

1 [Agreement - Motorola - Bay Area Regional Interoperable Communications Systems]

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3 **Resolution approving site access and use agreement with Motorola for the San**  
4 **Francisco sites to be used for the Bay Area 700 MHz public safety broadband spectrum**  
5 **to be managed and operated by the Bay Area Regional Interoperable Communications**  
6 **Systems for a term of 12 years; and making findings, including environmental findings.**

7 I. History and Background

8 WHEREAS, Effective and coordinated communications is a top priority for public safety  
9 agencies in the City and County of San Francisco ("City"). The counties of Alameda, Contra  
10 Costa, Marin, Santa Clara, San Mateo, Sonoma, the cities of Oakland, San Jose, and the City  
11 (collectively, the "Bay Area"), determined that working in concert to develop interoperable  
12 communications systems is in the region's public interest; and

13 WHEREAS, The Bay Area counties entered a Joint Powers Agreement to establish  
14 the Bay Area Regional Interoperable Communications Systems ("BayRICS") Authority, which  
15 is on file with the Clerk of the Board of Supervisors in File No. 110565, and which is hereby  
16 declared to be a part of this resolution as if set forth fully herein; and

17 WHEREAS, The BayRICS Authority, established on August 8, 2011, supports the  
18 establishment and operation of an interoperable voice and broadband data network in the San  
19 Francisco Bay Area known as the Bay Area Wireless Enhanced Broadband ("the BayWEB");  
20 and

21 WHEREAS, The creation of the BayWEB will improve the City's public safety system  
22 by positively impacting public safety communications in the Bay Area and providing the  
23 opportunity to be among the first areas in the nation to deploy cutting edge broadband  
24 technology and be poised to take advantage of expanded spectrum opportunities when the  
25 nationwide public safety broadband is deployed; and

1 WHEREAS, The BayWEB project is the result of a Broadband Technology Opportunity  
2 Program (“BTOP”) grant awarded by the National Telecommunications and Information  
3 Administration (“NTIA”) to Motorola Solutions Inc. (“Motorola”), for the construction of a 700  
4 MHz Public Safety Broadband System, (the "network"); and

5 WHEREAS, The network being deployed will consist of approximately 140 sites  
6 distributed throughout the seven-county Bay Area region, including approximately 16 sites  
7 within the City. The network will be funded by a \$50.6 million grant from NTIA and a \$21.9  
8 million match by Motorola; and

9 WHEREAS, The NTIA grant imposes two overriding deadlines that govern the timing of  
10 the BayWEB project. First, the “substantial completion” deadline requires that two-thirds of  
11 the network be built and two-thirds of BTOP grant funding be spent by July 31, 2012 and  
12 second, the deadline for expending or encumbering BTOP funds and completing the BayWEB  
13 project is July 31, 2013. The failure to meet these deadlines risks action by NTIA to suspend  
14 Motorola’s ability to draw funds necessary to complete the project or, in extreme cases, to  
15 terminate the award; and

16 II. City Permit Sites and Terms

17 WHEREAS, Motorola and DEM have negotiated a Site Access and Use Agreement  
18 (“Agreement”) on file with the Clerk of the Board of Supervisors, in File No. 120022, that  
19 establishes the terms and conditions for access and use of various sites within the City for the  
20 BayWEB project; and

21 WHEREAS, the Agreement identifies 16 sites for antenna installation that will ensure  
22 sufficient City-wide coverage to meet the needs of public safety. Some of the sites are owned  
23 by the City, and others are located on private property leased by (or to be leased by) the City  
24 for other communication facilities. The Department of Emergency Management (“DEM”)   
25 plans to work with the Real Estate Division and other entities as applicable to seek all

1 necessary environmental and other approvals for the sites, including negotiating leases with  
2 private entities and seeking approvals from the City and private entities for use of their sites.

3 (a) The City owns the following sites:

- 4 o Muni Building - 949 Presidio
- 5 o Forest Hill Radio Site – 150 Mendosa Avenue
- 6 o Central Radio Station at Twin Peaks – 1 Christmas Tree Point Road
- 7 o Department of Technology Radio Shop - 901 Rankin Street
- 8 o Community Health Network – 25<sup>th</sup> Street at Potrero Avenue

9 (b) Other entities own the following sites:

- 10 o Fort Miley/VA Hospital – 43<sup>rd</sup> Avenue at Clement Street
- 11 o Presidio Hill –Building 314, Deems Road
- 12 o Clay Jones - 1250 Jones Street
- 13 o One Market Plaza – 1 Market Street
- 14 o City College Downtown Campus – 88 – 4<sup>th</sup> Street
- 15 o Former State Compensation Fund Building - 1275 Market Street
- 16 o San Francisco State University – Thornton Hall
- 17 o Bernal Heights Radio Site -99 Moultrie
- 18 o 200 Paul Avenue
- 19 o South Hill Radio Site (57 Alta Vista Way in Daly City)
- 20 o Sutro Tower

21 (c) In addition to these sites, Motorola may rely on two additional sites which are not  
22 owned or controlled by the City.

- 23 o BART facility at Glen Park
- 24 o BART facility at Balboa Park

25

1 (d) DEM has identified alternate sites owned by the City to be used if any of the  
2 primary sites fail to meet the network requirements.

- 3 o City siren pole - 25<sup>th</sup> Avenue at Fulton.
- 4 o City Outdoor Public Warning System (OPWS) siren pole - 37<sup>th</sup> Avenue at  
5 Pacheco
- 6 o City OPWS siren pole - 22<sup>nd</sup> Avenue at Sloat Boulevard
- 7 o City OPWS siren pole - 47<sup>th</sup> Avenue at Sloat Boulevard
- 8 o Candlestick Park – Candlestick Point
- 9 o Southeast Community Center – 1800 Oakdale Avenue
- 10 o City OPWS siren pole - Fitch at Egbert Avenue
- 11 o City OPWS siren pole – Jamestown Avenue at Ingalls Street
- 12 o San Francisco Fire Department Station 17 – 1295 Shafter Avenue; and

13 WHEREAS, The City’s costs related to this Agreement will be limited to any site related  
14 costs and expenses, including any zoning/permitting costs and fees , site operating costs  
15 such as site maintenance, security, electricity and other utilities, lease payments, and property  
16 taxes, to the extent any are applicable; and

17 WHEREAS, the Agreement provides the City will indemnify Motorola and hold it  
18 harmless for any negligent or intentional wrongful acts or omissions by the City and the Risk  
19 Manager has approved this provision; and

20 WHEREAS, the Agreement provides that Motorola's limit on liability is capped at four  
21 million eight hundred thousand dollars [\$4,800,000], and the City Attorney has approved this  
22 limitation of liability; and

23 WHEREAS, Section 9.118 of the San Francisco Charter requires approval by the  
24 Board of Supervisors of agreements with a term of ten years or more; and

1           WHEREAS, The Department intends to negotiate leases for specific sites, and it will  
2 return to the Board for any necessary approvals of these leases; and

3           III. Environmental Review

4           WHEREAS, The Planning Department has determined that the actions contemplated in  
5 this Resolution comply with the California Environmental Quality Act (California Public  
6 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the  
7 Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference; now,  
8 therefore, be it

9           RESOLVED, That the Board of Supervisors authorizes the DEM Executive Director to  
10 execute Site Use and Access Agreement with Motorola in substantially the form on file with  
11 the Clerk of the Board of Supervisors, in File No. 120022, with such changes or modifications,  
12 including without limitation modifications to the exhibits, as may be acceptable to the DEM  
13 Executive Director and the City Attorney, and which do not materially increase the obligations  
14 and liabilities of the City.