

September 11, 2020

MEMORANDUM

To: Members of the Public Safety and Human Services Committee
From: Lise Kaye, Analyst
Subject: CB 119879: PSERN Operator Interlocal Agreement

On Friday, September 11, 2021, the Public Safety and Human Services Committee will discuss and may vote on [Council Bill \(CB\) 119879](#). This Bill would approve the Puget Sound Emergency Radio Network [PSERN] Operator Interlocal Cooperation Agreement (“Operator ILA” or “ILA”) to create a new non-profit corporation to own, operate, and govern PSERN after the network is complete. PSERN will replace the existing aging emergency radio infrastructure (King County Emergency Radio System or “KCERCS”) that is jointly owned by the City of Seattle, King County, the East Side Public Safety Communications Agency (ESPCA) and Valley Communications Center (ValleyCom).¹ PSERN operations will be financed through user fees and an April 2015 voter-approved property tax levy. The proposed Operator ILA is substantively consistent with the “material terms” established by a 2015 MOA among the KCERCS owners (the same agencies would be Parties to the Operator ILA).² This memo provides background on the PSERN and describes the proposed ILA that would be authorized through CB 119879.

Background

KCERCS, the current emergency radio system, supports over 100 agencies, including 11 dispatch centers (two of which are the Seattle Police and Seattle Fire Department’s respective E-911 centers) and approximately 16,000 emergency radio users, each with a portable radio handset and/or installed mobile radio in a vehicle. The system is over 20 years old, and the current vendor (Motorola) is no longer supporting the aging technology. In December 2014, the King County Executive signed a new 20-year contract with Motorola to design, implement, maintain and upgrade the Puget Sound Emergency Radio Network, subject to voter approval of a future ballot measure.

In April 2015, King County voters approved a nine-year property tax levy at a rate of not more than \$.07 per one thousand dollars of assessed valuation to replace and upgrade KCERCS. As agreed to that year by an “implementation period” ILA,³ King County, with oversight by a Joint Board comprised of current system owners, has been responsible for developing the new

¹ ESPCA serves the cities of Bellevue, Issaquah, Kirkland, Mercer Island and Redmond; ValleyCom serves the cities of Auburn, Federal Way, Kent, Renton, and Tukwila.

² The City Council adopted [Ordinance 124687](#), authorizing the Chief Information Officer to sign the MOA, which included the Parties’ commitment to specific “material terms” with respect to the governance and voting structure of the PSERN Operator and user fees to be based on a specific cost allocation model.

³ The PSERN Implementation Period ILA was signed by the City of Seattle, the Cities of Auburn, Bellevue, Federal Way, Issaquah, Kent, Kirkland, Mercer Island, Redmond, Renton, Tukwila and King County.

PSERN system from the time funding was secured until full system acceptance. (Seattle Fire Chief Scoggins is a voting member of the Joint Board.⁴)

Signatories to the implementation period ILA also signed a Memorandum of Agreement (MOA) in 2015 defining the basic terms under which the Parties would establish a nonprofit governmental agency to own, operate, and govern the Puget Sound Emergency Radio Network after the network is built and tested. The Parties intended for the MOA to be superseded by a new “operations period” ILA no later than one year prior to full system acceptance; a draft of an operations period ILA was attached to the MOA. The MOA established “material terms” to which the signatories committed and agreed, and which defined the new agency’s governance structure and initial rate model for user fees. The MOA also attached and referenced a draft operations period ILA for illustrative purposes.

CB 119879: Proposed PSERN Operator Interlocal Agreement

Attachment 1 to this memo summarizes the major provisions of the proposed Operator ILA that would be authorized by the adoption of CB 119879. These include composition of the Board of Directors, a list of actions that would require a unanimous vote by the PSERN Board of Directors, those actions that would require approval of members’ legislative bodies, and impasse resolution procedures.⁵ The proposed ILA includes guidance for staffing the new agency but leaves the decision to the new Board of Directors as to whether to make direct hires or contract with existing governmental agencies. (The Operator ILA would give the City of Seattle the option to transfer or contract up to three technical staff currently working in Seattle IT’s Radio Communication Shop to the PSERN Operator to maintain the new radio infrastructure.) The proposed ILA also describes the process by which it may be amended in the future, and it establishes specific performance requirements for the PSERN system.

According to PSERN project staff, the new PSERN Operator will require two years to prepare to manage operations and maintenance of the system by December 2022, therefore member agencies have been requested to sign the new Operator ILA by December 2020.⁶ Executive staff report that half of the 12 member agencies have signed to date.⁷ Modifications to the proposed ILA would require a second vote by agencies that have already signed the new ILA.

⁴ Other Joint Board members: King Co. Dep. Chief Operating Officer Brenda Bauer, non-voting Chair; voting members KCIT Dir. Tanya Hannah; Kirkland City Mgr. Kurt Triplett for EPSCA and ValleyCom Exec Dir. Lora Ueland. Non-voting members Chris Elwell, KC Fire District #2 and Police Chief Steve Burns, City of Medina

⁵ Executive staff report that the KCERCS has successfully used a unanimous decision-making model to manage the existing radio system for the past 20 years and to procure and implement the new radio system.

⁶ The PSERN project budget and schedule were re-baselined at 99% system design in September 2017 to show a new target substantial completion date of May 2021 and expenditures of approximately \$281 million. As of March 2020, PSERN’s published project schedule shows full system acceptance in March 2023. Estimated project expenditures have increased from approximately \$273 million (the estimate in 2015) to approximately \$290 million (updated projected levy revenue totals just over \$300 million).

⁷ PSERN staff report that the Cities of Auburn, Issaquah, Kent, Kirkland, Renton, & Federal Way have signed the ILA.

Comparison to the 2015 MOA

The proposed Operator ILA is substantively consistent with the material terms established by a 2015 MOA; however, it would make the following relatively minor changes to those terms:

- Board of Directors:
 - King County Council must approve the King County Executive's designee (new)
 - Non-Seattle members may be either a mayor or city manager or their designee (new)
- Officers:
 - Chair, Vice-Chair, Secretary and Treasurer and any other officers and assistant officers as may be deemed necessary to be elected from among the voting members of the Board (MOU established that Chair and Vice Chair would be elected from among all members)
 - Two-year terms of office, following initial terms of partial year and following year (new)
- Quorum:
 - Action by three votes does not require that the absent voting member provided written notice of unavailability (MOU had required written notice)
 - In circumstances that permit action by three votes, quorum is three members (new)
- Meeting Procedures
 - The Board's composition, powers, responsibilities, quorum and meeting requirements shall be included in the PSERN Operator's articles of incorporation or bylaws. (MOU did not reference articles of incorporation)
 - If provided for in the bylaws, a member may participate and vote by phone (MOU provided for phone participation but did not make this subject to the bylaws)
 - Board to set the regular meeting schedule. (MOU called for meetings to be scheduled monthly)

Policy Issues

Staff have not identified any fatal flaws with the proposed Operating ILA. The ILA sets a high decision-making threshold by requiring four voting members for a quorum and requiring a unanimous affirmative vote for most decisions. However, Executive staff report that the KCERCS system successfully used this threshold for 20 years and it was one of the binding elements of the MOA, which was signed by all 12 parties to this ILA.

Attachment:

1. Table 1: Major Provisions of the proposed Operations ILA

cc: Dan Eder, Acting Executive Director
Aly Pennucci, Supervising Analyst

Attachment 1. Table 1: Major Provisions of the proposed Operations ILA

Section	Details
Board of Directors	<p>Four Voting Members (chief exec officer or designee):</p> <ul style="list-style-type: none"> • City of Seattle; • King County (KC Council must approve the County Executive’s designee) • One representative for the Cities of Bellevue, Issaquah, Kirkland, Mercer Island and Redmond collectively; • One representative for the Cities of Auburn, Federal Way, Kent, Renton and Tukwila collectively <p>Two Non-Voting members:</p> <ul style="list-style-type: none"> • One appointed by the King County Police Chiefs Association, and • One selected jointly by the King County Fire Commissioners Association and the King County Fire Chiefs Association
Decision-Making	<p>Quorum – 4 voting members</p> <p>Voting</p> <ul style="list-style-type: none"> • Most actions require a unanimous vote • Majority vote actions: <ul style="list-style-type: none"> ○ If same voting member failed to attend two regularly scheduled meetings in a row at which a matter was identified for action did not send an alternate. ○ Removal of a board member ○ Dissolution and termination of the agency • Actions subject to legislative approval: <ul style="list-style-type: none"> ○ Expansion of the PSERN Operator’s scope of services or Party funding obligations ○ Composition of the Board of Directors ○ Addition of new parties to the ILA ○ Voting rights of members of the Board of Directors ○ Powers of the Board of Directors ○ Hold harmless and indemnification requirements ○ Provisions regarding duration, dissolution, termination or withdrawal ○ The conditions of the section pertaining to legislative approval of amendments • Alternates may vote

Section	Details
Impasse Resolution Procedures	Mediation, with back-up for Elected Executives Committee (KC Executive, Seattle Mayor and one elected official designated by each of the other two members) to meet with the Board to resolve the impasse
Employment	<p>Board will determine whether to hire employees directly or to contract with another governmental agency. If contracted, agreements will specify the employment policies, compensation amounts, and supervisory structure that will apply to such staff;</p> <p><u>Executive Director</u> Hired on basis of merit only If contracted, will be “at will” Must have specific experience or comparable equivalent skills in technical, financial and administrative fields of public safety radio</p> <p><u>Other Staff</u> “Qualified Employees” currently employed by Seattle (3.0 FTE) and King County (8.0 FTE) will have the option of working for the PSERN Operator</p> <p>“Transitional Employees” whose employment will be eliminated as a direct result of the PSERN project may request temporary employment with the PSERN Operator for no more than 18 months (but may be hired into a permanent position).</p>
User Fees	Executive staff report that the formula included with the ILA when applied to the projected year 1 budget for the PSERN Operator yields rates “fairly comparable” to what Seattle pays today.
Performance Measures	The proposed ILA requires the PSERN Operator to ensure specific performance requirements pertaining to system coverage, signal strength and reliability for the PSERN System.