

## Public Private Cooperative Agreement

### Bay WEB

This Public Private Cooperative Agreement ("Agreement") is entered into as of March 15, 2010, between Alameda County Sheriff's Office as the Region 2 Coordinator of mutual aid and the executive sponsor of this initiative (the "Sheriff"), acting on behalf of the Bay RICS Policy Group which is the governing body of the shared San Francisco Bay Area Regional Interoperability Communications System ("Bay RICS") and Motorola, Inc. a Delaware corporation ("Motorola"). Motorola and the Sheriff may be referred to individually as a "party" or collectively as the "parties" to this Agreement. The parties enter into this Agreement with reference to the following factual recitals.

#### Recitals

A. The Sheriff as the Region 2 Coordinator of mutual aid and the executive sponsor of this initiative, for the benefit of itself, the other participants of the San Francisco Bay Area UASI, and other cities, governmental agencies, and districts within the ten (10) county Bay RICS region and their residents, is interested in completing a regional 700 MHz wireless mobile broadband network known as "Bay WEB" (the "Network") and has selected Motorola to design, deploy, own, operate, and maintain the Network.

B. The Sheriff, acting on behalf of the BayRICS Policy Group, and Motorola both wish for the Network completion to be funded in principal part with NTIA Broadband Technology Opportunities Program ("BTOP") grant funds for Comprehensive Community Infrastructure ("CCI") projects. Additionally, the Sheriff and Motorola both wish for ancillary systems described in the BTOP grant application, such as a Point-to-Multipoint system to improve broadband internet access within the region ("Ancillary Systems"), to be funded in principal part with BTOP grant funds, which meets all the requirements of the grant program, servicing the greatest need of stakeholders in the region.

C. The BTOP grant program encourages the grant applicant to form and participate in a "Public Private Cooperative Agreement" for the project.

D. In support of that purpose, this Agreement generally describes the various roles and responsibilities of the parties as members of the Public Private Cooperative Agreement.

E. The parties intend for this Agreement to be consistent with and supportive of the BTOP grant application and for a copy of this Agreement to be included with the BTOP grant application.

F. If the BTOP grant application is successful, the parties intend to enter into one or more additional agreements to describe in more detail their respective rights and responsibilities concerning the design, deployment, ownership, operation and maintenance of the Network, all in a manner that is consistent with this Agreement and the requirements of the BTOP grant application and program requirements.

#### Agreement

The parties to this Agreement agree as follows:

1. Joint Responsibilities. The parties will jointly perform the following roles and responsibilities.

1.1. The parties will work together in the preparation and filing of a BTOP grant application for the purpose of obtaining BTOP grant funds which together with the grant matches contributed to the project by the parties will fund the completion of the design, deployment, operation and maintenance of the Network.

1.2. Although the Sheriff, as the executive sponsor of this initiative, will review and approve the BTOP grant application, Motorola will serve as the BTOP grant applicant with all fiscal responsibility within the grant as requested by the BayRICS Policy Group through the Sheriff. The Sheriff understands and agrees that Motorola may take reasonable exceptions to the BTOP grant requirements (especially concerning intellectual property rights) and that Motorola does not guarantee BTOP grant application success.

1.3. The parties will take such actions as may be reasonable or necessary to promote the probability of success of the BTOP grant application, and if successful, to promote compliance with applicable laws and the BTOP grant program requirements.

1.4. If the BTOP grant application is approved, the parties will before any BTOP grant funds are awarded negotiate in good faith and enter into the additional agreement(s) described above in Recital F.

2. Motorola Responsibilities. Motorola shall perform the following roles and responsibilities.

2.1. Retain and pay for the Washington, D.C. law firm of Wiley Rein, LLP to provide BTOP grant expertise (subject to the right of reimbursement from BTOP grant funds if the application is successful).

2.2. File the BTOP grant application as the applicant.

2.3. Using Motorola engineering and other personnel, and to the extent necessary other experts or consultants, design the Network and Ancillary Systems that will use a minimum of 150 existing "shovel ready" sites (as agreed by the parties) that are owned or leased by the Bay RICS participants within the ten (10) county San Francisco Bay Area region. As used in this Agreement, the term "shovel ready" means the sites are ready and suitable for Motorola to install the intended equipment and comply with the Motorola design requirements (including design requirements for tower access, tower space, electrical power availability and access, wind loading, and the like).

2.4. Negotiate and enter into a Teaming Agreement with Verizon Wireless and other Internet Service Providers (Collectively, "third party providers") to promote greater broadband internet access within the region and to support the BTOP grant application. If the BTOP grant application is successful, Motorola and its third party providers will enter into one or more additional agreements that will set forth in more detail the rights and responsibilities of Motorola, the third party providers, the Sheriff, as executive sponsor of this initiative, and the users, through the Bay RICS Policy Group, of the Network concerning (i) connectivity of the Network to the third party providers' networks in the region, and (ii) roaming rights and responsibilities of the users of the Network on the Verizon Wireless network in the region. If Verizon Wireless so agrees, the Network design may include some of its existing sites to improve coverage and other Network functionality as well as user access. Any roaming or site use compensation paid

to Verizon Wireless while Motorola is the owner of the Network will be paid as a Network operating cost.

2.5. Develop a subcontractor plan and, if the BTOP grant application is successful, use appropriate and qualified subcontractors (including Minority/Disadvantaged Business Enterprises) for services concerning the design and deployment of the Network and Ancillary Systems.

2.6. If the BTOP grant application is successful, provide the equipment and software for the Network and Ancillary Systems, much of which will be manufactured by Motorola but some of which may be manufactured by other companies.

2.7. Commit in the BTOP grant application to provide (and provide if the BTOP grant application is successful) a BTOP grant match of at least 25% of the project cost, which match may be in the form of cash, equipment and software products, services, or any combination thereof. If the BTOP grant match is in the form of equipment and software products or services, the value of those products or services will be reasonable and consistent with the BTOP grant requirements and the additional agreements referred to in Recital F.

2.8. In addition to the design and deployment of the Network and Ancillary Systems, which will occur within the maximum three (3) year BTOP grant term period, Motorola will own, operate and maintain the Network and Ancillary Systems for the life of the systems subject to allowable transfers under the BTOP grant program as more fully described in Section 2.9.

2.9. At some point in time after the three (3) year grant term has been fulfilled, with the precise time, price and other terms and conditions of transfer to be mutually agreed by the parties, Motorola will transfer ownership of the Network and Ancillary Systems to the Sheriff or some other representative of the Bay RICS Policy Group. The parties will cooperate with each other in seeking any necessary approvals (including BTOP grant waivers, if applicable) to permit this transfer.

2.10. During the BTOP grant term, Motorola will use project income as authorized in the BTOP grant award, including payment for project operating and maintenance expenses.

3. Sheriff Responsibilities. The Sheriff, as executive sponsor of this initiative, and through the Bay RICS Policy Group, will perform the following roles and responsibilities and, to the extent such performance is dependent upon other participants of Bay RICS, will cause those participants to perform the following roles and responsibilities.

3.1. The Sheriff will facilitate, through the BayRICS Policy Group, site access and continuous use of a minimum of 150 "shovel ready" sites (as agreed by the parties) that are owned or leased by the Bay RICS participants within the ten (10) county San Francisco Bay Area region so that Motorola may install Network and Ancillary Systems equipment at these agreed sites. Site access and continuous use as described in this Section 3.1 will be provided at no cost or expense to Motorola.

3.2. The Sheriff through and on behalf of the BayRICS Policy Group shall provide at its cost and expense during the life of the Network and Ancillary Systems all necessary FCC licenses (or special temporary authorizations) and related FCC licensing services. In addition, the Sheriff, as the executive sponsor of this initiative through and on behalf of the BayRICS Policy Group, will enter into term lease or licensing agreements with the PSBL. The parties intend that

payments to lessors or licensors of any such term lease or licensing fees will be a project operating cost.

3.3. The Sheriff through the BayRICS Policy Group shall provide at its cost and expense the Network "backhaul" to each agreed site so that Motorola may operate the Network as designed; provide at its cost and expense access to the Bay RICS' microwave system and radio voice system in the condition that exists upon award of the BTOP grant. If BTOP grant funds are awarded, Motorola will expand the microwave system and radio voice system as reasonable and necessary to conform to the Network design, and Motorola will own the installed equipment that comprise the expansion of those systems. At some point after the three (3) year grant term has been fulfilled, with the precise time, price and other terms and conditions of transfer to be mutually agreed by the parties, Motorola will seek necessary approvals to transfer ownership of those system expansions to the Sheriff, as the executive sponsor of this initiative, or some other representative of the Bay RICS Policy Group. The parties will cooperate with each other in seeking any necessary approvals (including BTOP grant waivers, if applicable) to permit this transfer.

3.4. Utilizing the staff from the Bay Area UASI Interoperability Team, in support of the BTOP grant application, provide letters of support from various government authorities and community anchor institutions, all environmental compliance services to comply with the BTOP grant award, and such other services as mutually agreed by the parties.

3.5. If the BTOP grant application is successful, the Sheriff, through the BayRICS Policy Group shall provide Network operation specifications (such as user access requirements; interfacing with Network users; user loading scheduling; Network use priorities and preemption rules; fleet mapping; and as requested by Motorola, grant monitoring, audit, and reporting services).

3.6. Coordinate through the Bay RICS Policy Group the billing to the various Network users and the collection of Network user fees, and remit to Motorola in one monthly payment the aggregated monthly Network user fees.

4. No Formal Business Entity Created. Although this Agreement is called a "Public Private Cooperative Agreement," the parties do not intend by this Agreement to form a partnership, joint venture, or other legal business entity, or a relationship of principal and agent. Neither party has the right or authority to make binding commitments on behalf of the other party. The employees of one party shall not be deemed to be the employees of the other party. Further, this Agreement does not involve the transfer of technology or any intellectual property rights from one party to the other party.

5. Disclaimer of Indirect Damages. In no event shall either party be liable to the other party for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings or any other incidental, special or consequential damages.

6. Dispute Resolution. The parties, through their respective managers, will attempt to settle any dispute arising from this Agreement through consultation and negotiation in good faith and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. If cooperative efforts fail, the dispute will be mediated by a mediator chosen jointly by the parties within thirty (30) days after notice by one of the parties demanding non-binding mediation. The parties will not unreasonably withhold consent to the selection of a mediator, and they will share the cost of the mediation equally. The parties may

postpone mediation until they have completed some specified but limited discovery about the dispute. The parties may also replace mediation with some other form of non-binding alternative dispute resolution ("ADR").

Any claim relating to intellectual property and any dispute that cannot be resolved between the parties through negotiation or mediation within two (2) months after the date of the initial demand for non-binding mediation as described above may be submitted by either party to a court of competent jurisdiction in the State of California. Each party consents to jurisdiction over it by such a court. The use of ADR procedures will not be considered under the doctrine of laches, waiver, or estoppel to affect adversely the rights of either party. Either party may resort to the judicial proceedings described in this section before the expiration of the two-month ADR period if (i) good faith efforts to resolve the dispute under these procedures have been unsuccessful; or (ii) interim relief from the court is necessary to prevent serious and irreparable injury to such party or any of its affiliates, agents, employees, customers, suppliers, or subcontractors.

7. Notices. Any notice required or permitted to be given under this Agreement shall be deemed properly given if reduced to writing and personally delivered or transmitted by courier or Federal Express (or other major overnight express delivery service) to the addresses shown below, and shall be effective upon receipt or at such time as delivery is refused by addressee upon presentation.

Motorola, Inc.  
927 West 18<sup>th</sup> Ave  
Spokane, WA 99203  
Attn: Derek Phipps, MSSSI Vice President, Motorola Inc.

Alameda County Sheriff's Office  
c/o 10 Lombard Street  
Suite 410  
San Francisco, CA 94111  
Attn: Laura Phillips, Executive Director, Bay Area UASI

8. Governing Law. The validity, performance, and all matters relating to the effect of this Agreement and any amendment hereto shall be governed by the laws of the State of California.

9. Assignment. Neither this Agreement nor any right hereunder may be transferred, assigned or delegated by a party without the prior written consent of the other party. Any attempted assignment, delegation or transfer shall be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates without the prior consent of Licensee. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

ALAMEDA COUNTY  
SHERIFF'S OFFICE

By: Gregory J. Ahern  
Name: Gregory J. Ahern  
Title: Sheriff - Alameda County  
Date: 3/15/10

MOTOROLA

By: Robert Schassik  
Name: Robert Schassik  
Title: Senior VP - Motorola  
Date: 3/18/2010