powers authority duly organized and existing under the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “**Act**”), formed by the local agencies (the “**Members**”) that are signatories to a Joint Exercise of Powers Agreement dated as of September 11, 2007 (the “**JPA Agreement**”), and has developed a P25 compliant communications system serving Alameda and Contra Costa Counties and individual political jurisdictions therein (the “**Project**”). The County is a Member and also a user of the Project. The County’s Department of Information Technology includes staff qualified to perform certain telecommunications services to support the Project.
- B. On December 4, 2012, the Parties entered into an agreement for the County’s provision of Department of Information Technology telecommunications services to support the Project, at an hourly rate to be paid by the Authority, during an original term of three years (“**Original Agreement**”).
- C. The Parties amended the Original Agreement several times over the course of the following eleven (11) years in order to extend the term, increase the hourly rates paid to County for telecommunications services, and correspondingly increase the payment limit amount. The last amendment to the Original Agreement was adopted by the Parties in 2023, and that amendment set a new termination date of June 30, 2024 (“**2023 Amendment**”).
- D. With the adoption of the 2023 Amendment, the Parties expressed their desire to continue their agreement and cooperation. The Parties now wish to continue their agreement and cooperation pursuant to this MOU beginning on the Effective Date, under the terms and conditions as set forth herein, in order to more accurately designate their respective duties given the passage of time.

NOW, THEREFORE, in consideration of the foregoing, the Parties hereby agree as follows:

AGREEMENT

1. Recitals.

The foregoing recitals are true and correct and hereby incorporated herein.

2. Term and Termination.

- (a) **Termination of Original Agreement; Term of MOU.** The Original Agreement, as most recently amended by the 2023 Amendment, is hereby terminated and replaced with this MOU as of the Effective Date. This MOU commences on the Effective Date and it shall remain in full force and effect until terminated (“**Term**”).

(b) **Termination of MOU.** This MOU may be terminated only as follow: (1) by the mutual written agreement of the Parties; or (2) as a result of a material breach by a Party following written notice of default and opportunity to cure, as provided in Section 2(c); or (3) by either Party for convenience upon 180 days' advance written notice to the other Party.

(c) **Termination for Material Breach; Opportunity to Cure.** Prior to terminating this MOU for material breach, the non-defaulting Party shall provide the defaulting Party written notice (“**Default Notice**”) specifying the nature of the alleged material breach and, if known to the non-defaulting Party, the means for curing or correcting the material breach in accordance with the terms of this MOU. The defaulting Party shall have thirty (30) days from the date of receipt of the Default Notice to cure the material breach, or, where a material breach cannot reasonably be cured within said 30-day period, to begin taking steps to cure the breach. If, after 30 days from receipt of the Default Notice, the breach has not been cured, the non-defaulting Party may terminate this MOU by giving the other Party no less than (7) days prior written notice of the termination, specifying the effective date of the termination; provided, however, that for any material breach that cannot reasonably be cured within 30 days following receipt of a Default Notice, the non-defaulting Party may not terminate this MOU if, within the 30-day period following receipt of the Default Notice, the defaulting Party has begun taking steps to cure the material breach and continues thereafter to take steps to cure the material breach within a reasonable time. During any period following a Default Notice, the Parties will continue to satisfy all of their obligations under this MOU until such time as this MOU is terminated.

3. Access.

Authority shall allow County authorized Department of Information Technology Telecommunications Services personnel access to Authority’s radio sites for the purpose of performing the services pursuant to this MOU.

4. County Services.

(a) **Services.** County shall provide the following Department of Information Technology Telecommunications Services at Authority radio sites throughout Contra Costa County, and at the emergency operations center located in Dublin, California, in Alameda County (collectively “**Services**”):

- (i) Installation and maintenance of P25 radio site land mobile radio hardware and software; and
- (ii) Installation and maintenance services of microwave hardware and software; and
- (iii) Installation and maintenance of system and component monitoring equipment; and
- (iv) Installation and maintenance of radio site power supplies, generator, security systems, and other related equipment; and
- (v) Installation, maintenance, planning, and engineering of radio shelter, tower or monopole, pathways, and related facilities; and
- (vi) Fleet map design, planning, training, and maintenance; and
- (vii) Site development services, which include site surveys, engineering, planning, coverage modeling, and specification development; and
- (viii) Installation and maintenance of dispatch consoles and console interface equipment.

(b) **Third-Party Contractors.** The County may contract with third-party service providers for the performance of its Services with the prior written consent of Authority in accordance with Section 6(c).

(c) **Failure to Perform.** The failure of County to perform, or to cause third parties to perform, any Services set forth in this Section 4 as and when required to ensure normal operation of the Project shall constitute a material breach and allow Authority to exercise its remedies pursuant to Section 2.

5. Information Sharing.

The Parties agree to share information as necessary to carry out their respective duties as set forth herein.

6. Payment for Services.

(a) **County Service Rates.** The Authority shall pay for the Services according to the following hourly rates:

(i) **Regular Rate.** One hundred forty-eight dollars (\$148) per hour (the "**Regular Rate**") for Services performed by a County Communications Equipment Specialist between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding County holidays ("**Regular Hours**").

(ii) **Work Outside of Regular Hours.** A rate equal to one and one-half (1.5) times the Regular Rate for Services performed by a County Communications Equipment Specialist outside of Regular Hours.

(iii) **Increases in the Regular Rate.** July 1, 2024 and each July 1 thereafter during the Term, the County may increase the Regular Rate to equal the County Board of Supervisors-approved wage adjustments applicable to the County employees performing the Services under this MOU.

(b) **Materials.** If County purchases materials to perform the Services, County shall invoice Authority for such materials at County's actual cost, and, when possible, County shall pass through any manufacturer's warranty for such materials to the Authority.

(c) **Third-Party Services.** If County determines that a third-party service provider is required to perform the Services under this MOU, County will notify Authority in writing of the need for the third-party service provider, the Services to be performed and estimated cost, if known. Authority shall have 30 days to approve or deny, in writing, County's request for third-party service provider, and, if Authority provides no written response within that 30-day period, Authority will be deemed to have approved the third-party service provider. If Authority has approved, or is deemed to have approved, a third-party service provider for the performance of any Services, County shall invoice Authority for such third-party services at County's actual cost, and Authority shall reimburse the County for those costs, in accordance with Section 6(d).

(d) **Invoices.**

(i) **Submission of Invoices and Payment.** County shall submit invoices for Services (including third-party services) and any materials provided pursuant to this MOU to Authority in the manner and form prescribed by Authority no later than sixty (60) days from the end of the month in which the Services were provided to the Authority. Authority shall remit payment for such Services (including third-party services) and materials to County within 30 days of receipt of an invoice from County. The Authority's obligation to remit payment to County shall survive the termination of this MOU until such time as County is paid for all Services and third-party services performed, and all materials purchased, during the term of this MOU.

(ii) **Right to Withhold Payment.** Authority may withhold payment to County when, in the reasonable opinion of Authority expressed in written notice to County, County's performance, in whole or in part, either has not been carried out or the Services or expenses are insufficiently documented in accordance with the requirements of this MOU. Within 10 days after that written notice is given to County, the Parties' authorized representatives will meet to seek to resolve the issue that resulted in Authority withholding payment to County. If the issue cannot be resolved to the mutual satisfaction of the Parties' authorized representatives, County reserves all of its rights to take any action authorized by law to enforce the terms of this MOU. Nothing in this Section or elsewhere in this MOU constitutes a waiver of County's right to recover a withheld payment to which it is entitled under this MOU.

(e) **Audit Exceptions.** During the term of this MOU and for three years following its termination

County agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions by appropriate county, state or federal audit agencies resulting from County's performance under this MOU. Within 30 days of written demand by Authority, County shall pay Authority the full amount of Authority's obligation, if any, to the state and/or federal government resulting from any audit exceptions, to the extent such are attributable to County's failure to perform properly any of its obligations under this MOU.

7. Indemnification/Hold Harmless.

Each Party shall solely be liable for any and all damages, including attorney's fees, resulting from the actions or omissions arising from its performance of the terms of this MOU.

(a) **Indemnification.** Each Party (the "**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party (the "**Indemnified Party**") from and against any and all liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel's fees and costs, court costs, interest, defense costs, and expert witness fees, (collectively, "**Liabilities**") where the same arises out of, are a consequence of, or are in any way attributable to, in whole or in part, the negligence or willful misconduct of the Indemnifying Party, its officers, officials, agents, employees, volunteers, contractors, or by any individual or agency for which the Indemnifying Party is legally liable, including, but not limited to, officers, agents, employees, volunteers, representatives, council or board members, or contractors of the Indemnifying Party. This indemnification duty shall apply to the Indemnifying Party, for any such liabilities or claims made by any entity, individual, employee, volunteer, or contractor of the Indemnifying Party. For purposes of indemnification set forth in this MOU, "**Indemnified Party**" means the applicable Party, its officers, officials, agents, employees or volunteers.

(b) **Notice.** The Indemnified Party: 1) shall notify the Indemnifying Party in writing within a reasonable time, but no later than 30 days, after learning of any claim or suit for which indemnification may be sought, provided that failure to do so shall have no effect except to the extent the Indemnifying Party is prejudiced thereby; 2) shall have the right to participate in such defense or settlement with its own counsel and at its own expense, but the Indemnifying Party shall have control of this defense or settlement; and 3) shall reasonably cooperate with the defense.

(c) **Survival.** The Parties' obligations in this Section 7 shall remain in full force and effect following the termination of the MOU for any Liabilities that accrue or begin to accrue during the Term.

8. Insurance.

(a) **Required Policies.** Each Party shall secure and maintain throughout the Term, at its sole expense, insurance coverage required under this Section. At its sole discretion, a Party may elect to self-insure for any or all policies of insurance required under this Section. Prior to the Effective Date, each Party shall provide the other Party evidence of insurance coverage or satisfactory statements of self-insurance meeting the requirements specified below:

(i) Commercial General Liability Insurance, with a minimum limit of liability per occurrence of Two Million Dollars (\$2,000,000) for bodily injury and property damage. If Commercial General Liability Insurance or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to a project/location or the general aggregate limit shall be twice the required occurrence limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent consultants and subcontractors; products and completed operations as applicable.

(ii) Automobile Liability Insurance, with a minimum limit of liability per occurrence of

One Million Dollars (\$1,000,000) for bodily injury and property damage. This insurance shall cover any automobile for bodily injury and property damage.

(iii) Workers Compensation in at least the minimum statutory limits.

(b) **Policy Requirements.** All insurance shall:

(i) Be endorsed to include the other Party, its elected and appointed directors, officials, officers, employees, volunteers and agents, as additional insureds with respect to this MOU and its performance. The coverage shall contain no special limitations on the scope of its protection to the above-designated insureds.

(ii) Be primary with respect to any insurance or self-insurance programs of the other Party, their elected and appointed officials, employees, and agents for claims made against the insured Party.

(iii) Be evidenced, prior to commencement of services, by properly executed policy endorsements in addition to a certificate of insurance; or, alternatively if a Party is self-insuring, by a letter or other evidence of coverage issued by that Party's risk manager, or designee.

(c) **Changes to Insurance.** No changes in insurance carriers may be made without 30 days advance written notice to the other Party. A Party shall provide the other Party written confirmation of any policy renewal and any renewal certificate of insurance, or other evidence of coverage, within 30 days after the renewal date.

9. Notice.

All notices shall be in writing and shall be served by any of the following means: (a) by personal delivery during usual business hours at the principal office of the Party; or (b) by depositing the same in the United States mail, postage prepaid, and addressed to the Party at its principal office; or (c) by deposit with an overnight carrier for next business day delivery to the Party at its principal office, with all delivery charges prepaid. The Parties' principal offices for purposes of this MOU are as follows:

To County:

Contra Costa County Department of Information Technology
Attn: Chief Information Officer
30 Douglas Drive
Martinez, CA 94553.

To Authority:

East Bay Regional Communications System Authority
Attn: Executive Director
4985 Broder Blvd.
Dublin, CA 94568

Service of notice pursuant to this Section shall be deemed complete on the day of service by personal delivery, or on the second day following the postmark date if deposited in the United States mail, or on the next business day following the date the notice is deposited with an overnight carrier for next business day delivery. A Party may change its principal office address by delivering written notice to the other Party in the manner required by this Section at least five (5) days before the change in address becomes effective. A courtesy copy of any notice may be given by email, but an emailed courtesy copy of a notice does not substitute for service of the notice in accordance with this Section.

10. Governing Law and Venue.

This MOU shall be deemed to be executed within the State of California and construed in accordance with Contra Costa County Telecommunication Services MOU

and governed by laws of the State of California. Venue in any proceeding or action among the Parties arising out of this MOU shall be in Contra Costa County, California.

11. Amendment.

This MOU may only be modified or amended by a subsequent written agreement signed by the Parties.

12. Entire Agreement.

This MOU represents the entire and integrated agreement between the Parties as to the subject matter referenced herein.

13. Severability.

No provision of this MOU shall be interpreted to require any unlawful action by any Party. If any term or portion of this MOU is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, then the meaning of that section or clause shall be construed so as to render it enforceable to the extent feasible. If no feasible interpretation would save the section or clause, it shall be severed from this MOU with respect to the matter in question, and the remainder of the MOU shall remain in full force and effect. However, in the event such a section or clause is an essential element of the MOU, the Parties shall promptly endeavor to negotiate a replacement that will achieve the intent of such unenforceable section or clause to the extent permitted by law.

14. Execution in Counterpart.

This MOU may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with all other signed counterparts, shall constitute one MOU, which shall be binding upon and effective as to all Parties. This MOU may be executed on behalf of a Party by affixing either a manual signature, or a digital signature that satisfies the requirements of Government Code section 16.5 and Title 2, California Code of Regulations, sections 22000 through 22005.

15. Compliance with Laws.

In performing any services required under this MOU, the Parties shall observe and comply with all applicable Federal, State and local laws and regulations, including but not limited to, licensing, employment, and purchasing practices and wages, hours, and conditions of employment, including nondiscrimination.

16. Inspection.

County's performance, and records pertaining to this MOU are subject to monitoring, inspection, review and audit by authorized representatives of the Authority.

17. Records.

During the term of this MOU and for three years following its termination, each Party must keep and make available for inspection and copying by authorized representatives of the other Party, the State of California, and the United States Government, regular business records and such additional records pertaining to this MOU.

18. Further Specifications for Operating Procedures.

Detailed specifications of operating procedures and budgets required by this MOU, including but not limited to, monitoring, evaluating, auditing, billing, or regulatory changes, may be clarified in a written letter signed by the Authority's authorized representative or the County's authorized representative, provided that any such written clarification shall not conflict with this MOU. No written clarification prepared pursuant to this Section will operate as an amendment to, or be considered to be a part of, this MOU. If any written clarification prepared pursuant to this Section conflicts with a provision of this MOU, the conflicting provision of this MOU shall govern.

19. Copyrights and Rights in Data.

County will not publish or transfer any materials produced or resulting from activities supported by this MOU without the express written consent of Authority's Executive Director. If any material is subject to copyright, Authority reserves the right to copyright, and County agrees not to copyright such material. If the material is copyrighted, Authority reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such materials, in whole or in part, and to authorize others to do so.

20. No Waiver.

The failure of any Party hereto to enforce any of the provisions of this MOU, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment on its part of any such provision, and said provision shall nevertheless be and remain in full force and effect.

21. No Partnership.

The relationship between the Parties shall not be that of partners, agents, joint venturers, a joint powers authority, or joint enterprise of any kind, and nothing contained in this MOU shall be deemed to constitute a partnership or agency agreement between them for any purposes, including, but not limited to federal income tax purposes. The Parties, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

22. No Employee Relationship.

(a) No relationship of employer and employee is created by this MOU. Neither Party is an agent of the other Party in any capacity whatsoever, and neither Party's employees are employees of the other Party.

(b) Each Party and its respective officers, officials, agents, employees, volunteers, contractors, or any individual or agency for which the Party is legally liable shall have no claim under this MOU or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, unemployment insurance benefits, civil service protection, eligibility to enroll in the California Public Employees Retirement System (PERS) or Contra Costa County Employees' Retirement Association (CCCERA) as an employee of the other Party, entitlement to any contribution to be paid by the other Party for employer contributions and/or employee contributions for PERS or CCCERA benefits, or any other employee benefits of the other Party of any kind.

(c) Each Party and its respective officers, officials, agents, employees, volunteers, contractors, or any individual or agency for which the Party is legally liable shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with labor used or which are measured by wages, salaries or other remuneration paid to its

officers, agents, or employees, including but not limited to, PERS and CCCERA, and each Party agrees to indemnify and hold the other Party harmless from any and all liability which they may incur because of their failure to pay such accounts.

(d) In carrying out its obligations under this MOU, each Party shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to that Party's officers, agents and/or employees; and each Party agrees that its officers, agents, and/or employees will not be considered independent contractors of the other Party and shall not be treated or considered in any way as officers, agents, and/or employees of the other Party.

(e) The requirements of this Section shall survive the termination of this MOU.

23. No Third-Party Beneficiary.

This MOU is only for the benefit of the Parties as public entities and shall not be construed as or deemed to operate as an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action or obtain any right to benefits or position of any kind for any reason whatsoever.

24. Authority to Enter into MOU.

Each Party warrants that the individuals who have signed this MOU have the legal power, right, and authority to make this MOU and to bind each respective Party.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as of the Effective Date first written above.

COUNTY OF CONTRA COSTA

Chief Information Officer/Designee

APPROVED AS TO FORM
Thomas L. Geiger, County Counsel

Assistant County Counsel

ATTEST:

**EAST BAY REGIONAL
COMMUNICATIONS SYSTEM
AUTHORITY**

Authority Secretary

Board of Directors Chair

APPROVED AS TO FORM:

Authority Counsel

5595750.1

RESOLUTION NO. 24-xx

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

ADOPT A RESOLUTION AUTHORIZING THE BOARD CHAIR TO EXECUTE AND THE EXECUTIVE DIRECTOR TO IMPLEMENT THE MEMORANDUM OF UNDERSTANDING BETWEEN CONTRA COSTA COUNTY AND THE EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY (EBRCSA) FOR INFORMATION TECHNOLOGY SERVICES.

WHEREAS, the East Bay Regional Communications System Authority (“EBRCSA”) P-25 compliant communications system serves Alameda and Contra Costa counties and individual political jurisdictions therein (the “System”); and

WHEREAS, the East Bay Regional Communications System Authority (“EBRCSA”) requires reliable radio systems maintained by skilled technicians which is currently accomplished by the radio staff of the Counties of Alameda and Contra Costa; and

WHEREAS, the Board of Directors of the EBRCSA has reviewed and considered the Memorandum of Understanding (MOU) with the County of Contra Costa for the provision of radio maintenance services on EBRCSA owned equipment and the accompanying Staff Report, has heard all comment thereon, and finds good cause therefor.

WHEREAS, staff and the County of Contra Costa have negotiated a contract on a time-and-materials basis at a \$148.00 hourly charge for the term of the contract with a not-to-exceed fiscal year price of \$345,000; and

WHEREAS, funds are available for the agreement and will be identified as to specific source; and

WHEREAS, the Finance Committee recommends entering into the agreement.

NOW, THEREFORE, the Board of Directors of the East Bay Regional Communications System Authority does **RESOLVE** that it wishes to enter into a MOU for the provision of radio maintenance services in the County of Contra Costa.

On motion of xx, seconded by xx, the foregoing Resolution was passed and adopted this 3rd day of May, 2024, by the following votes:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Caroline P. Soto, Secretary



**East Bay Regional
Communications
System Authority**



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

AGENDA ITEM 6.1

**AGENDA STATEMENT
BOARD OF DIRECTORS MEETING DATE: May 3, 2024**

TO: Board of Directors
East Bay Regional Communications System Authority

FROM: Paige Meyer, Board Chair
East Bay Regional Communications System Authority

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

RECOMMENDATIONS:

Adopt a Resolution approving an Agreement with David L. Swing to serve as Executive Director of the EBRCSA on a contract basis, and authorizing its execution by the EBRCSA Chairperson.

SUMMARY/DISCUSSION:

As the EBRCSA has grown, the work load and responsibilities require the continued services of an Executive Director. As described in the "Executive Director Position Responsibilities" (attached), the Executive Director is responsible for the overall day-to-day management and operations of the EBRCSA. The Executive Director responsibilities include, but are not limited to, "the general management, administration, direction and development of the Authority's operations and procedures on a daily basis with responsibility for all facilities, employees, consultants, and equipment, and their respective uses," as described in the bylaws. At its March 1, 2024 meeting, the Board voted in closed session to appoint David L. Swing for the Executive Director Position.

The Selection Committee interviewed and discussed the candidates on February 13, 2024. The Selection Committee is recommending to the Board that the Authority enter into a contract for services with David L. Swing to fill the position of the Executive Director. The Selection Committee reviewed the salary and agreed to recommend compensating the Executive Director at \$17,875 per month and an hourly rate of \$165.00 per hour for hours worked in excess of 25 hours per week not to exceed 30 hours per week with no benefits.

The Executive Director Position Responsibilities, as presented, have been incorporated into a contract for service that was reviewed by the Finance Committee. The contractor is also required to obtain and maintain general and professional liability insurance in the amount of \$1 million dollars. The Executive Director will present monthly invoices and work detail to the Chairperson of the Board of Directors for approval and then submit them to the Auditor Controller for payment. The Executive Director serves at the will of the Board and may be terminated without cause upon 30 days' notice. The Selection Committee and the Board recommend the adoption of a Resolution approving the contract with David L. Swing to serve as Executive Director of the EBRCSA, as presented.

RECOMMENDED ACTION:

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

Attachment "A" – EBRCSA Executive Director Job Description

Attachment "B" - Contract

Attachment "C" – Executive Director Resolution

East Bay Regional Communications System Authority (EBRCSA)

Executive Director Position Responsibilities

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

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

EBRCSA EXECUTIVE DIRECTOR

Definition of Services

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

Management, Administrative, Communications, and Regulatory

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

Technical

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

Financial

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

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY
AND
DAVID SWING FOR EXECUTIVE DIRECTOR SERVICES**

THIS AGREEMENT for professional services is made by and between the East Bay Regional Communications System Authority (“**Authority**”) and David Swing, a sole proprietor, (“**Consultant**”) (collectively “**Parties**” and individually “**Party**”) as of APRIL 1, 2024 (the “**Effective Date**”).

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Authority Executive Director services, as more particularly described in the scope of services attached as Exhibit A attached hereto and incorporated herein at the time and place and in the manner specified therein (“**Services**”). In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

1.1 Term of Services. The term of this Agreement shall begin on the Effective Date and shall end on March 1, 2025, and Consultant shall complete the Services described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the Services required by this Agreement shall not affect the Authority’s right to terminate the Agreement, as referenced in Section 8. Notwithstanding the foregoing, this Agreement may be extended for additional one (1) year terms upon the written agreement of the Parties, provided that sufficient funds have been appropriated for such by Authority. None of the foregoing shall affect the Authority’s right to terminate the Agreement as provided for in Section 8.

1.2 Standard of Performance. Consultant shall perform all Services required pursuant to this Agreement in the manner observed by a competent practitioner of the profession in which Consultant is engaged.

1.3 Reserved.

Section 2. COMPENSATION. Authority hereby agrees to pay Consultant a sum \$17,875 per month. Authority shall pay Consultant for Services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from Authority to Consultant for Services rendered pursuant to this Agreement. Consultant shall submit all invoices to Authority in the manner specified herein. Except as specifically authorized by Authority in writing, Consultant shall not bill Authority for duplicate Services performed by more than one person.

Consultant and Authority acknowledge and agree that compensation paid by Authority to Consultant under this Agreement is based upon Consultant’s estimated costs of providing the Services required hereunder as described in Exhibit A – Scope of Services including salaries and benefits. Any additional services, as authorized by the Authority Chair, shall be compensated at a rate of \$165 per hour. Total compensation paid to Consultant by the Authority to complete the Scope of Services described in Exhibit A plus any authorized additional services shall not exceed \$21,450 for any month. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to

any pensions and/or annuities to which Consultant subscribes. Authority therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices at the end of the month for which services are rendered during the term of this Agreement, based on the cost for Services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period and Services provided;
 - A brief description of the work performed;
- The Consultant's signature.

2.2 Monthly Payment. Authority shall make monthly payments as applicable, based on invoices received, for Services satisfactorily performed and for authorized reimbursable costs incurred. Authority shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant. Payment shall be authorized by the Chair of the Authority.

2.3 Total Payment. Authority shall pay for the Services to be rendered by Consultant pursuant to this Agreement. Authority shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering Services pursuant to this Agreement. Authority shall make no payment for any extra, further, or additional service pursuant to this Agreement unless agreed to in writing by the Parties.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

2.4 Payment of Taxes. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.5 Payment upon Termination. In the event that the Authority or Consultant terminates this Agreement pursuant to Section 8, the Authority shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for Services satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.

2.6 Authorization to Perform Services. The Consultant is not authorized to perform any Services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Board Chair.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services required by this Agreement. Authority shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

Authority shall furnish physical facilities such as one cubicle, a desk, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with Authority and reviewing records and the information in possession of the Authority. Authority shall furnish a vehicle that shall be used only for Authority business or as may be reasonably necessary for Consultant's performance of the Services; the vehicle shall be parked when not in use upon Authority premises. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of Authority. In no event shall Authority be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before fully executing this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Services hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to Authority of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid or proposal. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence to Authority that such insurance is in effect. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 Workers' Compensation.

4.1.1 General Requirements. Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 per accident. In the alternative, Consultant may rely on a self-insurance program to meet these requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Consultant, its employees, agents, and subcontractors.

4.1.2 Submittal Requirements. To comply with Subsection 4.1, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
and

- b. Waiver of Subrogation Endorsement as required by the section.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General Requirements. Consultant, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount of \$1,000,000 and automobile liability insurance for the term of this Agreement in an amount of \$1,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including without limitation, blanket contractual liability and the use of owned and non-owned automobiles.

4.2.2 Minimum Scope of Coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 Additional Requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover an occurrence or an accident basis, and not on a claims-made basis.
- b. Authority, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant.
- c. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation.
- d. For any claims related to this Agreement or the work hereunder, the Consultant's insurance coverage shall be primary insurance as respects the Authority, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Authority, its officers,

officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

4.2.4 Submittal Requirements. To comply with Subsection 4.2, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- b. Additional Insured Endorsement as required by the section;
- c. Waiver of Subrogation Endorsement as required by the section; and
- d. Primary Insurance Endorsement as required by the section.

4.3 Professional Liability Insurance.

4.3.1 General Requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount of \$1,000,000 covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

4.3.2 Claims-Made Limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least 3 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of 3 years after completion of work under this Agreement.
- d. A copy of the claim reporting requirements must be submitted to the Authority for review prior to the commencement of any work under this Agreement.

4.3.3 Submittal Requirements. To comply with Subsection 4.3, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

4.4 All Policies Requirements.

- 4.4.1 **Acceptability of Insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.
- 4.4.2 **Verification of Coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish Authority with complete copies of all Certificates of Liability Insurance delivered to Consultant by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the Authority does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The Authority reserves the right to require complete copies of all required and applicable insurance certificates at any time.
- 4.4.3 **Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the written approval of Authority for the self-insured retentions and deductibles before beginning any of the Services or work called for by any term of this Agreement. At the option of the Authority, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the Authority guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 4.4.4 **Wasting Policies.** No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).
- 4.4.5 **Endorsement Requirements.** Each insurance policy required by Section 4 shall be endorsed to state that Authority shall be provided with 30 days' prior written notice of any coverage cancellations.
- 4.4.6 **Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.5 **Remedies.** In addition to any other remedies Authority may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, Authority may, at its sole option exercise any of the following remedies, which are alternatives to other remedies Authority may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT’S RESPONSIBILITIES.

Consultant shall, to the extent permitted by law, including without limitation California Civil Code 2782 and 2782.8, indemnify, hold harmless and assume the defense of, in any actions at law or in equity, the the Authority, its Board of Directors or any Director, Members, officers, departments, committees, predecessors, successors, related entities, independent contractors, attorneys, contractors, agents and assigns past present or future, from any and all claims, actions, causes of action, judgments, liens, indebtedness, damages, obligations, losses, liabilities, costs, claims for attorneys’ fees or costs, and all other claims and rights of action of all kinds and descriptions arising out of, pertaining to or related to Consultant’s or any person directly or indirectly employed by, or acting as agent for, Consultant, work under this Agreement.

With respect to those claims arising from a professional error or omission, Consultant shall defend, indemnify and hold harmless the Authority (including its elected officials, officers, employees, and volunteers) from all claims, losses, and damages arising from the professionally negligent acts, errors or omissions of Consultant.

Consultant's obligation under this section does not extend to that portion of a claim caused in whole or in part by the sole negligence or wilful misconduct of the Authority.

Consultant shall also indemnify, defend and hold harmless the Authority from all suits or claims for infringement of any patent rights, copyrights, trade secrets, trade names, trademarks, service marks, or any other proprietary rights of any person or persons because of the Authority or any of its officers, employees, volunteers, or agents use of articles, products things, or services supplied in the performance of Consultant’s services under this Agreement, however, the cost to defend charged to Consultant shall not exceed Consultant’s proportionate percentage fault.

Section 6. STATUS OF CONSULTANT.

- 6.1 Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of Authority. This Agreement shall not be construed as an agreement for employment. Authority shall have the right to control Consultant only insofar as the results of Consultant's Services rendered pursuant to this Agreement; however, otherwise Authority shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Consultant further acknowledges that Consultant performs Services outside the usual course of the Authority’s business; and is customarily engaged in an independently established trade, occupation, or business of the same nature as the Consultant performs for the Authority and has the option to perform such

work for other entities. Notwithstanding any other Authority, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing Services under this Agreement shall not qualify for or become entitled to, and hereby agrees to waive any and all claims to, any compensation, benefit, or any incident of employment by Authority, including but not limited to, eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Authority, entitlement to any contribution to be paid by Authority for employer contributions and/or employee contributions for PERS benefits, employment entitlements accruing pursuant to the California Labor Code, California Unemployment Insurance Code, the Authority's Policies and Procedures, or other Authority enactments, or any other benefits, leave, insurance or other entitlements as an Authority employee.

- 6.2 Consultant Not an Agent.** Except as Authority may specify in writing, or by action of the Board of Directors, Consultant shall have no authority, express or implied, to act on behalf of Authority in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Authority to any obligation whatsoever.
- 6.3 California Public Employees Retirement System (PERS).** Consultant is a retiree from the California Public Employees Retirement System (PERS). Authority represents that it does not contract with PERS for employee retirement or retiree insurance benefits and that Consultant's status as a PERS' retiree will not be impacted by his service as an independent contractor to the Authority as a result. Authority shall notify Consultant immediately if it determines to contract with PERS for any benefits.

Section 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. Consultant's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.
- 7.3 Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which Authority is bound by the terms of such fiscal assistance program.
- 7.4 Licenses and Permits.** Consultant represents and warrants to Authority that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to Authority that Consultant and its employees, agents, any subcontractors shall, at their sole cost and

expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from Authority.

- 7.5 Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, sex, gender, religion (including religious dress and grooming practices), national origin, ancestry, physical or mental disability, medical condition (including cancer and genetic characteristics), marital status, age, sexual orientation, color, creed, pregnancy, genetic information, gender identity or expression, political affiliation or belief, military/veteran status, or any other classification protected by applicable local, state, or federal laws (each a "Protected Characteristic"), against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any Services or programs provided by Consultant under this Agreement.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** Authority may cancel this Agreement at any time and without cause upon 30 days written notification to Consultant. Consultant may cancel this Agreement upon 30 days' written notice to Authority. 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 except as provided herein.

In the event of termination, Consultant shall be entitled to compensation for Services performed to the effective date of termination. Authority, however, may condition payment of such compensation upon Consultant delivering to Authority any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the Authority in connection with this Agreement.

- 8.2 Extension.** Upon mutual written agreement by the Parties, the Parties may extend the Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Similarly, unless authorized by the Authority, Authority shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.4 Assignment and Subcontracting.** Authority and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant as a sole proprietor and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement

to Authority for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Authority. Consultant shall not subcontract any portion of the performance contemplated and provided for herein without prior written approval of the Authority.

- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Authority and Consultant, including but not limited to Section 5, shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, Authority's remedies shall include, but are not limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
 - 8.6.2** Retain, applicable plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant specifically for Authority pursuant to this Agreement;
 - 8.6.3** Retain a different consultant to complete the Services described in Exhibit A not finished by Consultant; or
 - 8.6.4** Charge Consultant the difference between the cost to complete the Services described in Exhibit A that are unfinished at the time of breach and the amount that Authority would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares specifically for Authority or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Authority. Consultant hereby agrees to deliver those documents to the Authority upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the Authority and are not necessarily suitable for any future or other use. Authority and Consultant agree that, until final approval by Authority, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties.
- 9.2 Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Authority under this Agreement for a minimum of 3 years, or for any

longer period required by law, from the date of final payment to the Consultant to this Agreement.

- 9.3 Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon written request of the Authority. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Authority or as part of any audit of the Authority, for a period of 3 years after final payment under the Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

- 10.1 Attorneys' Fees.** If a Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States Authority Court for the Northern Authority of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Authority or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any Authority official in the work performed pursuant to this Agreement. No officer or employee of Authority shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the Authority. If Consultant was an employee, agent, appointee, or official of the Authority in the previous 12 months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for Services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the Authority for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.*, and, if applicable, will be disqualified from holding public office in the State of California.

At Authority's sole discretion, Consultant may be required to file with the Authority a Form 700 to identify and document Consultant's economic interests, as defined and regulated by the California Fair Political Practices Commission. If Consultant is required to file a Form 700, Consultant is hereby advised to contact the Dublin Authority Clerk for the Form 700 and directions on how to prepare it.

10.7 Contract Administration. This Agreement shall be administered by the Authority's fiscal agent. All correspondence shall be directed to or through the fiscal agent or his or her designee.

10.8 Notices. Any written notice to Consultant shall be sent to:

David Swing
194 Peters Ave Unit D
Pleasanton CA 94566

Any written notice to Authority shall be sent to:

East Bay Regional Communications System Authority
Att: Board of Directors Chair
4985 Broder Boulevard
Dublin, CA 94568

10.9 Integration. This Agreement, including Exhibits A and B represents the entire and integrated agreement between Authority and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

Exhibit A Scope of Services
Exhibit B Compensation Schedule & Reimbursable Expenses

10.10 Counterparts. This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with all other signed counterpart, shall constitute one agreement, which shall be binding upon and effective as to all Parties.

This Agreement may be executed on behalf of a Party by affixing either a manual signature, or a digital signature that satisfies the requirements of Government Code section 16.5 and Title 2, California Code of Regulations, sections 22000 through 22005.

- 10.11 Certification per Iran Contracting Act of 2010.** In the event that this contract is for one million dollars (\$1,000,000.00) or more, by Consultant's signature below Consultant certifies that Consultant, and any parent entities, subsidiaries, successors or subunits of Consultant are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.
- 10.12 Representations.** In connection with signing and carrying out the Agreement, Consultant represents to the Authority that: (a) Consultant is appropriately licensed under California law to perform the Services specified in this Agreement and will perform no Service for which Consultant is not appropriately licensed; and (b) Consultant is competent to perform the Services and will provide experienced and competent personnel to carry out the Services in a timely fashion.
- 10.13 Cooperation.** If this Agreement is terminated for any reason, or if it expires on its own terms, Consultant agrees to: (a) make every effort to assure an orderly transition to another provider of the Services and an orderly demobilization of its own operations in connection with the Services; (b) promptly return all Authority property, including data, files and documents; and (c) will otherwise comply with the reasonable requests of the Authority in connection with the termination or expiration.
- 10.14 Non-Liability of Public Officials.** Consultant will not charge any director, officer, representative, volunteer, official, employee or agent of the Authority personally with any liability or expenses of defense or hold any director, officer, representative, volunteer, official, employee or agent of the Authority personally liable to it under any term or provision of the Agreement or because of the Authority's execution, attempted execution or breach of the Agreement.
- 10.15 Construction of Agreement.** Each Party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an Agreement against the drafting party shall not apply hereto.
- 10.16 No Third-Party Beneficiaries.** This Agreement is made solely for the benefit of the Parties hereto, with no intent to benefit any third parties.

SIGNATURES ON FOLLOWING PAGE

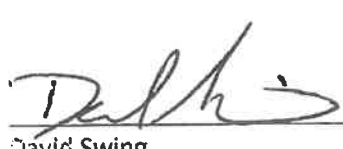
The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

EAST BAY REGIONAL COMMUNICATIONS
SYSTEM AUTHORITY

DAVID SWING




Paige Meyer, Board Chair



David Swing

Attest:



Caroline Soto, Authority Clerk

Approved as to Form:

Laura McKinney, Authority Attorney

EXHIBIT A

SCOPE OF SERVICES

Consultant shall be responsible for the general management, administration, direction and development of the Authority's operations and procedures on a daily basis, including grant applications, acquisitions of equipment, financial administration, meeting administration, recordkeeping, all facilities, employees, consultants, and their respective uses.

Consultant, upon the written approval of the Board Chair or Vice Chair, may approve certain Authority expenditures up to \$25,000 without approval of the Authority's Board of Directors, the Operations Committee, or the Finance Committee. Consultant shall schedule for review any such expenditure at the next regularly scheduled meeting of the Finance Committee.

Consultant shall administer all purchasing for the Authority pursuant to the Alameda County purchasing procedures and shall be authorized by the Authority's Auditor, within budgetary amounts.

Consultant shall review the current fund balances and anticipated operating and replacement expenses and present a recommendation that ensures the on-going solvency of the Authority for Board discussion and vote.

Consultant shall conduct an organizational assessment, to include system security, to ensure that current operations align with best practices and provide a report to the Board by the end of calendar year 2024. The report will include recommendations to align operations with best practices that include a proposed action plan and budget.

In addition, Consultant shall perform such other services as requested by the Authority and will be compensated at the hourly rate specified in Section 2 of the Agreement.

EXHIBIT B

REIMBURSABLE EXPENSES

Reimbursable expenses incurred under this Agreement are identified as the following:

1. Those incurred by Consultant for travel time from Pleasanton, CA to required meetings at a rate of \$150 per hour.

This dollar amount is not a guarantee that the Authority will pay that full amount to the Consultant but is merely a limit of potential Authority expenditures under this Agreement.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/02/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Next First Insurance Agency, Inc. PO Box 60787 Palo Alto, CA 94306	CONTACT NAME: PHONE (A/C, No, Ext): (855) 222-5919 FAX (A/C, No): E-MAIL ADDRESS: support@nextinsurance.com	
	INSURER(S) AFFORDING COVERAGE INSURER A : State National Insurance Company, Inc.	NAIC # 12831
INSURED David Swing David Swing DBA David Swing Consulting and Investigations 194 Peters Ave Apt D Pleasanton, CA 94566	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 163461055 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X		NXTVKCXL9T-00-GL	04/15/2024	04/15/2025	EACH OCCURRENCE \$1,000,000.00 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000.00 MED EXP (Any one person) \$5,000.00 PERSONAL & ADV INJURY \$1,000,000.00 GENERAL AGGREGATE \$1,000,000.00 PRODUCTS - COMP/OP AGG \$1,000,000.00 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability	X		NXTVKCXL9T-00-GL	04/15/2024	04/15/2025	Each Occurrence: \$1,000,000.00 Aggregate: \$1,000,000.00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The Certificate Holder is East Bay Regional Communications System Authority. This Certificate Holder is an Additional Insured on the General Liability policy on a primary and non-contributory basis. This Certificate Holder is an Additional Insured on the General Liability policy with respect to ongoing operations. All Certificate Holder privileges apply only if required by written agreement between the Certificate Holder and the insured, and are subject to policy terms and conditions.

CERTIFICATE HOLDER East Bay Regional Communications System Authority 4985 Broder Blvd Dublin, CA 94568	LIVE CERTIFICATE  Click or scan to view	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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RESOLUTION NO. 24-xx

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

**APPROVING A PROFESSIONAL SERVICES AGREEMENT
WITH DAVID L. SWING
TO PROVIDE SERVICES AS EXECUTIVE DIRECTOR AND
AUTHORIZING ITS EXECUTION**

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

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

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

On motion of xx, seconded by xx, the foregoing Resolution was passed and adopted this 3rd day of May, 2024, by the following votes:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Caroline Soto
EBRCSA Secretary



**East Bay Regional
Communications
System Authority**



Participating agencies include Alameda and Contra Costa Counties and the following cities and special districts: Alameda, Albany, Antioch, 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 NO. 6.2

**AGENDA STATEMENT
BOARD OF DIRECTORS MEETING
MEETING DATE: May 3, 2024**

TO: Board of Directors
East Bay Regional Communications System Authority (EBRCSA)

FROM: David L. Swing, Executive Director
East Bay Regional Communications System Authority

SUBJECT: Adoption of EBRCSA FY 2024/25 Administrative Budget

RECOMMENDATION:

Adopt a resolution that approves the FY 2023/2024 Administrative Budget for the East Bay Regional Communications System Authority (“EBRCSA”).

SUMMARY/DISCUSSION:

Craig Boyer, Alameda County Auditor’s Office, has prepared the FY 2024/2025 Budget and presented it to the Operations and Finance Committees. The proposed budget uses \$2,683,000 in reserve funds to accomplish certain Capital projects. Operating and debt service payments are sufficient to cover the operating and bond payments while maintaining a 50% operating reserve fund balance.

The EBRCSA is required by its Joint Powers Agreement (JPA) to develop and present to the Board of Directors a budget for adoption each fiscal year. The Fiscal Year 2024/2025 Budget, attached as Attachment B, is the proposed budget jointly prepared by the Alameda County Auditor Controller’s staff and the EBRCSA Executive Director (“Proposed Administrative Budget”). The Proposed Administrative Budget was presented to Finance and Operations Committees respectively; both Committees recommended its approval by the full Board.

The proposed Administrative Budget is based on an approximate radio count of 21,000 EBRCSA Users. Staff anticipates that there will be a slight increase to the radio count during the Fiscal Year as radios are added by current Users of EBRCSA.

Grants:

Neither the Urban Areas Security Initiative Grant (“UASI”) nor State Homeland Security Grant Program (“SHSGP”) are soliciting applications for radio or interoperability grants this Fiscal Year.

Capital:

The Proposed Administrative Budget includes an annual payment of \$1.87 million for the lease to own of the TDMA and Microwave/Ethernet/MPLS Capital Project.

COMMITTEE RECOMMENDATION:

The Finance and Operations Committees respectively reviewed the Proposed FY 2024/2025 Administrative Budget and recommended to present it to the EBRCSA Board of Directors for adoption.

RECOMMENDED ACTION:

It is recommended that the Board of Directors of the East Bay Regional Communications System Authority adopt a Resolution Adopting the Fiscal Year 2024/2025 Administrative Budget for the EBRCSA, as outlined in Attachment B.

Attachments:

Attachment “A” – EBRCSA Budget Highlights

Attachment “B” – EBRCSA Budget Fiscal Year 2024/25

Attachment "C" – Resolution Adopting EBRCSA Budget FY 2024/25 Budget



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, Ohlone Community College District, Contra Costa Community College District, Dublin-San Ramon Services District and University of California, Berkeley

HIGHLIGHTS:

REVENUES - \$9.33M

- Slight increase in revenues compared with FY22-23 budget
 - No changes in membership, rates, or radio counts compared to FY23-24
 - Increase in interest income due to higher rates of return

EXPENSES - \$12.01M

- \$142,000 decrease in Operating Expenses
 - \$161,000 decrease in Administration due to reclassification of Planning budget to CSI Telecommunications budget
 - \$23,000 increase in Maintenance due to new Aviat and Motorola contracts
- \$6.58M in Capital expenditures
 - \$1.87M for the TDMA and Microwave upgrades
 - \$1.82M for software maintenance
 - \$1.75M for Walton Lane simulcast site
 - \$250,000 for the DC power upgrades
 - \$25,000 for control stations
- \$650,000 in Debt Service

NET LOSS - \$2,683,000

- \$3,147,500 net decrease to Capital Reserves

PROJECTED RESERVES

- Operating - \$2.39M
- Debt - \$1.00M
- Capital - \$8.95M
- Total - \$12.34M



East Bay Regional Communications System Authority



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BUDGET FISCAL YEAR 2024-25

Revenues

Operating payments	\$ 7,453,000
Service payments	1,512,000
Interest	360,000
Total revenues	9,325,000

Expenses

Administration	353,000
Audit fees	26,000
Contingency	100,000
Insurance	108,000
Lease	81,000
Legal	33,000
Licenses and permits	20,000
Membership fees	13,000
Maintenance	3,709,000
Security	35,000
Utilities	293,000
Website hosting	6,000
Total operating expenses	4,777,000
Capital	6,581,000
Debt Service	650,000
Total expenses	12,008,000
Net Income (Loss)	\$ (2,683,000)

Assumption: Operating payments 21,000 radio count at \$30 per month per radio
Service payments 8,400 radio count at \$15 per month per radio

**EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY
EXPENDITURE DETAIL
FISCAL YEAR 2024-2025**

OPERATING EXPENSES	FY23-24 Final Budget	FY23-24 Projected	FY24-25 Budget	Change FY24 vs FY25
Administrative				
Executive director	\$ 263,000	\$ 262,000	\$ 263,000	\$ -
Administrative assistant	40,000	23,000	40,000	-
Training	30,000	-	30,000	-
Planning	161,000	400	-	(161,000)
Travel	7,000	-	7,000	-
Miscellaneous	13,000	-	13,000	-
Audit fees	26,000	19,000	26,000	-
Contingency	100,000	-	100,000	-
Insurance	102,000	83,000	108,000	6,000
Lease	81,000	72,000	81,000	-
Legal	26,000	108,000	33,000	7,000
Licenses and permit:	39,000	700	20,000	(19,000)
Membership fees	13,000	9,000	13,000	-
Maintenance				
Astro maintenance	1,479,000	1,477,000	1,540,000	61,000
MDR	291,000	290,000	305,000	14,000
Software maintenance (SUA II)	-	163,000	-	-
Network administration	351,000	-	280,000	(71,000)
HVAC maintenance	75,000	35,000	75,000	-
Generator maintenance	69,000	27,000	69,000	-
ALCO general maintenance	660,000	600,000	600,000	(60,000)
COCO general maintenance	345,000	253,000	345,000	-
CSI telecommunication:	260,000	60,000	260,000	-
Microwave maintenance	136,000	82,000	215,000	79,000
Miscellaneous	20,000	7,000	20,000	-
Security	33,000	36,000	35,000	2,000
Utilities:	293,000	238,000	293,000	-
Website hosting	6,000	3,000	6,000	-
Total expenses	<u>4,919,000</u>	<u>3,848,100</u>	<u>4,777,000</u>	<u>(142,000)</u>
CAPITAL EXPENDITURES				
Astro SUA	1,369,000	1,369,000	1,410,000	41,000
MPLS	97,000	96,000	102,000	5,000
NICE SUA	323,000	323,000	310,000	(13,000)
Microwave Network Upgrade	962,000	96,000	866,000	(96,000)
Walton Lane Simulcast Site	1,746,000	-	1,746,000	-
TDMA/Microwave Upgrade	1,872,000	1,871,000	1,872,000	-
DC Power Upgrade	250,000	3,000	250,000	-
Dispatch Console:	25,000	10,000	25,000	-
Total expenditure:	<u>6,644,000</u>	<u>3,768,000</u>	<u>6,581,000</u>	<u>(63,000)</u>
DEBT SERVICE				
Principal	554,000	553,000	585,000	31,000
Interest	96,000	97,000	65,000	(31,000)
Total expenses	<u>\$ 650,000</u>	<u>\$ 650,000</u>	<u>\$ 650,000</u>	<u>\$ -</u>

1. TDMA Upgrade is the annual payment for the Change Order approved by the Board of Directors
2. DC Power Upgrade is an annual amount to replace the batteries in various locations

EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY
PROJECTED CASH RESERVE BALANCES
FISCAL YEAR 2024-2025

	FY23-24	FY23-24	FY24-25
	Final Budget	Projected	Budget
Operating Reserve			
Beginning Balance	\$ 1,998,000	\$ 1,998,000	\$ 1,924,000
Operating Payments	7,453,000	7,150,000	7,453,000
Initial Payments	-	16,000	-
Interest	100,000	355,000	360,000
Operating Expenses	(5,003,000)	(3,848,000)	(4,777,000)
Transfer to Capital Reserve	(3,046,500)	(3,747,000)	(2,571,500)
Ending Balance	1,501,500	1,924,000	2,388,500
Debt Service Reserve			
Beginning Balance	1,000,000	1,000,000	1,000,000
Service Payments	1,512,000	1,680,000	1,512,000
Debt Service	(650,000)	(650,000)	(650,000)
Transfer to Capital Reserve	(862,000)	(1,030,000)	(862,000)
Ending Balance	1,000,000	1,000,000	1,000,000
Capital Reserve			
Beginning Balance	11,087,000	11,087,000	12,096,000
Transfer In	3,908,500	4,777,000	3,433,500
Capital	(6,644,000)	(3,768,000)	(6,581,000)
Ending Balance	8,351,500	12,096,000	8,948,500
Total Reserve Balance	\$ 10,853,000	\$ 15,020,000	\$ 12,337,000

1. Operating Reserve Balance is equal to 50% of the next fiscal years Operating Budget.
2. Debt Reserve Balance is set to equal \$1,000,000 every fiscal year
3. Capital Reserve Balance is the projected remaining cash after the Operating and Debt Reserve requirements have been met

EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY
10 YEAR CASH FLOW PROJECTION

	FY 2023-24 Projected	FY 2024-25 Budget	FY 2025-26 Forecast	FY 2026-27 Forecast	FY 2027-28 Forecast	FY 2028-29 Forecast	FY 2029-30 Forecast	FY 2030-31 Forecast	FY 2031-32 Forecast	FY 2032-33 Forecast
Operating Reserve										
Balance - beginning	1,998,000	1,924,000	2,388,500	2,480,640	2,588,547	2,680,808	2,787,021	2,894,198	2,987,995	3,094,052
Operating payments	7,150,000	7,453,000	7,453,000	7,453,000	7,453,000	7,453,000	7,453,000	7,453,000	7,453,000	7,453,000
Initial payments	16,000	-	-	-	-	-	-	-	-	-
Interest	355,000	360,000	360,000	360,000	360,000	360,000	360,000	360,000	360,000	360,000
Receipts from members	7,521,000	7,813,000	7,813,000	7,813,000	7,813,000	7,813,000	7,813,000	7,813,000	7,813,000	7,813,000
Payments to suppliers	(3,848,000)	(4,777,000)	(4,961,280)	(5,177,093)	(5,361,616)	(5,574,042)	(5,788,395)	(5,975,991)	(6,188,104)	(6,425,696)
Transfer to Capital Reserve	(3,747,000)	(2,571,500)	(2,759,580)	(2,528,001)	(2,359,123)	(2,132,745)	(1,917,429)	(1,743,211)	(1,518,839)	(1,268,509)
Balance - ending	1,924,000	2,388,500	2,480,640	2,588,547	2,680,808	2,787,021	2,894,198	2,987,995	3,094,052	3,212,848

Debt Service Reserve										
Balance - beginning	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	-	-	-	-	-
Service payment	1,680,000	1,512,000	1,512,000	1,512,000	-	-	-	-	-	-
Principal	(553,000)	(585,000)	(600,000)	(623,000)	-	-	-	-	-	-
Bond interest	(97,000)	(65,000)	(50,000)	(27,000)	-	-	-	-	-	-
Transfer to Capital Reserve	(1,030,000)	(862,000)	(862,000)	(862,000)	(1,000,000)	-	-	-	-	-
Balance - ending	1,000,000	1,000,000	1,000,000	1,000,000	-	-	-	-	-	-

Capital Reserve										
Balance - beginning	11,087,000	12,096,000	8,948,500	8,578,080	7,915,081	7,157,203	6,964,948	8,607,377	10,075,588	11,319,427
Transfer In	4,777,000	3,433,500	3,621,580	3,390,001	3,359,123	2,132,745	1,917,429	1,743,211	1,518,839	1,268,509
Capital	(3,768,000)	(6,581,000)	(3,992,000)	(4,053,000)	(4,117,000)	(2,325,000)	(275,000)	(275,000)	(275,000)	(275,000)
Balance - ending	12,096,000	8,948,500	8,578,080	7,915,081	7,157,203	6,964,948	8,607,377	10,075,588	11,319,427	12,312,936

TOTAL RESERVE BALANCE	15,020,000	12,337,000	12,058,720	11,503,627	9,838,011	9,751,969	11,501,574	13,063,583	14,413,479	15,525,784
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SUPPLEMENTARY SCHEDULE FOR PAYMENTS TO SUPPLIERS

Administration	(285,000)	(353,000)	(367,120)	(381,805)	(397,077)	(412,960)	(429,478)	(446,657)	(464,523)	(483,104)
Audit fees	(19,000)	(26,000)	(27,040)	(28,122)	(29,247)	(30,417)	(31,634)	(32,899)	(34,215)	(35,584)
Contingency	-	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)
Insurance	(83,000)	(108,000)	(112,320)	(116,813)	(121,486)	(126,345)	(131,399)	(136,655)	(142,121)	(147,806)
Legal	(108,000)	(33,000)	(34,320)	(35,693)	(37,121)	(38,606)	(40,150)	(41,756)	(43,426)	(45,163)
Lease	(72,000)	(81,000)	(84,240)	(87,610)	(91,114)	(94,759)	(98,549)	(102,491)	(106,591)	(110,855)
Licenses and permits	(1,000)	(20,000)	(20,800)	(21,632)	(22,497)	(23,397)	(24,333)	(25,306)	(26,318)	(27,371)
Membership fees	(9,000)	(13,000)	(13,520)	(14,061)	(14,623)	(15,208)	(15,816)	(16,449)	(17,107)	(17,791)
Maintenance										
Astro Maintenance	(1,477,000)	(1,540,000)	(1,601,000)	(1,667,000)	(1,731,000)	(1,801,000)	(1,855,030)	(1,910,681)	(1,968,001)	(2,027,041)
MDR	(290,000)	(305,000)	(315,000)	(330,000)	(345,000)	(360,000)	(370,800)	(381,924)	(393,382)	(405,183)
SUA II	(163,000)	-	-	-	-	-	-	-	-	-
System management	-	(280,000)	(291,200)	(302,848)	(314,962)	(327,560)	(340,662)	(354,288)	(368,460)	(383,198)
HVAC	(35,000)	(75,000)	(78,000)	(81,120)	(84,365)	(87,740)	(91,250)	(94,900)	(98,696)	(102,644)
Generators	(27,000)	(69,000)	(71,760)	(74,630)	(77,615)	(80,720)	(83,949)	(87,307)	(90,799)	(94,431)
ALCO maintenance	(600,000)	(600,000)	(624,000)	(648,960)	(674,918)	(701,915)	(729,992)	(759,192)	(789,560)	(821,142)
COCO maintenance	(253,000)	(345,000)	(358,800)	(373,152)	(388,078)	(403,601)	(419,745)	(436,535)	(453,996)	(472,156)
CSI telecommunications	(60,000)	(260,000)	(270,400)	(281,216)	(292,465)	(304,164)	(316,331)	(328,984)	(342,143)	(355,829)
Microwave maintenance	(82,000)	(215,000)	(223,600)	(232,544)	(241,846)	(251,520)	(261,581)	(272,044)	(282,926)	(294,243)
Miscellaneous	(7,000)	(20,000)	(20,800)	(21,632)	(22,497)	(23,397)	(24,333)	(25,306)	(26,318)	(27,371)
Security	(36,000)	(35,000)	(36,400)	(37,856)	(39,370)	(40,945)	(42,583)	(44,286)	(46,057)	(47,899)
Utilities	(238,000)	(293,000)	(304,720)	(316,909)	(329,585)	(342,768)	(356,479)	(370,738)	(385,568)	(400,991)
Web site hosting	(3,000)	(6,000)	(6,240)	(6,490)	(6,750)	(7,020)	(7,301)	(7,593)	(7,897)	(8,213)
Payments to suppliers	(3,848,000)	(4,777,000)	(4,961,280)	(5,177,093)	(5,361,616)	(5,574,042)	(5,788,395)	(5,975,991)	(6,188,104)	(6,425,696)

EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY
10 YEAR CASH FLOW PROJECTION WITH A 3% OPERATING PAYMENT RATE INCREASE

Operating Payment Rate 30 30 31 32 33 34 35 36 37 38

Operating Reserve	FY 2023-24 Projected	FY 2024-25 Budget	FY 2025-26 Forecast	FY 2026-27 Forecast	FY 2027-28 Forecast	FY 2028-29 Forecast	FY 2029-30 Forecast	FY 2030-31 Forecast	FY 2031-32 Forecast	FY 2032-33 Forecast
Balance - beginning	1,998,000	1,924,000	2,388,500	2,480,640	2,588,547	2,680,808	2,787,021	2,894,198	2,987,995	3,094,052
Receipts from members	7,521,000	7,813,000	8,172,000	8,424,000	8,676,000	8,928,000	9,180,000	9,432,000	9,684,000	9,936,000
Payments to suppliers	(3,848,000)	(4,777,000)	(4,961,280)	(5,177,093)	(5,361,616)	(5,574,042)	(5,788,395)	(5,975,991)	(6,188,104)	(6,425,696)
Transfer to Capital Reserve	(3,747,000)	(2,571,500)	(3,118,580)	(3,139,001)	(3,222,123)	(3,247,745)	(3,284,429)	(3,362,211)	(3,389,839)	(3,391,509)
Balance - ending	1,924,000	2,388,500	2,480,640	2,588,547	2,680,808	2,787,021	2,894,198	2,987,995	3,094,052	3,212,848

Debt Service Reserve	FY 2023-24 Projected	FY 2024-25 Budget	FY 2025-26 Forecast	FY 2026-27 Forecast	FY 2027-28 Forecast	FY 2028-29 Forecast	FY 2029-30 Forecast	FY 2030-31 Forecast	FY 2031-32 Forecast	FY 2032-33 Forecast
Balance - beginning	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	-	-	-	-	-
Service payment	1,680,000	1,512,000	1,512,000	1,512,000	-	-	-	-	-	-
Principal	(553,000)	(585,000)	(600,000)	(623,000)	-	-	-	-	-	-
Bond interest	(97,000)	(65,000)	(50,000)	(27,000)	-	-	-	-	-	-
Transfer to Capital Reserve	(1,030,000)	(862,000)	(862,000)	(862,000)	(1,000,000)	-	-	-	-	-
Balance - ending	1,000,000	1,000,000	1,000,000	1,000,000	-	-	-	-	-	-

Capital Reserve	FY 2023-24 Projected	FY 2024-25 Budget	FY 2025-26 Forecast	FY 2026-27 Forecast	FY 2027-28 Forecast	FY 2028-29 Forecast	FY 2029-30 Forecast	FY 2030-31 Forecast	FY 2031-32 Forecast	FY 2032-33 Forecast
Balance - beginning	11,087,000	12,096,000	8,948,500	8,937,080	8,885,081	8,990,203	9,912,948	12,922,377	16,009,588	19,124,427
Transfer In	4,777,000	3,433,500	3,980,580	4,001,001	4,222,123	3,247,745	3,284,429	3,362,211	3,389,839	3,391,509
Capital	(3,768,000)	(6,581,000)	(3,992,000)	(4,053,000)	(4,117,000)	(2,325,000)	(275,000)	(275,000)	(275,000)	(275,000)
Balance - ending	12,096,000	8,948,500	8,937,080	8,885,081	8,990,203	9,912,948	12,922,377	16,009,588	19,124,427	22,240,936

TOTAL RESERVE BALANCE	15,020,000	12,337,000	12,417,720	12,473,627	11,671,011	12,699,969	15,816,574	18,997,583	22,218,479	25,453,784
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SUPPLEMENTARY SCHEDULE FOR PAYMENTS TO SUPPLIERS

Administration	(285,000)	(353,000)	(367,120)	(381,805)	(397,077)	(412,960)	(429,478)	(446,657)	(464,523)	(483,104)
Audit fees	(19,000)	(26,000)	(27,040)	(28,122)	(29,247)	(30,417)	(31,634)	(32,899)	(34,215)	(35,584)
Contingency	-	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)
Insurance	(83,000)	(108,000)	(112,320)	(116,813)	(121,486)	(126,345)	(131,399)	(136,655)	(142,121)	(147,806)
Legal	(108,000)	(33,000)	(34,320)	(35,693)	(37,121)	(38,606)	(40,150)	(41,756)	(43,426)	(45,163)
Lease	(72,000)	(81,000)	(84,240)	(87,610)	(91,114)	(94,759)	(98,549)	(102,491)	(106,591)	(110,855)
Licenses and permits	(1,000)	(20,000)	(20,800)	(21,632)	(22,497)	(23,397)	(24,333)	(25,306)	(26,318)	(27,371)
Membership fees	(9,000)	(13,000)	(13,520)	(14,061)	(14,623)	(15,208)	(15,816)	(16,449)	(17,107)	(17,791)
Maintenance										
Astro Maintenance	(1,477,000)	(1,540,000)	(1,601,000)	(1,667,000)	(1,731,000)	(1,801,000)	(1,855,030)	(1,910,681)	(1,968,001)	(2,027,041)
MDR	(290,000)	(305,000)	(315,000)	(330,000)	(345,000)	(360,000)	(370,800)	(381,924)	(393,382)	(405,183)
SUA II	(163,000)	-	-	-	-	-	-	-	-	-
System management	-	(280,000)	(291,200)	(302,848)	(314,962)	(327,560)	(340,662)	(354,288)	(368,460)	(383,198)
HVAC	(35,000)	(75,000)	(78,000)	(81,120)	(84,365)	(87,740)	(91,250)	(94,900)	(98,696)	(102,644)
Generators	(27,000)	(69,000)	(71,760)	(91,630)	(77,615)	(80,720)	(100,949)	(87,307)	(90,799)	(112,111)
ALCO maintenance	(600,000)	(600,000)	(624,000)	(648,960)	(674,918)	(701,915)	(729,992)	(759,192)	(789,560)	(821,142)
COCO maintenance	(253,000)	(345,000)	(358,800)	(373,152)	(388,078)	(403,601)	(419,745)	(436,535)	(453,996)	(472,156)
CSI telecommunications	(60,000)	(260,000)	(270,400)	(281,216)	(292,465)	(304,164)	(316,331)	(328,984)	(342,143)	(355,829)
Microwave maintenance	(82,000)	(215,000)	(223,600)	(232,544)	(241,846)	(251,520)	(261,581)	(272,044)	(282,926)	(294,243)
Miscellaneous	(7,000)	(20,000)	(20,800)	(21,632)	(22,497)	(23,397)	(24,333)	(25,306)	(26,318)	(27,371)
Security	(36,000)	(35,000)	(36,400)	(37,856)	(39,370)	(40,945)	(42,583)	(44,286)	(46,057)	(47,899)
Utilities	(238,000)	(293,000)	(304,720)	(316,909)	(329,585)	(342,768)	(356,479)	(370,738)	(385,568)	(400,991)
Web site hosting	(3,000)	(6,000)	(6,240)	(6,490)	(6,750)	(7,020)	(7,301)	(7,593)	(7,897)	(8,213)
Payments to suppliers	(3,848,000)	(4,777,000)	(4,961,280)	(5,177,093)	(5,361,616)	(5,574,042)	(5,788,395)	(5,975,991)	(6,188,104)	(6,425,696)

EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY
10 YEAR CASH FLOW PROJECTION WITH A 5% OPERATING RATE INCREASE

Operating Payment Rate 30 30 32 34 36 38 40 42 44 46

	FY 2023-24 Projected	FY 2024-25 Budget	FY 2025-26 Forecast	FY 2026-27 Forecast	FY 2027-28 Forecast	FY 2028-29 Forecast	FY 2029-30 Forecast	FY 2030-31 Forecast	FY 2031-32 Forecast	FY 2032-33 Forecast
Operating Reserve										
Balance - beginning	1,998,000	1,924,000	2,388,500	2,480,640	2,588,547	2,680,808	2,787,021	2,894,198	2,987,995	3,094,052
Receipts from members	7,521,000	7,813,000	8,424,000	8,928,000	9,432,000	9,936,000	10,440,000	10,944,000	11,448,000	11,952,000
Payments to suppliers	(3,848,000)	(4,777,000)	(4,961,280)	(5,177,093)	(5,361,616)	(5,574,042)	(5,788,395)	(5,975,991)	(6,188,104)	(6,425,696)
Transfer to Capital Reserve	(3,747,000)	(2,571,500)	(3,370,580)	(3,643,001)	(3,978,123)	(4,255,745)	(4,544,429)	(4,874,211)	(5,153,839)	(5,407,509)
Balance - ending	1,924,000	2,388,500	2,480,640	2,588,547	2,680,808	2,787,021	2,894,198	2,987,995	3,094,052	3,212,848

Debt Service Reserve										
Balance - beginning	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	-	-	-	-	-
Service payment	1,680,000	1,512,000	1,512,000	1,512,000	-	-	-	-	-	-
Principal	(553,000)	(585,000)	(600,000)	(623,000)	-	-	-	-	-	-
Bond interest	(97,000)	(65,000)	(50,000)	(27,000)	-	-	-	-	-	-
Transfer to Capital Reserve	(1,030,000)	(862,000)	(862,000)	(862,000)	(1,000,000)	-	-	-	-	-
Balance - ending	1,000,000	1,000,000	1,000,000	1,000,000	-	-	-	-	-	-

Capital Reserve										
Balance - beginning	11,087,000	12,096,000	8,948,500	9,189,080	9,641,081	10,502,203	12,432,948	16,702,377	21,301,588	26,180,427
Transfer In	4,777,000	3,433,500	4,232,580	4,505,001	4,978,123	4,255,745	4,544,429	4,874,211	5,153,839	5,407,509
Capital	(3,768,000)	(6,581,000)	(3,992,000)	(4,053,000)	(4,117,000)	(2,325,000)	(275,000)	(275,000)	(275,000)	(275,000)
Balance - ending	12,096,000	8,948,500	9,189,080	9,641,081	10,502,203	12,432,948	16,702,377	21,301,588	26,180,427	31,312,936

TOTAL RESERVE BALANCE	15,020,000	12,337,000	12,669,720	13,229,627	13,183,011	15,219,969	19,596,574	24,289,583	29,274,479	34,525,784
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SUPPLEMENTARY SCHEDULE FOR PAYMENTS TO SUPPLIERS

Administration	(285,000)	(353,000)	(367,120)	(381,805)	(397,077)	(412,960)	(429,478)	(446,657)	(464,523)	(483,104)
Audit fees	(19,000)	(26,000)	(27,040)	(28,122)	(29,247)	(30,417)	(31,634)	(32,899)	(34,215)	(35,584)
Contingency	-	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)
Insurance	(83,000)	(108,000)	(112,320)	(116,813)	(121,486)	(126,345)	(131,399)	(136,655)	(142,121)	(147,806)
Legal	(108,000)	(33,000)	(34,320)	(35,693)	(37,121)	(38,606)	(40,150)	(41,756)	(43,426)	(45,163)
Lease	(72,000)	(81,000)	(84,240)	(87,610)	(91,114)	(94,759)	(98,549)	(102,491)	(106,591)	(110,855)
Licenses and permits	(1,000)	(20,000)	(20,800)	(21,632)	(22,497)	(23,397)	(24,333)	(25,306)	(26,318)	(27,371)
Membership fees	(9,000)	(13,000)	(13,520)	(14,061)	(14,623)	(15,208)	(15,816)	(16,449)	(17,107)	(17,791)
Maintenance										
Astro Maintenance	(1,477,000)	(1,540,000)	(1,601,000)	(1,667,000)	(1,731,000)	(1,801,000)	(1,855,030)	(1,910,681)	(1,968,001)	(2,027,041)
MDR	(290,000)	(305,000)	(315,000)	(330,000)	(345,000)	(360,000)	(370,800)	(381,924)	(393,382)	(405,183)
SUA II	(163,000)	-	-	-	-	-	-	-	-	-
System management	-	(280,000)	(291,200)	(302,848)	(314,962)	(327,560)	(340,662)	(354,288)	(368,460)	(383,198)
HVAC	(35,000)	(75,000)	(78,000)	(81,120)	(84,365)	(87,740)	(91,250)	(94,900)	(98,696)	(102,644)
Generators	(27,000)	(69,000)	(71,760)	(91,630)	(77,615)	(80,720)	(100,949)	(87,307)	(90,799)	(112,111)
ALCO maintenance	(600,000)	(600,000)	(624,000)	(648,960)	(674,918)	(701,915)	(729,992)	(759,192)	(789,560)	(821,142)
COCO maintenance	(253,000)	(345,000)	(358,800)	(373,152)	(388,078)	(403,601)	(419,745)	(436,535)	(453,996)	(472,156)
CSI telecommunications	(60,000)	(260,000)	(270,400)	(281,216)	(292,465)	(304,164)	(316,331)	(328,984)	(342,143)	(355,829)
Microwave maintenance	(82,000)	(215,000)	(223,600)	(232,544)	(241,846)	(251,520)	(261,581)	(272,044)	(282,926)	(294,243)
Miscellaneous	(7,000)	(20,000)	(20,800)	(21,632)	(22,497)	(23,397)	(24,333)	(25,306)	(26,318)	(27,371)
Security	(36,000)	(35,000)	(36,400)	(37,856)	(39,370)	(40,945)	(42,583)	(44,286)	(46,057)	(47,899)
Utilities	(238,000)	(293,000)	(304,720)	(316,909)	(329,585)	(342,768)	(356,479)	(370,738)	(385,568)	(400,991)
Web site hosting	(3,000)	(6,000)	(6,240)	(6,490)	(6,750)	(7,020)	(7,301)	(7,593)	(7,897)	(8,213)
Payments to suppliers	(3,848,000)	(4,777,000)	(4,961,280)	(5,177,093)	(5,361,616)	(5,574,042)	(5,788,395)	(5,975,991)	(6,188,104)	(6,425,696)

RESOLUTION NO. 24-xx

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

ADOPTING AN ADMINISTRATIVE BUDGET FOR FISCAL YEAR 2024/2025

WHEREAS, the East Bay Regional Communications System Authority (“EBRCSA”) Executive Director and the Alameda County Auditor-Controller’s Office have jointly prepared, and the EBRCSA Finance Committee has reviewed and recommended, a proposed Administrative Budget for the EBRCSA for Fiscal Year 2024/2025, attached to the accompanying Staff Report as Attachment B; and

WHEREAS, the Board of Directors of the EBRCSA has reviewed and considered the proposed budget and the accompanying Staff Report, has heard all comments thereon, and finds good cause therefor.

NOW, THEREFORE, the Board of Directors of the East Bay Regional Communications System Authority does **RESOLVE** that it adopts the Fiscal Year 2023/2024 Administrative Budget for the EBRCSA, as outlined in Attachment B to the accompanying Staff Report.

On motion of xx, seconded by xx, the foregoing Resolution was passed and adopted this 3rd day of May, 2024, by the following votes:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Caroline P. Soto, Secretary



**East Bay Regional
Communications
System Authority**



Participating agencies include Alameda and Contra Costa Counties and the following cities and special districts: Alameda, Albany, Antioch, 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 NO. 6.3

**AGENDA STATEMENT
BOARD OF DIRECTORS MEETING
MEETING DATE: May 3, 2024**

TO: Board of Directors
East Bay Regional Communications System Authority (EBRCSA)

FROM: David L. Swing, Executive Director
East Bay Regional Communications System Authority

SUBJECT: Adoption of Subscriber Fee Increase

RECOMMENDATION:

Adopt a resolution approving a subscriber fee increase of \$1.00 per subscriber unit per month effective July 1, 2024.

SUMMARY/DISCUSSION:

The Authority entered into a new Service Upgrade Agreement with Motorola Solutions on September 29, 2023. After a 10-year fixed price plan, the new six-year agreement increased operations and capital costs. Additionally, the Authority last voted to increase subscriber rates at the December 1, 2017, Board meeting. After an extended period of low inflation and stable pricing, the CPI increased substantially starting in 2021, increasing costs for several areas of the budget creating a need to increase subscriber rates.

Staff prepared three cash flow projection scenarios to illustrate cash flow with no increase and one-time increases of three percent and five percent. Page one of the attached cash flow projections (Attachment "A") shows the total reserve fund balance reduced from the current balance of \$15,020,000 in FY2023/2024 to a projected balance of \$8,879,942 by FY2028/2029 before starting to recover in FY2029/2030 and growing to \$13,831,955 at the end of the 10-year projection period. A one-time three percent increase provides for recovery in FY2027/2028 at a balance of \$10,843,451 increasing to \$17,788,024 at end of the 10-year projection. A five percent increase starts to recover in FY2028/2029 with a fund balance of \$12,268,769

increasing to \$20,056,024 at the end of the 10-year projection. Staff recognizes that many of the member agencies are currently facing declining revenue and increased expenses in other areas and that a 5% increase may not be feasible at this time.

Staff is also working on the Capital Replacement project to ensure the Authority has the necessary funds to replace equipment as it reaches the end of its useful life. Staff anticipates returning to the Board at the December 2024 meeting with a completed capital replacement schedule and cost structure. Based on the findings of the report and fund balance policy an additional subscriber rate increase may be needed at that time.

FINANCIAL IMPACT:

Increasing the monthly subscriber fee by \$1.00 will generate \$252,000 in on-going revenue for the Authority. Increasing the subscriber fee by \$2.00 will generate \$376,050 in on-going revenue for the Authority.

COMMITTEE RECOMMENDATION:

The Finance and Operations Committees reviewed the proposed subscriber fee increase. The Committee voted to support the recommendation of a \$1.00 per month increase. The Operations Committee voted to recommend a series of 3% increases in alternating years. (i.e.: 3% 2024, 3% 2026, 3% 2028).

RECOMMENDED ACTION:

It is recommended that the Board of Directors of the East Bay Regional Communications System Authority adopt a Resolution Adopting a monthly subscriber fee increase of \$1.00 per unit.

Attachments and Exhibits:

Attachment "A" – EBRCSA 10-year cash flow projection

Exhibit "B" – Resolution Adopting EBRCSA Subscriber Fee Increase

EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY
10 YEAR CASH FLOW PROJECTION

	FY 2023-24 Projected	FY 2024-25 Budget	FY 2025-26 Forecast	FY 2026-27 Forecast	FY 2027-28 Forecast	FY 2028-29 Forecast	FY 2029-30 Forecast	FY 2030-31 Forecast	FY 2031-32 Forecast	FY 2032-33 Forecast
Operating Reserve										
Balance - beginning	1,998,000	1,924,000	2,388,500	2,480,640	2,588,547	2,680,808	2,787,021	2,894,198	2,987,995	3,094,052
Operating payments	7,150,000	7,453,000	7,453,000	7,453,000	7,453,000	7,453,000	7,453,000	7,453,000	7,453,000	7,453,000
Initial payments	16,000	-	-	-	-	-	-	-	-	-
Interest	355,000	360,000	360,000	360,000	360,000	360,000	360,000	360,000	360,000	360,000
Receipts from members	7,521,000	7,813,000	7,813,000	7,813,000	7,813,000	7,813,000	7,813,000	7,813,000	7,813,000	7,813,000
Payments to suppliers	(3,848,000)	(4,777,000)	(4,961,280)	(5,177,093)	(5,361,616)	(5,574,042)	(5,788,395)	(5,975,991)	(6,188,104)	(6,425,696)
Transfer to Capital Reserve	(3,747,000)	(2,571,500)	(2,759,580)	(2,528,001)	(2,359,123)	(2,132,745)	(1,917,429)	(1,743,211)	(1,518,839)	(1,268,509)
Balance - ending	1,924,000	2,388,500	2,480,640	2,588,547	2,680,808	2,787,021	2,894,198	2,987,995	3,094,052	3,212,848

Debt Service Reserve										
Balance - beginning	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	-	-	-	-	-
Service payment	1,680,000	1,512,000	1,512,000	1,512,000	-	-	-	-	-	-
Principal	(553,000)	(585,000)	(600,000)	(623,000)	-	-	-	-	-	-
Bond interest	(97,000)	(65,000)	(50,000)	(27,000)	-	-	-	-	-	-
Transfer to Capital Reserve	(1,030,000)	(862,000)	(862,000)	(862,000)	(1,000,000)	-	-	-	-	-
Balance - ending	1,000,000	1,000,000	1,000,000	1,000,000	-	-	-	-	-	-

Capital Reserve										
Balance - beginning	11,087,000	12,096,000	8,948,500	8,578,080	7,915,081	7,157,203	6,964,948	8,607,377	10,075,588	11,319,427
Transfer In	4,777,000	3,433,500	3,621,580	3,390,001	3,359,123	2,132,745	1,917,429	1,743,211	1,518,839	1,268,509
Capital	(3,768,000)	(6,581,000)	(3,992,000)	(4,053,000)	(4,117,000)	(2,325,000)	(275,000)	(275,000)	(275,000)	(275,000)
Balance - ending	12,096,000	8,948,500	8,578,080	7,915,081	7,157,203	6,964,948	8,607,377	10,075,588	11,319,427	12,312,936

TOTAL RESERVE BALANCE	15,020,000	12,337,000	12,058,720	11,503,627	9,838,011	9,751,969	11,501,574	13,063,583	14,413,479	15,525,784
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SUPPLEMENTARY SCHEDULE FOR PAYMENTS TO SUPPLIERS

Administration	(285,000)	(353,000)	(367,120)	(381,805)	(397,077)	(412,960)	(429,478)	(446,657)	(464,523)	(483,104)
Audit fees	(19,000)	(26,000)	(27,040)	(28,122)	(29,247)	(30,417)	(31,634)	(32,899)	(34,215)	(35,584)
Contingency	-	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)
Insurance	(83,000)	(108,000)	(112,320)	(116,813)	(121,486)	(126,345)	(131,399)	(136,655)	(142,121)	(147,806)
Legal	(108,000)	(33,000)	(34,320)	(35,693)	(37,121)	(38,606)	(40,150)	(41,756)	(43,426)	(45,163)
Lease	(72,000)	(81,000)	(84,240)	(87,610)	(91,114)	(94,759)	(98,549)	(102,491)	(106,591)	(110,855)
Licenses and permits	(1,000)	(20,000)	(20,800)	(21,632)	(22,497)	(23,397)	(24,333)	(25,306)	(26,318)	(27,371)
Membership fees	(9,000)	(13,000)	(13,520)	(14,061)	(14,623)	(15,208)	(15,816)	(16,449)	(17,107)	(17,791)
Maintenance										
Astro Maintenance	(1,477,000)	(1,540,000)	(1,601,000)	(1,667,000)	(1,731,000)	(1,801,000)	(1,855,030)	(1,910,681)	(1,968,001)	(2,027,041)
MDR	(290,000)	(305,000)	(315,000)	(330,000)	(345,000)	(360,000)	(370,800)	(381,924)	(393,382)	(405,183)
SUA II	(163,000)	-	-	-	-	-	-	-	-	-
System management	-	(280,000)	(291,200)	(302,848)	(314,962)	(327,560)	(340,662)	(354,288)	(368,460)	(383,198)
HVAC	(35,000)	(75,000)	(78,000)	(81,120)	(84,365)	(87,740)	(91,250)	(94,900)	(98,696)	(102,644)
Generators	(27,000)	(69,000)	(71,760)	(74,630)	(77,615)	(80,720)	(83,949)	(87,307)	(90,799)	(94,431)
ALCO maintenance	(600,000)	(600,000)	(624,000)	(648,960)	(674,918)	(701,915)	(729,992)	(759,192)	(789,560)	(821,142)
COCO maintenance	(253,000)	(345,000)	(358,800)	(373,152)	(388,078)	(403,601)	(419,745)	(436,535)	(453,996)	(472,156)
CSI telecommunications	(60,000)	(260,000)	(270,400)	(281,216)	(292,465)	(304,164)	(316,331)	(328,984)	(342,143)	(355,829)
Microwave maintenance	(82,000)	(215,000)	(223,600)	(232,544)	(241,846)	(251,520)	(261,581)	(272,044)	(282,926)	(294,243)
Miscellaneous	(7,000)	(20,000)	(20,800)	(21,632)	(22,497)	(23,397)	(24,333)	(25,306)	(26,318)	(27,371)
Security	(36,000)	(35,000)	(36,400)	(37,856)	(39,370)	(40,945)	(42,583)	(44,286)	(46,057)	(47,899)
Utilities	(238,000)	(293,000)	(304,720)	(316,909)	(329,585)	(342,768)	(356,479)	(370,738)	(385,568)	(400,991)
Web site hosting	(3,000)	(6,000)	(6,240)	(6,490)	(6,750)	(7,020)	(7,301)	(7,593)	(7,897)	(8,213)
Payments to suppliers	(3,848,000)	(4,777,000)	(4,961,280)	(5,177,093)	(5,361,616)	(5,574,042)	(5,788,395)	(5,975,991)	(6,188,104)	(6,425,696)

EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY
10 YEAR CASH FLOW PROJECTION WITH A 3% OPERATING PAYMENT RATE INCREASE

Operating Payment Rate 30 31 31 31 31 31 31 31 31

	FY 2023-24 Projected	FY 2024-25 Budget	FY 2025-26 Forecast	FY 2026-27 Forecast	FY 2027-28 Forecast	FY 2028-29 Forecast	FY 2029-30 Forecast	FY 2030-31 Forecast	FY 2031-32 Forecast	FY 2032-33 Forecast
Operating Reserve										
Balance - beginning	1,998,000	1,924,000	2,388,500	2,480,640	2,588,547	2,680,808	2,787,021	2,894,198	2,987,995	3,094,052
Receipts from members	7,521,000	8,064,360	8,064,360	8,064,360	8,064,360	8,064,360	8,064,360	8,064,360	8,064,360	8,064,360
Payments to suppliers	(3,848,000)	(4,777,000)	(4,961,280)	(5,177,093)	(5,361,616)	(5,574,042)	(5,788,395)	(5,975,991)	(6,188,104)	(6,425,696)
Transfer to Capital Reserve	(3,747,000)	(2,822,860)	(3,010,940)	(2,779,361)	(2,610,483)	(2,384,105)	(2,168,789)	(1,994,571)	(1,770,199)	(1,519,869)
Balance - ending	1,924,000	2,388,500	2,480,640	2,588,547	2,680,808	2,787,021	2,894,198	2,987,995	3,094,052	3,212,848

Debt Service Reserve										
Balance - beginning	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	-	-	-	-	-
Service payment	1,680,000	1,512,000	1,512,000	1,512,000	-	-	-	-	-	-
Principal	(553,000)	(585,000)	(600,000)	(623,000)	-	-	-	-	-	-
Bond interest	(97,000)	(65,000)	(50,000)	(27,000)	-	-	-	-	-	-
Transfer to Capital Reserve	(1,030,000)	(862,000)	(862,000)	(862,000)	(1,000,000)	-	-	-	-	-
Balance - ending	1,000,000	1,000,000	1,000,000	1,000,000	-	-	-	-	-	-

Capital Reserve										
Balance - beginning	11,087,000	12,096,000	9,199,860	9,080,800	8,669,161	8,162,643	8,221,748	10,115,537	11,835,108	13,330,307
Transfer In	4,777,000	3,684,860	3,872,940	3,641,361	3,610,483	2,384,105	2,168,789	1,994,571	1,770,199	1,519,869
Capital	(3,768,000)	(6,581,000)	(3,992,000)	(4,053,000)	(4,117,000)	(2,325,000)	(275,000)	(275,000)	(275,000)	(275,000)
Balance - ending	12,096,000	9,199,860	9,080,800	8,669,161	8,162,643	8,221,748	10,115,537	11,835,108	13,330,307	14,575,176

TOTAL RESERVE BALANCE	15,020,000	12,588,360	12,561,440	12,257,707	10,843,451	11,008,769	13,009,734	14,823,103	16,424,359	17,788,024
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SUPPLEMENTARY SCHEDULE FOR PAYMENTS TO SUPPLIERS

Administration	(285,000)	(353,000)	(367,120)	(381,805)	(397,077)	(412,960)	(429,478)	(446,657)	(464,523)	(483,104)
Audit fees	(19,000)	(26,000)	(27,040)	(28,122)	(29,247)	(30,417)	(31,634)	(32,899)	(34,215)	(35,584)
Contingency	-	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)
Insurance	(83,000)	(108,000)	(112,320)	(116,813)	(121,486)	(126,345)	(131,399)	(136,655)	(142,121)	(147,806)
Legal	(108,000)	(33,000)	(34,320)	(35,693)	(37,121)	(38,606)	(40,150)	(41,756)	(43,426)	(45,163)
Lease	(72,000)	(81,000)	(84,240)	(87,610)	(91,114)	(94,759)	(98,549)	(102,491)	(106,591)	(110,855)
Licenses and permits	(1,000)	(20,000)	(20,800)	(21,632)	(22,497)	(23,397)	(24,333)	(25,306)	(26,318)	(27,371)
Membership fees	(9,000)	(13,000)	(13,520)	(14,061)	(14,623)	(15,208)	(15,816)	(16,449)	(17,107)	(17,791)
Maintenance										
Astro Maintenance	(1,477,000)	(1,540,000)	(1,601,000)	(1,667,000)	(1,731,000)	(1,801,000)	(1,855,030)	(1,910,681)	(1,968,001)	(2,027,041)
MDR	(290,000)	(305,000)	(315,000)	(330,000)	(345,000)	(360,000)	(370,800)	(381,924)	(393,382)	(405,183)
SUA II	(163,000)	-	-	-	-	-	-	-	-	-
System management	-	(280,000)	(291,200)	(302,848)	(314,962)	(327,560)	(340,662)	(354,288)	(368,460)	(383,198)
HVAC	(35,000)	(75,000)	(78,000)	(81,120)	(84,365)	(87,740)	(91,250)	(94,900)	(98,696)	(102,644)
Generators	(27,000)	(69,000)	(71,760)	(91,630)	(77,615)	(80,720)	(100,949)	(87,307)	(90,799)	(112,111)
ALCO maintenance	(600,000)	(600,000)	(624,000)	(648,960)	(674,918)	(701,915)	(729,992)	(759,192)	(789,560)	(821,142)
COCO maintenance	(253,000)	(345,000)	(358,800)	(373,152)	(388,078)	(403,601)	(419,745)	(436,535)	(453,996)	(472,156)
CSI telecommunications	(60,000)	(260,000)	(270,400)	(281,216)	(292,465)	(304,164)	(316,331)	(328,984)	(342,143)	(355,829)
Microwave maintenance	(82,000)	(215,000)	(223,600)	(232,544)	(241,846)	(251,520)	(261,581)	(272,044)	(282,926)	(294,243)
Miscellaneous	(7,000)	(20,000)	(20,800)	(21,632)	(22,497)	(23,397)	(24,333)	(25,306)	(26,318)	(27,371)
Security	(36,000)	(35,000)	(36,400)	(37,856)	(39,370)	(40,945)	(42,583)	(44,286)	(46,057)	(47,899)
Utilities	(238,000)	(293,000)	(304,720)	(316,909)	(329,585)	(342,768)	(356,479)	(370,738)	(385,568)	(400,991)
Web site hosting	(3,000)	(6,000)	(6,240)	(6,490)	(6,750)	(7,020)	(7,301)	(7,593)	(7,897)	(8,213)
Payments to suppliers	(3,848,000)	(4,777,000)	(4,961,280)	(5,177,093)	(5,361,616)	(5,574,042)	(5,788,395)	(5,975,991)	(6,188,104)	(6,425,696)

EAST BAY REGIONAL COMMUNICATIONS SYSTEM AUTHORITY
10 YEAR CASH FLOW PROJECTION WITH A 5% OPERATING RATE INCREASE

Operating Payment Rate 30 32 32 32 32 32 32 32 32

	FY 2023-24 Projected	FY 2024-25 Budget	FY 2025-26 Forecast	FY 2026-27 Forecast	FY 2027-28 Forecast	FY 2028-29 Forecast	FY 2029-30 Forecast	FY 2030-31 Forecast	FY 2031-32 Forecast	FY 2032-33 Forecast
Operating Reserve										
Balance - beginning	1,998,000	1,924,000	2,388,500	2,480,640	2,588,547	2,680,808	2,787,021	2,894,198	2,987,995	3,094,052
Receipts from members	7,521,000	8,316,360	8,316,360	8,316,360	8,316,360	8,316,360	8,316,360	8,316,360	8,316,360	8,316,360
Payments to suppliers	(3,848,000)	(4,777,000)	(4,961,280)	(5,177,093)	(5,361,616)	(5,574,042)	(5,788,395)	(5,975,991)	(6,188,104)	(6,425,696)
Transfer to Capital Reserve	(3,747,000)	(3,074,860)	(3,262,940)	(3,031,361)	(2,862,483)	(2,636,105)	(2,420,789)	(2,246,571)	(2,022,199)	(1,771,869)
Balance - ending	1,924,000	2,388,500	2,480,640	2,588,547	2,680,808	2,787,021	2,894,198	2,987,995	3,094,052	3,212,848

Debt Service Reserve										
Balance - beginning	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	-	-	-	-	-
Service payment	1,680,000	1,512,000	1,512,000	1,512,000	-	-	-	-	-	-
Principal	(553,000)	(585,000)	(600,000)	(623,000)	-	-	-	-	-	-
Bond interest	(97,000)	(65,000)	(50,000)	(27,000)	-	-	-	-	-	-
Transfer to Capital Reserve	(1,030,000)	(862,000)	(862,000)	(862,000)	(1,000,000)	-	-	-	-	-
Balance - ending	1,000,000	1,000,000	1,000,000	1,000,000	-	-	-	-	-	-

Capital Reserve										
Balance - beginning	11,087,000	12,096,000	9,451,860	9,584,800	9,425,161	9,170,643	9,481,748	11,627,537	13,599,108	15,346,307
Transfer In	4,777,000	3,936,860	4,124,940	3,893,361	3,862,483	2,636,105	2,420,789	2,246,571	2,022,199	1,771,869
Capital	(3,768,000)	(6,581,000)	(3,992,000)	(4,053,000)	(4,117,000)	(2,325,000)	(275,000)	(275,000)	(275,000)	(275,000)
Balance - ending	12,096,000	9,451,860	9,584,800	9,425,161	9,170,643	9,481,748	11,627,537	13,599,108	15,346,307	16,843,176

TOTAL RESERVE BALANCE	15,020,000	12,840,360	13,065,440	13,013,707	11,851,451	12,268,769	14,521,734	16,587,103	18,440,359	20,056,024
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SUPPLEMENTARY SCHEDULE FOR PAYMENTS TO SUPPLIERS

Administration	(285,000)	(353,000)	(367,120)	(381,805)	(397,077)	(412,960)	(429,478)	(446,657)	(464,523)	(483,104)
Audit fees	(19,000)	(26,000)	(27,040)	(28,122)	(29,247)	(30,417)	(31,634)	(32,899)	(34,215)	(35,584)
Contingency	-	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)
Insurance	(83,000)	(108,000)	(112,320)	(116,813)	(121,486)	(126,345)	(131,399)	(136,655)	(142,121)	(147,806)
Legal	(108,000)	(33,000)	(34,320)	(35,693)	(37,121)	(38,606)	(40,150)	(41,756)	(43,426)	(45,163)
Lease	(72,000)	(81,000)	(84,240)	(87,610)	(91,114)	(94,759)	(98,549)	(102,491)	(106,591)	(110,855)
Licenses and permits	(1,000)	(20,000)	(20,800)	(21,632)	(22,497)	(23,397)	(24,333)	(25,306)	(26,318)	(27,371)
Membership fees	(9,000)	(13,000)	(13,520)	(14,061)	(14,623)	(15,208)	(15,816)	(16,449)	(17,107)	(17,791)
Maintenance										
Astro Maintenance	(1,477,000)	(1,540,000)	(1,601,000)	(1,667,000)	(1,731,000)	(1,801,000)	(1,855,030)	(1,910,681)	(1,968,001)	(2,027,041)
MDR	(290,000)	(305,000)	(315,000)	(330,000)	(345,000)	(360,000)	(370,800)	(381,924)	(393,382)	(405,183)
SUA II	(163,000)	-	-	-	-	-	-	-	-	-
System management	-	(280,000)	(291,200)	(302,848)	(314,962)	(327,560)	(340,662)	(354,288)	(368,460)	(383,198)
HVAC	(35,000)	(75,000)	(78,000)	(81,120)	(84,365)	(87,740)	(91,250)	(94,900)	(98,696)	(102,644)
Generators	(27,000)	(69,000)	(71,760)	(91,630)	(77,615)	(80,720)	(100,949)	(87,307)	(90,799)	(112,111)
ALCO maintenance	(600,000)	(600,000)	(624,000)	(648,960)	(674,918)	(701,915)	(729,992)	(759,192)	(789,560)	(821,142)
COCO maintenance	(253,000)	(345,000)	(358,800)	(373,152)	(388,078)	(403,601)	(419,745)	(436,535)	(453,996)	(472,156)
CSI telecommunications	(60,000)	(260,000)	(270,400)	(281,216)	(292,465)	(304,164)	(316,331)	(328,984)	(342,143)	(355,829)
Microwave maintenance	(82,000)	(215,000)	(223,600)	(232,544)	(241,846)	(251,520)	(261,581)	(272,044)	(282,926)	(294,243)
Miscellaneous	(7,000)	(20,000)	(20,800)	(21,632)	(22,497)	(23,397)	(24,333)	(25,306)	(26,318)	(27,371)
Security	(36,000)	(35,000)	(36,400)	(37,856)	(39,370)	(40,945)	(42,583)	(44,286)	(46,057)	(47,899)
Utilities	(238,000)	(293,000)	(304,720)	(316,909)	(329,585)	(342,768)	(356,479)	(370,738)	(385,568)	(400,991)
Web site hosting	(3,000)	(6,000)	(6,240)	(6,490)	(6,750)	(7,020)	(7,301)	(7,593)	(7,897)	(8,213)
Payments to suppliers	(3,848,000)	(4,777,000)	(4,961,280)	(5,177,093)	(5,361,616)	(5,574,042)	(5,788,395)	(5,975,991)	(6,188,104)	(6,425,696)

RESOLUTION NO. 24-xx

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

ADOPTING SUBSCRIBER RATE INCREASE

WHEREAS, the East Bay Regional Communications System Authority (“EBRCSA”) Executive Director and the Alameda County Auditor-Controller’s Office have jointly prepared, and the EBRCSA Finance Committee has reviewed and recommended, a proposed monthly per unit subscriber increase of \$1.00, according to the accompanying Staff Report; and

WHEREAS, the Board of Directors of the EBRCSA has reviewed and considered the proposed subscriber increase and the accompanying Staff Report, has heard all comment thereon, and finds good cause therefor.

NOW, THEREFORE, the Board of Directors of the East Bay Regional Communications System Authority does **RESOLVE** that it adopts the monthly per unit subscriber increase of \$1.00 for the EBRCSA, as outlined in the accompanying Staff Report.

On motion of xx, seconded by xx, the foregoing Resolution was passed and adopted this 3rd day of May, 2024, by the following votes:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Caroline P. Soto, Secretary