MARIN EMERGENCY RADIO AUTHORITY

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MEMORANDUM

DATE: November 12, 2009

TO: MERA Executive Committee

FROM: Maureen Cassingham, Executive Officer

SUBJECT: AGENDA ITEM D-2: REPORT AND RECOMMENDATION FROM FINANCE COMMITTEE ON USE OF EXCESS RESERVE FOR 1999 BONDS

Recommended Action: Recommend that the Excess Reserve for the 1999 Bonds be left invested with Rabobank at higher interest than other MERA funds and avoid the withdrawal penalty.

Background: On September 9, 2009, I reported to the Executive Committee that MERA's Bank of New York Relationship Manager had determined that the 1999 Bond reserve of $2,133,212 invested with Rabobank was overfunded pursuant to the Reserve Requirement definition in the Indenture of Trust. He was to further research whether BONY, as the 1999 Bonds Trustee, ever performed the semiannual reserve requirement calculations. Absent those required calculations, MERA invested a larger reserve than was required by the Indenture formula instead of redirecting those excess funds back into the 1999 Bond revenue fund for debt service. The amount of $229,712 was calculated as excess; however, Rabobank is entitled to a $26,000 termination fee if MERA requests a withdrawal from the invested reserve. No drawdowns were anticipated by Rabobank except for circumstances resulting in debt service shortfall. While there may be some recourse with BONY for "failure to perform" their duties per the Indenture, legal costs would be involved to pursue this matter.

The Executive Committee requested that the Finance Committee (Messrs. Gaffney, Kreins, Nordhoff, and Rzepenski) review this and recommend a course of action to be considered at today's meeting.

On November 4, 2009, the Finance Committee met to develop recommendations on several matters for the Executive Committee and Board including the excess reserve. Based on the updated information from the Executive Officer regarding the likely increase in member agency operating costs in FY 10-11, the Committee recommends leaving the excess reserve invested at a higher interest rate than other MERA funds are earning and avoiding the $26,000 withdrawal penalty. The excess invested reserve would be preserved for member agencies for reduced debt service at end of term of the bonds.