

Agreement between the County of Nevada and KVMR

THIS Agreement is made and entered into as of the 26 day of April 2022 by and between the COUNTY OF NEVADA, a political subdivision of the State of California ("COUNTY"), and KVMR, a 501(c)(3) non-profit organization, ("KVMR"), collectively referred to as "Parties" (individually as "Party").

WHEREAS, in support of the Nevada County Board of Supervisors 2021 Objective to "Lead the community in all hazards planning, preparedness, response and recovery with a focus on wildfire" the Nevada County Office of Emergency Services, and KVMR identified a need for maintenance on existing infrastructure and a communication upgrade for KVMR. KVMR is the designated emergency radio for the County and works closely with the County during emergencies. Therefore, the County wishes to support the KVMR in increasing their resiliency in the event of power outages and other emergency events.

NOW, THEREFORE, the parties hereto agree as follows:

1. **AGREEMENT Fund Allocation:** The sole source of funding by COUNTY for this disbursement is from the Office of Emergency Services Budget Allocation Fund No. 0101-20702-414-1000/522090. No other County funding source shall be held liable for any obligations set forth in this AGREEMENT. The allocation specified herein shall be the total payment made to KVMR. The amount of funding shall not exceed thirty-three thousand Dollars (\$33,000.00).
2. **Use of Funds and Term of Agreement:** KVMR agrees to use the funds on expenditures as stated in Exhibit A Scope of Project ("Project"). Funds must be expended during the period that begins on July 1, 2021 and ends on June 30, 2023. These funds shall not include staff time or overhead costs for KVMR to manage the Project.
3. **Quotes and Invoicing:**
 - a. KVMR shall receive three quotes for the items listed in Exhibit A. The quote that is responsive, responsible, and within budget shall be selected. If three quotes cannot be obtained a good faith effort to obtain said quotes shall be documented.
 - b. KVMR shall provide an invoice from the selected vendor to the County and a request for payment to KVMR in the amount of the invoice. The County shall pay requests for payment invoices within 30 days to KVMR.
 - c. Invoices shall be submitted to:
IGSAdmin@co.nevada.ca.us
Or by mail to:

IGS Admin
Attention: Elise Strickler

950 Maidu Ave.
Nevada City, CA 95959

4. **Electronic Signatures:** The parties acknowledge and agree that this AGREEMENT may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed or emailed versions of an original signature or electronically scanned and transmitted versions (e.g. via pdf) of an original signature.
5. **REPORTING:**
 - a. KVMR shall submit a report no later than 60 days after the expiration of the AGREEMENT stating the total funds received from the County, a list of invoices paid by KVMR including date, vendor, and equipment/services purchased.
6. **Hold harmless and Indemnification:** To the fullest extent permitted by law, each Party (the "Indemnifying Party") hereby agrees to protect, defend, indemnify, and hold the other Party (the "Indemnified Party"), its officers, agents, employees, and volunteers, free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character resulting from the Indemnifying Party's negligent act, willful misconduct, error or omission, or material breach of this AGREEMENT, including, but not limited to, the amounts of judgments, penalties, reimbursements, interest, court costs, legal fees, and all other expenses incurred by the Indemnified Party arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the Indemnified Party) and without limitation, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the AGREEMENT and the expenditures of the CRF funding. The Indemnifying Party agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the Indemnifying Party, using legal counsel approved in writing by Indemnified Party. Indemnifying Party also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against either Party or to enlarge in any way either Party's liability but is intended solely to provide for indemnification of the Indemnified Party from liability for damages, or injuries to third persons or property, arising from or in connection with Indemnifying Party's performance pursuant to this AGREEMENT. This obligation is independent of, and shall not in any way be limited by, the minimum insurance obligations contained in this AGREEMENT. These Hold Harmless and Indemnification provisions shall survive the termination of this AGREEMENT.
7. **Conflict of Interest:** KVMR certifies that no official or employee of the County, nor any business entity in which an official of the County has an interest, has been employed or retained to solicit or aid in the procuring of this AGREEMENT. In

addition, KVMR agrees that no such person will be employed in the performance of this AGREEMENT unless first agreed to in writing by County. This includes prior Nevada County employment in accordance with County Personnel Code.

8. **Entirety of AGREEMENT:** This AGREEMENT contains the entire AGREEMENT of County and KVMR with respect to the subject matter hereof, and no other AGREEMENT, statement, or promise made by any party, or to any employee, officer, or agent of any party, which is not contained in this AGREEMENT, shall be binding or valid. Should all or any portion of any provision of this AGREEMENT be held unenforceable or invalid for any reason, but the remainder of the AGREEMENT can be enforced without failure of material consideration to any Party, then the remaining portions or provisions shall be unaffected.
9. **Exhibits** All exhibits referred to herein and attached hereto are incorporated herein by this reference.
10. **Insurance** KVMR shall procure and maintain insurance or self-insure against claims for injuries to persons, damages to property, or misappropriation of funds which may arise from or in connection with this Project and the results of that work by KVMR, his agents, representatives, employees or subcontractors. Coverage shall be at least as broad as:
 - a. Commercial General Liability (CGL) insurance services office form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. The COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to the Project; coverage shall be at least as broad as ISO form CG 20 10 11 85 or through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38 and CG 20 37. For claims related to this Project, KVMR's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of KVMR's insurance and shall not contribute with it.
 - b. Worker's compensation coverage as required by the State of California, with statutory limits, and employer's liability insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
 - c. If KVMR maintains broader coverage and/or higher limits than the minimums shown above, the COUNTY requires and shall be entitled to the broader coverage and/or higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.
 - d. KVMR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said KVMR may acquire against the COUNTY by virtue of the

payment of any loss under such insurance. KVMR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.

- e. KVMR shall furnish to COUNTY original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause), a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to the COUNTY before work begins, and proof of ability to pay self-insured retention. However, failure to obtain the required documents prior to the work beginning shall not waive KVMR's obligation to provide them. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

11. **Certificate of Good Standing:** Registered non-profits shall possess a Certificate of Good Standing also known as Certificate of Existence or Certificate of Authorization from the California Secretary of State, and further warrants to keep its status in good standing and effect during the term of this AGREEMENT.
12. **Non-Profit Status:** Under the provisions of Internal Revenue Code Section 6033, nonprofits, charities, and other tax-exempt organizations must generally file either a Form 990 or Form 990-EZ along with a Schedule A with the Internal Revenue Service (IRS) each year
13. Upon request, COUNTY or its authorized representative shall have access to and the right to examine all records, books, papers or documents of KVMR related to the Project and use of COUNTY funds provided under this AGREEMENT. The KVMR shall retain such records, books, papers and documents for a period of not less than five (5) years from the termination date.
14. The Parties to this AGREEMENT hereby certify that they are acting independently and not as agents, employees, or joint ventures with each other. Neither Party nor its officers, employees or volunteers are employees of the other.
15. Prior to surplus, donation, or disposal of equipment procured with these funds the KVMR shall request approval from the Nevada County Office of Emergency Services Department.
16. The terms and conditions of this AGREEMENT, including any exhibits hereto, may not be amended except in writing, signed by both parties. Any amendment or addendum to this AGREEMENT shall expressly refer to this AGREEMENT.
17. The waiver of any provision of this AGREEMENT shall be in writing, signed by the party granting the waiver, and such waiver shall not operate or be construed as a waiver of any other provision of the AGREEMENT.

18. Any notices that either Party desires to or is required to give to the other Party or to any other person shall be in writing and either served personally or sent by prepaid first-class mail. Such notices shall be addressed to the other Party at the address set forth below. Either Party may change its address by notifying the other Party of the change of address. Notice shall be deemed received within seventy-two hours from the date of mailing, if mailed as provided in this Paragraph.

To County:

Elise Strickler
Information General
Services
950 Maidu Avenue,
Suite 130
Nevada City, CA 95959

To KVMR:

Ali Lightfoot
KVMR
120 Bridge Street
Nevada City, CA 95959

19. **Assignment:** This AGREEMENT may not be assigned by either party. This AGREEMENT is made and entered into for the sole protection and benefit of COUNTY and KVMR. No other person or entity shall have any right of action based upon any provision of this AGREEMENT.
20. **Governing Law and Venue:** This AGREEMENT shall be governed by the laws of the State of California. The venue for any legal proceedings regarding this AGREEMENT shall be the County of Nevada, State of California.
21. **Authority:** All individuals executing this AGREEMENT on behalf of a Party represents and warrants to the other Party that he or she has authority to bind and commit each such Party to this AGREEMENT.

IN WITNESS WHEREOF, the Parties hereunto have executed this AGREEMENT on the dates hereinafter set forth.

COUNTY OF NEVADA:

By: _____ Date: _____

Honorable Sue Hoek, Chair of the Board of Supervisors

By: _____

Attest: Julie Patterson Hunter, Clerk of the Board of Supervisors

APPROVED AS TO FORM:

By: _____

County Counsel

THE KVMR:

By: _____ Dated: _____

KVMR, Ali Lightfoot, General Manager

Exhibit A

Scope of Project

Electric Wiring and Software for Main to Standby Transmitter:

Project includes:

- Installation of transmitter switching logic to effectively switch between two transmitters. This device will be similar to the unit described here:

<https://tunwallradio.com/trc-series-controllers-2>.

- Upgrades to the Harris Z4HD backup transmitter to allow for remote control compatibility.

New Batteries for UPS (Uninterruptible Power Supplies) in our building:

Replacing and updating UPS devices for systems.

Generator Maintenance:

Some of the quoted repairs are one-time, and some are periodic maintenance, quote will detail repair and maintenance to occur.

Fire Safe Measures at Banner Mountain Transmitter Site:

This activity can be accomplished mainly with volunteers from the KVMR volunteer pool. These costs will include renting dumpster(s) from Waste Management, Waste Management fees, and other equipment rental fees.

Broadcast from Home Kits:

- Procuring 3 additional kits for KVMR staff members. These kits allow KVMR to broadcast from anywhere if the station isn't available or accessible. Each kit will contain the following:
 - Yamaha MG10XU mixer – estimate \$250.00
 - Laptop computer with Windows 10 (model varies, typically refurbished from tech soup) - estimate \$300.00
 - Microphone, Shure SM58 – estimate \$85.00
 - Headphones – estimate \$30.00.

Backup/Extended coverage remote transmission site:

KVMR is negotiating with Hispanic Family Christian Network to purchase the FM translator license (call sign K247BX) that is currently licensed to Wolf Mountain. This station needs to be

associated with a primary station, however there are no other stations owned by this company in the area. Radio licenses are rare, and this one would be the perfect auxiliary broadcast site for KVMR should we lose Banner Mountain. These funds would pay for the license purchase. KVMR will be responsible for any ongoing fees. This would make for an ideal backup site for redundancy in case we lose Banner Mountain.