

## LICENSE AGREEMENT

This license agreement (“Agreement”) is dated *October 18, 2022*, and is between CONTRA COSTA COUNTY, a political subdivision of the State of California (the “**County**”) and the EAST BAY REGIONAL PARK DISTRICT, a California special district (the “**District**”).

### RECITALS

- A. The District is the owner of the real property located at 1001 Arabian Heights, Martinez, California, having Assessor’s Parcel Number 372-140-001 (the “**Property**”).
- B. The County is leasing approximately 3,790 square feet of space on the Property (the “**Site**”) from the District pursuant to a ground lease dated October 1, 2021 (the “**Lease**”).
- C. In accordance with the terms of the Lease, the County is constructing on the Site (i) a 50-foot high, three-legged antenna tower (the “**Tower**”), (ii) a 12’ x 30’ prefabricated concrete structure to house assorted communications equipment and a generator (the “**Vault**”), and (iii) ancillary improvements and fencing.
- D. The parties desire that the District be allowed to use a portion of the Tower and the Vault for its own use and for the use of the District’s co-user, KQED, for the limited purposes described in this Agreement. The space occupied by the District and KQED on the Tower and in the Vault is the “**Licensed Premises**.” In accordance with the terms of the Lease, KQED’s use of the Licensed Premises is governed by a license agreement between the District and KQED dated August 7, 2019 (the “**Ancillary License**”). This Agreement does not expand or alter the rights granted to KQED under the Ancillary License.
- E. The County is willing to grant the District a license to use the Licensed Premises upon the terms and conditions set forth in this Agreement.

The parties therefore agree as follows:

### AGREEMENT

- 1. **Grant of License.** Subject to the terms and conditions of this Agreement, the County hereby grants to the District a nonexclusive revocable license to enter on the Site for the purposes described in Section 2 below and for no other purpose without the County’s prior written consent.
- 2. **Use of Premises.** The District, including its contractors and consultants, is permitted to (i) use the Licensed Premises for the purpose of operating a radio relay station, together with the necessary appurtenances thereto, and (ii) share the Licensed Premises with KQED in accordance with section 5(b) of the Lease, provided the Ancillary License remains in effect (collectively “Permitted Use”).

3. **No Third-Party Beneficiaries.** This Agreement is intended to benefit the District. There are no third-party beneficiaries to this Agreement. KQED is an incidental beneficiary to this Agreement to the extent any right to use the Licensed Premises is granted to KQED by the Ancillary License. Any cause of action KQED may have related to its use of the Licensed Premises may only be brought against the District to enforce the terms of the Ancillary License.
4. **Term.** The term of this Agreement begins when construction of the Facilities is complete and ends September 30, 2046, unless earlier terminated in accordance with this Agreement.
  - a. The District has the right to terminate this Agreement at any time with 30 days advance written notice.
  - b. The County may terminate this Agreement with 30 days advance written notice if the District violates any term or condition of this Agreement and fails to cure the violation after notice of said violation by County.
  - c. This Agreement automatically terminates upon the termination of the Lease.
5. **License Fee.** No license fee is payable to the County under this Agreement.
6. **Permits and Approvals.** The District is responsible for ensuring that any necessary permits and approvals are obtained. This Agreement does not constitute governmental approval of any kind by Contra Costa County.
7. **Nonexclusive Right of Use.** This Agreement is nonexclusive. The County reserves the right to issue licenses and permits to others to use the Tower and/or the Vault so long as those licenses and permits do not interfere with the District's Permitted Use.
8. **Access.**
  - a. The District may access the Licensed Premises 24 hours a day, seven days a week. If the County fails to provide the access granted by this section, the District's sole remedy will be specific performance of this Agreement.
  - b. At all times when accessing the Licensed Premises, the District shall cause its employees, agents, and KQED to conduct their activities in a manner that does not interfere with or disrupt the County's or the County's other tenants' operations at the Site.
9. **Interference.** The District shall cooperate, and shall cause KQED to cooperate, with County and any of its current and future licensees to minimize technical interference between the telecommunication activities of the District and KQED, and any other user of the Tower.

10. **Maintenance/Utilities.**
  - a. The District shall keep and maintain the Licensed Premises in good condition, reasonable wear and tear and damage from the elements excepted. The County shall maintain the Site and access to it in good condition, subject to reasonable wear and tear and damage from the elements.
  - b. The County shall provide, at its sole expense, electrical service to the Licensed Premises.
11. **Alterations to Premises.** With the prior written consent of the County, which will not be unreasonably withheld, the District may make alterations to the equipment situated at the Licensed Premises.
12. **Hold Harmless.** The District shall defend, indemnify, save, and keep harmless the County and its agents against all liabilities, judgments, costs, and expenses that may in any way accrue against the County or its agents as a result of the County granting this license to the District, save and except claims or litigation arising from the sole negligence or sole willful misconduct of the County.
13. **Insurance.**
  - a. The District shall obtain and maintain during term of this Agreement, at the District's cost, commercial general liability insurance with a minimum coverage limit of \$1,000,000 for each occurrence and \$2,000,000 aggregate for all claims or losses due to bodily injury, including death, or damage to property, including loss of use, and shall name **Contra Costa County, its officers, agents, and employees as additional insured** thereunder. The minimum coverage limit required by this provision will increase throughout the term of this Agreement at the reasonable discretion of the County. The County shall provide the District with a 60-day notice of an increase in the minimum coverage limit.
  - b. The coverage must provide for a thirty-day written notice to the County of cancellation or lapse.
  - c. The District shall provide to the County evidence of the coverage carried pursuant to this provision prior to execution of this Agreement and annually thereafter.
14. **Damage or Destruction.**
  - a. If the Tower, the Vault, or both the Tower and Vault, are damaged, destroyed, condemned or transferred in lieu of condemnation, the District may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer. Notwithstanding the foregoing, the County is not responsible for any acts of vandalism occurring on the Site. Should any vandalism to the Licensed Premises occur, any repairs are the sole responsibility of the District. Furthermore, in the event of damage to the Licensed Premises due to acts of God, war, strikes, fires, floods, or

power failures, the District acknowledges that the County is not responsible for any repairs necessary to the Licensed Premises.

- b. If any portion of the Site, including the Licensed Premises, the Tower and the Vault, is damaged, destroyed by the District or KQED, the District is responsible for the cost of restoring the affected area to its prior condition within 90 days after the occurrence of the damage or destruction.
- c. The requirements of this section shall survive the expiration or termination of this Agreement.

15. **Assignment.** The District may not assign its rights under this Agreement.

16. **Surrender of Possession.** Upon termination or expiration of this Agreement, the District shall peaceably and quietly leave, surrender, and yield to the County, the Licensed Premises in good order, condition, and repair. The District shall remove all equipment from the Licensed Premises within 90 days after license expiration or termination, except in the case of fire or other natural disaster, in which case removal date to be mutually agreed upon. Upon termination, a qualified representative of the County shall inspect the Licensed Premises to determine that the Licensed Premises is left in accordance with the terms of this Agreement.

17. **Notices.** Notices under this Agreement must be in writing and are effective when delivered in person or deposited as certified mail, postage prepaid, return receipt requested, or sent by a recognized overnight courier service, and directed to the other party at its address as stated below, or to such other address as the party may designate by written notice.

**For District:**

East Bay Regional Park District  
2950 Peralta Oaks Court  
Oakland, California 94605  
Attention: Business Services

**For County:**

Contra Costa County Public Works  
40 Muir Road, 2<sup>nd</sup> Floor  
Martinez, California 94553  
Attn: Principal Real Property Agent

With a copy to:

East Bay Regional Park District  
P.O. Box 5381  
Oakland, California 94605  
Attn: Business Services Manager

East Bay Regional Park District  
P.O. Box 5381  
Oakland, California 94605

Attn: District Counsel

18. **Governing Law.** This Agreement is governed by the laws of the State of California.
19. **Entire Agreement.** This Agreement contains the entire agreement between the parties relating to the subject matter of this Agreement. No alteration or variation of this Agreement is valid or binding unless made in writing and signed by both parties.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

The parties are signing this Agreement as of the date set forth in the introductory paragraph.

**CONTRA COSTA COUNTY**

**EAST BAY REGIONAL PARK DISTRICT**

By \_\_\_\_\_  
Brian M. Balbas  
Public Works Director

By  \_\_\_\_\_  
Sabrina Landreth (Sep 23, 2022 11:15 PDT)  
Sabrina B. Landreth  
General Manager

RECOMMENDED TO THE BOARD  
OF SUPERVISORS FOR APPROVAL:

APPROVED AS TO FORM:

By \_\_\_\_\_  
Jessica L. Dillingham  
Principal Real Property Agent

By  \_\_\_\_\_  
Jason Rosenberg (Sep 22, 2022 17:37 PDT)  
Jason Rosenberg, Assistant District Counsel

By \_\_\_\_\_  
Margaret J. Eychner  
Senior Real Property Agent

APPROVED AS TO FORM:  
Mary Ann McNett Mason, County Counsel

By: \_\_\_\_\_  
Kathleen M. Andrus  
Deputy County Counsel