

**FINANCING AGREEMENT**

**between**

**MARIN EMERGENCY RADIO AUTHORITY**

**and**

**COUNTY OF MARIN**

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**Dated as of April 1, 2024**

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**RELATING TO THE**

**MARIN EMERGENCY RADIO AUTHORITY  
2024 SPECIAL PARCEL TAX REVENUE BONDS  
(MARIN PUBLIC SAFETY AND EMERGENCY RADIO SYSTEM)**

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This Financing Agreement is entered into as of April 1, 2024 (the “Agreement”), by and between the MARIN EMERGENCY RADIO AUTHORITY, a joint powers authority duly formed and validly existing under the laws of the State of California (“Authority”) and the COUNTY OF MARIN, a public body, corporate and politic, duly organized and validly existing under the laws of the State of California (“County”)

**RECITALS:**

**WHEREAS**, 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”), and is authorized pursuant to Article 4 of the Act (the “Bond Law”) to borrow money for the purpose of paying and refinancing the cost of public capital improvements within the State of California, including an emergency radio system (the “Project”); and

**WHEREAS**, in November 2014 the Board of Supervisors of the County placed on the ballot Measure A: Marin County Emergency Communications and 911 Response Measure which authorized a special parcel tax levy to be used to finance the Project; and

**WHEREAS**, Measure A was approved by 67.14% of the voters of Marin County; and

**WHEREAS**, the Authority at this time desires to issue its 2024 Special Parcel Tax Revenue Bonds (Marin Public Safety and Emergency Radio System) (the “Bonds”) pursuant to an Indenture of Trust, dated as of April 1, 2024 (the “Indenture”), between the Authority and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”); and

**WHEREAS**, the Authority is willing to issue the Bonds provided that the County agrees to contribute the Measure A Parcel Tax Revenues (defined below) to the Authority to provide funds for the payment of the principal of, redemption premium, if any and interest on the Bonds, as well as any costs of the Authority relating to the Bonds and otherwise required by the Indenture, including, without limitation, the costs of issuing the Bonds and Trustee fees (“Additional Costs”).

**NOW THEREFORE**, in consideration of the foregoing and the mutual covenants and conditions set forth herein, the parties agree as follows:

**ARTICLE I**  
**DEFINITIONS**  
Definitions

Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Agreement and of any certificate, opinion or other document herein mentioned, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined. Unless otherwise defined in this Agreement, all terms used herein shall have the meanings assigned to such terms in the Indenture.

“Additional Costs” shall mean any and all costs, expenses and fees payable by the Authority relating to the Bonds other than the principal of, premium, if any, and interest thereon, including the costs of issuing the Bonds and Trustee fees.

“Authority” shall mean the Marin Emergency Radio Authority, a joint powers authority organized and existing under the Act and any successor thereto.

“Authority Representative” shall mean the President, Vice President, or Executive Officer, or any other person designated as an Authority Representative by a Written Certificate of the Authority signed by its President and filed with the Trustee.

“Bonds” shall mean revenue bonds issued under the Indenture, including the Marin Emergency Radio Authority 2024 Special Parcel Tax Revenue Bonds (Marin Public Safety and Emergency Radio System).

“Business Day” shall mean a day which is not a Saturday, Sunday or legal holiday on which banking institutions in the State of California are closed.

“Closing Date” shall mean the date when the Authority delivers the Bonds to the initial purchaser thereof.

“County” shall mean the County of Marin, a public body, corporate and politic, duly organized and validly existing under the laws of the State of California, including its successors.

“County Representative” shall mean the President of the Board of Supervisors, the County Executive of the County, the Treasurer-Tax Collector of the County or the County Finance Director or by any such officials’ duly appointed designee, or by any other officer of the County duly authorized by the Board of Supervisors of the County for that purpose.

“Indenture” shall mean that certain Indenture of Trust, dated as of April 1, 2024, by and between the Authority and the Trustee.

“Measure A” shall mean the Ordinance of the County of Marin to Authorize the Levy of a Special Parcel Tax to Finance Public Safety Services, approved by the voters of Marin County at the November 4, 2014 election, acknowledged by Board of Supervisors Resolution No. 2014-113.

“Parcel Tax” shall mean the special parcel tax on each taxable parcel of real property in Marin County, which was approved by at least two-thirds of the voters of Marin County at the November 4, 2014 election.

“Parcel Tax Payments” shall mean the payments by the County described in Section 3.02 hereof.

“Parcel Tax Payment Date” shall mean each December 15, April 15, June 15 and July 31. Such specified dates being based on Parcel Tax Revenues being remitted by County in the same manner, form and timeliness as the County does parcel taxes for all other taxing agencies in the County.

“Parcel Tax Revenues” shall mean the annual amounts collected by the County on behalf of the Authority from the Parcel Tax.

“Project” means that certain emergency radio system, along with any improvements thereto.

“State” means the State of California.

“Trustee” shall mean U.S. Bank Trust Company, National Association, as trustee under the Indenture, including its successors.

## **ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES**

Section 2.01 Representations, Covenants and Warranties of the County. The County represents, covenants and warrants to the Authority as follows:

(a) Duly Organized and In Existence. The County is a public body, corporate and politic, duly organized and validly existing under the laws of the State of California.

(b) Authorization. The County has full legal power and authority to enter into this Agreement and to enter into the transactions contemplated by and to carry out its obligations under each of the aforesaid agreements, and the County has duly authorized and executed each of the aforesaid agreements in accordance with the laws of the State of California.

(c) No Violations. Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflict with or result in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the County is now a party or by which the County is bound or constitutes a default under any of the foregoing.

Section 2.02 Representations, Covenants and Warranties of the Authority. The Authority represents, covenants and warrants to the County as follows:

(a) Due Organization and Existence. The Authority is a joint powers authority duly organized, existing and in good standing under and by virtue of the laws of the State of California; has power to enter into this Agreement and the Indenture and to carry out its obligations under this Agreement and the Indenture; is possessed of full power to undertake the financing of the Project through the issuance of the Bonds; and has duly authorized the execution and delivery of all of the aforesaid agreements.

(b) No Encumbrances. The Authority has not pledged and will not pledge the Parcel Tax Payments or other amounts derived under this Agreement, except as provided under the terms of this Agreement and the Indenture.

(c) No Violations. Neither the execution and delivery of this Agreement or the Indenture, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement, instrument, regulation or law to which the Authority is now a party or by which the Authority is bound, or constitutes a default under any of the foregoing.

(d) No Assignment. Except as provided herein and in the Indenture, the Authority will not assign this Agreement, its right to receive Parcel Tax Payments from the County or its duties and obligations hereunder to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in this Section 2.02.

### **ARTICLE III TERM OF THE FINANCING AGREEMENT; PARCEL TAX PAYMENTS**

Section 3.01 Term of the Financing Agreement. The term of this Agreement shall commence as of the date hereof and shall terminate on August 1, 2035 unless such term is extended or sooner terminated as hereinafter provided. If on August 1, 2035 the Indenture shall not be discharged by its terms or the Authority has incurred liabilities with respect to the Bonds which have not been satisfied, then the term of this Agreement shall be extended until the Indenture shall be discharged by its terms or such liabilities have been satisfied, as applicable. If prior to August 1, 2035 the Indenture shall be discharged by its terms and all liabilities of the Authority relating to the Bonds have been satisfied, the term of this Agreement shall end on the date of such discharge or satisfaction, as applicable.

Section 3.02 Parcel Tax Payments.

(a) Obligation to Pay. The County agrees to pay to the Authority, its successors and assigns, as consideration for providing financing for the Project, the Parcel Tax Payments on the Parcel Tax Payment Dates subject to Section 3.05 below and in the amounts specified in Section 3.04 hereof. The Parcel Tax Payments shall be payable solely from the Parcel Tax Revenues. The County agrees to collect and remit the Parcel Tax Revenues in the same manner, form and timeliness as it does parcel taxes for all other taxing agencies in the County and neither the County's debt limit nor its credit rating are to be affected by such obligation.

(b) Assignment. The County understands and agrees that the Authority has assigned its right, title and interest in this Agreement to the Trustee pursuant to the Indenture for the benefit of the Holders of the Bonds and the County assents to such assignment. The Authority hereby directs the County, and the County hereby agrees, to pay to the Trustee at the Trustee's corporate trust office in San Francisco, California, or to the Trustee at such other place as the Trustee shall direct in writing, all payments payable by the County pursuant to this Section 3.02 and Section 3.04 hereof. The Authority hereby acknowledges it will be solely responsible for any continuing disclosure undertaking required for the Bonds.

(e) Pledge. To secure the prompt and complete payment of the Parcel Tax Payments when due and the principal of and interest on the Bonds and the performance by the County of all of its covenants and obligations under this Agreement, the County hereby pledges to the Authority and the Trustee (and their successors and assigns) for the benefit of the Bondholders and grants a security interest in all of the right and title to and interest in all Parcel Tax Revenues received by the County whether now owned or hereafter acquired.

Section 3.03 Absolute Obligation of the County. The obligations of the County to make the Parcel Tax Payments and to perform and observe the other agreements contained herein shall be absolute and shall not be subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach by the County, the Authority or the Trustee of any obligation to the County or otherwise with respect to the Project, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the County by the Authority or the Trustee. Until such time as all of the Parcel Tax Payments shall have been fully paid or prepaid, the County (a) will not suspend, abate, or discontinue any payments provided for in Sections 3.02 or 3.04 hereof, (b) will perform and observe all other agreements contained in this Agreement, and (c) will not terminate the term of this Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any act or circumstance that may constitute failure of consideration, failure to complete construction of the Project, a failure by any party to any agreement relating to the receipt of Parcel Tax Revenues by the County to honor its obligations thereunder, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California or any political subdivision of either thereof or any failure by the Authority or the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Indenture or this Agreement. Notwithstanding the foregoing, the County does not guarantee Parcel Taxes collected will be sufficient to pay debt service on the Bonds nor does the County guarantee that the voters of the County will not, by initiative, reduce or attempt to reduce the annual levy of the Parcel Tax below the amount required to pay debt service on the Bonds. Notwithstanding the foregoing, should any court suspend, enjoin, or otherwise prohibit the collection or distribution of the Parcel Tax, the County shall not be required to make Parcel Tax Payments.

Nothing contained in this Section 3.03 shall be construed to release the Authority from the performance of any of the agreements on its part herein contained, and in the event the Authority shall fail to perform any such agreements on its part, the County may institute such action against the Authority as the County may deem necessary to compel performance so long as such action does not abrogate the obligations of the County contained in the first sentence of the preceding paragraph.

Section 3.04 Transfer to Pay Parcel Tax Payments. In order to provide for the payment of the principal of and interest on the Bonds and all Additional Costs when due, the County shall transfer to the Trustee on each Parcel Tax Payment Date for deposit into the Revenue Fund all Parcel Tax Revenues.

Section 3.05 Payment on Non-Business Days In the event any Parcel Tax Payment Date is required to be made hereunder on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day.



**ARTICLE IV  
DISCLAIMER OF WARRANTIES**

Section 4.01 Disclaimer of Warranties. The County and the Trustee make no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the Project, or any other representation or warranty with respect to the Project. In no event shall the County and the Trustee be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Agreement or the Indenture for the existence, furnishing or functioning of the Project.

**ARTICLE V  
PLEDGE OF PARCEL TAX PAYMENTS AND ASSIGNMENT**

Section 5.01 Pledge and Assignment by the Authority. The Authority's right, title and interest in this Agreement, including the right to receive and enforce payment of the Parcel Tax Payments to be made by the County under this Agreement, but none of the Authority's obligations, have been pledged and assigned to the Trustee by the Authority, except for the Authority's rights to give approvals and consents hereunder subject to certain other exceptions, pursuant to the Indenture, to which pledge and assignment the County hereby consents. Except for the pledge and assignment pursuant to the Indenture, the Authority shall not assign or pledge this Agreement or its rights hereunder.

Section 5.02 No Assignment by the County. This Agreement may not be assigned by the County.

**ARTICLE VI  
EVENTS OF DEFAULT AND REMEDIES**

Section 6.01 Events of Default Defined. The following shall be "Events of Default" under this Agreement and the terms "Event of Default" and "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) failure by the County to pay any Parcel Tax Payment by the Parcel Tax Payment Date therefor and such default is not cured within fifteen (15) days;

(b) failure by the County to observe and perform any covenant, condition or agreement on its part to be observed or performed in this Agreement or the Indenture, other than as referred to in clause (a) of this Section 6.01, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the County by the Authority, the Trustee or the Holders of not less than twenty-five percent (25%) in aggregate principal amount of Bonds then Outstanding; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Authority, the Trustee or such Holders, as applicable, shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the County within the applicable period and diligently pursued until the default is corrected; and

(c) the filing by the County of a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United

States of America or any state therein, or the approval by a court of competent jurisdiction of a petition filed with or without the consent of the County seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction assumes custody or control of the County or of the whole or any substantial part of its property.

Section 6.02 Remedies on Default. Whenever any event of default referred to in Section 6.01 hereof shall have happened and be continuing, the Authority may, and in the event of the occurrence of an event of default specified in Section 6.01(a) or (c) hereof shall take whatever action at law or in equity as is necessary or desirable to collect the Parcel Tax Payments then due or thereafter to become due during the term of this Agreement, or enforce performance and observance of any obligation, agreement or covenant of the County under this Agreement.

Notwithstanding anything herein to the contrary, the Owners of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right to control all remedies for default hereunder.

Section 6.03 No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article VI, it shall not be necessary to give any notice, other than such notice as may be required in this Article VI or by law.

Section 6.04 No Additional Waiver Implied by One Waiver. In the event any agreement or covenant contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 6.05 Trustee and Certificate Holders to Exercise Rights. Such rights and remedies as are given to the Authority under this Article VI have been assigned by the Authority to the Trustee under the Indenture, to which assignment the County hereby consents. Such rights and remedies shall be exercised by the Trustee and the Owners of the Bonds as provided in the Indenture. The Trustee shall be deemed a third-party beneficiary under this Agreement.

## **ARTICLE VII MISCELLANEOUS**

Section 7.01 Notices. All notices, Bonds or other communications hereunder shall be sufficient when given and shall be deemed to have been received (except for notices to the Trustee,

which shall be deemed effective upon actual receipt thereof) 48 hours after deposit in the United States mail with postage fully prepaid:

If to the County:	County of Marin 3501 Civic Center Drive San Rafael, California 94913 Attention: Auditor-Controller
If to the Authority:	Marin Emergency Radio Authority c/o Novato Fire Protection District 95 Rowland Way Novato, California 94945 Attention: Executive Officer
If to the Trustee:	U.S. Bank Trust Company, National Association One California Street, 10 <sup>th</sup> Floor San Francisco, California 94111 Attention: Global Corporate Trust Services

The Authority, the Trustee, and the County, by notice given hereunder, may designate different addresses to which subsequent notices, Bonds or other communications will be sent.

Section 7.02 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Authority and the County and their respective successors and assigns, including any successors and assigns of the County succeeding to the functions of the County.

Section 7.03 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 7.04 Amendments, Changes and Modifications. This Agreement may be amended or any of its terms modified by written instrument signed by the County and the Authority and without the prior written consent of the majority Bond Owners in order to effectuate amendments to this Agreement of the type described in Section 2.10 and Section 9.01(b) (i) through (vi) of the Indenture. All other amendments or modifications to this Agreement shall be by written instrument signed by the County and the Authority with the prior written consent of the majority Bond Owners. No amendment to this Agreement shall be effective unless notice of the proposed amendment has been provided to the Bondholders at least 30 days prior to the proposed effective date of the amendment.

Section 7.05 Further Assurances and Corrective Instruments. The Authority and the County agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Agreement.

Section 7.06 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.07 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 7.08 Authority and County Representatives. Whenever under the provisions of this Agreement the approval of the Authority or the County is required, or the Authority or the County is required to take some action at the request of the other, such approval or such request shall be given for the Authority by a Authority Representative and for the County by a County Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 7.09 Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision, Article or Section of this Agreement.

IN WITNESS WHEREOF, the Authority has caused this Agreement to be executed in its corporate name by its duly authorized officer; and the County has caused this Agreement to be executed in its name by its duly authorized officer as of the date first above written.

**MARIN EMERGENCY RADIO AUTHORITY**

By: \_\_\_\_\_  
Executive Officer

**COUNTY OF MARIN**

By: \_\_\_\_\_  
President