AGENDA REPORT

Meeting Date: December 2, 2008

Item Number: E-4

To: Honorable Mayor & City Council

From: David L. Snowden

Subject: **RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING A JOINT EXERCISE OF POWERS AGREEMENT TO ESTABLISH THE LOS ANGELES REGION INTEROPERABLE COMMUNICATIONS, A JOINT POWERS AUTHORITY**

Attachments:
1. Resolution
2. Agreement

RECOMMENDATION

It is recommended that the City Council adopt the resolution authorizing the City Manager or his designee to execute the Los Angeles Region Interoperable Communications System Joint Powers Agreement and appoint representatives to the Joint Powers Authority on behalf of the City.

INTRODUCTION

The Los Angeles Region Interoperable Communications System (LA-RICS) Joint Powers Authority (JPA) has been developed in order to implement a wide-area interoperable public safety communications network. It is an outgrowth of the Regional Interoperable Steering Committee (RISC) which was formed several years ago to explore the development of a single, shared communications system for all public safety agencies within the Los Angeles County region. The steering committee was made up of representatives from the City of Los Angeles, the County of Los Angeles, and various independent cities.

The LA-RICS JPA seeks to establish a public safety radio network to meet or enhance current public safety radio communications needs and to provide an architecture capable of expanding to meet future needs. The vision of LA-RICS is to create a communications system that will support all 88 cities and 34,000 first responders (police,

fire, and public health) in Los Angeles County. LA-RICS is projected to be operational in seven (7) to ten (10) years.

The LA-RICS Joint Powers Agreement was crafted by a committee of attorneys from various potential member agencies. The City of Beverly Hills' City Attorney's Office was active on that committee and approved the form and content of the agreement. Additionally, the Los Angeles County Police Chiefs Association and the Los Angeles County Fire Chiefs Association both support the LA-RICS project.

The City of Los Angeles and the County of Los Angeles have committed the majority of their current and future interoperable communications grant funds to the proposed LA-RICS project.

DISCUSSION

The City of Beverly Hills has a longstanding commitment to interoperable communications and understands the tangible benefits to public safety that can be realized by having its first responders operating on a regional communications network. To that end, staff has supported the region's efforts to develop the LA-RICS project.

However, staff has also identified the following significant issues with the construction of the LA-RICS JPA:

Composition of the LA-RICS Board of Directors

- The Joint Powers Agreement outlines the composition of the LA-RICS Board of Directors. This 17 member board is heavily weighted towards the City of Los Angeles and the County of Los Angeles who will share eight (8) seats. Five (5) seats on the board are designated for the Los Angeles Unified School District Police, the City of Long Beach, the county's police and fire chiefs associations, and the California Contract Cities Association. One (1) seat is designated for an at large member that is otherwise not represented on the board. The remaining (3) seats on the board will be shared by the member cities that operate their own police and/or fire departments. (Of the 88 cities in the county, only 46 operate their own police and/or fire departments and are currently responsible for their own communications systems).

Funding Plan and Technical Requirements

- The Joint Powers Agreement indicates that LA-RICS will use its best efforts to develop and adopt a funding plan within nine months of the effective date of the agreement. However, the agreement does not specify a timing requirement to develop and adopt technical requirements for the system or release an RFP to receive bids. Therefore, it is unlikely that the technical specifications for the system will be in place when the Board of Directors approves the funding plan. Since the funding plan will not be based on the actual criteria for the system, it is possible that the project will be underfunded and member cities will be asked to fund cost over-runs.

Member Contributions

- The Joint Powers Agreement indicates that LA-RICS members may be required to contribute funds, personnel, equipment, or property to the JPA as determined by the Board of Directors. This means that the board has the discretion to accept public funds or personnel time from one member and require another member to

provide valuable radio infrastructure or frequency licenses. The board's discretion in this area has the potential to create significant problems of inequity among the members.

Radio Frequency Licenses

- The Joint Powers Agreement requires members that possess Federal Communications Commission (FCC) radio frequency licenses to authorize LA-RICS to share ownership and use of those frequencies. Staff has verified with our City's radio frequency consultant that FCC regulations restrict ownership of radio frequency licenses to a single agency and furthermore, prohibit any frequency from being co-owned, as proposed by the JPA. The City of Beverly Hills owns its licenses, which are extremely valuable commodities, and should not under any circumstances be compelled to surrender them. Additionally, the JPA does not have a plan in place that indicates how frequencies will be used between the time that the JPA is established and the radio system is ultimately operational. Furthermore, the City of Beverly Hills, like many other cities in the region, uses its radio frequencies to communicate with public works personnel as well as its police and fire personnel. The Joint Powers Agreement has no commitment that public works or other municipal services will be incorporated or serviced as part of LA-RICS and leaves open the possibility that the City will need to operate two radio systems in order to maintain its current communications capabilities.

In attempt to resolve these issues, staff corresponded and held a series of meetings with County Supervisor Zev Yaroslavsky's staff and Sheriff Lee Baca. While the meetings were well received, there was no movement on these issues and as such, staff concludes there are no assurances that the City's interest, investments and assets are protected.

The above issues notwithstanding, the formation of the LA-RICS JPA is an important step in developing an interoperable communications system for the region, and the philosophies are aligned with the City's pursuit of interoperability and information sharing technologies. And while staff believes that there are serious issues with the way that the JPA has been constructed and how the JPA plans to achieve its goals, the vision of LA-RICS is a project that will benefit first responders and communities throughout the county.

The City's long-term participation in LA-RICS will be dependent on the financial commitment imposed by the JPA on its members. The Joint Powers Agreement allows for charter members to withdraw from the JPA once the cost is determined. Members will have no less than 35 days after the funding plan has been adopted to withdraw from the JPA without penalty.

In order to help shape the future of interoperable communications in the Los Angeles region, it is critical for the City of Beverly Hills to have a voice and a vote during the JPA's developmental phase. To accomplish this goal, the City must be a member of the LA-RICS JPA and participate in the creation of the Board of Directors, system engineering, design, and funding plans. The Joint Powers Agreement specifies that the JPA will come into existence 45 days after the agreement is authorized and executed by both the City of Los Angeles and the County of Los Angeles. Other public agencies are entitled to join the JPA without approval of the LA-RICS JPA's Board of Directors and

without any financial commitment by adopting and executing of the Joint Powers Agreement before the end of this 45 day window.

The JPA also mandates that the selection of seats for the four available Board of Directors positions take place within 15 days after the effective day of the agreement. The effective date is 45 days after the agreement is executed by both the County of Los Angeles and City of Los Angeles. The Los Angeles County Board of Supervisors has already approved the agreement, and the Los Angeles City Council is scheduled to approve the agreement in mid-December 2008. This small window of opportunity necessitates the City being agile enough to actively participate in the selection of or lobby for the At Large Director positions.

The best way for the City to influence the outcome of LA-RICS is to join the JPA during the 45 day no-risk period that commences after the Joint Powers Agreement is approved by the County of Los Angeles and the City of Los Angeles. By joining the JPA in December, the City has the ability to help shape and direct LA-RICS without incurring financial obligation. In order to ensure a timely execution of the Joint Powers Agreement by the City of Beverly Hills and to place the City in a position that maximizes its influence with the LA-RICS project, staff recommends that the City Council authorize the City Manager or his designee to execute the agreement, appoint representatives to the JPA and conduct all business related to the LA-RICS effort.

FISCAL IMPACT

There is no fiscal impact at this time.

Scott Miller	David L. Snowden
Finance Approval	Approved By

RESOLUTION NO. 08-R-

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING A JOINT EXERCISE OF POWERS AGREEMENT TO ESTABLISH THE LOS ANGELES REGION INTEROPERABLE COMMUNICATIONS, A JOINT POWERS AUTHORITY

The City Council of the City of Beverly Hills does resolve as follows:

Section 1. That certain Joint Exercise of Powers Agreement ("Agreement"), dated _____, and identified as Contract No. _____, a copy of which is on file in the office of the City Clerk, to establish the Los Angeles Region Interoperable Communications, a joint powers authority, is hereby approved.

Section 2. The City Manager is authorized and directed to execute said Agreement, as was presented to the City Council on December 2, 2008, on behalf of the City.

Section 3. The City Manager or his designee shall administer the terms of the Agreement on behalf of the City.

Section 4. The City Clerk shall furnish a copy of said Agreement after it has been approved and fully executed by the City, along with a copy of this resolution, to: LA-RICS, P.O. Box 861236, Los Angeles, California 90086-1236, or such other address as requested by the Beverly Hills Police Department.

Section 5. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Council of this City.

Adopted:

BARRY BRUCKER
Mayor of the City of Beverly Hills, California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

RODERICK J. WOOD, CCM
City Manager

DAVID SNOWDEN
Chief of Police

KARL KIRKMAN
Risk Manager

LA-RICS

The Los Angeles Regional Interoperable Communications System Authority

Joint Powers Agreement

June 5, 2008

The Los Angeles Regional Interoperable Communications System Authority
Joint Powers Agreement
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Exhibit A – Members

Joint Powers Agreement to Establish
The Los Angeles Regional
Interoperable Communications System Authority

THIS JOINT POWERS AGREEMENT (the "Agreement") is made as of the Effective Date by and between the public agencies set forth in Exhibit A.

Each public agency executing this Agreement shall be referred to individually as "Member," with all referred to collectively as "Members."

RECITALS

Whereas the Members require wide area and interoperable communications, and Members acting independently have limited resources to construct a communications network providing these capabilities; and,

Whereas the Members have determined that working in concert to share radio communications resources is in the public interest, as doing so would provide the most effective and economical radio communications network for all participating public agencies; and,

Whereas the Members agree that the collective goal is to evaluate, establish, and participate in a public safety radio network to meet or enhance current public safety radio communications needs of Members and to provide an architecture capable of expanding to meet future needs; and,

Whereas, the Members have the authority under the Joint Exercise of Powers Act, in California Government Code Section 6500 et. seq., (the "Act") to enter into this Agreement.

NOW, THEREFORE, in consideration of the recitals and mutual obligations of the Members as herein contained, the Members agree as follows:

Article I - GENERAL PROVISIONS

1.01 Purpose.

This Agreement is to create an agency to exercise the powers shared in common by its Members to engage in regional and cooperative planning and coordination of governmental services to establish a wide-area interoperable public safety communications network (hereinafter referred to as the "Los Angeles Regional Interoperable Communications System", "LA-RICS", or the "System"). As part of this

purpose, Members will seek to meet or enhance the current public safety communications needs with a System capable of expanding to meet future needs; develop funding mechanisms; and resolve technical and operational issues in the development and management of the System. Such purposes are to be accomplished and said common power exercised in the manner hereinafter set forth.

1.02 Creation of Authority.
Pursuant to the Act, the Members hereby create a public entity to be known as the "Los Angeles Regional Interoperable Communications System Authority" (hereinafter, the "Authority"). The Authority shall be a public entity separate and apart from the Members who shall administer this Agreement. The jurisdiction of the Authority shall be all territory within the geographic boundaries of the Members; however the Authority may undertake any action outside such geographic boundaries as is necessary and incidental to the accomplishment of its purpose.

1.03 Membership in the Authority.
Participation in the Authority is limited to public agencies, as defined by the Act, in the greater Los Angeles area that have approved and executed this Agreement, and contributed resources of any kind toward the construction and/or on-going operation of the System (including, but not limited to financial, personnel, frequency, equipment, radio site, real estate or other resources), as approved by the Board of Directors.

1.04 Term.
This Agreement shall become effective, and the Authority shall come into existence, when each of the following occurs (the "Effective Date"):

(a) The Agreement is authorized and executed by the City of Los Angeles and the County of Los Angeles; and

(b) Forty-five days has elapsed after the authorization and execution of the Agreement by both the City of Los Angeles and County of Los Angeles.

Prior to the Effective Date, public agencies may become Members of the Authority, without Board approval, by adoption and execution of this Agreement. After the Effective Date, membership is subject to approval by the Board as set forth in Section 7.02(a) of this document.

Article II - Board of Directors.

2.01 Composition of the Board

The Authority shall be administered by a Board of Directors (the "Board") consisting of a minimum of eight (8) Directors and not more than seventeen (17) Directors identified by the following appointing authorities:

1. The City of Los Angeles City Administrative Officer
2. The City of Los Angeles Fire Chief
3. The City of Los Angeles Police Chief
4. The City of Los Angeles Chief Legislative Analyst
5. The County of Los Angeles Chief Executive Officer
6. The County of Los Angeles Fire Chief
7. The Sheriff of Los Angeles County
8. The County of Los Angeles Department of Health Services Director
9. The Los Angeles Unified School District Police Chief
10. The City of Long Beach
11. The Los Angeles Area Fire Chiefs Association
12. The Los Angeles County Police Chiefs Association
13. The California Contract Cities Association
14. At Large
15. At Large
16. At Large
17. At Large

2.02 Appointment of Directors

(a) Each of the officials listed in 1 through 9 above may appoint one Director and one Alternate Director to the Board when the agency such official represents becomes a Member.

(b) The City of Long Beach may appoint one Director and one Alternate Director to the Board when the City of Long Beach becomes a Member.

(c) Each of the Associations listed in 11 and 12 above may appoint one Director and one Alternate Director to the Board when at least one member of their respective Association becomes a Member of the Authority.

(d) The California Contract Cities Association may appoint one Director and one Alternate Director to the Board when at least one member of the Association becomes a Member of the Authority. In order to participate in the selection process, Association members must also be Members of the Authority.

(e) At Large Directors and Alternate Directors shall be selected by a majority vote of Member cities, other than the Cities of Los Angeles and Long Beach, as follows:

(1) One At Large Director (and one Alternate Director) must represent a Member city that operates both independent police and fire departments;

(2) Two At Large Directors (and two Alternates) must represent Member cities that operate an independent police department and/or an independent fire department; and

(3) One At Large Director (and one Alternate Director) must represent a Member city not otherwise represented on the Board.

(f) Within fifteen (15) days after the Effective Date, eligible Member cities shall endeavor to meet and provide for the selection of the At Large Directors and Alternate Directors, and all other entities shall endeavor to appoint their Directors and Alternates. The logistics for filling the At Large Director and Alternate Director vacancies shall be provided for in the bylaws.

(g) At the time of appointment and for the duration of service, Directors and Alternate Directors shall be employees or officers of Members. All Directors and Alternate Directors shall be non-elected officials, with the sole exception of the Los Angeles County Sheriff.

(h) The term of office of each Director and Alternate Director shall be two years, or until a successor has been appointed. Directors and Alternate Directors may serve an unlimited number of terms.

(i) No Member can hold more than one seat on the Board concurrently, except that the County of Los Angeles and the City of Los Angeles can hold the Board seats designated by the eight individuals listed in items 1 through 8 in Section 2.01.

(j) An Alternate Director may act in their Director's absence and shall exercise all rights and privileges of a Director.

(k) Each Director and each Alternate Director shall serve at the pleasure of the appointing authority and may be removed by the appointing authority at any time without notice.

(l) Notice of any removal or appointment of a Director or Alternate Director shall be provided in writing to the Chair of the Board.

2.03 Purpose of Board.

The general purpose of the Board is to:

(a) Provide structure for administrative and fiscal oversight;

(b) Identify and pursue funding sources;

(c) Set policy;

(d) Maximize the utilization of available resources; and

(e) Oversee all Committee activities.

2.04 Specific Responsibilities of the Board.
The specific responsibilities of the Board shall be as follows:

(a) Identify participating entities needs and requirements;

(b) Develop and implement a funding plan (the "Funding Plan") for the construction and on-going operation of a shared voice and data system;

(c) Formulate and adopt the budget prior to the commencement of the fiscal year;

(d) Hire necessary and sufficient staff and adopt personnel rules and regulations;

(e) Adopt rules for procuring supplies, equipment and services;

(f) Adopt rules for the disposal of surplus property;

(g) Establish committees as necessary to ensure that the interests and concerns of each user agency are represented and to ensure operational, technical and financial issues are thoroughly researched and analyzed;

(h) Provide for System implementation and monitoring;

(i) Determine the most appropriate and cost effective maintenance plan for the System;

(j) Provide for System maintenance;

(k) Adopt and revise System operating policies and procedures, as well as technical and maintenance requirements;

(l) Review and adopt recommendations regarding the establishment of System priorities and talk groups;

(m) Address concerns of all System user agencies;

(n) Oversee the establishment of long-range plans;

(o) Conduct and oversee System audits at intervals not to exceed three years;

(p) Arrange for an annual independent fiscal audit;

(q) Adopt such bylaws, rules and regulations as are necessary for the purposes hereof; provided that nothing in the bylaws, rules and regulations shall be inconsistent with this Agreement; and

(r) Discharge other duties as appropriate or required by statute.

2.05 Startup Responsibilities

The Authority shall have the duty to do the following within the specified timeframe or, if no time is specified, within a reasonable time:

(a) To establish within three (3) months of the Effective Date of this Agreement the Advisory Committees designated in Section 3.07;

(b) To use its best efforts to develop and adopt within nine (9) months of the Effective Date of this Agreement:

(1) A plan specifying a means or formula for determining the timing and sequencing of construction of the System consistent with the functional specifications; and

(2) A Funding Plan specifying a means or formula for funding the construction, operation and maintenance of the System; such Funding Plan shall include an allocation of costs among the Members, subscribers, and other funding sources;

(c) To establish System participation pricing including start-up costs, and ongoing Subscriber/Member unit pricing to cover System operations, technical upgrades, and System replacement reserves;

(d) To encourage other governmental and quasi-governmental agencies, including but not limited to, the State and Federal government, and special districts, to participate in LA-RICS;

(e) To establish policies and procedures for the voluntary transfer and/or sharing of assets from Members;

(f) To retain legal counsel; and

(g) To evaluate the need for, acquire and maintain necessary insurance.

2.06 Meetings of the Board.

(a) Regular Meetings. The Board shall provide for its regular meetings provided, however, that at least one regular meeting shall be held quarterly. The date, hour and location of regular meetings shall be fixed by resolution of the Board and a copy of the resolution shall be transmitted to each of the Members.

(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, including without limitation, regular, adjourned regular and special meetings, shall be called noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with California Government Code section 54950). As soon as practicable, but no later than the time of posting, the Secretary shall provide notice and the agenda to each Member, Director and Alternate Director.

(d) First Meeting. The first meeting of the Board shall be no sooner than fifteen (15) days after the Effective Date.

2.07 Minutes.
The Secretary shall cause to be kept minutes of the meetings of the Board and shall, as soon as practicable after each meeting, cause a copy of the minutes to be made available to each Director, the Members and other parties upon request.

2.08 Voting.
All voting power of the Authority shall reside in the Board. Each Director shall have one vote. An Alternate Director may participate and vote in the proceedings of the Board only in the absence of that Alternate's Director. No absentee ballot or proxy shall be permitted.

2.09 Quorum; Required Votes; Approvals.
A majority of the appointed Directors shall constitute a quorum of the Board for the transaction of business except that less than a quorum or the Secretary may adjourn meetings of the Board from time-to-time. The affirmative votes of a majority of the appointed Directors shall be required to take any action by the Board, except, two-thirds vote (or such greater vote as required by state law) of the appointed Directors shall be required to take any action on the following:

(a) Establish start-up contributions from Members;

(b) Adopt a Funding Plan;

(c) Levy and collect, or cause to be collected, communication impact fees on new residential, commercial, and industrial development, as authorized by local, state, and federal law;

(d) Change the designation of Treasurer or Auditor of the Authority;

(e) Issue bonds or other forms of debt;

(f) Adopt or amend the bylaws; and

(g) Exercise the power of eminent domain.

Article III - OFFICERS, EMPLOYEES AND ADVISORY COMMITTEES

3.01 Chairperson, Vice-Chairperson and Secretary.

For each fiscal year, the Board shall elect a Chairperson and Vice-Chairperson from among the Directors, and shall appoint a Secretary, who need not be a Director. In the event that the Chairperson, the Vice-Chairperson or Secretary so elected resigns from such office or his/her represented Member ceases to be a Member of the Authority, the resulting vacancy shall be filled at the next regular meeting of the Board held after such vacancy occurs or as soon as practicable thereafter. Succeeding officers shall perform the duties normal to said offices. The Chairperson shall sign all contracts on behalf of the Authority, and shall perform such other duties as may be imposed by the Board. In the absence of the Chairperson, the Vice-Chairperson shall sign contracts and perform all of the Chairperson's duties.

3.02 Treasurer.

The Treasurer and Tax Collector of the County of Los Angeles shall be the Treasurer of the Authority. 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 System, the Treasurer will work with the Member or third party to put in place appropriate fiscal controls to meet the grant requirements.

3.03 Auditor.

The Auditor-Controller of the County of Los Angeles shall be the Auditor of the Authority. 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 make or cause an independent annual audit of the accounts and records of the Authority by a certified public accountant, in compliance with the requirements of the Act and generally accepted auditing standards.

3.04 Bonding of Persons Having Access to Property.
Pursuant to the Act, 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 public officer or officers or person or persons to file an official bond in an amount to be fixed by the Board.

3.05 Other Employees.
The Board shall have the power by resolution to appoint and employ such other officers, employees, consultants and independent contractors as may be necessary to carry-out the purpose of this Agreement.

3.06 Privileges and Immunities from Liability.
All of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply 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 engaged in the performance of 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 Board shall be deemed, by reason of their employment by the Board to be employed by the Members or by reason of their employment by the Board, to be subject to any of the requirements of the Members.

3.07 Advisory Committees.
The Board shall establish the following Advisory committees:

(a) Operations Committee – The Operations Committee's primary purpose is to review and recommend to the Board operating policies and procedures that will ensure the System resources are used efficiently to meet the needs of all Members.

(b) Technical Committee – The Technical Committee's primary purpose is to review and recommend to the Board policies and procedures related to System performance, maintenance and other technical issues.

(c) Finance Committee – The Finance Committee's primary purpose is to review and recommend to the Board:

(1) The Funding Plan;

(2) A fiscal year budget; and

(3) Financial policies and procedures to ensure equitable contributions by Members.

(d) Legislative Committee – The Legislative Committee's primary purpose is to review and recommend to the Board a plan for securing funding from state and federal governments and to advise the Board on regulatory and legislative matters.

3.08 Membership of Advisory Committees.
Each Director shall appoint one voting member to each Advisory Committee.

3.09 Meetings of Advisory Committees.
All meetings of each Advisory Committee shall be held in accordance with the Ralph M. Brown Act. For the purposes of convening meetings and conducting business, unless otherwise provided in the bylaws, a majority of the members of the committee shall constitute a quorum for the transaction of business, except that less than a quorum or the secretary of each Advisory Committee may adjourn meetings from time-to-time. As soon as practicable, but no later than the time of posting, the Secretary of the Committee shall provide notice and the agenda to each Member, Director and Alternate Director.

3.10 Officers of Advisory Committees.
Unless otherwise determined by the Board, each Advisory Committee shall choose its officers, comprised of a Chairperson, a Vice-Chairperson and a Secretary.

Article IV - POWERS

4.01 General Powers.
The Authority shall have the powers common to the Members and which are necessary or convenient to the accomplishment of the purposes of this Agreement, subject to the restrictions set forth in Section 4.04. As provided in the Act, the Authority shall be a public entity separate from the Members.

4.02 Power to Issue Bonds.
The Authority shall have all of the powers provided in Articles 2 and 4 of Chapter 5, Division 7, Title 1 of the California Government Code, including the power to issue bonds thereunder.

4.03 Specific Powers.
The Authority is hereby 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 contracts and professional services agreements;

(b) To make and enter into contracts with subscribers who desire to utilize the System for their primary radio communications and affiliates who desire to utilize the System only for mutual or automatic aid;

(c) To acquire, construct, maintain, or operate telecommunications systems or service and to provide the equipment necessary to deliver public services therefrom;

(d) To acquire, construct, manage, maintain or operate any building, works or improvements;

(e) To acquire, hold, lease, or dispose of property;

(f) To employ or engage contractors, agents, or employees;

(g) To sue and be sued in its own name;

(h) 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;

(i) To issue bonds and to otherwise incur debts, liabilities and obligations, provided that no such bond, debt, liability or obligation shall constitute a debt, liability or obligation to the individual respective Members;

(j) To invest any money in the treasury, pursuant to the Act, which 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, pursuant to Section 53601 of the California Government Code; and

(k) 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 Limitation on Exercise of Powers.
All common powers exercised by the Board 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 Los Angeles, as may be amended from time to time.

4.05 Obligations of Authority.
The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of the Members. In addition, pursuant to the Act, no Director shall be

personally liable on the bonds or subject to any personal liability or accountability by reason of the issuance of bonds.

4.06 Additional Powers to be Exercised.
In addition to those powers common to each of the Members, the Authority shall have those powers that may be conferred upon it by subsequently enacted legislation.

Article V - CONTRIBUTIONS; ACCOUNTS AND REPORTS; FUNDS

5.01 Adoption of Funding Plan.
It is a critical goal of the Authority to develop a Funding Plan that identifies funding sources and mechanisms, including a development schedule and phasing plan, which will permit the maximum feasible participation by Members. The Funding Plan shall be descriptive as to the contributions required from Members.

Prior to committing resources for the construction of the System, a proposed Funding Plan as designated in Section 2.05(b)(2) shall be developed.

In order for the Funding Plan to be considered by the Members prior to its adoption, the Board shall distribute the proposed Funding Plan to Members pursuant to Section 7.01. The proposed Funding Plan shall be accompanied by a description of the System, and reports and studies to allow Members to determine the System capability, cost, financing and the effects on individual Members. The Board shall also designate a period, which shall be not less than 60 days, during which Members may provide comments to the Board regarding the proposed Funding Plan.

After the comment period has expired, the Board may:

(a) Adopt the Funding plan as proposed;

(b) Revise the Funding Plan to address some or all of the Member comments; or

(c) Reconsider the Funding Plan at a later date.

Notice shall be given to Members pursuant to Section 7.01 within five days of adoption of the Funding Plan. The notice shall include a copy of the adopted Funding Plan. The Board shall also designate a period, which shall be not less than 35 days after the Funding Plan is adopted, during which Members may submit written notice of immediate withdrawal from the Authority. There will be no costs for any Member that withdraws from the Authority within this time period.

After the Funding Plan has been adopted, and until contracts are awarded to design and/or construct the System, if the Funding Plan is revised in a manner which will substantially increase the financial obligations of the Members, then any Member so affected will have a further right to withdraw within a period designated by the Board, which shall be not less than 45 days after the adoption of the Revised Funding Plan. There will be no costs for any Member that withdraws from the Authority within this time period, except for obligations incurred prior to the adoption of the Revised Funding Plan.

5.02 Contributions.
The Members may, in the appropriate circumstance, or when required hereunder:

(a) Make contributions from their treasuries for the purposes set forth herein;

(b) Make payments of public funds to defray the cost of such purposes;

(c) Make advances of public funds for such purposes, such advances to be repaid as provided by written agreement; or

(d) Use its personnel, equipment or property in lieu of other contributions or advances.

No Member shall be required to adopt any tax, assessment, fee or charge under any circumstances.

5.03 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. 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.

5.04 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.

5.05 Sharing of Frequencies.
Members holding Federal Communication Commission (FCC) licenses to frequencies ("Licensee(s)") shall authorize the Authority to share the use of such frequencies and/or

radio stations. Such use shall be in accordance with the Code of Federal Regulations, (47 CFR 90.179).

Any authorization for the use of such license shall be made pursuant to a written agreement between the Member and Authority. Revoking such authorization requires Member to provide twelve (12) months advance written notice to the Authority unless otherwise identified in written agreement. Licenses shall remain primary to the Member holding the license. Only the Member is allowed to make any modifications to its license(s) on behalf of the Authority, and the Authority shall pay all associated fees.

5.06 Violations.
Payment of fines and penalties imposed for operational or equipment violations shall be the responsibility of the entity committing the violation. If the entity responsible for a violation is not the FCC Licensee, then the responsible entity shall pay forthwith any fines imposed upon the Licensee, as specified in the bylaws.

5.07 System Components.
The System is comprised of components that include physical plant, infrastructure, frequencies, user equipment, and dispatch center equipment (the "System Components") as described in this Section 5.07. Members shall retain ownership of System Components that they contribute to construct or operate the System, unless otherwise agreed to in writing. The Authority shall retain ownership of System Components purchased by the Authority, unless otherwise agreed to in writing.

(a) **Physical Plant:** The Physical Plant includes the following: real estate, shelters, environmental controls, antenna support structures, power systems, security systems, and other site structures. The maintenance of the Physical Plant shall be in accordance with the requirements specified by the Authority and is the responsibility of the contributing Member, unless otherwise agreed to in writing.

(b) **Infrastructure:** Infrastructure includes the following: antenna systems, base station repeaters, diagnostic and alarm systems, microwave systems, backhaul systems, control equipment and all other related electronic equipment and software. The Authority is responsible for the operation and maintenance of Infrastructure.

(c) **Frequencies:** Frequencies are radio channels that have been licensed by the FCC in accordance with the Code of Federal Regulations. Licensees shall authorize the Authority to share the use of such frequencies and/or radio stations subject to a separate frequency sharing agreement.

(d) **User Equipment:** User Equipment includes the following: mobile radios, portable radios, mobile data computers, radio data modems, control stations, and other related equipment. All User Equipment shall meet or exceed the minimum

acceptable standards established by the Authority. In the event that any User Equipment is determined to be affecting the proper operation of the overall System as identified by the Authority, such User Equipment shall be immediately removed from service and shall not be returned to service until any deficiencies are resolved to the satisfaction of the Authority. The Authority shall maintain a list of User Equipment approved for operation on the System. Any changes to the User Equipment list shall be approved by the Authority. Such approval shall not be unreasonably withheld.

(e) **Dispatch Center Equipment:** Dispatch Center Equipment includes the following: dispatch consoles, logging recorders, system interfaces, and other ancillary equipment. The Authority shall maintain a list of Dispatch Center Equipment approved for operation on the System. Any changes to the Dispatch Center Equipment list shall be approved by the Authority. Such approval shall not be unreasonably withheld.

5.08 Adverse Impacts on System.
No Member, subscriber or affiliate shall take any action that adversely impacts the System. If the System is impacted by actions of a Member, subscriber or affiliate, the offending party shall take immediate action to return the System to its full operating state. The Authority, or its designee as set forth in the bylaws, shall make the sole determination of whether Member, subscriber or affiliate equipment or operations adversely impact the System.

Article VI - WITHDRAWAL AND TERMINATION

6.01 Withdrawal by Members.
After a Funding Plan is adopted, Members may withdraw from the Authority by giving notice as follows:

(a) Members who do not provide Infrastructure, Frequencies or Physical Plant to System shall provide to the Chairperson ninety (90) days advanced written notice of its intent to withdraw from the Authority;

(b) Members who provide Infrastructure, Frequencies or Physical Plant to System shall provide to the Chairperson twelve (12) months advanced written notice of its intent to withdraw from the Authority.

6.02 Financial Liabilities of Withdrawing Members.
Except as otherwise provided in Section 5.01:

(a) A withdrawing Member shall remain liable for all financial liabilities incurred during its membership in the Authority; however, the Member shall not be liable for any new financial liabilities incurred after submitting written notice to withdraw.

(b) The withdrawing Member must continue to pay its share of operating costs during the ninety day or twelve month period, as applicable, after submitting its written notice of the intent to withdraw.

(c) 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.

(d) If a withdrawing Member holds a seat on the Board, that Member's participation on the Board shall immediately cease when the written notice to withdraw is submitted.

6.03 Retention of Assets by Withdrawing Members.
Each Member shall hold its licenses and retain sole ownership of its licenses, including those authorized for use by the Member to the Authority. The licenses and any System Components provided by a Member to the Authority shall remain the sole asset of that Member unless otherwise negotiated. If requested by the Authority, the withdrawing Member shall consider options for the Authority's continued use of Member assets. Acceptance of any option is at the sole discretion of the withdrawing Member. In addition, the use by the Authority of the withdrawing Member's System Components shall be terminated upon the effective date of withdrawal (twelve months from initial notice), and such System Components shall remain the sole asset of the withdrawing Member, unless otherwise agreed. Such withdrawing Member shall have no interest or claim in any remaining assets of the Authority, the Board, or of any of the remaining Members.

6.04 Termination of Authority and Disposition of Authority Assets.
Upon termination of this Agreement and dissolution of the Authority by all Members, and after payment of all obligations of the Authority, the Board:

(a) May sell or liquidate Authority property; and

(b) Shall distribute assets, including real or personal property, in proportion to the contributions made by Members.

Any System Components 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 hereunder shall be in writing and shall be delivered in the manner prescribed herein at the principal place of business of each party. 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; or

(f) Any other method deemed appropriate by the Board.

At any time, by providing written notice to the other parties to this Agreement, 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) The date of transmission, when sent by e-mail or facsimile.

7.02 Amendment; Addition of Members.

(a) In addition to the original signatories to this Agreement, other public agencies may join the Authority as a Member, subject to the provisions of Section 1.03. The addition of any Member shall become effective upon:

(1) The execution on behalf of such entity of a counterpart of this Agreement and the delivery of such executed counterpart to the Board; and

(2) The adoption of a resolution of the Board admitting that agency to the Authority.

(b) This Agreement may only be amended by two-thirds of the Members, which must include the affirmative votes of the City of Los Angeles and the County of Los Angeles, evidenced by the execution of a written amendment to this Agreement. However, this Agreement shall not be amended, modified or otherwise revised, changed or rescinded, if such action would:

(1) Materially and adversely affect either the rating of bonds issued by the Authority, or bondholders holding such bonds; or

(2) 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 12-month fiscal year shall be specified in the Authority's bylaws.

7.04 Consents and Approvals.
Any consents or approvals required under this Agreement shall not be unreasonably withheld.

7.05 Amendments to 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 hereby incorporated into this Agreement by reference.

7.06 Enforcement of Authority.
The Authority is hereby 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 thereby 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 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 to be performed in the County of Los Angeles, State of California, and as such California substantive and procedural law shall apply.

7.11 Headings.
The section headings herein 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 and the obligations hereunder are not intended to benefit any party other than the Authority and its Members, except as expressly provided otherwise herein. No entity 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 herein.

7.14 Filing of Notice of Agreement.
Within 30 days after the Effective Date, or amendment thereto, the Secretary shall cause to be filed with the Secretary of State the notice of Agreement required by the Act.

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) from any and all liability, including but not limited to claims, losses, suits, injuries, damages, costs and expenses (including attorney's fees), arising from or as a result of any acts, errors or omissions of the Authority or its officers, agents or employees.

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.

IN WITNESS WHEREOF, each Member has caused this Agreement to be executed and attested by its proper officers thereunto duly authorized, its official seals to be hereto affixed, as follows:

Exhibit A - Members

The following entities are Members of the Los Angeles Regional Interoperable Communications System Authority:

CITY OF BEVERLY HILLS

RODERICK J. WOOD, CCM
City Manager

APPROVED AS TO FORM:

LAURENCE S. WIENER,
City Attorney

APPROVED AS TO CONTENT:

DAVID SNOWDEN,
Chief of Police

KARL KIRKMAN,
Risk Manager