

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

MEMORANDUM

DATE: January 24, 2014
TO: Bay Area Public Safety Stakeholders
FROM: Barry Fraser, BayRICS General Manager
SUBJECT: Conclusion of Spectrum Lease Negotiations with FirstNet and Close-Out of BayWEB Project

On December 17, 2013, the First Responder Network Authority (FirstNet) announced that it was unable to reach agreement with BayRICS and Motorola Solutions Inc. on the terms of a spectrum lease. Obtaining a spectrum lease from FirstNet was a necessary requirement to lift the partial funding suspension on the Broadband Technology Opportunities Program (BTOP) grant and restart work on the BayWEB project.

Extensive spectrum lease negotiations with FirstNet occurred over a 10-month period from February to November 2013. During this time, BayRICS officers and staff conducted hundreds of phone calls and meetings, and exchanged dozens of draft proposals and redlined contracts. FirstNet set an initial 90-day negotiating deadline of May 12, 2013 for reaching agreement on the leases, and subsequently extended the negotiating period four times, with the negotiations finally ending on November 15, 2013.

Through most of the 10-month process, FirstNet repeatedly assured BayRICS of their strong interest in completing BayWEB and the potential benefits of key learnings and best practices that would flow from the project. As late as June 21, 2013, we were assured by FirstNet negotiators that the lease would be awarded and that the system could be built under the original business model described in the BayRICS-Motorola BOOM agreement.

However, soon after that date, FirstNet suddenly informed us that Motorola must agree to co-sign the spectrum lease. Then we were told that the "Build, Own, Operate and Maintain" (BOOM) agreement with Motorola must be revised before a lease would be approved. Finally, after Motorola and BayRICS worked out substantial modifications to the BOOM, FirstNet advised us that more new conditions were required for the spectrum lease (not required for other BTOP grantees).

These new changes ultimately proved to be the downfall of the negotiations, because they imposed the risk of uncapped future costs on Motorola and BayRICS in two key areas: (1) proprietary (non-standards based) applications, such as Push to Talk (PTT) and (2) assumption of responsibility for costs of future requirements adopted by FirstNet.

On December 31, 2013, Motorola voluntarily terminated the BTOP grant by delivering notice to the Department of Commerce. This notice effectively ended the BayWEB project. Subsequently, on January 9, 2014 the BayRICS Board of Directors approved an agreement to mutually terminate the BOOM agreement with Motorola and to work with Motorola to inform site-owning jurisdictions of the project termination.

The following timeline represents a high level summary of the negotiations:

December 18, 2012	Initial FirstNet meeting with BayRICS and Motorola
February 12, 2013	FirstNet adopts Resolution 18 acknowledging that BTOP Grant projects can bring "substantial benefits" to nationwide network and setting 90 day negotiations period for spectrum lease
February 22, 2013	GM Fraser forms joint negotiating team with other BTOP grantees to negotiate uniform spectrum lease with FirstNet
May 13, 2013	Initial negotiation period extended by FirstNet for additional 30 days
June 4, 2013	Negotiation period extended by FirstNet for additional 30 days, to July 12
June 2013	BTOP grantees begin individual negotiations
June 21, 2013	Meeting with Sue Swenson in San Bruno, CA – agreement in principle on lease and BOOM business plan
June 27, 2013	LA-RICS receives spectrum lease from FirstNet
July 11, 2013	BayRICS Board approves tentative spectrum lease agreement, but FirstNet advises BayRICS that Motorola must co-sign the spectrum lease
July- August, 2013	FirstNet requires 23 separate changes to BOOM agreement as condition for issuing spectrum lease
August 13, 2013	Negotiation period extended by FirstNet to September 30 for BayRICS and Mississippi only; Deputy GM TJ Kennedy takes over lease negotiations for FirstNet; New Mexico receives spectrum lease
September 16, 2013	BayRICS Board again approves tentative spectrum lease agreement, and BOOM changes, but FirstNet requires additional BOOM changes and lease conditions
October 25, 2013	Negotiations period extended to November 15; BTOP Grant extended to December 31
November 12, 2013	BayRICS/Motorola agree to most of the changes to BOOM; FirstNet requires new conditions to spectrum lease not required for LA-RICS; Parties at impasse on two key issues
November 15, 2013	Final negotiations period ends; BayRICS informed that no additional extensions would be granted
December 17, 2013	FirstNet formally announces two additional leases with New Jersey and Adams County, CO; announces that it is unable to reach agreement with BayRICS/Motorola
December 20, 2013	Call with BayRICS, Motorola, NTIA and FirstNet to attempt to repurpose grant funds
December 30, 2013	NTIA advises Motorola and BayRICS that insufficient time remains to repurpose grant before it terminates on December 31
December 31, 2013	Motorola submits grant termination letter to Department of Commerce
January 9, 2014	BayRICS Board authorizes termination of BOOM agreement with Motorola