

February 2, 2015

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolution No. 8877 authorizing execution of an Interlocal Agreement (ILA) and a Memorandum of Agreement (MOA) with King County, the City of Seattle, Valley Communication (Valley Com) cities and Eastside Public Safety Communications Agency (EPSCA) cities for the replacement of the countywide Emergency Responder Radio System with a new system known as the Puget Sound Emergency Radio Network (PSERN).

FISCAL IMPACT

There should be no direct fiscal impact to the City. Funding for this project is through a King County levy. The levy is anticipated to cover the cost of the project. The current estimate of the impact of the ballot measure, if passed, is 6.5-7.0 cents per \$1,000 of assessed value over nine (9) years. King County expenses will be reimbursed by the levy proceeds. If the levy fails, the County is expected to absorb the costs associated with the ballot measure, as well as any costs incurred for the work completed. It is not anticipated that cities will need to contribute to any shortfall.

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POLICY CONSIDERATIONS

RCW 39.34.010- Declaration of purpose.

It is the purpose of this chapter to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

The Countywide Emergency Responder Radio System vendor indicated it will no longer provide service for the Emergency Radio system after 2018. The King County Executive is asking the King County Council to place a measure on the countywide ballot as soon as April 2015, to provide funding for a replacement radio system. The King County Council could take action as early as February in order to place the measure on the ballot in April. Jurisdictions participating

in the emergency radio system, including Bellevue, have developed a proposed governance structure that merges the existing organizations and creates a new organization. Numerous policy considerations including costs, financing, and governance structure have been discussed and resulted in the proposed ILA and MOA before Council tonight.

Council is being asked to approve an Interlocal Agreement and a Memorandum of Agreement between King County, the City of Seattle, ValleyComm cities and EPSCA cities regarding the implementation and governance of the PSERN radio replacement project. Approving these agreements does not mean that the Council is approving the ballot measure. These agreements are designed to ensure the continuation of an interoperable radio network with increased geographic coverage. Since the City is part of the countywide of the emergency radio system, the City must approve these agreements in order to remain a part of the system.

BACKGROUND

1. History

Having an emergency radio system that is technologically and operationally sound is critical to efficient communications between police, fire and emergency medical services - as well as for public school districts, transportation agencies, utilities and hospitals - regardless of their location within the County. As has been discussed over the past two years, the King County emergency radio system is nearing the end of its useful life and system users across the County have been working on how best to replace the system before it reaches the point of unreliability.

The City currently manages its emergency radio services through the Eastside Public Safety Communications Agency (“EPSCA”). EPSCA was formed in 1992 through an interlocal agreement between the cities of Bellevue, Redmond, Kirkland, Mercer Island, and later Issaquah. EPSCA is governed by an executive board consisting of the chief executive officer of each of the EPSCA cities. EPSCA is a separate legal entity tasked with developing, owning, operating, and managing an Eastside radio system, which is integrated with the larger countywide system.

Together, there are four entities (owners) responsible for the current emergency radio system — EPSCA, King County, City of Seattle and Valley Communications (ValleyComm). Each entity owns separate towers and equipment, all of which are run by a central system. In addition to first responders, the current system is used by some school districts, utilities, transportation providers, hospitals, and other government entities.

The current system is approaching 20 years old, and is built on a technology that is 30 years old. The vendor has indicated that support for the current system will be eliminated in 2018. As the system ages, more repairs are required and replacement parts and support for aspects of the system are no longer available. In addition, the system does not provide the desired level of coverage in certain parts of the County and its capacity is taxed during major events. Responder operational needs have changed since the first system was implemented and the current system no longer meets those needs.

Given the size of the replacement project, the County lacks the funds to pay for the project

without additional revenue. Replacement reserves, created by each of the four owners, have been used to keep the current system upgraded, and to support early phases of the new Puget Sound Emergency Radio Network (PSERN) project. Unfortunately, the remaining funds in the replacement reserves will not cover a major share of the project costs. Even if these funds had not been expended, the funds would only account for less than 25% of the total PSERN project cost.

2. New Regional Emergency Radio System (PSERN)

In 2012, King County convened a group of King County, EPSCA, Seattle and ValleyComm officials to consider how to implement a new state-of-the-art, seamless, unified emergency radio system. The new emergency radio network will be an 800 MHz Digital Trunked network. The system will have improved features including:

- Better reliability and capacity to keep up with King County's growing population;
- Area coverage improvements;
- Additional radio sites to enhance coverage;
- Stronger signal throughout the designed coverage area west of the mountains and through the three (3) major roadways leaving the County to the east;
- Encryption and other data services where required; and
- Standards based technology instead of a proprietary system.

A major driver for the new system is changing demographics since previously uninhabited areas are now populated and require coverage. The new radio communications network will have the capacity to reach those new areas of the County and coverage will be tested and verified to ensure quality reception.

A Steering Committee from the four PSERN entities - King County, EPSCA, Seattle and ValleyComm, was created to guide the technology, policy and fiscal issues associated with the new PSERN system, and a King County project office was created for implementation¹. Bellevue along with the other EPSCA cities, agreed to have Kurt Triplett, who is the Kirkland City Manager and EPSCA Chair, take the lead in representing the interests of the EPSCA cities at the Steering Committee level.

In 2013, the PSERN entities cooperatively issued an RFP for replacement of the current system. The new PSERN system will require a countywide ballot measure to establish a levy to fund the project. If approved, it will take 5-6 years to complete the project and migration from the current radio system to the new one, which is expected to begin use in 2019. King County expenses will be reimbursed from the levy proceeds. Unless action is taken by the new governing board, if the levy fails the County is expected to absorb the costs associated with the ballot measure, as well as any costs incurred for the work completed. At this time, it is not anticipated that EPSCA cities will need to contribute to any shortfall.

3. Structure

The Steering Committee has proposed two agreements for the implementation and governance of

¹ The Steering Committee is comprised of Fred Jarrett- KC, Bill Kehoe- KC, Kurt Triplett-EPSCA, Patti DeFazio-Seattle, Lora Ueland- ValleyCom.

the new system. Under these agreements, EPSCA's role as an owner/operator in the current radio system will be eliminated and the role of EPSCA will change to that of supporting the new governance model.

Implementation ILA

The first agreement will govern the implementation of the new system and the process for transferring users from the current system to the new system ("Implementation ILA"). During implementation of the new system and migration of users from the old to the new system, King County will be the lead agency responsible for overseeing the project. Major project decisions will be made by a "joint board" comprised of four members—one each from King County, EPSCA, Seattle and ValleyComm ("Joint Board"). Each entity will select its own member to the Joint Board. Unanimous Joint Board approval will be required for project decisions that impact the cost or scope of the project. Should there be an impasse; the matter will proceed to mediation. If mediation is unsuccessful, a committee comprised of the County Executive, Mayor of Seattle, one designated elected official from EPSCA and one from ValleyComm will meet with the Joint Board to resolve the issue.

Pursuant to the Implementation ILA, King County will be responsible for managing the project and overseeing the transition from the old to the new system until "full system acceptance" of the PSERN system. Full system acceptance will occur when it has been fully installed and successfully tested.

Under the ILA, all parties must unanimously agree to release a member entity before it is permitted to withdraw from PSERN. Before an entity is fully released, the entity is not only responsible for obligations that arose prior to the effective date of withdrawal, the entity is also responsible for actual costs that result from the withdrawal.

EPSCA, as a separate legal entity, has obligations under the ILA but is not a signatory to the agreement. King County has indicated that entering into the Implementation ILA is a prerequisite to placing the PSERN measure on the ballot.

Entity ILA

The second agreement which is termed the "Entity ILA" is not finalized. This ILA will address the type of entity that will be responsible for operation and maintenance of PSERN, once full system acceptance has occurred.

Three ownership options for this phase were evaluated by the County:

- Nonprofit corporation or limited liability company;
- Designated lead party governed by a joint board; and,
- A single partner takes ownership of the entire system, operating in a partnership with the other three current owners (who would no longer have ownership).

The consensus of the Steering Committee was that PSERN should be a separate legal entity responsible for the entire system and not just portions of it. In addition, the consensus of the Steering Committee was to have a non-profit, centralized agency own and operate PSERN.

Since the Entity ILA is not yet finalized, the parties have agreed to enter into a Memorandum of Agreement (MOA) which commits the parties to continue working on a draft ILA and the general principles that must be addressed. In principle, the new PSERN entity will address the following:

- All infrastructure including radio tower sites, backhaul equipment, and dispatch consoles are owned by PSERN.
- All subscriber radios (mobile and portable radios) are owned by the end user.
- All capital costs as well as initial replacement radios are covered by the countywide ballot measure. End users are responsible for subsequent replacement of radios, as they are under the current system.
- Subscriber fees are paid to the new PSERN entity to cover all maintenance of the infrastructure and console equipment as well as all upgrade and update costs.

It is anticipated that having a single entity operating and maintaining the system infrastructure, rather than four entities doing the work, will result in improved project administration for establishing the new network. Similar to the Joint Board under the Implementation ILA, the non-profit organization will be governed by a board of directors consisting of four voting members and two non-voting members.

One board member will be appointed by each of the following: the City of Seattle; the Valley Communications Center member cities jointly considered as one member; the Eastside Public Safety Communications Agency member cities jointly considered as one member; and King County. Each member will have one equally weighted vote on the Board governing the new system. Two additional non-voting members will be appointed—a police representative and a fire representative. All votes by the board must be unanimous. Once the Entity ILA is finalized it will be presented for Council approval.

4. PSERN Funding

As the lead agency for the implementation, the County would initiate a countywide funding measure. The PSERN project, including site costs, equipment, labor, sales tax, contingencies and reserves will cost approximately \$245,848,020. The King County Executive will ask the King County Council to place a funding measure on the ballot in April 2015. The King County Executive will propose a levy lid lift to fund PSERN. The current estimate of the impact of the ballot measure, if passed, is 6.5-7.0 cents per \$1,000 of assessed value over nine years. If the funding measure is approved, it will be included in the 2016 property tax levy.

The PSERN project cost breakdown is as follows:

Expense Category/Line Item	Full Project
IT - Salaries, Wages & Benefits	\$11,197,774
Supplies	337,639
Consulting IT Services	700,000
Travel	395,000

Hardware/Software	20,800
System Vendor Equipment/Work	112,378,152
Capital IT Lease - Principal	7,145,413
Sales Tax @ 9.5%	14,247,738
Special Election Costs	1,800,000
Legal	1,050,000
Vehicles	169,621
Procurement	600,000
Quality Assurance	3,000,000
Site Construction	21,397,478
Construction Management	600,000
A/E Consultant Final Design	2,418,575
Office Space for Project Staff	919,495
Reimbursable Costs	7,975,568
System Testing & Acceptance Support	5,282,000
Warehouse for installation activities	596,250
Subscriber Radio Extended Warranty	2,088,009
Optional System Vendor Equipment/Services	246,000
Contingency	38,913,102
Reserves	12,369,406
*Total	\$245,848,020

These are estimated costs because the site engineering and design work that will determine site upgrade costs has not started. The estimates include direct replacement costs, management and oversight costs, transition costs, along with costs associated with financing the project.

EPSCA, on behalf of member cities, has worked to ensure that user rates for radios and consoles remain stable under the new PSERN system since rates will fund the ongoing operation of the system. County projections show that radio rates will remain stable or may drop slightly in

connection with the new system. Nonetheless, EPSCA requested that language be added to the Implementation ILA that would require funds to be reserved so that they can be used to reduce rates for users or entities that experience rate increases as a result of the PSERN transition.

The County PSERN project team reports that it has completed its evaluation and scoring of RFP responses and finalized negotiations for the contract. A contract with the successful vendor has been signed and the protest period has passed. The contract is for just over \$112 million. While the final costs of the project will not be known until after final site design is complete, the County PSERN project team has indicated that the costs should be adequately covered by the levy which includes the contingency.

5. EPSCA

EPSCA has been working with King County, Seattle and ValleyComm on the various issues associated with the transition from the current system to a new PSERN system. This transition can only occur if approved by each of the EPSCA member cities. On September 11, 2014, the EPSCA Board adopted a resolution recommending that its member cities support the PSERN project and adopt the Implementation ILA and the Entity ILA so long as the following items are addressed:

- EPSCA member jurisdictions retain the ability to select and appoint the EPSCA area PSERN Board member according to the process and terms decided by EPSCA member jurisdictions;
- All remaining EPSCA reserves stay with EPSCA member cities when the transition to PSERN occurs;
- All emergency radios are owned by the individual jurisdictions and not by PSERN;
- A rate stabilization fund that phases in the cost increases to all jurisdictions in King County associated with the new radio system is included in the ballot measure;
- An appropriate EPSCA staff retention and transition plan is reached between EPSCA and PSERN;
- An “operations board” of emergency radio users is created that will advise the PSERN Board; and
- Appropriate legal agreements are reached between EPSCA and PSERN that allow for EPSCA member jurisdictions to retain the rights to and value of the radio spectrum that EPSCA will transition to PSERN in the event that PSERN is not created or PSERN is abolished at some point in the future.

These conditions were designed to protect interests of EPSCA cities. The parties have worked together and all the conditions requested by EPSCA have been addressed in the ILA and MOA. Representatives of the PSERN entities have finalized the ILA and MOA. All participating governing bodies have approved these agreements except Bellevue.

EFFECTIVE DATE

If approved, this Resolution becomes effective immediately upon Council adoption.

OPTIONS

1. Adopt the Resolution authorizing execution of an Interlocal Agreement (ILA) and Memorandum of Agreement with King County, the City of Seattle, ValleyCom cities and EPSCA cities for the replacement of the countywide Emergency Responder Radio

System with a new system known as the Puget Sound Emergency Radio Network (PSERN)

2. Do not adopt the Resolution and provide alternative direction to staff.

RECOMMENDATION

Option 1.

MOTION

Move to adopt Resolution No. 8877 authorizing execution of an Interlocal Agreement (ILA) and Memorandum of Agreement (MOA) with King County, the City of Seattle, ValleyCom cities and EPSCA cities for the replacement of the countywide Emergency Responder Radio System with a new system known as the Puget Sound Emergency Radio Network (PSERN).

ATTACHMENTS

Follow Up on Council Questions Regarding PSERN
Proposed Resolution No. 8877

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

- (A) Proposed ILA and exhibits
- (B) Memorandum of Agreement