AGENDA SHORT TITLE: BayWEB Site Access and Use Agreement.

REQUESTED BOARD ACTION: The Sheriff requests the Board to:

1. Authorize the Chair to execute the Site Access and Use Agreement between the County of Sonoma and Motorola Solutions, Inc., to provide Motorola access to and use of telecommunication sites controlled by the County for the purpose of implementing, operating, and maintaining the Bay Area Wireless Enhanced Broadband (BayWEB) Public Safety and Public Access Systems;

2. Authorize the County General Services Director or designee to take necessary and appropriate actions to obtain site lessors' consent and, if required, to modify real property leases for an additional aggregate annual amount not to exceed $25,000, for Motorola to access, remediate, and use the sites for the BayWEB project;

3. Authorize the County General Services Director or designee to provide the County's final approval for each individual site remediation plan proposed by Motorola; and

4. CURRENT FISCAL YEAR FINANCIAL IMPACT

Explanation (if required): All costs associated with the telecommunication site design plans and improvements under the Agreement will be paid by Motorola Solutions, Inc. (through the BTOP grant or its matching funds) or by the BayRICS JPA. The County will be responsible for paying or waiving any required permit fees for site improvements. There also may be rent and/or utility costs needed to power the additional electronics installed at telecommunications sites. The amount of such costs cannot be determined at present.

Prior Board Action: 5/24/11- Authorized County to join the BayRICS JPA for the purpose of establishing the BayWEB Public Safety and Public Access broadband communications systems.
Alternatives – Results of Non-Approval:  The alternative to this type of master agreement is to require Board approval for each individual site remediation plan, Motorola’s use of each site, and any agreements with lessors regarding site access and use for BayWEB purposes (including but not limited to numerous separate lease modifications). Failure to approve a master agreement, or individual agreements relating to BayWEB development, will prevent the County from participating in BayWEB.

Background:  The Sheriff is requesting the following required Board actions to facilitate the next steps to implement the Bay Area Wireless Enhanced Broadband (“BayWEB”) project, which is overseen by the Bay Area Regional Interoperable Communications System (“BayRICS”) Joint Powers Authority. The Board approved the County joining BayRICS as a member on 05/24/11. The implementation of the BayWEB project (described below) requires several phases. The current phase requires the County to provide Motorola Solutions, Inc. ("Motorola") with access to telecommunication sites for the purpose of finalizing site remediation plans, remediating the sites and installing equipment, and utilizing the equipment as part of the BayWEB system.

BayWEB Background:

On May 24, 2011, this Board authorized the County to join a Joint Powers Authority entity named the Bay Area Regional Interoperable Communications System (“BayRICS”) Authority as one of its founding members. The County maintains a seat on the Board of BayRICS, and is a voting member of it. The primary purpose for establishing BayRICS was to assist in developing, operating, and ultimately controlling two regional communication systems: (1) a secure wireless broadband network dedicated to interoperable public safety agency communications (the “Public Safety System”); and (2) a public access point-to-multipoint broadband network focusing on use by and through community institutions such as hospitals, schools, and libraries (the “Public Access System”). These systems are jointly referred to as the “BayWEB” system project. The Sheriff’s Office believes that the BayWEB system is in the best interests of the County to enable first responders to maintain effective public safety communications within the County and throughout the Bay Area, and remains committed to system development.

BayWEB is being developed, maintained, operated and initially owned by Motorola, Inc. (“Motorola”) through a Broadband Technology Opportunities Program (“BTOP”) grant administered by the United States National Telecommunications and Information Administration (“NTIA”) through the American Recovery and Reinvestment Act. The grant provides approximately $50.5 million to fund a portion of the BayWEB project, with an additional $47 million in “matching” funds provided by Motorola (an increase of $23 million from May 2011) for a combined project fund of over $97 million.

The successful implementation of BayWEB will enable the County to participate in an expansive, regional interoperable communications system that is the next step in information technology, to serve the public better, more efficiently, and for less money. Additionally, the County's existing DataRadio system is based on narrowband technology, much like an old dial-up modem, and needs to be replaced. If the Sheriff’s Office were to upgrade the existing system with new DataRadio hardware to allow continued narrowband communications, it would cost approximately $2.5 million to replace hardware located on the 13 mountain-top locations and 345 mobile radios. Successful implementation of BayWEB will prevent the need for the County to pay for this upgrade, and will provide: (a) first responders with regional broadband public safety system access; and (b) community institutions with better broadband public system access.

Motorola is required to work in partnership with Bay Area local governments to develop BayWEB and operate it for ten years under the provisions of a Buy, Own, Operate, and Maintain (“BOOM”) Agreement with the BayRICS JPA. The BOOM Agreement will identify fees for system users, and describe how such fees will be used to fund necessary development, maintenance, and operational costs of BayWEB. In addition, the BOOM Agreement will require transfer of the ownership and control of BayWEB from Motorola to the BayRICS JPA at the end of the 10-year period. At this time, Motorola and the JPA are in the
process of finalizing the BOOM Agreement, and this Board will be provided with the opportunity to approve such agreement sometime in early 2012.

In the meantime, to meet the BTOP grant timing requirements, Motorola must proceed with making the telecommunications sites ready for equipment installation to connect to the BayWEB system. The parties have identified 14 separate primary sites controlled by the County (1 owned by the County, 13 leased to the County) and seven additional or alternate sites which are desirable to include as part of the BayWEB system. Motorola has previously reviewed the primary sites and solicited input for the identification of the alternate sites. With one exception, Motorola has prepared preliminary site remediation plans for all the primary sites, which describe the type of improvements to the sites and equipment installations Motorola intends to make on each of the sites.

**Site Access and Use Agreement**

The purpose of the proposed Site Access and Use Agreement is to permit Motorola to access the sites, conduct its remediation work on the sites, install its equipment on the sites, and use the sites as part of the BayWEB system. Examples of site remediation work include retrofitting towers or establishing access to fiber optic lines. To enable the agreement to be performed, there are several pre-conditions written into the agreement that must be satisfied.

First, while the County owns one of the proposed telecommunications sites, it leases the remaining sites from third parties. The Sheriff’s Office and Real Estate Division are currently reviewing the site leases to determine what actions must be taken to comply with the terms of those leases to permit Motorola’s proposed activities on the sites. Written approval from the site lessors will be necessary to enable Motorola to access and use the sites, and some of the leases may require modification. To enable this process to proceed forward expeditiously, the Sheriff requests that the County’s General Services Director or designee be provided with the authority to negotiate such terms with the site lessors, and to modify the leases or enter new agreements as deemed reasonable and appropriate to accommodate the BayWEB system development. Should any of the lease amounts increase as part of this process, this grant of authority will permit the General Services Director or designee to approve an aggregate annual increase in the 13 site leases in an amount not to exceed $25,000. The General Services Director and/or Sheriff shall bring any particular lease modification to the Board for its approval if such modifications exceed the limits of this authority.

Second, the Sheriff’s Office’s Telecommunications staff has been working diligently with Motorola to conduct initial assessments of the County's proposed sites for inclusion in BayWEB. These assessments have allowed Motorola to prepare preliminary plans describing what remediation work and equipment are necessary to be installed on each site for connection to BayWEB (on file with the clerk). To finalize such plans, Motorola will require additional access to the properties and information the Sheriff’s Office is currently gathering. As part of this process, the proposed Site Access and Use Agreement requires that, prior to performing any work on the sites, the County must approve each of the final site remediation plans in writing. While there is a team of County members engaged in this planning process, the Sheriff requests as a safeguard that the County’s General Services Director or designee be given final approval authority over the site remediation plans prior to construction. This approval will be the final stage of a process to verify that the final site remediation plans are in compliance with the site leases, address necessary administrative issues (such as design documents, permitting, public notification), and ensure that all other applicable governmental regulations have been met. As part of this process, the Sheriff's Office will provide a substantive review of the plans to ensure that they are consistent with the County’s telecommunication needs and requirements.

Third, the Sheriff’s Office expects that there will be other actions necessary to permit Motorola to access the properties, conduct its remediation work, and use the sites for BayWEB. With the Board's approval the County General Services Division and Sheriff's Office will take such actions as are necessary and appropriate to effectuate the terms of the Site Access and Use Agreement.

Fourth, the Agreement does permit the County to request Motorola to make additional “enhancements” to the
sites for the benefit of the County, which will be at the County’s cost. Examples of enhancements include upgrading electricity at a site, replacing towers, and adding electronics to improve existing County telecommunication functionality. Costs affiliated with enhancements that are already identified in the Telecommunications strategic plan will come from either the Sheriff’s Telecommunications operating or Capital Improvement budget. In some cases, the work required for BayWEB may overlap telecommunications tower work already planned and budgeted for in the County's Capital Improvement Plan. The ability for the County to request additional site enhancements leaves the opportunity available for the County to maximize any cost savings or efficiency gains that may occur during the project. However, any such additional projects will be the subject of separate agreements, approval of which will be required pursuant to normal and usual County administrative processes.

The term of the Agreement is for the entire duration of the BOOM Agreement (a ten-year period). At the end of such term, the ownership and operation of BayWEB will be transferred from Motorola to the BayRICS JPA or its designee. Though the Agreement provides that Motorola’s site remediation improvements on County-controlled sites will transfer to the County at that time, it also requires the County to negotiate with the JPA a new site access and use agreement for the JPA to use and operate the BayWEB equipment on an on-going basis.

**Funding**

All costs associated with Motorola’s activities on the sites, such as preparing design plans, site remediation work, and equipment installation, are the responsibility of Motorola and have no impact on the County’s general fund. The General Services Director or designee and/or Sheriff will bring any particular lease modification to the Board for its approval if such modification would result in a more than a $25,000 aggregate annual increase in the 13 site leases rent.

**Attachments:** None.

**On File With Clerk:** Letter of Intent, Site Access and Use Agreement, Preliminary site remediation plans.

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**Clerk of the Board Use Only**