

**BAY AREA REGIONAL INTEROPERABLE COMMUNICATIONS SYSTEMS  
(BayRICS) JOINT POWERS AUTHORITY**

**Meeting Location:** Alameda County Sheriff  
Office of Emergency Services  
4985 Broder Blvd, Room 1013  
Dublin, CA 94568

**Meeting Date:** Tuesday August 13, 2019, 12:30 PM

**Regular Meeting Notice and Agenda**  
**Documents available at: <http://www.BayRICS.net>**

1)	<b>CALL TO ORDER</b> <b>ROLL CALL</b>		
	<b>Director</b>	<b>Alameda County</b>	
	<b>Director</b>	<b>Marin County</b>	
	<b>Director</b>	<b>Contra Costa County</b>	
	<b>Director</b>	<b>City of Oakland</b>	
	<b>Director</b>	<b>San Francisco County</b>	
	<b>Director</b>	<b>San Francisco City</b>	
	<b>Director</b>	<b>City of San Jose</b>	
	<b>Director</b>	<b>San Mateo County</b>	
	<b>Director</b>	<b>Santa Clara County</b>	
	<b>Director</b>	<b>Sonoma County</b>	
	<b>Director</b>	<b>South Bay Hub</b>	
	<b>Director</b>	<b>East Bay Hub</b>	
	<i>Simple majority (currently seven) physically present constitutes a quorum.</i>		
<b>General Public Comment</b>			
2)	<b>GENERAL PUBLIC COMMENT:</b> Members of the public may address the BayRICS Board on items within the jurisdiction of the Authority.		
<b>Recurring Business</b>			
3)	<b>APPROVAL OF THE AGENDA</b> ( <i>Action Item</i> ): The Board will review and approve the agenda for the August 13, 2019, meeting, and may take action limited to making non-substantive changes.  <u>Recommended Action:</u> Approve Agenda.		

4)	<p><b>APPROVAL OF MINUTES</b> (<i>Action Item</i>): The Board will review the minutes from the JPA meeting held on April 11, 2019.</p> <p><u>Recommended Action</u>: Approve Minutes for April 11, 2019.</p> <p><u>Accompanying Document(s)</u>:  <i>Item 4 – BayRICS Draft Minutes April 11 2019.pdf</i></p>
<b>General Manager’s Report</b>	
5)	<p><b>BAYRICS GENERAL MANAGER’S REPORT</b> (<i>Information Item</i>): BayRICS General Manager Corey Reynolds will provide a brief report on the status, next steps and timeline for deployment of the FirstNet-AT&amp;T public safety broadband network. Mr. Reynolds will also report out on the activities of the FirstNet Public Safety Advisory Committee (PSAC) and the BayRICS Radio Operators Advisory Group.</p> <p><u>Recommended Action</u>: Receive and file report.</p>
<b>New Business</b>	
6)	<p><b>BAYRICS AUTHORITY FISCAL YEAR (FY) 2019-2020 BUDGET</b> (<i>Action Item</i>): Since 2015, BayRICS has been operating under a long-term plan that reflected a transition to part-time general manager and limited grant funding support. Based on this plan, the Board previously approved final budgets for FY 2015-2016, 2016-2017 and 2017-2018, and 2018-2019. Staff has prepared a draft budget for FY 2019-2020, similar in most respects to the previous four years, for the Board’s review and approval.</p> <p><u>Recommended Action</u>: Approve the draft FY 2019-2020 BayRICS Authority Budget.</p> <p><u>Accompanying Document(s)</u>:  <i>Item 6 – Staff Report: BayRICS Budget FY 2019-2020.pdf</i></p>
7)	<p><b>RENEWAL OF STANDARD SERVICES AGREEMENT FOR GENERAL MANAGER SERVICES</b> (<i>Action Item</i>): At the June 14, 2018, BayRICS Board meeting, the Board approved a standard contract with Corey Reynolds to provide services as General Manager, reflecting the Authority’s long-term plan of a part-time general manager. The contract was designed to align with the Authority’s fiscal year, and as such, is up for renewal. Per the agreement, an ad hoc committee of three Directors held a six-month performance review to assess GM Reynolds’ performance and recommended Mr. Reynolds continue in this role.</p> <p><u>Recommended Action</u>: Authorize the Chair or Chair’s designee to execute a one-year contract to Mr. Reynolds to continue general management services for BayRICS, with contract terms and conditions consistent with the previous agreement and with an hourly rate consistent with BayRICS FY 2019-2020 budget.</p>

	<p><u>Accompanying Document(s):</u>  <i>Item 7a – Staff Report: Revisions to the Standard Services Agreement with Corey Reynolds.pdf</i>  <i>Item 7b – BayRICS 2019-2020 Standard Services Agreement with Corey Reynolds.pdf</i></p>
8)	<p><b>RENEWAL OF STANDARD SERVICES AGREEMENT FOR BAYRICS SECRETARY AND ADMINISTRATIVE SERVICES</b> (<i>Action Item</i>): At its June 14, 2018 meeting, the BayRICS Board approved a standard services contract with D. Marie Smith to perform the services of BayRICS Secretary and other administrative services on an hourly contract basis. This agreement terminates on June 30, 2019. The BayRICS General Manager recommends that the Board extend this agreement for an additional 6 months, contract not to exceed \$2,000 for the 6-month term.</p> <p><u>Recommended Action:</u> Authorize the Chair or Chair’s designee to execute a 6-month contract extension with D. Marie Smith to perform specified services, including serving as Secretary of the JPA.</p> <p><u>Accompanying Document(s):</u>  <i>Item 8 – BayRICS 2019-2020 Standard Services Agreement with D Marie Smith.pdf</i></p>
9)	<p><b>BAYRICS JPA AGREEMENT CHANGES</b> (<i>Action Item</i>): At the October 11, 2018, meeting, staff presented a series of three-year budget projections, along with a set of options for increasing revenue and decreasing reliance on grant funding for operational expenses. As many of these options require modifying the BayRICS JPA Agreement, in the January 10, 2019, meeting, the Board discussed a high-level process for amending the agreement, as well as what potential amendments should be made. In the April 11, 2019, meeting, staff presented more detail on changes that would be required to the agreement, and the Board directed staff to propose a revised agreement in the June meeting.</p> <p><u>Recommended Action:</u> Discuss draft revised Joint Powers Agreement and provide direction to staff.</p> <p><u>Accompanying Document(s):</u>  <i>Item 9a – Staff Report: Amending BayRICS Authority Agreement.pdf</i>  <i>Item 9b – BayRICS Joint Powers Agreement Proposed Revisions.pdf</i></p>

<b>10)</b>	<p><b>REGIONAL RADIO PROGRAMMING STATUS</b> <i>(Information Item)</i>: At the October 11, 2018, Board meeting, the Board directed staff to conduct an analysis of the status of regional radio programming across the five digital systems. The goals of the analysis are to understand the numbers of outside radios activated on each system, numbers of radios across the region programmed with BayRICS zones, and the dispatch centers across the region with BayRICS talk groups programmed and available for use. GM Reynolds presented the initial results of this analysis, as well as resulting recommendations for improving regional radio programming, at the April 2019 BayRICS Board meeting, and will now present an updated analysis, which reflects additional data received by BayRICS.</p> <p><u>Recommended Action</u>: Receive and file report.</p> <p><u>Accompanying Document(s)</u>:  <i>Item 10 – Regional Radio Programming Status_Updated.pdf</i></p>
<b>11)</b>	<p><b>FUTURE AGENDA ITEMS</b>: Any Board member who wishes to request consideration of an agenda item for a future meeting may do so, and such action shall be taken if voted for by a majority of the Board.</p>
<b>12)</b>	<p><b>NEXT REGULAR MEETING DATE</b>:  Thursday, October 10, 2019, 12:30 PM</p>
<b>13)</b>	<p><b>Adjournment</b></p>

If any materials related to an item on this agenda have been distributed to the Authority members after distribution of the agenda packet, those materials are available for public inspection at the Alameda County Office of Emergency Services, 4985 Broder Blvd., Dublin, CA 94568 during normal business hours, or on the internet at: <http://www.BayRICS.net>.

The Authority will hold this meeting at the Alameda County Office of Emergency Services, 4985 Broder Blvd., Dublin, CA.

#### **Disability Access**

In compliance with the Americans with Disabilities Act, those requiring accommodations for this meeting should notify Corey Reynolds, at least 24 hours prior to the meeting at (925) 803-7882.

**BAY AREA REGIONAL INTEROPERABLE COMMUNICATIONS SYSTEMS  
(BayRICS) JOINT POWERS AUTHORITY**

**Meeting Location:** Alameda County Sheriff  
Office of Emergency Services  
4985 Broder Blvd, Room 1013  
Dublin, CA 94568

**Meeting Date:** Thursday, April 11, 2019, 12:30 PM  
**Meeting Minutes**

*Documents available at: <http://www.BayRICS.net>*

1)	<b>CALL TO ORDER</b>		
	<b>ROLL CALL</b>		
	Director	Alameda County	Richard Lucia
	Director	Marin County	Chris Reilly (Absent)
	Director	Contra Costa County	Chris Simmons
	Director	City of Oakland	Nick Luby
	Director	San Francisco County	Michael Deely
	Director	San Francisco City	Michelle Geddes
	Director	City of San Jose	Judith Torrico (Absent)
	Director	San Mateo County	Jon Walton (Absent)
	Director	Santa Clara County	Michael Gokey
	Director	Sonoma County	Justin Riedel
	Director	South Bay Hub	Dan Winter
	Director	East Bay Hub	Marc Roberts (Absent)
<i>Simple majority (currently seven) physically present constitutes a quorum.</i>			
<b>General Public Comment</b>			
2)	<b>GENERAL PUBLIC COMMENT:</b> Members of the public may address the BayRICS Board on items within the jurisdiction of the Authority.		
No public comment.			
<b>Recurring Business</b>			
3)	<b>APPROVAL OF THE AGENDA:</b> The Board will review and approve the agenda for the April 11, 2019, meeting, and may take action limited to making non-substantive changes.		
Director Michael Gokey motioned to accept the Agenda as written, second by Director Michael Deely. Motion carried unanimously.			
No public comment.			

4)	<p><b>APPROVAL OF MINUTES:</b> The Board will review the minutes from the JPA meeting held on January 10, 2019.</p> <p>Director Michael Gokey motioned to accept the January 11, 2019, meeting minutes as written, second by Director Chris Simmons. Motion carried unanimously.</p> <p>No public comment.</p>
<b>General Manager's Report</b>	
5)	<p><b>BayRICS GENERAL MANAGER'S REPORT:</b> BayRICS General Manager (GM) Corey Reynolds provided a brief report on the status, next steps and timeline for deployment of the FirstNet-AT&amp;T public safety broadband network. GM Reynolds also reported on BayRICS administrative updates (FPPC Form 700 compliance), efforts of the Radio Operators Advisory Group, and related news and announcements.</p> <p>No public comment.</p>
<b>New Business</b>	
6)	<p><b>BayRICS BOARD OF DIRECTORS VICE-CHAIR APPOINTMENT:</b> The current Vice Chairperson of the BayRICS Board of Director, Lee Ann Magoski, has left Marin County and no longer serves as a BayRICS Director. Section 3.01 of the BayRICS JPA Agreement provides that, when such a vacancy occurs, the Board shall elect a new officer "to serve the balance of the term at the next regular meeting of the Board held after the vacancy occurs or as soon as practicable thereafter." Section 3.01 also provides for annual elections of Board Chairperson and Vice-Chairperson at the first regular meeting of the Fiscal Year. The Board may accept nominations and elect a Vice Chair to replace Ms. Magoski. Alternatively, the Board may defer the election to the first meeting of the Fiscal Year.</p> <p>Director Nick Luby motioned to nominate Michelle Geddes as Vice Chairperson for the balance of the term, second by Director Justin Riedel. Motion carried unanimously.</p> <p>No public comment.</p>
7)	<p><b>BayRICS BOARD OF DIRECTORS REGULAR MEETING SCHEDULE FOR 2019:</b> The BayRICS JPA Agreement Section 2.06(a) provides that the Board shall establish, by resolution, the date, time and place of all regular meetings. At the October 11, 2018, meeting, the Board approved the following 2019 regular meeting schedule for the Board (<i>Resolution 2018-01</i>):</p> <ul style="list-style-type: none"> <li>• Thursday January 10, 2019 at 12:30 PM</li> <li>• Thursday April 11, 2019 at 12:30 PM</li> <li>• Thursday July 11, 2019 at 12:30 PM</li> <li>• Thursday October 10, 2019 at 12:30 PM</li> </ul>

	<p>Director Chris Simmons motioned to accept Resolution 2019-01, which will modify the regularly scheduled July 11, 2019, Board meeting to June 13, 2019, second by Director Michelle Geddes. Motion carried unanimously.</p> <p>No public comment.</p>
8)	<p><b>REGIONAL RADIO PROGRAMMING STATUS:</b> At the October 11, 2018, Board meeting, the Board directed staff to conduct an analysis of the status of regional radio programming across the five digital systems. The goals of the analysis are to understand the numbers of outside radios activated on each system, numbers of radios across the region programmed with BayRICS zones, and the dispatch centers across the region with BayRICS talk groups programmed and available for use. GM Reynolds presented the results of this analysis, as well as resulting recommendations for improving regional radio programming.</p> <p>The Board directed the BayRICS General Manager to report updated findings along with East Bay Radio Communications Systems Authority's (EBRCSA) numbers at the June 13, 2019 Board meeting.</p> <p>No public comment.</p>
9)	<p><b>FY2018 UASI GRANT FUNDING:</b> BayRICS was awarded a \$59,000 Urban Area Security Initiative (UASI) grant in FY2018 to support administration of the Authority in calendar year 2019. The MOU between UASI and Alameda County (BayRICS' fiscal agent) was executed the week of March 25, 2019. However, at its March 14, 2019, meeting, the Bay Area UASI Approval Authority approved a one-time reallocation of the regional Training and Exercise (T&amp;E) Program funding for the 2019 calendar year (FY2018). As part of this reallocation, BayRICS received a one-time \$50,000 grant for a Tactical Interoperable Communications Plan (TICP) mobile app. This project was originally proposed in the UASI FY2019 proposal process and was originally not recommended for funding by the Bay Area UASI Management Team.</p> <p>The Board agreed to the need for a TICP mobile app and provided direction to staff to move forward with the project.</p> <p>No public comment.</p>

<b>10)</b>	<p><b>BayRICS JPA AGREEMENT CHANGES:</b> At the October 11, 2018, meeting, staff presented a series of three-year budget projections, along with a set of options for increasing revenue and decreasing reliance on grant funding for operational expenses. As many of these options require modifying the BayRICS JPA Agreement, in the January 10, 2019, meeting, the Board discussed a high-level process for amending the agreement, as well as what potential amendments should be made. The Board directed staff to further detail changes that would be required to the BayRICS JPA agreement in order to increase the number of paying Authority members, as well as outline a process to execute these amendments.</p> <p>The Board directed the GM to propose revisions to the BayRICS Agreement for presentation at the June 13, 2019, Board meeting.</p> <p>No public comment.</p>
<b>11)</b>	<p><b>FUTURE AGENDA ITEMS:</b> Any Board member who wishes to request consideration of an agenda item for a future meeting may do so, and such action shall be taken if voted for by a majority of the Board.</p> <p>No items.</p>
<b>12)</b>	<p><b>NEXT REGULAR MEETING DATE:</b></p> <p>Thursday, June 13, 2019. Office of Emergency Services 4985 Broder Boulevard, Room 1013 Dublin, CA 94568</p>
<b>13)</b>	<b><i>Adjournment</i></b>

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#### **Disability Access**

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**BayRICS Authority**  
**STAFF REPORT**

**DATE:** Tuesday, August 13, 2019  
**TO:** BayRICS Board of Directors  
**FROM:** Corey Reynolds, General Manager  
**SUBJECT:** Item 6 – BayRICS Fiscal Year (FY) 2019-2020 Budget  
**RECOMMENDATION:** Approve the Attached FY 2019-2020 BayRICS Authority Budget.

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**I. Background**

At the April 9, 2015 BayRICS Board meeting, the Board approved a financial plan that reflected a transition to part-time general manager and limited grant funding support. The Board subsequently approved final budgets for FY 2015-2016, 2016-2017, 2017-2018, and 2018-2019 based on this plan.

Staff has prepared a draft budget for FY 2019-2020 based on this financial plan for the Board's review and approval. As discussed below, the plan includes several minor adjustments to address changing circumstances of the JPA.

**II. BayRICS Financial Position Projected for June 30, 2019**

- Revenues: BayRICS met its revenue targets for FY 2018-2019 revenue with all member annual fees paid in full. In addition, BayRICS again received a UASI grant totaling \$59,000 for broadband and LMR interoperability planning.
- Expenses: The Authority incurred additional costs of transitioning to a new general manager and related COLA adjustments, as well as cost to retain the previous general manager for up to 120 hours during a three-month transition period. These changes result in an increase in administration expenses of \$6,723 from last year.
- Reserve Funds: BayRICS began the 2018-2019 Fiscal Year with a Reserve Fund of \$275,558<sup>1</sup>. Due to the increased expenses noted above, the Authority should end the fiscal year with \$270,835 in reserves (drawing \$4,723 on the reserves as per the approved FY18-19 budget). See more about the Authority's reserve fund in Section 4 of this report.
- BayRICS FY 2017-2018 Audit is available here:  
[http://www.bayrics.net/uploads/1/2/4/6/12466172/bayrics\\_final\\_financial\\_statements\\_06-30-2018.pdf](http://www.bayrics.net/uploads/1/2/4/6/12466172/bayrics_final_financial_statements_06-30-2018.pdf)
- Staff will begin providing a mid-year budget update to the Board.

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<sup>1</sup> Audit reflects \$254,658 beginning reserve fund balance for FY18-19, however \$20,900 of FY17-18 grant revenue was received after audit was completed, and therefore was not included in the audited Reserve Fund Beginning Balance.

### III. FY 2019-2020 Budget Highlights

- Annual member fee remains at FY 2014-15 level (\$7,000/year), with total fee revenues remaining at \$84,000.
- Assumes grant revenues of \$69,000 from awarded UASI 2019 Grant. Increased UASI Grant revenue is anticipated to cover the deficit realized due to the General Manager transition and COLA adjustments for the new General Manager.
- Administration expenses have been adjusted to reflect the Standard Services Agreement for the BayRICS General Manager: 1020 hours over the FY at \$115/hour. This increase is partially offset by slight reductions in other line item expenses and slight growth in interest revenue from the reserve fund. Secretary expenses remain the same.
- These changes result in a projected \$3,200 increase in reserves, designed to partially make up for the FY18-19 draw on reserves.
- Staff resources will remain focused primarily on achieving the goals established in the BayRICS Strategic Plan Update approved by the Board in April 2018.
- For reference, Staff has projected a budget for 2019-2020, based on these same assumptions.

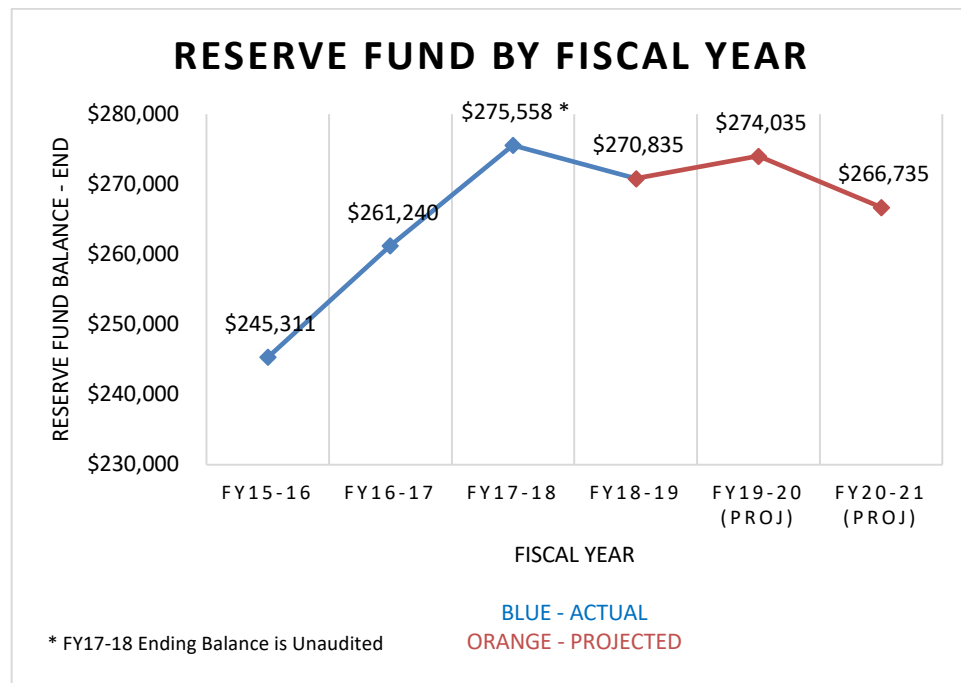
Revenues	FY18-19 (Approved Budget)		FY19-20 (Proposed)		FY20-21 (Projected)	
Annual Member Fees		\$84,000		\$84,000		\$84,000
Interest		\$1,500		\$2,000		\$2,000
Administration Grant		\$59,000		\$69,000		\$59,000
<b>Total Revenues</b>		<b>\$144,500</b>		<b>\$155,000</b>		<b>\$145,000</b>
Expenses	FY18-19 (Approved Budget)		FY19-20 (Proposed)		FY20-21 (Projected)	
General Manager	\$ 114,223		\$ 117,300		\$ 117,300	
Secretary	\$ 5,000		\$ 5,000		\$ 5,000	
Administration (1)		\$ 119,223		\$ 122,300		\$ 122,300
Audit		\$ 6,000		\$ 6,000		\$ 6,000
Legal		\$ 12,000		\$ 12,000		\$ 12,000
Insurance		\$ 10,000		\$ 10,000		\$ 10,000
Miscellaneous		\$ 2,000		\$ 1,500		\$ 1,500
<b>Total Expenses</b>		<b>\$ 149,223</b>		<b>\$ 151,800</b>		<b>\$ 151,800</b>
Reserve Fund	FY18-19 (Approved Budget)		FY19-20 (Proposed)		FY20-21 (Projected)	
Balance - beginning (2)		\$ 275,558		\$ 270,835		\$ 274,035
Increase in reserve fund (est)				\$ 3,200		
Draw on reserve (est)		(\$4,723)				(\$6,800)
<b>Balance - ending</b>		<b>\$ 270,835</b>		<b>\$ 274,035</b>		<b>\$ 267,235</b>

(1) Includes 1020 hours for General Manager (20 hours/week for 51 weeks at \$115/hour) and 100 hours for Secretary (approx 8 hours/month for 12 months at \$50/hour)

(2) Audit reflects \$254,658 beginning reserve fund balance for FY18-19, however \$20,900 of FY17-18 grant revenue was received after audit was completed, and therefore was not included in Reserve Fund Beginning Balance

#### IV. Reserve Fund

- Since the transition to the financial plan adopted in 2015, BayRICS has seen significant annual increases in its reserve fund, due to a focus on cost savings.
- These annual increases have plateaued, and a three-year budget projection presented to the Board in October 2018 show the potential for significant (i.e., \$10,000) draws on the reserve in future years, assuming no changes in revenue or expenses.
- This stress on the reserve fund is driving BayRICS' strategy to increase revenues through increased membership (or increased member fees), and also recognizes the potential for decreased grant support.



#### IV. Staff Recommendation

Staff recommends that the Board adopt the FY 19-20 Proposed Budget (center columns in the table below).

<b>Revenues</b>	<b>FY18-19 (Approved Budget)</b>		<b>FY19-20 (Proposed)</b>		<b>FY20-21 (Projected)</b>	
Annual Member Fees		\$84,000		\$84,000		\$84,000
Interest		\$1,500		\$2,000		\$2,000
Administration Grant		\$59,000		\$69,000		\$59,000
<b>Total Revenues</b>		<b>\$144,500</b>		<b>\$155,000</b>		<b>\$145,000</b>
<b>Expenses</b>	<b>FY18-19 (Approved Budget)</b>		<b>FY19-20 (Proposed)</b>		<b>FY20-21 (Projected)</b>	
General Manager	\$ 114,223		\$ 117,300		\$ 117,300	
Secretary	\$ 5,000		\$ 5,000		\$ 5,000	
Administration (1)		\$ 119,223		\$ 122,300		\$ 122,300
Audit		\$ 6,000		\$ 6,000		\$ 6,000
Legal		\$ 12,000		\$ 12,000		\$ 12,000
Insurance		\$ 10,000		\$ 10,000		\$ 10,000
Miscellaneous		\$ 2,000		\$ 1,500		\$ 1,500
<b>Total Expenses</b>		<b>\$ 149,223</b>		<b>\$ 151,800</b>		<b>\$ 151,800</b>
<b>Reserve Fund</b>	<b>FY18-19 (Approved Budget)</b>		<b>FY19-20 (Proposed)</b>		<b>FY20-21 (Projected)</b>	
Balance - beginning (2)		\$ 275,558		\$ 270,835		\$ 274,035
Increase in reserve fund (est)				\$ 3,200		
Draw on reserve (est)		(\$4,723)				(\$6,800)
<b>Balance - ending</b>		<b>\$ 270,835</b>		<b>\$ 274,035</b>		<b>\$ 267,235</b>

**BayRICS Authority**  
**STAFF REPORT**

**DATE:** Tuesday, August 13, 2019  
**TO:** BayRICS Board of Directors  
**FROM:** Mala Subramanian, General Counsel  
**SUBJECT:** Item 7a – Revisions to the Standard Services Agreement with Corey Reynolds

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**I. Background**

At the June 14, 2018 BayRICS Board meeting, the Board approved a standard contract with Corey Reynolds to provide services as General Manager, reflecting the Authority’s long-term plan of a part-time general manager. The contract was designed to align with the Authority’s fiscal year, and as such, is up for renewal.

Per the agreement, an ad hoc committee of three Directors held a six-month performance review to assess GM Reynolds’ performance and recommended Mr. Reynolds continue in this role.

**II. Proposed Revisions to the Standard Services Agreement with Corey Reynolds**

Only minor revisions to the existing Standard Services Agreement are proposed:

Page 1:

- Change contract period of performance to begin July 1, 2019, and end June 30, 2020.

Page 8 (Exhibit B):

- Change to reflect that “Contractor will not bill for more than 1020 hours per fiscal year”. Originally this stated 1040 hours. This change aligns with the proposed FY19-20 BayRICS Budget, and staff anticipates there will be no impact on performing the required contract tasks as part of this change.
- Remove “with the initial year hours pro-rated to reflect the effective date of this Agreement”, as this clause was relevant only when the contract did not align with the Authority’s fiscal year.
- Revise “The parties agree to meet and confer to evaluate this contract and compensation after six-months, and no less than annually thereafter” to instead read “The parties agree to meet and confer to evaluate this contract and compensation no less than annually.”

All other language and terms of the agreement remain the same.

**III. Staff Recommendation**

Authorize the Chair or Chair’s Designee to execute a one-year contract to Mr. Reynolds to continue general management services for BayRICS, with contract terms and conditions consistent with the previous agreement and with an hourly rate consistent with BayRICS FY 2019-2020 budget.

**BAY AREA REGIONAL INTEROPERABLE COMMUNICATIONS SYSTEM AUTHORITY  
STANDARD SERVICES AGREEMENT**

This Agreement, is by and between the Bay Area Regional Interoperable Communications System Authority ("BayRICS"), and Corey Reynolds ("Contractor"). BayRICS and Contractor are hereinafter collectively referred to as the "Parties." The Agreement will be effective on July 1, 2019 and shall run through June 30, 2020, unless terminated prior to that date as provided in Section 13. The Parties may extend the term of this Agreement for additional periods by mutual agreement.

**RECITALS**

- A. BayRICS desires to obtain the services of a General Manager, as more fully described in Exhibit A hereto, "Definition of Services."
- B. Contractor is professionally qualified to provide such services and is willing to provide same to BayRICS on the terms and conditions set forth herein.

NOW, THEREFORE, the Parties agree as follows:

- 1. **SCOPE OF SERVICES:** Contractor agrees to perform all services described in Exhibit A, for payment pursuant to Exhibit B, in accordance with the terms and conditions of this Agreement. Exhibits A and B are attached hereto and incorporated herein by this reference.
- 2. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is at all times an independent contractor and can perform work for others. Contractor is not the agent or employee of the BayRICS in any capacity whatsoever and BayRICS shall not be liable in any manner for any acts or omissions by Contractor or for any obligations or liabilities incurred by Contractor, his employees, or agents.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, health insurance medical care, hospital care, retirement benefits, social security, disability, workers' compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees, and Contractor agrees to indemnify and hold BayRICS harmless from any and all liability which BayRICS may incur because of Contractor's failure to pay such amounts.

In carrying out the work contemplated herein, BayRICS shall not have nor exercise any control or direction over the methods by which Contractor shall perform the work and services called for under this Agreement. Contractor shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers,

agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of BayRICS.

Contractor does, by this Agreement, agree to perform his said work and to function at all times in strict accordance with currently approved methods and practices in his field and acknowledges that the sole interest of BayRICS is to ensure that said service shall be performed and rendered in a competent, professional efficient, timely and satisfactory manner.

Notwithstanding the foregoing, if the BayRICS in its discretion determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, BayRICS may upon two (2) weeks' notice to Contractor, withhold from payments otherwise due to Contractor hereunder federal and state income taxes and to pay said sums to the federal and state governments.

3. INDEMNIFICATION: To the fullest extent permitted by law, Contractor shall release, hold harmless, defend and indemnify the BayRICS, its Board of Directors, officers, employees and agents from and against any and all claims, losses, damages, lawsuits, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, including but not limited to those attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is in any way connected with the performance of this Agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The BayRICS may, at its option, participate in the defense of any such claim without relieving Contractor of any obligation hereunder.
4. INSURANCE: Contractor shall maintain at all times during the performance of this Agreement a commercial general liability insurance policy with a minimum occurrence coverage in the amount of \$1,000,000.00; an automobile liability insurance policy in the minimum amount of \$300,000.00; and, if any licensed professional performs services under this contract, a professional liability insurance policy in the minimum amount of \$1,000,000.00 to cover any claims arising out of Contractor's performance of services under this Agreement. All insurance, except professional liability, shall name the BayRICS, its directors, officers, agents, volunteers and employees (if any) as additional insureds and shall provide primary coverage with respect to the BayRICS.

All insurance policies shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said policies except upon thirty (30) days written notice to the Chairperson of the BayRICS Board of Directors; 2) be evidenced by the original Certificate of Insurance and the insurance carrier's standard form endorsement evidencing the required coverage; and 3) be approved as to form and sufficiency by the BayRICS Chairperson.

If the commercial general liability insurance referred to above is written on a Claims Made Form then, following termination of this Agreement, coverage shall survive for a period of not less than five (5) years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this Agreement.

If Contractor employs any person, he shall carry workers' compensation and employer's liability insurance and shall provide a certificate of insurance to the BayRICS. The workers' compensation insurance shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said insurance except upon thirty (30) days written notice to the BayRICS; and 2) provide for a waiver of any right of subrogation against the BayRICS to the extent permitted by law.

Contractor shall promptly forward all insurance documents to the BayRICS.

5. **CONFORMITY WITH LAW AND SAFETY:** In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services provided by Contractor.
6. **PAYMENT:** For services performed in accordance with this Agreement, payments will be made, and payment shall be made to Contractor as provided in Exhibit B hereto.
7. **TRAVEL EXPENSES:** Contractor shall be allowed and compensated for reasonable travel expenses to carry out the work of the BayRICS as approved by the Chairperson of the BayRICS Board of Directors in accordance with Alameda County travel reimbursement policies, as the same may be amended from time to time.
8. **TAXES:** Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.
9. **OWNERSHIP OF DOCUMENTS:** Contractor hereby assigns to the BayRICS and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the BayRICS, the Contractor, the Contractor's sub-contractors, or third parties at the request of the Contractor (collectively, "Documents and Materials").

Contractor also hereby assigns to the BayRICS and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's information system(s), respecting in any way the subject matter of this Agreement.

Contractor agrees to take such further steps as may be reasonably requested by BayRICS to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the BayRICS and any assignee of the BayRICS an express, exclusive and irrevocable royalty -free license to retain and use said Documents and Materials. The rights of the BayRICS rights under this Section 9 shall apply regardless of the degree of completion of the Documents and Materials and whether or not Contractor's services as set forth in Exhibit A to this Agreement have been fully performed or paid for.

During the term of this Agreement Contractor shall be permitted to retain copies, including computerized and reproducible copies, of said Documents and Materials.

10. **CONFLICT OF INTEREST; CONFIDENTIALITY:** Contractor covenants that he presently has no interest, and shall not obtain any interest, direct or indirect, which would conflict in any



manner with the performance of services required under this Agreement, including but not limited to any provision of services to any federal, state or local regulatory or other public agency which has any interest adverse or potentially adverse to the BayRICS, as determined in the reasonable judgment of the Board of Directors of the BayRICS. Entering into this agreement does not preclude Contractor from working for others as long as Contractor ensures that such work does not constitute a conflict of interest.

Contractor agrees that any information, whether proprietary or not, made known to or discovered by him during the performance of or in connection with this Agreement for the BayRICS will be kept confidential and not be disclosed to any other person or entity except as required by law. Contractor agrees to immediately notify BayRICS in accordance with Section 11 of this Agreement, if he is requested to disclose to others any information made known to or discovered by him during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective for five (5) years after Contractor's termination of services to the BayRICS hereunder.

11. NOTICES: All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox.

Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To: BayRICS: BayRICS Authority  
Alameda County Sheriff Office of Emergency Services  
4985 Broder Blvd.  
Dublin CA. 94568  
Attn: Chairperson of the BayRICS Board of Directors

To: Contractor: Corey Reynolds  
451 Kansas St. Unit 507  
San Francisco, CA 94107

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

12. **USE OF BayRICS PROPERTY:** Contractor shall not use BayRICS property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his obligations under this Agreement.
13. **TERMINATION:** Either party may terminate this Agreement for default upon five (5) days written notice to the other if the other party has substantially failed to fulfill any of its obligations under this Agreement in a timely manner as provided herein. The BayRICS has and reserves the right to terminate this Agreement at its convenience and without cause upon thirty (30) days written notice to Contractor. In the event that the BayRICS should abandon, terminate or suspend Contractor's work, Contractor shall be entitled to payment for services provided hereunder, but only for such services performed prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for services shall be limited to payment for time actually worked prior to the effective date of said suspension, termination or abandonment.
14. **CHOICE OF LAW:** This Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in Alameda County, California.
15. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between BayRICS and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the Parties and sets forth the entire understanding of the Parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both Parties.
16. **HEADINGS:** Headings herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.
17. **MODIFICATION OF AGREEMENT:** This Agreement may be supplemented, amended or modified only by the mutual agreement of the Parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both Parties.

18. **ASSURANCE OF PERFORMANCE:** If at any time BayRICS believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the services as required by this Agreement, BayRICS may, at its option, request from Contractor prompt written assurances of performance and a written plan acceptable to BayRICS, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of his receipt of BayRICS request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time shall constitute grounds for termination pursuant to Section 12 of this Agreement.
19. **SEVERABILITY:** If any part of this Agreement or the application thereof is declared to be invalid for any reason, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are deemed severable.
20. **SIGNATORIES:** By signing this agreement, signatories warrant and represent that they have executed this Agreement in their authorized capacity.

**IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.**

BAY AREA REGIONAL  
COMMUNICATIONS SYSTEM  
AUTHORITY

CONTRACTOR

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A**

### **DEFINITION OF SERVICES**

The General Manager shall perform the services described below for BayRICS on an hourly basis:

- a. Schedule meetings, prepare all agendas, staff reports, and minutes for the BayRICS Board of Directors and committee meetings, as well as maintain all public records as appropriate;
- b. Process all statutory filings and ensure that noticing requirements are met within required time frames;
- c. Under BayRICS direction, obtain and maintain appropriate insurance to ensure that the BayRICS member agencies, and Board members are appropriately covered;
- d. Under BayRICS direction, coordinate recruitment of legal counsel for the BayRICS, and ensure that legal counsel is included where appropriate on issues that impact the BayRICS.
- e. Develop, recommend and administer the yearly budget, and manage BayRICS finances, including securing required audits;
- f. Ensure that all member agencies have been appropriately charged and billed, and that funds have been collected for their participation in the BayRICS;
- g. Regularly publish information bulletins, project reports and updates, and information memorandums to BayRICS web site to ensure effective and complete transparency for all project related communications with BayRICS stakeholders, vendors and public/private interests;
- h. Negotiate and administer all contracts approved by BayRICS, ensuring adherence to statutory procurement requirements for BayRICS;
- i. Maintain regulatory compliance with all licenses and lease arrangements for radio spectrum and ensure compliance with all applicable Federal Communications Commission and other federal rules and regulations, as necessary;
- j. Represent BayRICS on various local, state, and federal government committees and working groups that impact the BayRICS mission;
- k. Work to obtain federal and state grants to support the operations of BayRICS, and identify other funding opportunities, as appropriate;
- l. Meet with non-member governmental agencies to promote their participation in BayRICS;
- m. Maintain and update the BayRICS website, in a professional manner;
- n. Serve as the public information officer and point of contact for all media requests regarding issues related to the BayRICS;
- o. Assume responsibility for all employment practices including recruitment, testing, hiring, training, evaluation, and termination, as well as ensure adoption of the personnel practices of one of the member agencies;
- p. Promote regional interoperability through the development and maintenance of applicable guidelines, policies, and procedures, and maintaining an accessible repository of regional interoperability resources;
- q. Make comprehensive assessments and recommendations that address regional interoperability and communications system strengths and weaknesses. With BayRICS approval, establish working groups to assist in making these assessments and recommendations;
- r. Other duties as assigned by the Board.

**EXHIBIT B**  
**PAYMENT TERMS**

1. BayRICS will pay Contractor within thirty (30) days, upon receipt of invoice.
2. Contractor will be compensated at the rate of One Hundred Fifteen Dollars (\$115.00) per hour for work performed in accordance with Exhibit A, the "Definition of Services." Contractor will not bill for more than 1020 hours per Fiscal Year without express approval by the BayRICS Board of Directors.
3. Upon execution of this Agreement by BayRICS, the BayRICS Chairperson of the Board and Contractor shall forthwith jointly review and determine a schedule for the timely performance of Contractor's services hereunder. The agreed upon schedule shall be convenient to both Parties and will be flexible, as opposed to having fixed hours. Contractor will be responsible to track hours worked on a daily basis and submit bi-weekly records detailing hours worked.
4. The Chairperson of the Board of Directors will review in writing bi-weekly time records submitted by Contractor. Contractor will then submit the time records to the Alameda County Auditor for payment.
5. The parties agree to meet and confer to evaluate this contract no less than annually.

**BAYRICS JOINT POWER AUTHORITY  
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of July 1, 2019 is by and between the BayRICS Joint Power Authority (BAYRICS JPA), hereinafter referred to as the “BAYRICS JPA”, and D. Marie Smith, herein after referred to as the “Contractor”. This agreement shall terminate on or before December 31, 2019, unless extended by mutual agreement of the parties.

**WITNESSETH**

WHEREAS, BAYRICS JPA desires to obtain Secretary to the BayRICS Authority services as established in the JPA Charter Section 3.05 and more fully described in Exhibit A, “Scope of Services” attached hereto.

WHEREAS, Contractor is professionally qualified to provide such services and is willing to provide same to BAYRICS JPA.

NOW, THEREFORE it is agreed that BAYRICS JPA does hereby retain Contractor to provide such services, and Contractor accepts such engagement, pursuant to the General Terms and Conditions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

Exhibit A      Scope of Services

Exhibit B      Payment Terms

**IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.**

BAYRICS JOINT POWER AUTHORITY

CONTRACTOR/COMPANY NAME

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_  
(Printed)

Name: \_\_\_\_\_  
(Printed)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement
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## GENERAL TERMS AND CONDITIONS

1. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the BayRICS Joint Power Authority (BAYRICS JPA) in any capacity whatsoever and BAYRICS JPA shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or other employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold BAYRICS JPA harmless from any and all liability which BAYRICS JPA may incur because of Contractor's failure to pay such amounts.

In carrying out the work contemplated herein, BayRICS shall not have nor exercise any control or direction over the methods by which Contractor shall perform the work and services called for under this Agreement. Contractor shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of BAYRICS JPA.

Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of BAYRICS JPA is to insure that said service shall be performed and rendered in a competent, professional, efficient, timely and satisfactory manner.

Notwithstanding the foregoing, if the BAYRICS JPA determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, BAYRICS JPA may upon two weeks notice to Contractor, withhold from payments to Contractor hereunder federal and state income taxes and pay said sums to the federal and state governments

2. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the Bay Area Regional Interoperable Communications

System Authority, its Board of Directors, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The BAYRICS JPA may participate in the defense of any such claim without relieving Contractor of any obligation hereunder.

3. CONFORMITY WITH LAW AND SAFETY: In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services
4. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B hereto. In no event shall the total compensation paid to Contractor exceed \$6,000.00 per year, as defined as each anniversary of the date of this Agreement.
5. TRAVEL EXPENSES: Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.
6. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.
7. OWNERSHIP OF DOCUMENTS: Contractor hereby assigns to the BAYRICS JPA and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the BAYRICS JPA, the Contractor, the Contractor's sub-Contractors or third parties at the request of the Contractor (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

Contractor also hereby assigns to the BAYRICS JPA and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's Information System, respecting in any way the subject matter of this Agreement.

Contractor shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. Contractor agrees to take such further steps as may be reasonably requested by BAYRICS JPA to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor



hereby grants the BAYRICS JPA and any assignee of the BAYRICS JPA an express royalty – free license to retain and use said Documents and Materials. The BAYRICS JPA rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not Contractor’s services as set forth in Exhibit “A” of this Agreement have been fully performed or paid for.

8. **CONFLICT OF INTEREST; CONFIDENTIALITY:** The Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Contractor represents to and agrees with the BAYRICS JPA that Contractor has no present, and will have no future, conflict of interest between providing the BAYRICS JPA services hereunder and any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the BAYRICS JPA, as determined in the reasonable judgment of the Board of Directors of the BAYRICS JPA.

The Contractor agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the BAYRICS JPA will be kept confidential and not be disclosed to any other person. The Contractor agrees to immediately notify the BAYRICS JPA if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the BAYRICS JPA hereunder.

9. **NOTICES:** All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

**Personal delivery:** When personally delivered to the recipient, notices are effective on delivery.

**First Class Mail:** When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. **Certified Mail:** When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

**Overnight Delivery:** When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender’s account, notice is effective on delivery, if delivery is confirmed by the delivery service.

**Electronic (email) transmission:** When sent by email notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written

confirmation of receipt. Any notice given by email shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To BAYRICS JPA: BayRICS Joint Powers Authority  
Alameda County Office of Homeland Security and Emergency  
Services  
4985 Broder Blvd.  
Dublin CA. 94568  
Attn: General Manager

To Contractor: D. Marie Smith  
PO Box 495  
Elk Grove, CA 95759

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address by giving the other party notice of the change in any manner permitted by this Agreement.

10. USE OF BAYRICS JPA PROPERTY: Contractor shall not use BAYRICS JPA property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
11. TERMINATION: This agreement shall terminate on or before June 30, 2018, unless extended by mutual agreement of the parties. The BAYRICS JPA, through its Chairperson, has and reserves the right to suspend, terminate or abandon the execution of any work by the Contractor with or without cause at any time upon giving to the Contractor prior written notice. In the event that the BAYRICS JPA should abandon, terminate or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for its Support Services shall only be payment for time actually worked prior to the effective date of said suspension, termination or abandonment. Contractor may terminate this Agreement upon fourteen (14) days written notice as provided herein.
12. CHOICE OF LAW: This Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in Alameda County, California.
13. ENTIRE AGREEMENT: This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire

agreement between BAYRICS JPA and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.

14. HEADINGS herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.
15. MODIFICATION OF AGREEMENT: This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
16. ASSURANCE OF PERFORMANCE: If at any time BAYRICS JPA believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, BAYRICS JPA may request from Contractor prompt written assurances of performance and a written plan acceptable to BAYRICS JPA, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of BAYRICS JPA request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
17. SIGNATORY: By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

[END OF GENERAL TERMS AND CONDITIONS]

**EXHIBIT A  
SCOPE OF SERVICES**

Contractor shall perform, on an independent basis, services as Secretary of the BayRICS Authority, as established in the BayRICS JPA Charter Section 3.05, on an hourly basis as described below:

1. Prepare agendas, minutes, staff reports, and resolutions for the Board of Directors and committee meetings.
2. Post meeting notices and agendas and attend the Board of Directors meetings to insure adherence to Brown act requirements.
3. Take minutes of each Board meeting.
4. Coordinate State mandated filings for board members and other filings required for the Authority.
5. Ensure that the BAYRICS JPA web site is up to date and that all documents supporting the Board of Directors and Committee meetings of the BAYRICS JPA are posted in a timely manner.
6. Maintain records and process invoices for member annual fees and other funds to support the Authority.
7. Other duties as assigned.

**EXHIBIT B**  
**PAYMENT TERMS**

1. BayRICS Joint Power Authority (BAYRICS JPA) will pay Contractor within thirty (30) days, upon receipt of invoice.
2. Invoices will be reviewed by the BAYRICS JPA, Chair of the Board of Directors, or the Chair's designee.
3. Payment under the terms of this Agreement, the Contractor will be compensated at fifty dollars (\$50) per hour for hours worked, billable in 0.5 hour increments. This amount will be considered total compensation for work performed.
4. Contractor's will not bill for more than 40 hours over the term of this agreement, without express approval by BAYRICS JPA.
5. Upon execution of this Agreement, BAYRICS General Manager shall identify the tasks to be performed, and Contractor shall create a schedule governing the performance of Contractor's services. The Contractor will be responsible to track hours devoted to performing services under this Agreement and will submit invoices twice monthly.

**BayRICS Authority**  
**STAFF REPORT**

**DATE:** Tuesday, August 13, 2019  
**TO:** BayRICS Board of Directors  
**FROM:** Corey Reynolds, General Manager  
**SUBJECT:** Item 9a – Amending BayRICS Authority Agreement

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**I. Background**

At the June 14, 2018, BayRICS Board meeting, the Board approved the FY 2018-2019 budget, which reflected a deficit of \$4,723, requiring a draw on the Authority’s reserve funds. As such, the Board directed staff to develop a three-year budget projection along with a set of options for increasing the Authority’s revenues while decreasing its reliance on grant funding for operational expenses.

At the October 11, 2018, meeting, staff presented budget projections under four different scenario options, and provided a brief analysis of impacts on the Authority’s annual surplus or deficit, its reserve fund, and any necessary changes to its agreement and bylaws. Many options required amending the BayRICS Authority’s Joint Powers Agreement.

At the January 10, 2019, meeting, the Board directed staff to outline, at a high level, necessary changes to the Agreement as well as a potential process and considerations for amending the Authority’s agreement. These high-level changes were discussed in the April 11, 2019, meeting, and the Board asked staff to present a draft revised Agreement at the June meeting.

**II. Necessary Amendments to JPA Agreement**

At the April 11, 2019, meeting, the Board agreed that the changes required to the Agreement at this time fell into three areas: Mission, Administrative Requirements, and Membership Eligibility. The proposed amended JPA Agreement reflects the following changes in these three areas.

*Mission*

Since the execution of the original agreement in 2011, the public safety communications landscape—and therefore BayRICS’ mission—has evolved, which is reflected by:

- (Page 1: A, B, C) Removing reference to developing and establishing our own public safety broadband communications system and BayLOOP, and instead adding “The Members wish to promote regional public safety communications interoperability by engaging in regional, cooperative planning and coordination of existing and future public safety communications systems.”
- (Section 5.02) Remove reference to developing and maintaining Systems Funding Plan.
- (Section 5.06) Remove reference to BayRICS’ use of spectrum.

- (Section 5.08) Remove reference to specific system components included in the defunct BayRICS broadband system.
- (Section 5.09) Remove reference to non-member use of BayRICS systems.

### *Administrative Requirements*

With a goal of easing the burden of making future amendments to the agreement:

- (Section 7.02) Changing the requirement for amendments from a unanimous vote of the Board requirement to a two-thirds supermajority of the Board.
- (Section 7.02) Noting that two-thirds of the Members must execute the revised agreement for it to take effect.

To accurately reflect BayRICS operations:

- (Section 3.07) Change “Executive Director” to “General Manager”.

### *Membership*

With the goal of increasing the number of paying members in the Authority:

- (Section 2.01) Changing the Composition of the Board to include potential future members: County of Monterey and County of San Benito, which aligns with the Bay Area UASI definition of the “Bay Area”. This change allows new members to join the Authority, and also ensures these new members have representation on the BayRICS Board of Directors. Also note that the following jurisdictions are eligible to join BayRICS under the current agreement, but have not to date:
  - Napa County
  - Santa Cruz County
  - Solano County
  - “West Bay Cities”
  - “North Bay Cities”
  - Seat at Large
- (Section 5.01(b)) The original agreement calls for the Board to set a membership fee of no less than \$24,500 in order to join the Authority. Recommend removing this provision and instead set the joining fee to equal the first year’s member fee.

Note all section numbers in the attached agreement will be changed depending on final revisions.

**JOINT POWERS AGREEMENT TO ESTABLISH  
THE BAY AREA REGIONAL INTEROPERABLE COMMUNICATIONS SYSTEM  
(BayRICS) AUTHORITY**

THIS JOINT POWERS AGREEMENT (this "Agreement"), dated for convenience of reference as of May 2nd, 2011, is made among the public agencies that are the signatories to this Agreement.

Each public agency executing this Agreement is referred to individually as a "Member," and collectively as "Members."

This Agreement is made with reference to the following facts and circumstances:

~~A. The Members wish to develop and establish a regional, interoperable public safety broadband communications system and other advanced information systems for interoperable public safety communications (collectively, the "Public Safety System").~~

~~B. The Members further wish to develop and establish a wireless broadband system for public access with a focus on provision of affordable broadband service for community anchor institutions ("Public Access System," and together with the Public Safety System, the "Systems"). Community anchor institutions include public libraries, schools, parks and recreation districts, health care facilities, local governmental facilities, community centers, and members of the public in the Bay Area, as defined below.~~

~~C. The Bay Area UASI Approval Authority allocated federal Urban Areas Security Initiative grant funds to establish and develop a regional interoperable public safety digital microwave communications system for the Bay Area ("BayLOOP"), which will support regional public safety voice and data systems that are intended to become part of the Public Safety System.~~

A. The Members wish to promote regional public safety communications interoperability by engaging in regional, cooperative planning and coordination of existing and future public safety communications systems (collectively, the "Public Safety System").

~~B.D.~~ The Members wish to work cooperatively in developing and operating these Systems for use within the counties of Alameda, Contra Costa, Marin, Monterey, Napa, San Francisco, San Benito, Santa Clara, Santa Cruz, San Mateo, Solano, and Sonoma (collectively, the "Bay Area"), and have determined that working in concert is in the region's public interest, as doing so would provide the most effective and economical interoperable communications and broadband architecture systems for all participating public entities and agencies.

~~E.C.~~ The Members are committed to cooperatively addressing the challenges of sustaining and managing shared interoperability assets and projects specific to voice and data communications, while looking for opportunities to enhance interoperability and increase the effectiveness and resiliency of existing and emerging technologies.

~~F.D.~~ The Members are committed to complying with all applicable Federal Department of Homeland Security guidelines and Federal Communications Commission ("FCC") rules to promote national interoperability of the Public Safety System, including the development of the regional, standards-based, multi-vendor Public Safety System.

~~G.E.~~ The Members have the authority to enter into this Agreement under the Joint Exercise of Powers Act, California Government Code Section 6500 *et seq.* (the "Act").



ACCORDINGLY, in consideration of the recitals and mutual obligations of the Members as set forth below, the Members agree as follows:

## ARTICLE I - GENERAL PROVISIONS

### 1.01 Purpose.

This Agreement creates a local governmental entity to exercise the powers shared in common by its Members to engage in regional, cooperative planning and coordination of governmental services, and to develop and operate the Systems and other communications and data system projects that promote interoperability in the Bay Area or are otherwise consistent with the goals of this Authority. The Members seek to create a structure and process to resolve technical and operational issues in the development, operation and management of such Systems; identify funding mechanisms for the Systems; and anticipate and address future advanced information and communications needs. Such purposes are to be accomplished, and the Members' common powers exercised, as set forth in this Agreement.

### 1.02 Creation of Authority.

Under the Act, the Members create a public entity to be known as the "Bay Area Regional Interoperable Communications System ("BayRICS") Authority" (hereinafter the "Authority"). The Authority shall be a public entity separate and apart from the Members. The geographic jurisdiction of the Authority is all territory within the Bay Area that includes the geographic boundaries of the Members, with the exception of the State of California; however, the Authority may undertake any action outside those geographic boundaries as is legal, necessary and incidental to accomplishing its purpose.

### 1.03 Eligibility for Membership; Membership.

To be eligible to be a Member in the Authority, an agency or entity must meet the following requirements: (1) be a public agency, as defined by the Act; and (2) have jurisdiction in the Bay Area.

- (a) **Initial Membership:** Prior to and for a period of sixty days after the Effective Date (hereinafter the "Initial Membership Period"), an eligible public agency may become an initial Member of the Authority as follows: (1) delivering to the Authority's Secretary a duly approved and executed copy of this Agreement; and (2) paying the Initial Membership Fee as specified in Section 5.01(a).
- (b) **Subsequent Membership:** Eligible public agencies that seek membership after the expiration of the Initial Membership Period, may become Members of the Authority as follows: (1) delivering to the Authority's Secretary a duly approved and executed copy of this Agreement; (2) paying the Subsequent Membership Fee as specified in Section 5.01(b); (3) obtaining the express approval of the Authority's Board of Directors (the "Board") to become a Member; and (4) complying with any further requirements mandated by the Board. Admission of Members after the Initial Membership Period shall not require amendment to this Agreement. The Secretary shall keep a historical roster of Members and their dates of admission and withdrawal.

### 1.04 Initial Members Entitled to Appoint Directors.

- (a) Each Appointing Authority identified in subsections 1 through 14 of Section 2.01 is entitled to appoint a Director to the Board only if the public agency which that official or body represents becomes a Member of the Authority within the Initial Membership Period. Appointing Authorities of public agencies identified in subsections 1 through 14 of Section 2.01 which become Members after the Initial Membership Period may be permitted to appoint Directors to sit on the Board only if such appointment authority is expressly approved by the Board.

- (b) Each Appointing Authority identified in subsections 15 through 18 of Section 2.01 is entitled to appoint a Director to the Board only if the required number of cities for that Regional City Group, as set forth in the applicable Exhibit A through D, become Members of the Authority within the Initial Membership Period. If the required number of cities within a Regional City Group do not become Members during the Initial Membership Period, such Regional City Group shall lose its right to appoint a Director to the Board. The Appointing Authorities identified in subsections 15 through 18 of Section 2.01 which attain the required number of Member cities after the Initial Membership Period may be permitted to appoint Directors to sit on the Board only if such appointment authority is expressly approved by the Board.

### **1.05 Effective Date; Term.**

This Agreement shall become effective, and the Authority shall come into existence, on the date on which; (a) at least ten of the nineteen public agencies representing the Appointing Authorities identified in Section 2.01 have fulfilled the requirements of Section 1.03(a) for Initial Membership; and (b) those Appointing Authorities have notified the Secretary of their appointment of a Director and Alternative Director (the "Effective Date"). The Secretary shall designate in writing the Effective Date, and provide written notice of the Effective Date to all Members, Bay Area counties, and cities specified in Exhibits A through D. The failure of the Secretary to designate the Effective Date or provide written notice shall not invalidate this Agreement. The Agreement shall continue from the Effective Date until terminated as provided in Section 6.04.

## **ARTICLE II - BOARD OF DIRECTORS.**

### **2.01 Composition of the Board.**

The Authority shall be governed and administered by the Board, which shall consist of a maximum of nineteen Directors selected by the following appointing authorities (each an "Appointing Authority" and, collectively, the "Appointing Authorities") in writing, as authorized pursuant to the terms of this Agreement:

1. The Mayor of the City of Oakland, California;
2. The Mayor of the City of San Francisco, California;
3. The Mayor of the City of San Jose, California;
4. The Board of Supervisors of the County of Alameda, California;
5. The Board of Supervisors of the County of Contra Costa, California;
6. The Board of Supervisors of the County of Marin, California;
- ~~6-7.~~ The Board of Supervisors of the County of Monterey, California;
- ~~7-8.~~ The Board of Supervisors of the County of Napa, California;
9. The Board of Supervisors of the County of San Francisco, California;
- ~~8-10.~~ The Board of Supervisors of the County of San Benito, California;
- ~~9-11.~~ The Board of Supervisors of the County of San Mateo, California;
- ~~10-12.~~ The Board of Supervisors of the County of Santa Clara, California;
- ~~11-13.~~ The Board of Supervisors of the County of Santa Cruz, California;
- ~~12-14.~~ The Board of Supervisors of the County of Solano, California;
- ~~13-15.~~ The Board of Supervisors of the County of Sonoma, California;
- ~~14-16.~~ The Governor of the State of California;
- ~~15-17.~~ The incorporated cities within the geographic area of Alameda and Contra Costa Counties and listed in Exhibit A attached hereto (referred to herein as the "East Bay Cities");
- ~~16-18.~~ The incorporated cities within the geographic area of San Mateo County and listed in Exhibit B attached hereto (referred to herein as the "West Bay Cities");
- ~~17-19.~~ The incorporated cities within the geographic area of Monterey, San Benito, Santa Clara, and Santa Cruz Counties and listed in Exhibit C attached hereto (referred to herein as the "South Bay Cities");

~~18.20.~~ The incorporated cities within the geographic area of Marin, Napa, Sonoma, and Solano Counties and listed in Exhibit D attached hereto (referred to herein as the “North Bay Cities” ~~and~~ Together with the East Bay Cities, the West Bay Cities, and the South Bay Cities, collectively, the “Regional Cities Groups” and each, a “Regional City Group”); and

~~19.21.~~ Seat at Large to be determined by the Board.

## **2.02 Appointment of Directors.**

- (a) Except as provided in Section 1.04, each of the officials or bodies listed in subsections 1 through ~~14~~16 in Section 2.01 above shall appoint one Director and one Alternate Director to the Board when the public agency that official or body represents becomes a Member. Such officials or bodies shall make reasonable efforts to make the appointments within fifteen days of the date when the agency that official or body represents becomes a Member.
- (b) Except as provided in Section 1.04, each of the Regional Cities Groups listed in subsections ~~17~~5 through ~~20~~8 in Section 2.01 above may appoint one Director and one Alternate Director to the Board, when the required number of the cities in the applicable Regional City Group (that specific number set forth on the bottom of the applicable Exhibit A-D) have (i) each delivered to the Secretary a duly approved and executed copy of this Agreement, and (ii) paid one Initial Membership Fee per Section 5.01 on behalf of such Regional City Group. Each of the Directors and Alternate Directors appointed by a Regional City Group shall be from one of the incorporated cities within such Regional City Group that has become a Member, and shall represent the interests of all the cities in its Regional City Group. Each Regional City Group shall make reasonable efforts to appoint its Director and Alternate Director within fifteen days of the date it has satisfied the requirements of subsections (i) and (ii) of this subsection 2.02(b). The City Managers representing the Member cities within a Regional City Group will determine which city will represent the Regional City Group, determine how the Member cities will provide input to the chosen representative Director and Alternate Director, and how the Member cities will share and pay the Initial Membership Fee and the Annual Fee thereafter. Those cities identified in subsections 1 through 3 in Section 2.01 are excluded from participating in, or affecting the membership calculations of any Regional City Group.
- (c) The Board may select a Member or group of Members not otherwise represented on the Board as the Appointing Authority for the Seat at Large under subsection 19 in Section 2.01 (the “At Large Appointing Authority”). The At Large Appointing Authority shall appoint one Director and one Alternate Director to the Board. The Appointing Authority shall make reasonable efforts to appoint its Director and Alternate Director within fifteen days of the date it receives notice of its designation as the At Large Appointment Authority from the Board.
- (d) The Appointing Authority shall promptly provide written notice to the Secretary of the appointment or removal of a Director or Alternate Director. Within seven days of the Secretary’s receipt of such notice, the Secretary shall notify all Members of the current number of duly appointed Directors and provide such notice at the beginning of any Board Meeting.
- (e) At the time of appointment and for the duration of service, Directors and Alternate Directors shall be officers or employees of Members.
- (f) The term of office of each Director and Alternate Director shall be until a successor has been appointed, except for the At Large Seat which shall be a two year term.
- (g) An Alternate Director may act in his or her Director’s absence and shall exercise all rights and privileges of a Director.
- (h) Each Director and each Alternate Director shall serve at the pleasure of the Appointing Authority and the Appointing Authority may remove the Director or Alternate Director at any time without notice or cause.

- (i) All Directors and Alternate Directors shall serve without compensation. The Board may authorize, through the bylaws, reimbursement of reasonable and necessary expenses incurred by Directors or Alternate Directors upon review of supporting documentation.
- (j) Each Appointing Authority shall authorize its Director and Alternate Director to take all actions necessary to conduct the business required by the Authority in a timely manner.

### **2.03 General Purpose of Board.**

The general purpose of the Board is to:

- (a) Coordinate information and address the needs, requirements, and resources of Members regarding the development and operation of the Authority, to ensure the goals and objectives of the Systems are fulfilled;
- (b) Provide structure for administrative and fiscal oversight of the Authority;
- (c) Identify and pursue funding sources for the Authority and Systems approved by the Authority;
- (d) Set appropriate policies for the Authority and the Systems;
- (e) Educate Members on advanced technologies in communications and information systems that may help them do their work more efficiently and with cost savings;
- (f) Maximize the use of available resources; and
- (g) Oversee all advisory committee activities.

### **2.04 Specific Responsibilities of the Board.**

The specific responsibilities of the Board shall be as follows:

- (a) Approve contracts with commercial companies, contractors, or subcontractors or other entities regarding development, operation, maintenance and expansion of the Systems or other projects duly approved by the Authority;
- (b) Approve and revise as necessary an administrative funding plan (the “Administrative Funding Plan”) for the Authority to operate and fulfill its obligations under this Agreement;
- (c) Specify the Subsequent Membership Fee and the Annual Membership Fee, per Section 5.01;
- (d) Approve and revise, as necessary, a systems funding plan (the “Systems Funding Plan”) regarding the construction and on-going operation, maintenance and ownership of the Systems;
- (e) Before the beginning of each Fiscal Year (as defined in Section 7.03), adopt, in its sole discretion, either an annual or a multi-year budget for the Authority;
- (f) Ensure strict accountability of all funds and reports of all receipts and disbursements;
- (g) Contract for, or employ, necessary and sufficient administrative, technical, support and other staff, consultants and contractors, and provide for necessary direction, management and oversight for all staff, consultants and contractors;
- (h) Adopt personnel rules and regulations if employing staff;
- (i) Adopt rules for procuring supplies, equipment and services;
- (j) Adopt rules for the disposal of surplus property;
- (k) Identify the needs and requirements of Members, as well as subscribers of the Systems;
- (l) Establish Systems priorities;
- (m) Establish long-range plans for the Systems;
- (n) Establish procedures for Systems implementation, monitoring and maintenance;
- (o) Adopt and revise, as necessary, an appropriate and cost effective maintenance plan for the Systems;
- (p) Adopt and revise, as necessary, Systems operating policies and procedures, as well as technical and maintenance requirements;
- (q) Conduct and oversee System audits at intervals not to exceed three years;

- (r) Adopt bylaws, rules and regulations as necessary for the purposes of this Agreement; provided that nothing in the bylaws, rules and regulations shall conflict with this Agreement or the Act;
- (s) Establish fees for Members and Non-Members to access and use the Systems. The Board shall ensure that such fees for Members are less than fees for non-members of the Authority for comparable services;
- (t) Represent the Authority in external communications; and
- (u) Discharge other duties consistent with the purposes of this Agreement as appropriate or required by statute.

## **2.05 Startup Responsibilities.**

The Authority shall have the duty to do the following within the timeframe specified below or, if no timeframe is specified, within a reasonable time not to exceed one year from the Effective Date:

- (a) To use its best efforts to establish within two months of the Effective Date advisory committee(s) in accordance with Section 3.09;
- (b) To use its best efforts to establish within two months of the Effective Date a website for posting agenda and other notices and information about the Authority and Board.
- (c) To use its best efforts to develop and adopt within one month of the Effective Date an Administrative Funding Plan for the Authority to operate and fulfill its obligations under this Agreement;
- (d) To use its best efforts to develop and adopt expeditiously, as described in Section 5.02, a Systems Funding Plan specifying a means or formula for funding the design, construction, operation, maintenance, expansion, and lifecycle replacement of any systems that further the purposes of this Authority. A Systems Funding Plan shall include but is not limited to the following: (i) the design, construction, operation, maintenance, expansion and lifecycle replacement costs of the Systems; (ii) specification as to how site costs and/or site remediation (*e.g.*, electrical, air conditioning, backup generators, and power) of specified antenna sites by jurisdiction shall be paid; (iii) the estimated costs to be borne by the Authority should ownership of the Systems later be transferred to the Authority; (iv) good faith estimates of costs and types of devices that will be able to operate on the Public Safety System; (v) monthly user fees for the Systems; and (vi) identification of additional funding sources, if necessary;
- (e) During the eighty days following the Effective Date, to negotiate any contracts with commercial companies, contractors, subcontractors or entities that specify the timing and sequencing of construction of the Systems consistent with the functional specifications, and other business terms related to the Systems, including but not limited to development, operation and maintenance of the Systems. In any agreement with a contractor or entity, the Authority may not bind or commit any Member to incur any financial obligation or provide any resources to the Systems (*e.g.*, use of a communications site, use of communications fiber over which the Member has control or ownership) or to participate in use of the Systems without that Member's written authorization. This Section 2.05(e) is subject to the restriction set forth in Section 5.02 prohibiting the Authority's approval of any agreement relating to any System until the Board has approved a Systems Funding Plan.
- (f) To contract for, hire or otherwise retain an Executive Director for the Authority, to administer the Authority. The Board shall specify in the bylaws or personnel rules the responsibilities, duties and authority of the Executive Director.
- (g) To use its best efforts to develop and adopt, within eighty days, bylaws and other governance documents for the Authority;
- (h) To secure administrative office space, equipment, and furnishings as necessary;
- (i) To encourage other governmental and quasi-governmental entities and agencies, including but not limited to the state and federal government, other neighboring counties, and special districts, to participate in the Systems;

- (j) To develop policies and procedures for the voluntary transfer and/or sharing of assets from Members; and
- (k) To evaluate the need for, acquire and maintain insurance as deemed necessary by the Board to protect the interests of the Authority, the Members, and the public.

## **2.06 Meetings of the Board.**

- (a) Regular Meetings. The Board shall approve a schedule for its regular meetings provided, however, that the Board shall hold at least one regular meeting quarterly. The Board shall fix the date, hour and location of regular meetings by resolution and the Secretary shall transmit a copy of the resolution to each Member.
- (b) Special Meetings. Special meetings of the Board may be called by the Chair or as provided for in the bylaws.
- (c) Call, Notice and Conduct of Meetings. All meetings of the Board shall be noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act, California Government Code Section 54950 *et seq.* As soon as practicable, but no later than the time of posting, the Secretary shall provide a copy of the posted agenda to each Member, Director and Alternate Director.
- (d) First Meeting. The Board shall make reasonable efforts to convene its first meeting no later than fifteen days after the Effective Date.

## **2.07 Minutes.**

The Secretary shall prepare minutes of all Board meetings and as soon as practicable after each meeting, and shall make the draft minutes available to each Director, Alternate Director, the Members and other interested parties upon request. The Board shall approve the minutes at the next regularly scheduled meeting.

## **2.08 Voting; Weighted Voting.**

All voting power of the Authority shall reside in the Board, and shall be subject to the following terms and conditions:

- (a) Each Director shall have one vote; an Alternate Director may vote in place of, and only in the absence of, that Alternate Director's Director.
- (b) Each Director or Alternate Director (as applicable) must be physically present at a meeting to vote; no absentee ballot or proxy is permitted.
- (c) Except as otherwise expressly set forth in this Agreement (including without limitation Sections 2.09, 4.02, 6.04 and 7.02), the Board is authorized to adopt and apply weighted voting methods for approval of items brought before the Board under the following conditions:
  - i. The Board may utilize weighted voting only if it has previously adopted weighted voting criteria and methodologies in the Authority's bylaws;
  - ii. Weighted voting will be the exception, rather than the norm, for the Authority to conduct business;
  - iii. Board items that involve expenditure or commitment of the Authority's funds or other resources must exceed \$500,000 in value to be subject to weighted voting;
  - iv. A Director must expressly move and call for a weighted voting method on a particular item pending before the Board, which motion must be seconded by at least one other Director;
  - v. The call for such weighted vote must be made before or after any vote but prior to moving to the next agenda item or the end of the Board meeting, whichever is earlier; and
  - vi. Any Board item subject to a weighted voting method shall first be approved by a vote of the quorum of the Board (as provided in Section 2.09), followed by a weighted vote. Board items subject to weighted voting must be approved by both a regular quorum vote of the Board as well as a weighted vote of the Board to be approved.

### **2.09 Quorum; Votes**

A majority of the Directors duly appointed to the Board, as described in Section 2.02, as of any Board meeting date (taking into consideration the loss of any Board seats as provided in Section 6.01(e)) shall constitute a quorum of the Board for the transaction of business. For example, if ten Directors have been duly appointed to the Board on the date of its first meeting, a quorum is six or more Directors, and, if at a subsequent Board meeting date, fourteen Directors have been duly appointed, a quorum is eight or more Directors. If there is less than a quorum present at a meeting, no Board action can be taken, and the Secretary may adjourn such meeting. The affirmative vote of at least a quorum is required to take any action by the Board.

### **2.10 No Personal Liability of Directors.**

Under the Act, no Director or Alternate Director shall be personally liable for any debts, obligations or liabilities of the Authority or on any bonds issued by the Authority, nor subject to any personal liability or accountability by reason of the Authority's incurrence of debts, obligations or liabilities or issuance of bonds.

## **ARTICLE III – OFFICERS, EMPLOYEES AND ADVISORY COMMITTEES**

### **3.01 Chairperson; Vice-Chairperson.**

At the first regular meeting of the Board, the Board shall elect a Chairperson and Vice-Chairperson from among the Directors. The initial Chairperson and Vice-Chairperson shall serve until the end of the first Fiscal Year (as defined in Section 7.03 of this Agreement). Then, at the first regular meeting of each Fiscal Year, the Board shall elect a Chairperson and Vice-Chairperson to serve a one year term. If the Chairperson or Vice-Chairperson resigns from or is otherwise unable to perform the duties of the office, or his or her represented agency ceases to be a Member, then at the next regular meeting of the Board held after the vacancy or inability to serve occurs or as soon as practicable thereafter, the Board shall elect a new Chairperson or Vice-Chairperson, as applicable, to serve the balance of the term.

The Chairperson, or the Chairperson's designee, shall sign all contracts and other agreements on behalf of the Authority, and the Chairperson shall perform such other duties as the Board may require. The Chairperson shall approve the agenda for all Board meetings, preside over Board meetings, and call special meetings of the Board outside of the regular meeting schedule. The Chairperson may establish committees of the Board in addition to the advisory committees specified in Section 3.09.

If the position of Chairperson is vacant or the Chairperson is otherwise unable to serve, the Vice-Chairperson shall sign contracts or other agreements, and perform all of the Chairperson's duties until the Board elects a new Chairperson.

### **3.02 Treasurer.**

At its first meeting, the Board shall appoint a Treasurer of the Authority, which shall be the treasurer of one of its Members. To the extent permitted by the Act, the Board may change, by resolution, the Treasurer of the Authority.

The Treasurer shall be the depository, shall have custody of the accounts, funds and money of the Authority from whatever source, and shall have the duties and obligations set forth in the Act. For grants awarded to Members or third parties for use with the Systems, the Treasurer will work with the Member or third party to put in place appropriate fiscal controls to meet any grant requirements.

### **3.03 Auditor.**



At its first meeting, the Board shall appoint an Auditor of the Authority who shall be of the same public agency as the Treasurer to comply with Government Code Section 6505.5. To the extent permitted by the Act, the Board may change, by resolution, the Auditor of the Authority.

The Auditor shall perform the functions of auditor for the Authority and shall have the duties and obligations set forth in the Act. As required by the Act, the Auditor shall make or cause an independent annual audit of the accounts and records of the Authority by a certified public accountant or public accountant, in compliance with generally accepted auditing standards. A report of the financial audit will be filed as a public record as provided in Government Code Section 6505.

### **3.04 Legal Counsel.**

At its first meeting, the Board shall retain legal counsel for the Authority.

### **3.05 Secretary to the Authority.**

At its first meeting, the Board shall appoint a Secretary to provide administrative support to the Authority. If this Agreement assigns duties to the Secretary and no Secretary has yet been appointed, the Office of the Alameda County Sheriff shall perform the duties of the Secretary until a Secretary has been appointed by the Board. To the extent permitted by the Act, the Board may change, by resolution, the Secretary of the Authority. The person serving as the Secretary shall not also serve as a Director.

The Secretary shall perform the duties required under this Agreement. The Secretary shall maintain a current list of Members and contact information for notices under Section 7.01.

### **3.06 Bonding of Persons Having Access to Property.**

Pursuant to Government Code Section 6505.1, the Board shall designate the public officer or officers or person or persons who have charge of, handle, or have access to any property of the Authority, and shall require such individuals to file an official bond in an amount fixed by the Board.

### **3.07 ~~Executive Director~~General Manager; Other Employees.**

The Board shall appoint an ~~Executive Director~~General Manager, who shall administer the Authority and report to the Board. The Board shall have the power by resolution to appoint and employ other officers, employees, consultants and independent contractors as may be necessary to carry-out the purpose of this Agreement.

### **3.08 Privileges and Immunities from Liability.**

All of the privileges and immunities from liability, applicable to the activities of officers, agents or employees of a public agency when performing their respective functions shall apply to the officers, agents or employees of the Authority to the same degree and extent while performing any of the functions and other duties of such officers, agents or employees under this Agreement. None of the officers, agents or employees directly employed by the Authority shall be deemed, by reason of their employment by the Authority, to be employed by the Members or subject to any of the requirements of the Members.

### **3.09 Advisory Committees.**

The Board shall establish advisory committees including a Technical Advisory Committee, the primary purpose of which will be to review and recommend to the Board policies and procedures related to Systems performance, maintenance and other technical issues, and which shall be established at the first Board meeting. The Board may establish additional advisory committees to meet the needs of the Authority. The Board shall make reasonable efforts to establish membership of the Technical Advisory Committee and any other committees, and any offices required by the committees. The committees shall be subject to the Ralph M. Brown Act



(California Government Code Section 54950 et seq.), and the chairperson of the committees shall report back to the Board of Directors as specified in the bylaws.

## **ARTICLE IV – POWERS**

### **4.01 General Powers.**

The Authority shall have the powers common to the Members and that are necessary or convenient to accomplishing the purposes of this Agreement, subject to the restrictions set forth in Section 4.04.

### **4.02 Power to Issue Bonds**

The Authority shall have the power, with a two-thirds super majority vote of all Directors, to issue bonds as specified under the Act.

### **4.03 Specific Powers.**

The Authority is authorized, in its own name, to perform all acts necessary for the exercise of the foregoing powers, including, but not limited to, any or all of the following:

- (a) To make and enter into contracts, including but not limited to, agreements for the purpose of acquiring real and/or personal property, equipment, employment and professional services, and including agreements with Members;
- (b) To make and enter into contracts with wholesalers, subscribers, users, or resellers that desire to utilize the Systems for their broadband and other communications needs and entities that desire to utilize the Systems only for mutual or automatic aid;
- (c) To plan and conduct environmental review and other analyses in connection with its plans, and design buildings, facilities or communication improvements of any kind;
- (d) To acquire, construct, manage, maintain, or operate telecommunications systems or service and to provide the equipment necessary to deliver public services;
- (e) To acquire, construct, manage, maintain or operate any building, works or improvements;
- (f) To acquire, hold, lease, or dispose of property, both real and personal;
- (g) To apply for and hold FCC waivers or licenses to frequencies, and to enter spectrum lease agreements;
- (h) To employ or engage contractors, agents, legal counsel, or employees;
- (i) To sue and be sued;
- (j) To apply for, receive and utilize grants and loans from federal, state or local governments or from any other available source in order to pursue the purposes of the Authority;
- (k) To accept donations;
- (l) To incur debts, liabilities and obligations, provided that no debt, liability or obligation of the Authority shall constitute a debt, liability or obligation of the individual Members;
- (m) To impose, levy, collect or cause to be collected, or to receive and use, communication impact or development fees on new residential, commercial, and industrial development, but only upon the express approval of the affected Member jurisdiction and as otherwise authorized by local, state, and federal law;
- (n) Under Government Code Section 6509.5, to invest any money that is not required for the immediate necessities of the Authority, as the Authority determines is advisable, in the same manner and upon the same conditions as local agencies, under Section 53601 of the California Government Code;
- (o) To carry on technical and other investigations of all kinds necessary to further the purposes of the Authority; and
- (p) To promulgate, adopt, and enforce any rules and regulations, as may be necessary and proper to implement and effectuate the terms, provisions, and purposes of this Agreement.

### **4.04 Restriction on Exercise of Powers.**

Under Sections 6508 and 6509 of the Act, all common powers exercised by the Authority shall be exercised in a manner consistent with, and subject to, the restrictions and limitations upon the exercise of such powers as are applicable to the County of Alameda, a California charter county.

#### 4.05 Limited Liability of the Authority.

Consistent with Government Code section 6508.1, the debts, liabilities and obligations of the Authority shall be limited to the assets of the Authority and shall under no circumstances be the debts, liabilities and obligations of any of the Members. A Member may (but has no obligation to) separately contract for or assume responsibility in writing for specific debts, liabilities, or obligations of the Authority. In furtherance of this Section, the Authority shall indemnify the Members as provided in Section 7.16 below.

### ARTICLE V – CONTRIBUTIONS; ACCOUNTS AND REPORTS; FUNDS

#### 5.01 Initial, Subsequent and Annual Membership Fees.

The Authority may use the funds generated by fees charged to its Members to support administrative, legal, and other authorized costs incurred by the Authority.

- (a) **Initial Membership Fee.** To become a Member of the Authority within the Initial Membership Period, each eligible public agency shall pay an Initial Membership Fee as specified below (each such fee, as applicable, the “Initial Membership Fee”).
  - i. Each public agency identified in subsections 1 through 14 in Section 2.01 shall pay an Initial Membership Fee to the Authority of Twenty Four Thousand Five Hundred Dollars (\$24,500) as a condition of appointing its Director and Alternate Director
  - ii. Each Regional Cities Group identified in subsections 15 through 18 in Section 2.01 shall pay a single Initial Membership Fee to the Authority of ~~Twenty Four Thousand Five Hundred Dollars (\$24,500)~~ equal to the annual membership fee for the group as a whole, which will enable each of the cities within the Regional City Group to obtain membership status upon satisfying the other requirements of this Agreement. The Initial Membership Fee will satisfy that Member’s first year of membership dues. If an eligible city has paid an Initial Membership Fee of Five Thousand Dollars (\$5,000.00) because the required number of cities within its Regional City Group did not become Members within the Initial Membership Period, its payment shall be credited toward the applicable Regional City Group’s Subsequent Membership Fee, as defined in Section 5.01(b).
  - iii. Except as otherwise set forth above, public agencies eligible to become Members, but not specifically identified in subsections 1 through 14 in Section 2.01 shall pay an Initial Membership Fee to the Authority of ~~Five Thousand Dollars (\$5,000.00)~~ the current annual membership fee as a condition of becoming Members. The Initial Membership Fee will satisfy that Member’s first year of membership dues.
- (b) **Subsequent Membership Fee.** Each eligible public agency applying to become a Member after the Initial Membership Period, whether or not identified in Section 2.01, shall pay a Subsequent Membership Fee as a condition to becoming a Member (each such fee, as applicable, hereinafter a “Subsequent Membership Fee”). The Board shall determine the amount of each Subsequent Membership Fee, ~~but in no event shall it be less than the Initial Membership Fee the public agency would have been required to pay to become a Member within the Initial Membership Period.~~
- (c) **Annual Fee.** Each Member shall pay an Annual Fee, by not later than July 1st of each Fiscal Year to maintain membership in the Authority (each such fee, as applicable, hereinafter, the “Annual Fee”). The Board shall set each Annual Fee in an amount not to exceed the Initial Membership Fee or Subsequent Membership Fee, as the case may be, paid by the respective Member; however, the Board may adjust the Annual Fee each Fiscal Year to reflect changes in the Consumer Price Index. The Board shall round the adjusted Annual Fee to the nearest whole dollar. A Member is not required to pay its first Annual Fee if the Member paid its Initial or Subsequent Membership Fee, as applicable, within six months of its first Annual Fee due date.

### **5.02 — Adoption of Systems Funding Plan.**

- ~~(a) A goal of the Authority is to develop the Systems Funding Plan as specified in Sections 2.04(d) and 2.05(d). The Board shall not approve any agreement for construction of or relating to any Systems until the Board has approved a Systems Funding Plan.~~
- ~~(b) Before the Board may consider adopting the Systems Funding Plan, it shall distribute the proposed Systems Funding Plan to the Members under Section 7.01. The proposed Systems Funding Plan shall be accompanied by a description of the Systems, and information to allow Members to determine the Systems' capability, data speeds, functionality, features, cost, financing and the expected impacts on individual Members. The Board shall designate a period, which shall not be less than ninety days, during which Members may provide comments to the Board regarding the proposed Systems Funding Plan. After the comment period has expired, the Board may:~~
  - ~~i. — Revise the Systems Funding Plan to address some or all of the Member comments;~~
  - ~~— Reconsider the Systems Funding Plan at a later date; or~~
  - ~~iii. — Reject the Systems Funding Plan.~~
- ~~(c) Adopt the Systems Funding Plan as proposed;~~
- ~~(d) The Board shall give notice to Members under Section 7.01 within five days of adoption of the Systems Funding Plan (the actual date such notice is provided to members, the "Systems Funding Plan Notice Date"). The notice shall include a copy of the adopted Systems Funding Plan and the date by which Members may withdraw pursuant to Section 6.01(a).~~
- ~~(d) If the Board decides to exercise its option under Section 5.02(b)(ii) to revise the Systems Funding Plan to address Member comments and the Board adopts a revision that changes any Member's financial obligation from the previous version of the Systems Funding Plan, the thirty day time period specified in Section 6.01(a) for withdrawal from the Authority shall automatically be extended to ninety days from the Systems Funding Plan Notice Date.~~

### **5.03 Additional Contributions; Disproportionate Impact.**

The Board shall not require Members to provide any additional contributions to the Authority of any kind or nature whatsoever, for any purpose. Except as otherwise expressly set forth in this Agreement, the Board is not authorized to require Members to provide funds, resources, equipment or personnel in order to maintain membership in the Authority, maintain a Director's seat on the Board, and/or participate in the Systems. Members have the ability to provide additional contributions to the Authority, but only upon approval of their governing authorities. In addition, the Board shall not take any of the following actions without the express approval of the affected Member(s):

- (a) Require any Member to adopt any tax, assessment, fee or charge;
- (b) Require any Member to expend its resources, or utilize its property or equipment in a particular fashion, as part of a project or similar action taken by the Authority; and/or
- (c) Approve a project or similar action without taking into consideration whether that action would disproportionately and negatively impact any Member based on objective and quantifiable factors.

The provisions of this section shall not affect the ability of the Authority to charge user fees or other costs associated with a Member's use of the Systems.

### **5.04 Accounts and Reports.**

The Treasurer shall establish and maintain such funds and accounts as may be required by good accounting practice or by any provision of any trust agreement entered into with respect to the proceeds of any bonds issued by the Authority, or by the State Controller or the United States Government. The books and records of the Authority in the hands of the Treasurer shall be open to inspection at all reasonable times by duly appointed representatives of the Members. The

Treasurer, within 180 days after the close of each Fiscal Year, shall give a complete written report of all financial activities for such Fiscal Year to the Members.

#### **5.05 Funds.**

The Treasurer shall receive, have custody of and/or disburse Authority funds in accordance with the laws applicable to public agencies and generally accepted accounting practices, and shall make the disbursements required by this Agreement in order to carry out any of the purposes of this Agreement.

#### **5.06—Use of Spectrum.**

~~It is the Authority's intent to operate a regional interoperable public safety broadband communications system on any radio spectrum that the FCC authorizes for public safety use, specifically including spectrum licensed to the Public Safety Spectrum Trust in the 700 MHz frequency (763-768/793-798 MHz) from the FCC for use by public safety and any other spectrum upon which the FCC allows public safety operation by the Authority in the future. It is the Authority's intent to maximize dedicated public safety spectrum in order to obtain high levels of communications reliability during major disasters, major events, or other emergencies. The Authority is authorized to apply for any FCC spectrum licenses or leases that are appropriate for public safety operation for the Bay Area region. For the Public Access System, unlicensed spectrum shall be used to provide this service consistent with FCC rules and regulations.~~

#### **5.07 Operational and Technical Policies.**

The Authority may set forth operational and technical policies for appropriate usage of the Systems so that the Systems are operated in a manner that permits usage by all Members in a fair and reasonable manner. Such operation and technical policies shall be developed by the Technical Advisory Committee and approved by the Board after review.

#### **5.08—System Components**

~~The Systems will be comprised of components that may include, but are not limited to, radio sites and facilities, microwave and fiber backhaul, base station equipment, antennas, evolved packet core network(s), network management systems, ancillary network components and end-user equipment (the "System Components"). Members may provide System Components to the Authority through written agreements signed by both the Member and the Authority. Such agreements shall at a minimum specify the following with respect to the System Components being provided, if known: (a) detailed descriptions and locations; (b) possession and ownership; (c) operation, maintenance and upgrade requirements; (d) parameters regarding use of and access to the particular System Components; (e) provisions addressing the Member's removal or discontinued shared use of System Components from the Systems; and (f) provisions to excuse a loss of use of System Components through a change in circumstances that make it impossible or impracticable for a Member to continue to provide System Components previously used in the Systems. Any such agreement regarding Systems Components shall be consistent with the provisions of Section 6.01(d).~~

#### **5.09—Non-Member Use of Systems.**

~~Public entities or agencies that are not Members of the Authority may use the Authority's Public Safety System on a usage fee basis as subscribers; however users of public safety spectrum must comply with any federal laws or FCC regulations limiting use to public safety entities. Public entities, public agencies, community anchor institutions and other retail users may purchase service from the Authority's Public Access System from such System's wholesalers, resellers or other distribution channels approved by the Authority. The Board shall adopt rules and reasonable rates for this use of the Systems in a fair and nondiscriminatory manner.~~

## **ARTICLE VI – WITHDRAWAL AND TERMINATION**

### **6.01 Withdrawal by Members.**

Members may withdraw from the Authority as follows:

- (a) Within thirty days of the Systems Funding Plan Notice Date, as such period may be extended pursuant to the provisions in Section 5.02(d) (“Initial Withdrawal Period”), a Member shall submit written notice to the Chairperson and Secretary of its withdrawal from the Authority, which withdrawal notice shall be effective immediately. Such withdrawing Member will not incur any additional financial obligations as a result of membership in the Authority during such Initial Withdrawal Period; provided, that the initial Annual Fee or any Annual Fee paid by such withdrawing Member prior to withdrawal will not be returned.
- (b) After the Initial Withdrawal Period, a Member that did not provide System Components (except end-user equipment) shall provide to the Chairperson and Secretary written notice of its withdrawal from the Authority which withdrawal notice shall be effective immediately; provided, that any Annual Fee already paid will not be returned to such withdrawing Member;
- (c) After the Initial Withdrawal Period, a Member that provided System Components (except end-user equipment) shall provide to the Chairperson and Secretary twelve months advance written notice of its withdrawal from the Authority, which withdrawal shall be effective at the end of the notice period or earlier as permitted by the Board; provided, that any Annual Fee already paid will not be returned to such withdrawing Member
- (d) If withdrawing under Section 6.01(c), a Member that provided System Components shall be required to pay a withdrawal payment. Such withdrawal payment shall be determined through a good faith negotiation between the withdrawing Member and the Authority, and shall be in an amount approved by the Board. The purpose of the withdrawal payment is to require the Member to cover the Authority’s actual and direct expenses reasonably related to the withdrawal including, but not limited to, equipment relocation fees, leasing, and permit fees relating to System Components that the Member had dedicated to supporting the Systems, as well as related administrative costs and professional services fees. The withdrawing Member may mitigate this withdrawal payment by entering into an agreement for the Authority’s continued use of the Member’s assets, as described in Section 6.03. If the parties are unable to reach an agreement on the amount of the withdrawal payment, the parties shall mutually choose a neutral third party who shall be authorized to make such a determination and resolve the matter.
- (e) If a withdrawing Member is an Appointing Authority to the Board, such Member shall lose its appointing authority and seat on the Board as of the date such Member gives notice of its withdrawal.
- (f) If the withdrawing Member is a City within a Regional City Group, and the withdrawal of that Member reduces the number of Members in that Regional City Group below the threshold required to appoint a Director, as specified in Section 2.01 and the applicable Exhibit A through D for that Regional City Group, then such Regional City Group shall lose its Appointing Authority and seat on the Board effective as of the date the Member gives notice. If one or more additional cities from within such Regional City Group become Members of the Authority, such that the required number of cities within that Regional City Group are Members for purposes of appointing a Director, as specified in the applicable Exhibit A through D, the Regional City Group shall regain its ability to appoint a Director to the Board.

### **6.02 Financial Liabilities of Withdrawing Members.**

Except as otherwise provided in Section 5.02:

- (a) A withdrawing Member shall remain liable for all financial liabilities incurred during its membership in the Authority; however, except for the Annual Fee required per Section

5.01(c) paid for the year in which the withdrawal notice is given, the Member shall not be liable for any new financial liabilities incurred after submitting written notice of its withdrawal, including but not limited to future Annual Fees.

- (b) The Authority and the withdrawing Member may negotiate a buy-out agreement for early termination of membership to retire any ongoing financial obligations the Member shares with the Authority.

### **6.03 Retention of Assets by Withdrawing Members.**

Any System Component(s) that a withdrawing Member provided to the Authority shall remain the sole asset of that Member unless the Member and the Authority otherwise agree. If requested by the Authority, a withdrawing Member shall consider options for the Authority's continued use of such Member's System Component(s). Acceptance of any option is at the sole discretion of the withdrawing Member. Also, the use by the Authority of the withdrawing Member's System Component(s) shall be terminated upon the effective date of withdrawal, unless otherwise agreed between the Authority and Member.

### **6.04 Termination of Authority; Disposition of Authority Assets.**

If at any point there are fewer than ten Directors on the Board, then the Board shall determine, at least once annually, whether the Authority is able to continue to fulfill its purpose and obligations required by this Agreement. In such a circumstance, the Board may recommend termination of this Agreement and dissolution of the Authority to the Directors' respective public agencies. The Authority may be terminated by a two-thirds super-majority vote of Directors and upon written consent from their respective public agencies. Upon termination of this Agreement and dissolution of the Authority, and after payment of all obligations of the Authority, the Board shall distribute Authority assets, including real or personal property, in proportion to the contributions made by Members. The Board may sell or liquidate Authority property and shall distribute the proceeds thereof in proportion to the contributions made by Members.

Any System Component(s) provided by a Member to the Authority shall remain the asset of that Member and shall not be subject to distribution under this section.

## **ARTICLE VII – MISCELLANEOUS PROVISIONS**

### **7.01 Notices.**

Any notice required or permitted to be made under this Agreement shall be in writing and shall be delivered in the manner prescribed in this Section 7.01 at the address set forth below such party's signature block to this Agreement. The parties may give notice by:

- (a) Personal delivery;
- (b) E-mail;
- (c) U.S. Mail, first class postage prepaid;
- (d) "Certified" U.S. mail, postage prepaid, return receipt requested;
- (e) Facsimile.

At any time, by providing written notice to the Secretary, any party may change the place, facsimile number or e-mail for giving notice. All written notices or correspondence sent in the described manner will be deemed given to a party on whichever date occurs earliest:

- (a) The date of personal delivery;
- (b) The third business day following deposit in the U.S. mail, when sent by "first class" mail;
- (c) The date on which the party or its agent either signed the return receipt or refused to accept delivery, as noted on the return receipt or other U.S. Postal Service form, when sent by "certified" mail; or
- (d) Notices delivered by electronic mail shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return electronic mail or other written acknowledgment

of receipt); provided that, if such notice is not sent during normal business hours of the recipient, such notice shall be deemed to have been sent on the next business day of the recipient.

#### **7.02 Amendment.**

This Agreement may be amended upon a two-thirds supermajority vote of the ~~Members Board and a unanimous vote of the Board~~ and execution of such amendment by each of the Members approving such amendment and each of the Members seated on the Board. However, this Agreement shall not be amended, modified or otherwise revised, changed or rescinded, if such action would:

- (a) Materially and adversely affect either the rating of bonds issued by the Authority, or bondholders holding such bonds; or
- (b) Limit or reduce the obligations of the Members to make, in the aggregate, payments which are for the benefit of the owners of the bonds.

#### **7.03 Fiscal Year.**

The Authority's Fiscal Year shall be July 1 to June 30.

#### **7.04 Consents and Approvals.**

Any consents or approvals required under this Agreement shall not be unreasonably withheld.

#### **7.05 Incorporation of Act.**

The provisions of the Act, as it may be amended from time to time, which are required to be included in this Agreement, are incorporated into this Agreement by reference.

#### **7.06 Enforcement of Authority.**

The Authority is authorized to take any or all legal or equitable actions, including, but not limited to, injunction and specific performance, necessary or permitted by law to enforce this Agreement.

#### **7.07 Severability.**

If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement were, to any extent, adjudged invalid, unenforceable, void, or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent permitted by law.

#### **7.08 Successors.**

This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assignees of each Member.

#### **7.09 Assignment.**

No Member shall assign any rights or obligations under this Agreement without the prior written consent of the Board.

#### **7.10 Governing Law.**

This Agreement is made and will be performed in the State of California, and as such California substantive and procedural law shall apply. Venue for any litigation under this Agreement shall be within any jurisdiction that constitutes or includes active Members at the time of litigation within the State of California.

#### **7.11 Headings.**

The section headings in this Agreement are for convenience only and are not to be construed as modifying or governing the language of this Agreement.



#### **7.12 Counterparts.**

This Agreement may be executed in counterparts.

#### **7.13 No Third Party Beneficiaries.**

This Agreement, including the obligations of the Authority described in this Agreement, are not intended to benefit any party other than the Authority and its Members, except as expressly provided otherwise in this Agreement. No agency that is not a signatory to this Agreement shall have any rights or causes of action against any party to this Agreement as a result of that party's performance or non-performance under this Agreement, except as expressly provided otherwise in this Agreement.

#### **7.14 Filing of Notice of Agreement or Amendment.**

Within thirty days after the Effective Date of the Agreement or any amendment to the Agreement, the Secretary shall prepare and file notices as required by Government Code Section 6503.5. The Secretary shall also file a copy of the Agreement or any amendment to the Agreement with the Controller as required by Government Code Section 6503.6.

#### **7.15 Conflict of Interest Code.**

The Board shall adopt a conflict of interest code as required by law.

#### **7.16 Indemnification.**

The Authority shall defend, indemnify and hold harmless each Member (and each Member's officers, agents, and employees, successors and assigns) from any and all liability, including, but not limited to, claims, losses, suits, injuries, damages, costs and expenses (including, without limitation, attorney's fees and consequential damages), of every kind, nature and description, (collectively, "Losses") directly or indirectly arising from or as a result of: (i) any accident, injury to or death of any person or loss or damage to property that may be directly or indirectly caused by the acts or omissions of the Authority or its officers, employees or agents; (ii) any act of the Authority or its agents, servants, employees or officers in the observation or performance of any of its responsibilities under this Agreement, or any failure by the Authority to perform any such responsibilities; and/or (iii) any actions or inactions of Members taken as a result of their membership in the Authority. Notwithstanding the foregoing, the Authority shall not be required to indemnify any Member against any Losses that are caused by the negligence or willful misconduct of such Member seeking indemnification or any of their respective officers, agents, employees, successors or assigns.

#### **7.17 Dispute Resolution/Legal Proceedings.**

Disputes regarding the interpretation or application of any provision of this Agreement shall, to the extent reasonably feasible, be resolved through good faith negotiations between the Members and/or the Authority.

#### **7.18 Non-Waiver.**

No waiver of the breach or default of any of the covenants, agreements, restrictions, or conditions of this Agreement shall be construed to be a waiver of any succeeding breach of the same or other covenants, agreements, restrictions, or conditions of this Agreement. No delay or failure in exercising any right, power or remedy in the event of breach or default of this agreement shall be construed as a waiver thereof, or acquiescence therein.

#### **7.19 Complete Agreement.**

This Agreement constitutes the full and complete agreement of the parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the parties with respect to the subject matter of this Agreement are merged into this Agreement.

IN WITNESS WHEREOF, each Member has caused this Agreement to be duly approved, executed and delivered, as follows:

**City of Oakland**

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Signature

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Name/Title

1 Frank Ogawa Plaza  
Attention: Mayor  
Oakland, CA 95609-2259  
Email:  
Fax:

**City of San Francisco**

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Signature

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Name/Title

1 Carlton B. Godlett Place, Room 200  
Attn: Mayor  
San Francisco, CA 94102  
Email:  
Fax:

**City of San Jose**

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Signature

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Name/Title

200 East Santa Clara Street  
Attention: Mayor  
San Jose, CA 95113-1905  
Email:  
Fax:

## **County of Alameda**

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Signature

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Name/Title

Attention: County Administrator  
1221 Oak Street  
Oakland, CA 94612-4222  
Email:  
Fax:

## **County of Contra Costa County**

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Signature

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Name/Title

County of Contra Costa County  
651 Pine Street, 11<sup>th</sup> Floor  
Attn.: County Administrator  
Martinez, CA 94553  
Email:  
Fax:

## **County of Marin**

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Signature

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Name/Title

3501 Civic Center Drive, Suite 325  
Attn: County Administrator  
San Rafael, CA 94903  
Email:  
Fax:

## **County of Napa**

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Signature

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Name/Title

1195 Third Street, Suite 310  
Attn: County Executive Officer  
Napa, CA 94559  
Email:  
Fax:

## **County of San Francisco**

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Signature

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Name/Title

1 Carlton B. Godlett Place, Room 200  
Attn: Board of Supervisors  
San Francisco, CA 94102  
Email:  
Fax:

## **County of San Mateo**

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Signature

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Name/Title

400 County Center  
Attention: County Administrator  
Redwood City, CA 94063  
Email:  
Fax:

## **County of Santa Clara**

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Signature

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Name/Title

70 West Hedding Street, 11<sup>th</sup> Floor  
Attn: Chief Administrative Officer  
San Jose, CA 95110  
Email:  
Fax:

## **County of Santa Cruz**

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Signature

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Name/Title

701 Ocean Street, Room 520  
Attn: County Administrative Officer  
Santa Cruz, CA 95060  
Email:  
Fax:

## **County of Solano**

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Signature

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Name/Title

675 Texas Street, Suite 6500  
Attn: County Administrator  
Fairfield, CA 94533  
Email:  
Fax:

## **County of Sonoma**

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Signature

Veronica Ferguson, County Administrator \_\_\_\_\_  
Name/Title

575 Administration Drive, Suite 104A  
Attn: County Administrator  
Santa Rosa, CA 95403  
Email: vaferguson@sonoma-county.org  
Fax: (707) 565-3778

## **State of California**

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Signature

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Name/Title

California Technology Agency  
Attention: Secretary  
Attention: Director, Public Safety Communications Division  
1325 J Street, Ste 1600  
Sacramento, CA 95814  
Email:  
Fax:

**Exhibit A**  
**List of East Bay Cities**

**Alameda County Incorporated Cities**

- 1) Alameda
- 2) Albany
- 3) Berkeley
- 4) Dublin
- 5) Emeryville
- 6) Fremont
- 7) Hayward
- 8) Livermore
- 9) Newark
- 10) Piedmont
- 11) Pleasanton
- 12) San Leandro
- 13) Union City

**Contra Costa County Incorporated Cities**

- 1) Antioch
- 2) Brentwood
- 3) Clayton
- 4) Concord
- 5) Danville
- 6) El Cerrito
- 7) Hercules
- 8) Lafayette
- 9) Martinez
- 10) Moraga
- 11) Oakley
- 12) Orinda
- 13) Pinole
- 14) Pleasant Hill
- 15) Richmond
- 16) San Pablo
- 17) San Ramon
- 18) Walnut Creek

Seven of the thirty one East Bay Incorporated Cities becoming Members of the Authority allows this group to hold one Board seat under subsection 15 in Section 2.01.

## **Exhibit B**

### **List of West Bay Cities**

#### **San Mateo County Incorporated Cities**

- 1) Atherton
- 2) Belmont
- 3) Brisbane
- 4) Burlingame
- 5) Colma
- 6) Daly City
- 7) East Palo Alto
- 8) Foster City
- 9) Half Moon Bay
- 10) Hillsborough
- 11) Menlo Park
- 12) Millbrae
- 13) Pacifica
- 14) Portola Valley
- 15) Redwood City
- 16) San Bruno
- 17) San Carlos
- 18) San Mateo
- 19) South San Francisco
- 20) Woodside

Five of the twenty West Bay Incorporated Cities becoming Members of the Authority allows this group to hold one Board seat under subsection 16 in Section 2.01.



## **Exhibit C**

### **List of South Bay Incorporated Cities**

#### **Santa Clara County Incorporated Cities**

- 1) Campbell
- 2) Cupertino
- 3) Gilroy
- 4) Los Altos
- 5) Los Altos Hills
- 6) Los Gatos
- 7) Milpitas
- 8) Monte Sereno
- 9) Morgan Hill
- 10) Mountain View
- 11) Palo Alto
- 12) Santa Clara
- 13) Saratoga
- 14) Sunnyvale

#### **Santa Cruz County Incorporated Cities**

- 1) Capitola
- 2) Santa Cruz
- 3) Scotts Valley
- 4) Watsonville

Four of the eighteen South Bay Incorporated Cities becoming Members of the Authority allows this group to hold one Board seat under subsection 17 in Section 2.01.

## **Exhibit D**

### **List of North Bay Incorporated Cities**

#### **Marin County Incorporated Cities**

- 1) Belvedere
- 2) Corte Madera
- 3) Fairfax
- 4) Larkspur
- 5) Mill Valley
- 6) Novato
- 7) Ross
- 8) San Anselmo
- 9) San Rafael
- 10) Sausalito
- 11) Tiburon

#### **Napa County Incorporated Cities**

- 1) American Canyon
- 2) Calistoga
- 3) Napa
- 4) St. Helena
- 5) Yountville

#### **Sonoma County Incorporated Cities**

- 1) Cloverdale
- 2) Cotati
- 3) Healdsburg
- 4) Petaluma
- 5) Rohnert Park
- 6) Santa Rosa
- 7) Sebastopol
- 8) Sonoma
- 9) Windsor

#### **Solano County Incorporated Cities**

- 1) Benicia
- 2) Dixon
- 3) Rio Vista
- 4) Suisun City
- 5) Vacaville
- 6) Vallejo

Seven of the thirty-one North Bay Incorporated Cities becoming Members of the Authority allows this group to hold one Board seat under subsection 18 in Section 2.01.

**BayRICS Authority**  
**STAFF REPORT**

**DATE:** Tuesday, August 13, 2019  
**TO:** BayRICS Board of Directors  
**FROM:** Corey Reynolds, General Manager  
**SUBJECT:** Item 10 – Regional Radio Programming Status Updated

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## **I. Background**

At the October 11, 2018, Board meeting, the Board directed staff to conduct an assessment of the status of regional radio programming across the region's five digital land mobile radio systems. A preliminary analysis was presented at the April 11, 2019, meeting. Since the April meeting, BayRICS has gathered additional data, which is reflected in this updated version.

Previous third-party analysis has noted that though "the BayRICS JPA has developed a comprehensive governance framework to address the problems related to effective interoperability,...coordination and communication among jurisdictions for the purpose of provisioning radios to function region-wide was identified as a problem."<sup>1</sup>

To begin addressing these issues, BayRICS developed the "Bay Area Regional Project 25 Public Safety Radio Systems Model Programming Guidelines: System Key Exchange Guidelines" and has hosted two annual "System Key Exchanges", which facilitate mutual aid response by ensuring that the programming of each Participating Agency's 700/800 MHz P25 trunked radio systems allows rapid and seamless activation of interoperability talkgroups for mutual aid communications.

This assessment provides a snapshot of three key interoperability issues: 1) the number of outside agency radio IDs programmed on each system across the region, 2) how many radios in each home system have the BayRICS interoperability talkgroups pre-programmed, and 3) which dispatch centers across the region have the BayRICS interoperability talkgroups programmed into their consoles and available for use.

## **II. Methodology**

This assessment uses data provided by the East Bay Regional Communications System Authority (EBRCSA), San Francisco, San Mateo County, Silicon Valley Regional Communications System (SVRCS), and Marin County. Data was gathered via surveys and interviews. Importantly:

- Marin County (MERA) is in the process of building out its digital radio system, and thus will share updated regional programming information as the buildout progresses.
- BayRICS member Sonoma County operates an analog radio system and thus is not included in this assessment.

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<sup>1</sup> Horrisberger, Jay. "A Survey of Bay Area Interoperable Public Safety Land Mobile Radio Systems," San Jose State University, Department of Aviation and Technology. December 2016.

### III. Assessment:

With the goals of understanding the numbers of outside radios activated on each system, numbers of radios across the region programmed with BayRICS interoperability zones, and the dispatch centers across the region with BayRICS talkgroups programmed and available for use, this assessment finds:

- More than 69,000 digital radios are operating across the region.
- Nearly 20,000 of these radios are programmed with the BayRICS regional interoperability zones. Some systems have only programmed their own interoperability groups, and not the full set of regional talkgroups.

The following table shows the number of regional partner system radios programmed on each system across the region, as well as the number of radios programmed with at least one BayRICS interoperability zone.

Total Number of Radios Activated and Programmed Across Systems and with BayRICS Zones, by Home System									
		System Total	Partner Systems					Home System	
			SF 700 Interop	San Mateo	SVRCS	NERA	EBRCSA	Home System Total	Programmed w/ BayRICS zones
Home System	SF 700 Interop	11432	8760	242	2380	0	50	8760	6500
	San Mateo	9609	5551	2309	198	0	0	2309	2309
	SVRCS	16934	5990	94	10834	0	16	10834	10834
	NERA	3000	0	0	0	3000	0	3000	0
	EBRCSA	28065	1948	90	6488	0	19505	19505	0

It is also important to understand which dispatch centers across the region have BayRICS talkgroups programmed into their consoles and ready for use (though not necessarily monitored). The following table shows the dispatch centers with BayRICS talkgroups programmed.

Dispatch Centers with BayRICS Talk Groups				
	BayRICS Talk Groups			
	San Francisco	San Mateo	South Bay	EBRCS
<b>SF 700 Interop</b>		2019 upgrade will have access to other interop channels		
1011 Turk St. Combined Dispatch	X			
<b>San Mateo</b>				
San Mateo County Dispatch		X		
<b>SVRCS</b>				
Santa Clara County Communications	X	X	X	X
Santa Clara City	X	X	X	X
Morgan Hill	X	X	X	X
Gilroy	X	X	X	X
San Jose PD/FD	X	X	X	X
Sunnyvale DPS	X	X	X	X
San Jose State University	X	X	X	X
Los Gatos	X	X	X	X
<b>EBRCSA</b>				
15 Dispatch Centers across AlCo and CoCo				X

#### IV. Recommendations:

BayRICS also requested system operators provide insight into their programming challenges and how BayRICS can help support regional interoperability. The following recommendations are gleaned from survey data and interviews with system operators.

- 1.) Establish a regular rhythm (frequency and methods) for sharing and programming partner radio IDs, which could include:
  - A shared repository of up-to-date radio IDs across the region<sup>2</sup>
  - A monthly import schedule to keep repository up-to-date
  - An accountability system to ensure updated imports are programmed across the region
- 2.) Continue annual system key exchange, while considering:
  - BayRICS holding spare iButtons (advanced system keys) in case some fail
  - Giving keys 10-year expiration dates (rather than 18 months)
- 3.) Regularly update this analysis to ensure the current status of radio programming across the region is understood. Consider:
  - Ensuring that, as Marin County continues system buildout, data on regional interoperability programming is reflected
  - Expanding to include the BART system and radio programming
  - Using this assessment as a baseline, track progress made toward more mature regional interoperability

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<sup>2</sup> "This problem could be mitigated with a centralized cloud-based application with access to all participating agencies. The process would alert an agency when an ID entry request is made, as well as when the request has been addressed. The cloud based forum can also be used to communicate issues and problems in a real time environment via message boards that are viewable by all participating agencies." (Horrisberger, 2016)