



## Agenda

### PSERN Operator Board of Directors

### Monthly Meeting (September 2022)

**Location:** Executive Conference Room, King County Chinook Building, 401 5<sup>th</sup> Avenue, Seattle, WA

**Virtual meeting:** Microsoft Teams (details below)

**Date:** Thursday, September 22, 2022

**Time:** 3:45 p.m. – 5:00 p.m. (note new start time)

**Microsoft Teams Meeting:** Members of the public are invited to participate in the meeting in person at the location above or virtually by telephone or video by using the following phone number and meeting ID: 1-425-653-6586 Meeting ID: 607 105 419#

**Directors:** Lora Ueland (Chair), Harold Scoggins, Kurt Triplett, Dwight Dively, Chris Elwell, Dan Yourkoski

**Alternates:** Kristin Meitzler, Mark Schmidt, Matt Morris, Brad Miyake, Shawn Hayes (King County does not have an alternate at present.)

#### Agenda Details:

1. Call to Order – Lora Ueland 3:45 p.m.
2. Roll Call – Julia Holden 3:46 – 3:48 p.m.
3. Approve the Minutes – Lora Ueland 3:49 – 3:51 p.m.  
*(Decision: Motion to approve the minutes from the 08-28-25 Monthly Meeting of the PSERN Operator Board of Directors)*
4. Public Comment – Lora Ueland 3:52 – 3:55 p.m.  
Board Chairperson to open floor for public comment. Members of the public are invited to address the Board of Directors for a period of time not to exceed three minutes.
5. Action Register Review – Lora Ueland 3:56 – 4:00 p.m.
6. Executive Director Report – Mike Webb 4:01 – 4:08 p.m.  
*(Discussion)*
7. Startup Spending Update – Tracy Plouse 4:09 – 4:15 p.m.  
*(Discussion)*
8. Operator Transfer Date – Mike Webb 4:16 – 4:25 p.m.  
*(Discussion)*
9. Procurement Policy Amendment – Tracy Plouse 4:26 – 4:30 p.m.

***(Decision)***

10. 2023 Operating Budget and Rate Setting – Tracy Plouse 4:31 – 4:45 p.m.

***(Discussion)***

11. 2023 Board Meeting Schedule – Tracy Plouse 4:46 – 4:54 p.m.

***(Decision)***

12. PSERN Board of Directors Officer Report – Board Officers 4:55 – 4:57 p.m.

***(Discussion)***

13. Review New Action Items – Lora Ueland 4:57 – 5:00 p.m.

Next Meeting: October 27, 2022



## PSERN Operator Board of Directors Meeting Minutes

**Location:** Executive Conference Room, King County Chinook Building, 401 5th Avenue, Seattle, WA

**Date:** Thursday, August 25, 2022

**Time:** 3:45 p.m. – 4:30 p.m.

**Microsoft Teams Meeting:** Members of the public are invited to participate in the meeting in person at the location above or virtually by telephone or video by using the following phone number and meeting ID: 1-425-653-6586 Meeting ID: 607 105 419#

### Attendees:

**Directors:** Lora Ueland (Chair), Commissioner Chris Elwell, Chief Harold Scoggins, Kurt Triplett, Dwight Dively, Chief Dan Yourkoski

**Alternates:** Kristin Meitzler, Mark Schmidt

**Other Attendees:** Spencer Bahner, James Britt, Kevin Crossen, Sean Douglas, Adrian Englet, Julia Holden, Hank Krajewski, Dino Lamanna, David Mendel, Anthony Minor, Kimberly Nuber, Tracy Plouse, Preetha Raju, Michael Webb, Ned Worcester, Ellen Whitely, Tom Wood

### Agenda Details:

1. Call to Order – Lora Ueland 3:45 p.m.
2. Roll Call – Julia Holden 3:45 – 3:46 p.m.
3. Approve the Minutes – Lora Ueland 3:46 – 3:47 p.m.

**MOTION:** Dwight Dively made a motion to approve the minutes of the meeting held on July 28, 2022. Kurt Triplett seconded the motion. Members unanimously approved the motion.

4. Public Comment – Lora Ueland 3:47 – 3:47 p.m.
5. Action Register Review – Lora Ueland 3:50 – 3:52 p.m.

No new actions have been added to the log. Two of the existing actions are expected to be addressed at the September meeting.

6. Executive Director Report – Mike Webb 3:52 – 3:57 p.m.

An assessment of the timing for the transfer of operational responsibility to the Operator is in progress and will be reported at the September Operator Board (Board) meeting.

The work to staff the Operator continues with two positions with a target hiring date of October 2022, and two positions with a target hiring date of November 2022.

The financial startup process is proceeding. Accounts have been established with the King County Treasury and funds have been transferred to the accounts. Work to implement a financial management system is in progress.

Upcoming Board topics for September include an update on the 2023 operating budget and service fees, a recommendation on the timing of the operational transition, and a request for approval of an updated procurement policy. In October, the Board topics will include a request for approval of the 2023 operating budget and service fees, unless it is approved at the September Board meeting, and the Operator staff plan to bring forward any updates on significant procurements and financial policies which require Board approval.

Upcoming board topics for the November meeting were noted in the Executive Director's report. However, as there is no Board meeting that month, those topics will be addressed at the December Board meeting.

7. Startup Spending Update – Tracy Plouse 3:50 – 3:51 p.m.

Spending is tracking under the 2022 baseline.

An Operator account has been established with the King County Treasurer. The Operator staff anticipates having the ability to issue warrants by the end of August 2023. The final step involves the King County Treasurer Accounts Payable team setting up an account for the Financial Manager on the warrant issuance system.

8. Facility Lease Approval – Mike Webb 3:51 – 4:03 p.m.

Item 17 on the Action Plan is the acquisition of a PSERN Operator facility. This space will not house any mission-critical PSERN infrastructure, instead, it will be used to house staff, store equipment, and enable network support functions. The requirement for the facility is approximately 7600 square feet of mixed office and warehouse space with the ability to house up to 24 staff members.

Working with a commercial real estate broker, the Operator staff reviewed several options within a five-mile radius of the I-5 and I-405 interchange. A suitable facility was identified at the Walker Business Park located at 19717 62<sup>nd</sup> Avenue South, Suite E-102, Kent, WA 98032. Co-location with the King County Radio Shop was also considered. The \$304,000 of technical and operational start-up funding previously approved by the Board should be sufficient to acquire, set up, and fund a facility until the end of June 2023.

Three leasing options were provided for review. Two of the options involved leasing the Walker Business Park location for either a 62-month or 88-month term. The other option was co-location with the King County Radio and Communication Shop (RCS) at their SeaTac location. All options reviewed included a rent escalation of three percent per year. None of the options provide

dedicated desk space for every staff member. Hybrid work arrangements such as the hoteling of desks in combination with remote work options will provide flexibility.

Both lease options at the Walker Business Park include a secured dedicated space with 7489 total square feet able to accommodate 24 staff members with 23 dedicated parking spaces. This space provides an accessible office compliant with Americans with Disability Act (ADA) requirements. The landlord included minor tenant improvements such as paint, carpeting, and minor partition configuration in the cost. This location does not have an existing Wide Area Network connection so that will need to be installed. The significant difference between the 62-month and 88-month lease options is the rent abatement provided by the landlord, 2 months, and 4 months respectively. This option would establish a standalone facility for the Operator which could be important in the establishment of a new entity.

The RCS SeaTac option would involve leasing approximately 40% of the existing RCS space on a shared basis. The 8160 square feet space would provide less office space than the other option and accommodate 20 staff members with 8 dedicated parking spaces. The office has an existing WAN connection to King County/INET. The Operator's office would be upstairs in a building without elevator access, so it is not an accessible or ADA compliant facility. No tenant improvements or rent abatement is included. Additionally, the space would need to be cleared out before use.

The recommendation of the Executive Director is to move forward with leasing the Walker Business Park for the 88-month term as it is cost-effective and meets the needs of the Operator staff.

The report includes a copy of the draft lease. The lease was reviewed by the Pacifica Law Group and their opinion was that the lease agreement contained market terms and conditions. The real estate market trend during the facility search timeframe was a tightening of the market with some options becoming unavailable during the search.

In response to a question, the Executive Director noted that the lease does allow for the sublease of the facility if in the future the Operator's needs change. Sublease is subject to Landlord's approval, not to be unreasonably withheld. There is no right to terminate the lease early.

**MOTION:** Kurt Triplett made a motion that the PSERN Operator Board authorize the Executive Director to execute a lease agreement with WFT Company Two LLC for the property located at 19717 62<sup>nd</sup> Avenue South, Suite E-102, Kent, WA 98032 for a term of 88 months. Chief Scoggins seconded the motion. Members unanimously approved the motion.

It was noted that, once the lease is finalized, the Washington Secretary of State and other entities will need to be notified of the address change.

9. Charge Card Policy Approval – Tracy Plouse

4:03 – 4:07 p.m.

Resolution 22-03 providing the authority to open charge card accounts and appointing auditing officers was approved by the Board at the July meeting. As a follow-up to that action, a charge card policy was presented to the Board for review. It includes the recommended best practices from the Washington State Auditor’s Office such as a detailed cardholder agreement, credit limits, clear guidance, and requirement for reconciliation. The Financial Services Manager will oversee the card issuance process with the Executive Director approving any action. Pacifica Law Group has reviewed the proposed policy, and every employee approved to receive a charge card will be required to sign the cardholder agreement noting that they have reviewed the charge card policy.

A question was raised about individual charge card limits as they are not included in the policy. Resolution 22-03 specifies a maximum credit limit of \$50,000 across all cards issued in the program. Each charge card will be assigned a limit when it is approved, and the limit can easily be adjusted if needed.

**MOTION:** Dwight Dively made a motion that the PSERN Operator Board adopt the PSERN Operator Charge Card policy included in the Board materials. Kurt Triplett seconded the motion. Members unanimously approved the motion.

10. 2023 Operating Budget and Rate Setting Update – Tracy Plouse

4:08 – 4:28 p.m.

At the July meeting, the Board of Directors supported the staff recommendation to use a revised cost allocation methodology for calculating PSERN service fee rates.:

X = % of the annual budget to be paid with radio user fees

Y = % of the annual budget to be paid with console user fees

$X = [83\% \text{ of employee-related costs} + A\% \text{ of corporate/admin expenses} + B\% \text{ of network operating expenses}] / \text{annual operating budget} * 100$

$Y = [17\% \text{ of employee-related costs} + (1 - A) \% \text{ of corporate/admin expenses} + (1 - B) \% \text{ of network operating expenses}] / \text{annual operating budget} * 100$

The percentages used for variables A and B are:

		Radios	Consoles
A	Corporate/Admin Cost	75%	25%
B	Technical Operations Cost	70%	30%

When those percentages are used, the result is that 78% of the annual budget would be funded by radio user fees, and 22% of the annual budget would be funded by console user fees.

Earlier, the PSERN Project provided the Operator with a \$2.6M rate stabilization fund intended to offset large increases in rates over the first three years of PSERN rates; however, to offer the originally intended subsidies, the Operator would now need \$6.5M. The Board requested the Operator staff develop two or three scenarios where the \$2.6M is used to offset operating expenses resulting in a smoothing of rate increases or reduction of service rates for all agencies.

The budget scenarios developed for 2023 do not include operating reserves as directed by the Board. Two scenarios were developed for the 2024 budget, one with money set aside for an operating reserve and one without. If the Operator 2023 and 2024 budgets are approved concurrently, the Operator budget would be in sync with most users' budgets. No capital replacement reserves are included in the budgets as additional information and analysis are needed. More details on capital replacement reserves will be brought to the Board at a future time.

Key budget assumptions and notes provided in the report were reviewed, including the collection of service fees beginning on July 1, 2023, projected staffing growth over time, changes in radio quantities, the limited operational history used to estimate network operating expenses, cost escalation estimates, and Motorola post-warranty support starting July 2025.

The use of Washington's DOR IPD to estimate cost increases was discussed. It was noted that many organizations use one of the Consumer Price Indices (CPI) published by the United States Bureau of Labor Statistics. The CPI projects a 7-9% cost increase so the IPD projection of 4% seems low for 2023. Operator staff will analyze the impact of the CPI increase on the budget projections. The Director Dively shared that King County labor contracts for non-public safety workers for the next two years include a 4% wage increase which is in line with the IPD.

**ACTION:** Dwight Dively will forward the King County economic office 10-year forecast to the Operator staff.

Several scenarios were presented detailing the impact of the rate stabilization fund. All scenarios account for the Motorola warranty expense starting in mid-2025. The baseline scenario, scenario 1, and scenario 2 include operating reserve collection beginning in 2024. Scenario 3 does not include operating reserve collection in 2024.

Operator staff were directed to provide an updated draft budget with cost increases based on the CPI at the September meeting. Board members requested this information be provided at the monthly pre-brief meetings. Additionally, once the Project schedule is stable and remaining Project costs are better understood, the Operator Board would like an assessment of how any funds remaining at the end of the Project might be used to further smooth the transition to the new rates.

11. PSERN Board of Directors Officer Report – Board Officers 4:29 – 4:31 p.m.

No updates.

12. Review New Action Items – Lora Ueland 4:31 – 4:31 p.m.

- Recalibration of the budget using the CPI.

13. Executive Session – Lora Ueland

No Executive Session was held.

Meeting adjourned at 4:32 p.m.

Next Meeting: September 22, 2022





## Board of Directors Action Log – Open Items

Date Opened	Item	Person Responsible	Deadline for Completion	Notes
3/24/22	2023 budget and service fee development	Mike Webb/Tracy Plouse	10/31/22	Target early draft by August board meeting.
3/24/22	Sublease agreement template for radio sites drawn up for further discussion	Mike Webb	TBD	Will revisit in 1Q 2023.
4/28/22	Provide a report on possible changes to the Operator ILA associated with a change to the milestone at which the Operator takes over operational responsibility. Assess the Motorola contract for any concerns.	Mike Webb	9/22/22	This pertains to the proposal to set the date for operational transition and PSERN service fee commencement to something other than FSA.
5/26/22	Review existing procurement policy to consider issues identified in Clark Nuber phase 1 report.	Mike Webb/Tracy Plouse	9/22/22	Report/recommendation to be provided for approval.
8/25/22	Update the draft budget and service fee estimates to reflect revised CPI rates.	Tracy Plouse	9/22/22	Updated budget report provided for September meeting.



# PSERN Board of Directors Staff Report

## Agenda Item #6



**Title:** Executive Director Report – September 2022  
**Meeting Date:** September 22, 2022  
**PSERN Staff Contact:** Michael Webb, Executive Director  
**Action:** Discussion

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### **SUMMARY:**

This report provides a summary of the activities of the PSERN Operator (PSERN) since the last report to the Board at the August 2022 meeting.

### **ANALYSIS:**

#### PSERN Project to Operator Transition

- A separate report (agenda item 8) is being presented, for discussion, on the optimal timing for transfer of PSERN operational responsibility to the PSERN Operator and related considerations.

#### Staffing/Hiring

- The PSERN Administrator position is now vacant, as a result of the incumbent resigning on August 29<sup>th</sup>.
  - A decision on how to fill this position will be made shortly
- The Technical Operations Manager position posting closes September 23<sup>rd</sup>.
- The Radio Operations Supervisor position posting closes September 19<sup>th</sup>.
- The Administrative Specialist II position posting closes September 14<sup>th</sup>.
- The Fiscal Specialist position posting closes September 21<sup>st</sup>.

#### Financial Startup

- Agreements with King County for the provision of cash management and investment services are fully executed:
  - The County Treasurer has established the required funds/accounts for PSERN.
  - Transfer of startup funds (administrative and initial cash flow) are complete.
  - The Operator is now able to action its own Payables via the County Treasurer.
  - Applications for acquisition of charge cards are in progress.
- An agreement to acquire and implement a cloud-based financial management software application has been executed with the vendor (Caselle).
- A set of proposed amendments to the PSERN Operator Procurement Policy is being brought forward under a separate report (agenda item 9).

#### 2023 Operating Budget and Service Fee Development

- A separate report (agenda item 10) has been provided on the 2023 Operating Budget and Service Fee

development.

### Records Management

- No further work has been done on the draft records management policy/procedure for the Operator due to the absence of the PSERN Administrator.
  - The document will be routed to the Board for discussion and/or approval at a future date.
- Work is underway to migrate PSERN Operator documents into a dedicated Sharepoint environment

### Workspace/Facility

- The lease on the PSERN Operator facility in Kent has been fully executed.
  - Discussions are underway with the landlord on insurance and lease payment arrangements.
- The date of occupation is dependent on confirmation from the landlord on its schedule for completion of the improvements (paint, flooring, and lighting upgrades).
- Work is underway to implement network connectivity and cabling for the new facility.
- Planning is underway to relocate existing furniture previously acquired by the PSERN Project to the new facility and acquire additional furniture:
  - The Startup Spending Update report (agenda item 7) includes a motion to authorize expenditures of up to \$100,000 for the supply, transport and installation of this furniture.

### Upcoming Board Meeting Topics

- Topics expected to be brought forward over the next 3 board meetings include the following:
  - October 2022:
    - Approval of 2023 operating budget and service fees.
    - Further update on Operator transfer date and/or transfer agreement.
    - Approval of financial/administrative policies, as required.
    - Update and/or approval of significant procurements, as required.
  - November 2022:
    - Approval of financial/administrative policies, as required.
    - Update and/or approval of significant procurements, as required.
  - December 2022:
    - Update and/or approval of significant procurements, as required.
    - Approval of financial/administrative policies, as required.
- These topics are in addition to the regular standing items, including the Action Item Log, Executive Director's report and Startup Spending Update.

### **CONCLUSION:**

This report has provided a summary of the work undertaken by the PSERN Operator since the previous report in August.

**SUPPORTING DOCUMENTATION:**

None

# PSERN Operator Board of Directors

## Staff Report - Agenda Item #7



**Title:** Startup Spending Update – September 2022  
**Meeting Date:** September 22, 2022  
**Staff Contact:** Tracy Plouse, Finance Manager  
**Action:** Discussion/Decision

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### **SUMMARY:**

This report provides an update on PSERN Operator startup expenditures to the end of August 2022, and a revised forecast of expenditures to the end of June 2023, the point at which the PSERN Operator is currently forecast to assume operational responsibility. A request for board authorization to purchase and relocate office furniture for the PSERN Operator facility in Kent, WA is included in this report.

### **BACKGROUND:**

As discussed in the January 2022 report to the Board (Startup Staffing and Spending Plan), in the absence of a financial management system and supporting policy and processes for PSERN, the Executive Director will provide monthly status reports/updates at each Board meeting that describe:

- Year-To-Date spending against the baseline spending plan (for administrative startup).
- Revisions to expenditure forecasts, including cost estimates and timing.

At its January 2022 meeting the Board also approved the spending plan presented by the Executive Director with the condition that significant expenditures in excess of \$50,000 require further, explicit Board approval.

As of August 2022, the Finance Manager has assumed responsibility for this reporting. At the May 2022 meeting, the Board approved additional startup funds for technical and operational expenses. An additional table was added to this report beginning with the June 2022 report.

The Operator established a fund with the King County Treasurer after the July 2022 Board's approval of the King County cash and investment management agreements. The Finance Manager is in the process of obtaining access to the King County accounts payable system for issuing warrants and KCIT Finance has initiated the transfer of the startup funds. The Operator expects to issue its first warrants by the end of September 2022.

Starting with August 2022, the PSERN Operator will reimburse the PSERN Project directly from the startup funds on deposit in the Operator's account. KCIT Finance will submit an invoice to the Operator after the month end closing and the Operator will authorize transfer of funds from its account to reimburse the Project. For the month of August 2022, the invoice included wages, benefits, King County services, other contracted services and administrative office expenses. Once the Operator begins issuing warrants, the expenses incurred by and reimbursed to the Project will only include wages, benefits and King County services.

At the point the PSERN Operator has its own financial management system later in the fall of 2022, standardized or pro forma financial reports will be provided on a regular basis to be determined by the Board.

## **DISCUSSION/ANALYSIS:**

Appendix A provides a summary of the Year-to-Date spending of the PSERN Operator as of the end of August 2022. Spending to date is currently on-track and/or below the estimates provided in the baseline spending plan.

The following notes apply:

- The 2023 forecast has been updated to cover a 6 month period, as it now assumes FSA occurring at the end of June 2023. Spending estimates show that there will be adequate funds available to fund the PSERN Operator until that date. However, if commencement of PSERN service fees is delayed any further than June 2023, it is likely that the Operator will need additional startup funds to operate.
- Staffing spending is shown as tracking under forecast as the Finance Manager started May 16th (budget was based on April 1<sup>st</sup>). The Technical Operations Manager has been re-forecast to start November 1<sup>st</sup>, rather than July 1<sup>st</sup> as currently budgeted. As of June 2022, fifty percent (50%) of the Executive Director's salary and benefits is now being charged to the PSERN Project.
- Estimated costs for 2022 have been revised to reflect updated staffing plans, revised estimates for consulting services and accounting software and postponement of asset management software implementation. These costs will now be incurred in 2023 rather than 2022, and the "2023 (forecast)" column was updated to reflect those changes.
- The majority of expenditures to date are staffing and benefits, with small expenditures for legal services, King County IT services, financial consulting services and miscellaneous administrative expenses (e.g. business license fees)

As discussed above, the Board has previously directed that significant expenditures in excess of \$50,000 require further, explicit Board approval. Within the approved Technical/Operational startup budget approved in May, there is a budget of \$200,000 for "Tenant Improvements" associated with the PSERN Operator facility in Kent, WA. This includes costs for furniture and fittings for the facility.

In order for the Operator to proceed with setting up facility without delay, Board authorization to expend up to \$100,000 of Technical/Operational Startup funds for the supply, transport, assembly and installation of office furniture is being requested. The Operator will procure these goods and services under King County contract #000252 from Keeney's Office Supply. Although a detailed proposal has not yet been received from the vendor, this authorization will allow the Operator to place orders and schedule work without delay.

## **RECOMMENDATIONS:**

In order to move forward with furnishing the PSERN Operator Kent, WA facility, it is requested that the Board of Directors approve the following motion:

**MOTION:** That the PSERN Operator Board authorize the Executive Director to expend up to \$100,000 for the supply, transport, assembly and installation of office furniture under King County contract #000252 (Keeney's Office Supply).

## **CONCLUSION:**

This report provides an update on administrative and operational startup expenditures to the end of August 2022 and a revised forecast of expenditures to the end of June 2023. Spending to date is currently on-track or below the estimates provided in the baseline spending plan and has been re-profiled to enable startup funds to last until the end of June 2023. This report is also requesting approval for purchase of furniture for the PSERN Operator facility.

**SUPPORTING DOCUMENTATION:**

**Appendix A: PSERN Operator Spending (Year-to-Date and Forecast) – August 2022**

A summary of expenditures to end of August 2022 and revised forecasted expenditures during PSERN’s startup phase in 2021, 2022 and 2023 (prior to operational transition), are provided in the table below.

This covers the administrative staffing and initiatives discussed in the January 2022 report as well as staffing and spending plan discussed in the May 2022 report for Technical Startup funding. Both plans have been re-profiled, with hiring and spending delayed to enable startup funds to last until end of June, 2023. The table will be updated every month once transactions post to that the applicable account.

Admin Startup Funding									
Item	2021 (actual)	2021 (baseline)	2022 (YTD)	2022 (forecast)	2022 (baseline)	2022 (variance)	2023 (forecast)	Total Startup (forecast)	TOTAL Startup Budget
Salary & Benefits	\$ 46,308	\$ 39,724	\$ 282,899	\$ 645,604	\$ 667,800	\$ (22,196)	\$ 567,893	\$ 1,259,804	\$ 1,049,500
Insurance	\$ 3,488	\$ 3,488	\$ 3,030	\$ 3,500	\$ 5,000	\$ (1,500)	\$ 2,000	\$ 8,988	\$ 10,000
King County Services			\$ -			\$ -		\$ -	
<i>HR, IT Support, Office Lease</i>	\$ 7,506	\$ 7,355	\$ 14,711	\$ 51,394	\$ 54,200	\$ (2,807)	\$ 30,556	\$ 89,455	\$ 91,500
Consulting Services			\$ -			\$ -		\$ -	
<i>Legal Services</i>	\$ 6,766	\$ 6,766	\$ 14,580	\$ 32,000	\$ 86,400	\$ (54,400)	\$ 55,000	\$ 93,766	\$ 122,000
<i>Financial Advisory</i>			\$ 55,000	\$ 60,000	\$ 60,000	\$ -	\$ 30,000	\$ 90,000	\$ 90,000
<i>Security/ Other Consulting</i>			\$ -	\$ 25,000	\$ 50,000	\$ (25,000)	\$ 50,000	\$ 75,000	\$ 80,000
Office/Administrative Expenses			\$ 2,639	\$ 18,700	\$ 12,900	\$ 5,800	\$ 37,100	\$ 55,800	\$ 21,000
Transportation Expenses			\$ -	\$ 2,310	\$ 6,500	\$ (4,190)	\$ 1,155	\$ 3,465	\$ 9,800
PSERN-Specific IT Systems			\$ -			\$ -		\$ -	
<i>Financial/Accounting</i>			\$ -	\$ 20,728	\$ 37,700	\$ (16,972)	\$ 10,056	\$ 30,784	\$ 54,200
<i>Asset Management</i>			\$ -	\$ 45,000	\$ 54,300	\$ (9,300)	\$ 16,000	\$ 61,000	\$ 70,300
<i>Service Management</i>			\$ -	\$ -	\$ 6,000	\$ (6,000)	\$ 18,000	\$ 18,000	\$ 15,000
IT Equipment (all staff)			\$ -			\$ -	\$ 70,400	\$ 70,400	\$ 79,400
Vehicle Fit-Out			\$ -			\$ -	\$ -	\$ -	\$ 142,000
Technician Tools/Equipment			\$ -			\$ -	\$ -	\$ -	\$ 12,800
TOTAL	\$ 64,067	\$ 57,333	\$ 372,859	\$ 904,236	\$ 1,040,800	\$ (136,564)	\$ 888,160	\$ 1,856,463	\$ 1,847,500
<b>TOTAL Startup by Year</b>	<b>\$ 64,067</b>	<b>\$ 57,333</b>		<b>\$ 904,236</b>			<b>\$ 888,160</b>	<b>\$ 1,856,463</b>	<b>\$ 1,847,500</b>
Tech Startup Funding									
Item	2021 (actual)	2021 (baseline)	2022 (YTD)	2022 (forecast)	2022 (baseline)	2022 (variance)	2023 (forecast)	Total Startup (forecast)	TOTAL Startup Budget
Salary & Benefits			\$ -	\$ 103,156	\$ 267,285	\$ 164,129	\$ 691,478	\$ 794,634	\$ 815,895
Insurance			\$ -	\$ 600	\$ 600	\$ -	\$ 2,400	\$ 3,000	\$ 2,400
King County Services			\$ -			\$ -		\$ -	\$ -
<i>Services/non-labor costs</i>			\$ -	\$ 4,903	\$ 13,075	\$ 8,172	\$ 33,092	\$ 37,995	\$ 41,075
Other Office Costs			\$ -			\$ -			
<i>Tenant Improvements</i>			\$ -	\$ 200,000	\$ 200,000	\$ -	\$ -	\$ 200,000	\$ 278,000
<i>Office Lease &amp; Utilities</i>			\$ -	\$ 28,000	\$ 39,000	\$ 11,000	\$ 84,000	\$ 112,000	\$ -
<i>Vehicle Lease &amp; Operating</i>			\$ -	\$ 3,275	\$ 3,275	\$ -	\$ 19,650	\$ 22,925	\$ 55,250
<i>Vehicle Acquisition &amp; Fuel</i>			\$ -	\$ 3,638	\$ 5,288	\$ 1,651	\$ 32,025	\$ 35,663	\$ -
<i>Travel, Training, Misc Supplies</i>			\$ -	\$ 4,000	\$ 4,000	\$ -	\$ 10,000	\$ 14,000	\$ 14,000
<i>Cell Phones</i>			\$ -	\$ 450	\$ 1,200	\$ 750	\$ 2,925	\$ 3,375	\$ 3,675
TOTAL			\$ -	\$ 348,021	\$ 533,723	\$ 185,702	\$ 875,569	\$ 1,223,591	\$ 1,210,295
<b>TOTAL Startup by Year</b>				<b>\$ 348,021</b>			<b>\$ 875,569</b>	<b>\$ 1,223,591</b>	<b>\$ 1,210,295</b>



# PSERN Board of Directors Staff Report

## Agenda Item #8



**Title:** PSERN Operator Transfer Date  
**Meeting Date:** September 22, 2022  
**PSERN Staff Contact:** Michael Webb, Executive Director  
**Action:** Discussion

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### **SUMMARY:**

This report discusses the considerations and alternatives for re-defining the date of operational transfer to the PSERN Operator and ensuring its financial sustainability, given changes to FSA date. There are two general approaches that can be taken, and both need to be further assessed from a legal and financial perspective before a decision can be made.

### **BACKGROUND**

At the January 2022 meeting, the Executive Director presented a report outlining the proposed administrative startup staffing and spending plan for the PSERN Operator.

At the March 2022 meeting, the Executive Director presented a report outlining the proposed technical and operational startup staffing and spending plan for the PSERN Operator.

At the April 2022 meeting, the Executive Director presented a report outlining the operational startup funding requirements. The additional funding requirements (\$1.2M) were based on the staffing/spending plan presented in March and were subsequently approved by the Board at its May 2022 meeting.

The startup funding requirement discussed in the January, April and May reports assumes the PSERN Operator begins to collect service fees at the Final System Acceptance (FSA) milestone within the Motorola contract, as currently specified in the PSERN Operator Interlocal Cooperation Agreement (ILA). At the time of those reports, the FSA date was forecast as March 2023. The April report discussed the financial risk to the PSERN Operator associated with significant delays in FSA and recommended that the Board consider setting the “Operator Transfer Date”<sup>1</sup> to a date prior to and separate from FSA to mitigate that financial risk.

Subsequent to the funding approval in May, the staffing plan was revised to enable existing funding to stretch until the end of June 2023, which is the currently published FSA date. This was achieved by delaying hiring of most PSERN Operator staff positions to a later time within the startup period.

With a delay in FSA to a date in late fall 2023 now appearing likely, the Board needs to determine what action should be taken to ensure the PSERN Operator is sustainable financially after June 2023. In addition, the plan for providing operational support for the network and its users in the period after user transition and prior to FSA also needs to be determined.

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<sup>1</sup> Although “Operator Transfer Date” is not defined in the Operator ILA, it is equivalent to the date for commencement of the “Operations Period” which is defined in the ILA as occurring at FSA. Effectively, this is the date at which the PSERN Operator would assume operational responsibility for the network and PSERN service fees would commence.

The preferred approach is to enable the PSERN Operator to take over operational responsibility at a date earlier than FSA, as discussed in the April report. This is referred to as the Operator Transfer Date, as noted above. The most logical date would be at the end of user agency transition, which is currently forecast as June 2023.

This would enable the PSERN Operator to develop its operational capabilities, including hiring and onboarding of technical staff, on the current timeline to June 2023. It would significantly reduce operational risk, by shortening the time after user transition that PSERN system operations will be in an interim state and only partially staffed as the sole responsibility of the PSERN Project (King County).

The method of funding the PSERN Operator after the Operator Transfer Date and prior to FSA needs to be assessed and determined.

#### **ISSUES:**

To address these financial and operational risks, the Board should consider the following issues:

**Issue #1: What should the Operator Transfer Date be?**

**Issue #2: What is required to establish the Operator Transfer Date as something other than FSA?**

**Issue #3: What approach should be used to assign operational responsibility to the PSERN Operator and ensure it is appropriately funded prior to FSA?**

#### **ANALYSIS/DISCUSSION:**

The following analysis and discussion address the issues identified in the previous section.

**Issue #1: What should the Operator Transfer Date be?**

A report to the Project Joint Board at the September meeting is discussing changes to the project schedule that would result in the following revised milestones:

- Completion of radio deployment and user transition – June 2023
- Final System Acceptance – December 2023

Assuming this schedule is met, the PSERN network will be fully operational, with all agencies transitioned, at the end of June 2023. At that point, PSERN (Project or Operator) must be capable of fulfilling all operational functions and responsibilities defined in its service level agreements (SLAs) with user agencies. These are described in more detail in the March 2022 report referred to above and also summarized, for the Operator, in Section 3.0 of the Operator ILA as:

*The PSERN Operator shall have the responsibility and authority for providing communication Services as provided in this Agreement, including but not limited to owning, operating, maintaining, managing and ongoing upgrading/replacing of the PSERN System during the Operations Period and all related incidental radio communications functions.*

Prior to the Operator Transfer Date, the responsibility for these functions rests with the PSERN Project, with the PSERN Operator only partially staffed to support that effort, subject to limitations in its startup funding.

The Operator Transfer Date should be set according to the timeline for completion of user transition, which is projected to be June 2023 as discussed above. The precise date needs to be confirmed

several months in advance to ensure that staff transition, setup of billing arrangements and establishment of operational support arrangements (vendor contracts, etc.) can be appropriately planned and implemented.

There are three major reasons for setting the Operator Transfer Date at or before the end of user transition and not six months later at FSA:

- It will significantly reduce operational risk, by shortening the time after user transition that PSERN system operations will be in an interim state and only partially staffed, as the responsibility of the PSERN Project (King County).
- Transition of existing King County RCS and PSERN Project staff to the PSERN Operator needs to occur as early as possible to ensure retention and continuity of the workforce.
- A clean transition from KCERCS service fees to PSERN service fees could be made at that point, as agencies will no longer be using the KCERCS network.

If the Operator Transfer Date is maintained at FSA, agencies will continue to pay KCERCS service fees for an additional 6 months as it is decommissioned, while PSERN Project funds will need to be expended to support and maintain the PSERN network. A later date for staff transition will also increase the level of staff attrition, particularly within the Project.

## **Issue #2: What is required to establish the Operator Transfer Date as something other than FSA?**

There are several considerations that must be addressed to establish the Operator Transfer Date as something other than FSA.

### ILA Changes

Pacifica Law Group has provided a memorandum outlining the necessary amendments to the Operator ILA to set the commencement date for the Operations Period to something other than the FSA date. The memo provides a form of draft amendment as Exhibit A and specifies that the PSERN Operator Board has broad authority to amend the ILA without invoking the requirement for approval from the legislative bodies of the parties to the Interlocal Agreement. The memo does not address related issues that are tied to FSA in the Operator ILA – such as the transition of certain employees. These related issues will be addressed after the Board provides a recommendation on the Operations Period generally, and may require additional amendment to the Operator ILA prior to it being considered by the Board.

Given the broad authority in the Operator ILA, if the Board so desires and after giving 30 days advance written notice to the partners, it could adopt a resolution approving an amendment to the ILA to separate Operations Period from FSA milestone of the PSERN Project.

### End User and Dispatch SLA Changes

Both the End User SLA and the Dispatch Center SLA specify that the operator transfer will occur following FSA. While it is possible to amend these agreements, it would be a difficult and time-consuming process given the large number of SLAs that have been executed.

The “Governing Body” can amend the agreements, but for the End User SLA, agreement by the parties is also required, so agreement would be required from all End User agencies. The Governing Body is defined to be either the Joint Board or the Operator Board depending on the timing of the amendment.

## King County – PSERN Operator Transfer Agreement

Prior to the PSERN Operator Transfer Date, an agreement will need to be negotiated and executed between the PSERN Operator and King County (Transfer Agreement). The Transfer Agreement will identify all assets, agreements, obligations and liabilities to be assigned or transferred to the PSERN Operator. This will include radio infrastructure equipment/assets, miscellaneous equipment, documentation, radio site leases, radio and dispatch service level agreements (SLAs), the Motorola contract and any other vendor contracts and agreements.

The schedule for development and execution of the Transfer Agreement is being developed by PSERN Project staff and further information will be provided to the Board at future meetings. In addition to agreement execution, the transfer process will need to close prior to the Operator Transfer Date.

### Motorola Contract

A significant issue with setting the Operator Transfer Date to occur prior FSA is the implications for assignment of the Motorola contract under the Transfer Agreement.

If the contract were to be assigned prior to FSA and contract close-out, the PSERN Operator would become liable for all outstanding obligations currently held by King County.

A potential solution to this issue would be to not assign the Motorola contract at the Operator Transfer Date but have King County (PSERN Project) continue to be responsible for the contract until the FSA date. This means that the Operator would be responsible to the users for the operation and support of the network (per the SLAs) but would have to rely on the County to ensure Motorola delivers on its obligations under the contract.

There may be obligations flowing the other way as well, i.e. actions or deliverables that the Operator would have to undertake in order to fulfill the County's obligations under the contract.

Language would need to be included in the Transfer Agreement that states that the County will continue to administer the contract and retain all responsibilities and liabilities under it until the FSA date, at which point it would be assigned to the PSERN Operator. Additional language will be needed, substantially to the effect that the County agrees to take all action required, at the direction of the PSERN Operator, during the period between commencement of Operations Period and FSA, to ensure that the PSERN Operator can fulfill its responsibilities under the ILA and user agency SLAs during the Operations Period.

Because the PSERN Operator won't "own" the system until FSA, this may require a further edit to the Operator ILA and/or Transfer Agreement that explicitly defines that ownership transfers at FSA. This is effectively creating a two-step transfer process that may be complex and may raise additional issues that haven't so far been identified.

### **Issue #3: What approach should be used to assign operational responsibility to PSERN Operator and ensure it is funded prior to FSA?**

The discussion above leads to two potential approaches:

1. Two Step Transfer Process:
  - a. All assets and agreements, except the Motorola contract and associated assets, are assigned to the PSERN Operator at the Operator Transfer Date, which would be prior to FSA.

- b. The Motorola contract and associated assets would transfer at FSA.
  - c. KCERCS service fees would stop and the PSERN service fees commence at the Operator Transfer date.
  - d. The Operator ILA would need to be amended, along with the SLAs as discussed above.
  - e. The Transfer Agreement would need additional language to reflect the multiple closing dates for asset/agreement transfer.
2. Subcontracting of Operational Responsibility:
- a. The PSERN Project subcontracts the operational responsibilities defined in the SLAs to the PSERN Operator.
  - b. A service agreement would need to be negotiated and executed between the County (PSERN Project) and PSERN Operator that defines these responsibilities and the reimbursement of staffing and operational costs to be incurred by the PSERN Operator.
  - c. The PSERN Operator would not set an operating budget and collect PSERN service fees for the period prior to FSA. Timing and method of budget approval and setting or estimating PSERN service fees would need to be determined.
  - d. The Transfer Agreement would reflect all assets/agreements transferring at FSA.
  - e. A decision would need to be made regarding the ongoing collection of KCERCS service fees given that the system would no longer be in use.

**RECOMMENDATION:**

As discussed above, it is recommended that the “Operator Transfer Date” be established at a date aligned with (on or before) the completion of user transition to the PSERN system. This is currently projected to be the end of June 2023.

The “Operator Transfer Date” would be the date at which the PSERN Operator assumes responsibility for operational support of the network and its users, as specified in the Operator ILA and user agency SLAs.

Should the Board determine that it wishes to proceed, in-depth legal and financial review will be needed to determine the approach to be followed, as discussed above. If the subcontracting path is followed, the timing and method of budget approval and setting or estimating PSERN service fees would need to be determined.

Further assessment of the impact on the Transfer Agreement, Implementation ILA and the user agency SLAs for either approach is going to be required. Drafting of documentation required to amend the Operator ILA may be required, depending on the approach followed.

**CONCLUSION:**

This report has discussed the considerations and alternatives for re-defining the date of operational transfer to the PSERN Operator and ensuring its financial sustainability, given changes to FSA date. There are two general approaches that can be followed, and both need to be further assessed from a legal and financial perspective before a decision can be made.

**SUPPORTING DOCUMENTATION:**

**Appendix A: Memo – Pacifica Law Group**

**MEMORANDUM**

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TO: Puget Sound Emergency Radio Network Operator  
FROM: Pacifica Law Group LLP  
DATE: September 9, 2022  
SUBJECT: Amendment to the Puget Sound Emergency Radio Network Operator Interlocal Cooperation Agreement

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**I. Introduction**

The Puget Sound Emergency Radio Network (“PSERN”) Operator (the “PSERN Operator”) was organized under the Puget Sound Emergency Radio Network Operator Interlocal Agreement (the “Interlocal Agreement”) for the purpose of assuming the ownership and control of the PSERN system following Full System Acceptance (as such term is defined in the Interlocal Agreement) and owning, operating, maintaining, and managing the PSERN system during its useful life. The PSERN system is in the developmental phase pursuant to a contract managed by King County with an expected completion date to occur in fall of 2023. The PSERN Operator has been ramping up, including staffing various technical and operational positions, in anticipation of assuming operations of the PSERN system.

In order to proceed with hiring and other expenditures, and to have revenues to support such operations, the PSERN Operator needs move into the “Operations Period” under the Interlocal Agreement. The “Operations Period” under the Interlocal Agreement, however, is tied to achieving Full System Acceptance of the PSERN project. This poses a significant financial risk if the PSERN Operator moves forward with operations, and Full System Acceptance of the PSERN project is delayed. In order to mitigate this risk, the PSERN Operator Board of Directors (the “Board”) is considering redefining the term “Operations Period” under the Interlocal Agreement to uncouple it from the concept of Full System Acceptance.

This memo outlines the process for amending the Interlocal Agreement, and includes a proposed draft amendment to revise the definition of “Operations Period” in Exhibit A. Note that this memo does not currently address related concepts that are tied to FSA under the Interlocal Agreement, such as the transfer of certain employees. These related issues will need to be addressed after an initial determination is made with respect to the Operations Period, and may require additional amendments to the Interlocal Agreement before it is considered by the Board.

**II. Amendment to the Interlocal Agreement**

The Board has broad authority to amend the Interlocal Agreement. Section 4.0(a) of the Interlocal Agreement provides the Board authority to amend the Interlocal Agreement in order for

it to carry out its corporate business, subject to the provisions of Section 15.13. Section 15.13 states:

#### 15.13 Amendments

15.0.1 Except as provided in this Section, the Agreement may be amended by the Board of Directors from time to time in order to carry out the corporate purposes of the PSERN Operator. Any such modification shall be in writing and executed by the Chair of the Board of Directors after providing not less than thirty days' advance written notice to all Parties of such proposed modification, and upon unanimous approval of the Board of Directors. However, the following terms of this Agreement may only be amended in writing after approval of each of the legislative bodies of Seattle, King County, EPSCA, and Valley Com; however, for purposes of this legislative determination, EPSCA and Valley Com will each be responsible to determine what constitutes legislative approval or disapproval from their member cities, before tendering their single vote on amendment:

- a Expansion of the PSERN Operator's scope of services or Party funding obligations described in Section 3.0.
- b The composition of the Board of Directors.
- c Addition of new Parties.
- d Voting rights of members of the Board of Directors.
- e Powers of the Board of Directors.
- f Hold harmless and indemnification requirements.
- g Provisions regarding duration, dissolution, termination or withdrawal.
- h The conditions of this Section.

15.0.2 Nothing in this Section 15.13 shall be construed to require legislative authority consent for the agreement to serve an additional User Agency.

The proposed amendment to the definition of "Operations Period" does not fall within the items listed in (a) through (h) above that would require approval of the legislative bodies of the parties to the Interlocal Agreement. As a result, if the Board so desires and after giving 30 days advance written notice, it could adopt a resolution approving an amendment to the Interlocal Agreement to separate Operations Period from Full System Acceptance of the PSERN project.

### **III. Proposed Amendment to Interlocal Agreement**

A proposed form of amendment to the Interlocal Agreement is attached hereto in Exhibit A.



Exhibit A  
Proposed Amendment to the Interlocal Agreement  
(attached)

[DRAFT]

**FIRST AMENDMENT TO  
PUGET SOUND EMERGENCY RADIO NETWORK  
OPERATOR INTERLOCAL COOPERATION AGREEMENT**

This FIRST AMENDMENT TO PUGET SOUND EMERGENCY RADIO NETWORK OPERATOR INTERLOCAL COOPERATION AGREEMENT (this “Amendment”) dated this \_\_\_ day of \_\_\_\_\_, 202\_\_, amends that certain PUGET SOUND EMERGENCY RADIO NETWORK OPERATOR INTERLOCAL COOPERATION AGREEMENT, dated \_\_\_\_\_, 2020 (the “Interlocal Agreement”).

W I T N E S S E T H

**WHEREAS**, the Puget Sound Emergency Radio Network (“PSERN”) Operator (“PSERN Operator”) is a separate governmental agency formed under RCW 39.34.030(3)(b) that is organized as a non-profit corporation under chapter 24.06 RCW as authorized chapters 39.34 and 24.06 RCW and the Interlocal Agreement; and

**WHEREAS**, pursuant to Sections 4.0 and 15.13 of the Interlocal Agreement, the PSERN Operator Board of Directors (the “Board”) by unanimous vote after providing proper written notice to the parties to the Interlocal Agreement, has authority to amend certain provisions of the Interlocal Agreement; and

**WHEREAS**, the PSERN Operator is prepared to hire staff and make certain expenditures with respect to its operations but will not receive user fees for such costs until it enters into the “Operations Period” under the Interlocal Agreement; and

**WHEREAS**, the “Operations Period” under the Interlocal Agreement, however, cannot begin until Full System Acceptance (as defined in the Interlocal Agreement) is achieved with respect to the PSERN project, which was estimated to occur in March 2023 and is now expected to occur in late 2023; and

**WHEREAS**, in order to proceed with hiring and other expenditures necessary to its operations while mitigating the risk that Full System Acceptance is further delayed, the Board now desires to amend the definition of “Operations Period” in the Interlocal Agreement as set forth herein; and

**WHEREAS**, notwithstanding the amendment to the definition of Operations Period as set forth herein, the parties to the Interlocal Agreement expect that King County Contract No. 5729347 (Contract for the Design, Development, Implementation, Testing and On-Going Support, Maintenance and Upgrade of the Puget Sound Emergency Radio System), executed on December 17, 2014, will continue to be managed by King County until Full System Acceptance is achieved;

NOW, THEREFORE, in consideration of the foregoing premises the Interlocal Agreement is amended as follows:

AGREEMENTS

**Section 1.01. Definitions.** All words and phrases not otherwise defined herein shall have the meanings given to them in the Interlocal Agreement.

**Section 1.02. Amendment to Interlocal Agreement.** Section 1.2. (Definitions) of the Interlocal Agreement is hereby amended as follows (additions are double underlined and deletions are ~~stricken~~):

1.2.10 Operations Period means the period that commences on the Operator Transfer Date ~~with the first full month after FSA~~ and continuing through the life of the PSERN System.

Operator Transfer Date means \_\_\_\_\_.

**Section 1.03. Ratification and Confirmation.** All other terms and conditions of the Interlocal Agreement are hereby ratified and confirmed.

**Section 1.04. Effective Date.** The amendment set forth herein shall be effective after approved by an affirmative unanimous of the Board, as provided in the Interlocal Agreement.

Dated: \_\_\_\_\_, 202\_\_.

PUGET SOUND EMERGENCY RADIO  
NETWORK OPERATOR

By: \_\_\_\_\_  
Chair: \_\_\_\_\_

# PSERN Board of Directors Staff Report

## Agenda Item #9



Title: Procurement Policy Amendment  
PSERN Operator Board of Directors Meeting Date: September 22, 2022  
PSERN Staff Contact: Tracy Plouse, Finance and Administrative Services Manager  
Action: Decision

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### **SUMMARY:**

This report presents revisions to the procurement policy that was adopted by the Board at the December 2021 meeting. Revisions include added language to address procurement ethics, a procedure for use of vendor rosters for the procurement of Goods and the general establishment of vendor rosters. A resolution authorizing the Executive Director to establish vendor rosters is also presented for Board approval.

### **BACKGROUND:**

At its December 2021 meeting, the PSERN Operator Board approved a procurement policy developed by Pacifica Law Group. At its January 2022 meeting, the Board approved Resolution 22-01 – Resolution to Establish Small Works Roster Pursuant to RCW 39.04.155.

Subsequently, Clark Nuber PS was engaged to provide financial consulting and make recommendations around financial startup. Their review of the current procurement policy recommended that a section addressing procurement ethics be added and that the process for obtaining quotes be further clarified and documented.

For reference, the relevant Clark Nuber report recommendations are as follows:

- *Minimal competition for small purchases/contracts is not referenced in the policy, i.e. “PSERN may procure goods with an estimated value of less than \$10,000 using the method it determines will provide the greatest attainable levels of quality and value.”*
- *There is not a Code of Ethics/Conflict of Interest section.*
- *For purchases below bid limits, there are no procedures identified for obtaining quotes from vendors including the number of quotes, the process for obtaining quotes, and how to document the process, i.e. “PSERN may procure goods with an estimated value of less than \$10,000 using the method it determines will provide the greatest attainable levels of quality and value.”*

In consultation with Pacifica Law Group, it was also determined that a general procedure for establishing vendor rosters should be added and that the use of rosters for the procurement of Goods should be specified.

### **ISSUES:**

Prior to the approval of the amended procurement policy and resolution authorizing the Executive Director to establish vendor rosters, two issues need to be addressed.

**Issue #1: Does the draft revised procurement policy need any additional changes prior to its adoption?**

**Issue #2: Does the draft resolution 22-06 granting the Executive Director authority to establish vendor rosters need any additional changes prior to its adoption?**

### **ANALYSIS:**

The following analysis addresses the issues identified in the previous section.

**Issue #1: Does the draft revised procurement policy need any additional changes prior to its adoption?**

The provided draft procurement policy is an updated version of the one adopted by the Board at the December 2021 meeting. In the revised version of the policy, provided in Appendix A, comments are provided to the reader identifying areas where revisions were made and where further discussion may be needed. Following the Board’s review of the document and the conclusion of its discussion, the policy can then be voted on for adoption by the Board.

The following revisions were made to the previously adopted version:

- Section 5.3.2 – language to allow for the use of rosters for the procurement of Goods, up to a value of \$50,000.
- Section 5.3.7 – language to allow for the establishment of rosters and/or use of rosters maintained by others.
- Section 13.0 – addition of section to address ethics and conflicts of interest in procurement as recommended by Clark Nuber.

**Issue #2: Does the draft resolution 22-06 granting the Executive Director authority to establish vendor rosters need any additional changes prior to its adoption?**

Revisions to Sections 5.3.2 and 5.3.7 referenced above require approval of Resolution 22-06, prepared by Pacifica Law Group.

This resolution authorizes the the Executive Director, consistent with the requirements of RCW 39.04.190 and for purchases not to exceed \$50,000, to establish a vendor roster for the purchase of materials, equipment, supplies, or services in lieu of sealed bidding. The resolution also defines the procedure for utilizing rosters.

**RECOMMENDATIONS:**

If no additional revisions are requested, it is recommended that the Board vote to approve the adoption of the PSERN Operator Procurement policy found in the meeting material packet. However, if further revisions are needed, the board could vote to approve the policy contingent on the needed revisions being made.

It is also recommended that the Board approve Resolution 22-06, authorizing the Executive Director, consistent with the requirements of RCW 39.04.190 and for purchases not to exceed \$50,000, to establish a vendor roster for the purchase of materials, equipment, supplies, or services in lieu of sealed bidding.

The Operator Board is being requested to approve the following motions:

**MOTION:** That the PSERN Operator Board adopt the revised PSERN Operator Procurement Policy, as provided in Appendix A.

**MOTION:** That the PSERN Operator Board adopt Resolution 22-06 – Authorization to Establish a Vendor Roster Pursuant to RCW 39.04.190, as provided in Appendix C.

**CONCLUSION**

The preceding analysis explored issues related to the draft PSERN procurement policy. Following the PSERN Board of Directors review, related discussion, and execution of any needed revisions, the policy and resolution could then be voted on by the Board for adoption.

**SUPPORTING DOCUMENTATION**

**Appendix A:** Revised Draft PSERN Procurement Policy (Tracked Changes)

**Appendix B:** Revised Draft PSERN Procurement Policy (Clean)

**Appendix C:** Draft Resolution 22-06

## Appendix A

**Additions to Policy are highlighted with comments in the right margin. No deletions were made.**

### **PUGET SOUND EMERGENCY RADIO NETWORK (PSERN) OPERATOR PROCUREMENT POLICY**

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- 10.0 SOCIAL EQUITY**
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## 1.0 PURPOSE

The Puget Sound Emergency Radio Network Operator (hereinafter, PSERN) establishes this policy to ensure uniform, efficient, and competitive procurement to achieve the greatest attainable levels of quality and value permitted by law, and to ensure that all public procurement is executed and managed at the highest professional and ethical standards.

## 2.0 GOVERNING LAWS

This policy is governed by the relevant laws of the State of Washington; relevant federal laws, and any additional federal or grant requirements when applicable. When a conflict occurs, unless otherwise required by applicable law, the stricter of the law, rule or regulation, prevails. This policy does not create any enforceable rights or causes of action in third parties and does not in any way limit PSERN to procure goods and services in accordance with state and federal law.

## 3.0 DEFINITIONS

**A&E Services:** Services rendered by a consultant or any person, other than an employee of the agency, contracting to perform activities within the scope of the general definition of professional practice in RCW 18.08 (Architects), RCW 18.43 (Engineers and Land Surveyors) or RCW 18.96 (Landscape Architects).

**Board:** The Board of Directors of PSERN as provided and defined by the PSERN Operator ILA.

**Bid or Proposal:** An offer to provide goods and/or services in response to a solicitation for bids or proposals issued by PSERN.

**Bidder or Proposer:** Any person, firm, partnership or corporation or combination thereof that formally submits a bid, proposal or offers to provide goods and/or services in response to a solicitation for bids or proposals or a request for qualifications issued by PSERN.

**Change:** Any change, supplement, amendment, alteration or addendum to an existing Contract.

**Contract:** A written agreement between PSERN and one or more entities enforceable by law.

**Emergency:** Unforeseen circumstances beyond the control of PSERN that either a) present a real, immediate threat to the proper performance of essential functions; or b) will likely result in material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken.

**Executive Director:** The Executive Director of PSERN as provided and defined by the PSERN Operator ILA.



**Goods:** Goods generally are tangible objects, typically including, without limitation, materials, supplies, or equipment.

**Invitation to Bid (ITB):** Formal invitation to bid issued in connection with a Public Works project.

**PSERN:** The PSERN Operator, the governmental agency formed under RCW 39.34.030(3)(b) that is organized as a nonprofit corporation under chapter 24.06 RCW as authorized by the Interlocal Cooperation Act for the purpose of owning, operating, maintaining, managing and ongoing upgrading/replacing of the Puget Sound Emergency Radio Network system.

**PSERN Operator ILA:** The Puget Sound Emergency Radio Network Operator Interlocal Cooperation Agreement.

**Public Work:** Public Work means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at PSERN's cost as defined in RCW 39.04.010. Ordinary maintenance, in the context of Public Works contracts, is defined as work that is typically performed at least once per year.

**Request for Proposals (RFP):** Solicitation of proposals for professional services, or purchases of equipment, materials or supplies not associated with a Public Work.

**Request for Qualifications (RFQ):** Solicitation of statements of qualifications for a certain project or to establish an Architect and Engineering services roster.

**Services:** Services rendered by a consultant or any person, other than an employee of the agency and other than A&E Services or services that would constitute a Public Work. By way of example, and without limitation, Services includes consulting contracts, non-A&E professional services (such as by accounting, real estate, legal and other professional occupations), healthcare insurance coverage, investment consultants, training, and software licensing subscription, support, and maintenance agreements. Specifically, for the purposes of this policy, Services includes the purchase of software programs (for example, and without limitation, "software as a service" (SAAS)), whether provided by on-site installation or provided through cloud-based methodology.

**Taxes:** All amounts and thresholds contained herein shall be inclusive of applicable sales and use taxes at the time of soliciting for bids/proposals.

**Unit Priced Contracts:** A competitively bid contract for Public Works (as opposed to procurements) needed on a recurring basis, where the contractor agrees to a fixed period, indefinite quantity delivery of work, at a defined unit price for each category of work.

#### 4.0 AUTHORIZATION AMOUNTS AND SIGNATURE REQUIREMENTS

- 4.1 **Up to \$10,000.** The Executive Director or any Department Head (or any person filling those roles in an authorized acting capacity) or their designees has authority to procure A&E Services, Goods, other Services, or Public Works with an estimated cost up to \$10,000, and the Executive Director, Department Head, or designee may sign these authorizations when signature is required.
- 4.2 **10,000 to \$50,000.** The Executive Director, Deputy Director, or Finance Manager (or any person filling those roles in an authorized acting capacity) may authorize procurement of A&E Services, Goods, other Services, or Public Works with an estimated cost from \$10,000 up to \$50,000. A Department Head (or any person filling that role in an authorized capacity) has the same authorization authority within the same monetary limits, but only for purchases that relate directly to, and are necessary for, the operations of the department managed by that Department Head.
- 4.3 **\$50,000 or more.** The Executive Director or designee may authorize procurement of A&E Services, Goods, other Services, or Public Works with an estimated value of \$50,000 or more, and the Executive Director or designee has authority to sign these procurements when signature is required.

## 5.0 A&E SERVICES, SERVICES, AND GOODS

### 5.1 A&E Services

PSERN shall procure A&E Services in accordance with the requirements of RCW 39.80 as follows:

#### 5.1.1 **Process:** PSERN may select a firm to provide A&E Services as follows:

- .1 Publish an RFQ soliciting statements of qualifications to provide A&E Services on a single project. PSERN shall evaluate the statements of qualifications received in response to the RFQ and select the most highly qualified firm without regard to price; or
- .2 Select a qualified firm from a roster or list maintained in accordance with the requirements of RCW 39.80.030. PSERN may maintain its own roster and/or may utilize any roster maintained by a Party to the PSERN Operator ILA or the Municipal Research & Services Center of Washington (MRSC).

#### 5.1.2 **RFQ Requirements:** PSERN shall publish RFQs in advance, concisely stating the general scope and nature of the project or work for which services are required; and providing the name and telephone number of a staff contact who can provide additional details.

#### 5.1.3 **Negotiation:** PSERN shall enter into negotiations with the selected firm,

including pricing of the A&E Services to be provided. If a satisfactory contract cannot be negotiated, PSERN shall formally terminate the negotiations with that firm and attempt to negotiate a contract with the next most qualified firm. The process continues until an agreement is reached or the search is terminated.

## 5.2 Services

PSERN may procure Services using the method it determines will provide the greatest attainable levels of quality and value, including without limitation, advertised bid, request for quote, request for proposal, or direct negotiation and contract, so long as the procurement is within overall budget capacity.

## 5.3 Goods

PSERN shall procure Goods as follows.

**5.3.1 Requirements:** The following requirements apply to purchases of Goods, except as otherwise provided by this Policy.

**.1 \$0 to \$10,000.** PSERN may procure Goods with an estimated value of less than \$10,000 using the method it determines will provide the greatest attainable levels of quality and value.

**.2 \$10,000 to \$50,000.** PSERN may procure Goods with an estimated value between \$10,000 and \$50,000 by inviting, where practical, at least three telephone or written quotes from a roster maintained in accordance with the requirements of RCW 39.04.190. PSERN may maintain its own roster and/or may utilize any roster maintained by a Party to the PSERN Operator ILA or the Municipal Research & Services Center of Washington (MRSC). If utilizing a roster, PSERN shall (a) award the contract to the lowest responsible bidder; (b) record all bid quotations and make available for public inspection; and (c) post a list of contracts awarded at least every two months, including the name of the vendor, the amount of the contract, a brief description of items purchased, and the date of the award.

**.3 \$50,000 or more.** PSERN shall procure Goods with an estimated value of \$50,000 or more using the competitive solicitation process provided by Section 5.3.2:

**5.3.2 Competitive Solicitation Process.** Where competitive solicitation of Goods is required by this Policy, PSERN shall comply with the following process:

**Commented [PT1]:** Allows for the use or establishment of rosters. Previous version only specified at least three telephone or written quotes

- .1 PSERN shall prepare specifications and shall publish an advertisement for bids containing (a) the time and place where bids will be opened, (b) the time after which bids will not be received, (c) the materials, equipment, supplies, or services to be purchased, and that the specifications may be seen at PSERN's office. The advertisement shall be published at least once at least fourteen days prior to the last date upon which bids will be received. The bids shall be in writing, may be in either hard copy or electronic form as specified by PSERN, and shall be filed with PSERN. The bids shall be opened and read in public at the time and place named in the advertisement. Contracts requiring competitive bidding under this section may be awarded only to the lowest responsible bidder. Immediately after the award is made, the bid quotations shall be recorded and open to public inspection and shall be available by telephone inquiry. Any or all bids may be rejected for good cause.

**5.3.3 Waiver.** PSERN's Executive Director may waive purchasing requirements for the purchase of Goods for the following:

- .1 Emergencies. Emergencies in accordance with the requirements of Section 9;
- .2 Sole Source. Purchases clearly and legitimately limited to a single source of supply; or
- .3 Special Facilities or Market Conditions. Purchases that are subject to special facilities or market conditions.

Any waiver shall be documented in writing in a memorandum, which shall include (a) the basis for the waiver; and (b) the specific reasons that support the waiver. Purchases authorized under this section may be completed by direct negotiation or any other appropriate means.

**5.3.4 Auctions.** PSERN may purchase Goods at auctions conducted by the United States government or any of its agencies, or by the State of Washington and any of its political subdivisions, without being subject to the bidding requirements of this policy.

**5.3.5 Recycled Products.** Nothing in this Section shall prohibit PSERN from preferentially purchasing products made from recycled materials or products that may be recycled or reused, pursuant to Chapter 43.19A RCW.

**5.3.6 Interagency Agreements.** Nothing in this policy shall prohibit PSERN from purchasing goods through an Interagency Agreement entered into in accordance with Section 8.

**5.3.7 Vendor Rosters.** PSERN may maintain its own roster and/or may utilize any roster maintained by a Party to the PSERN Operator ILA or the Municipal Research & Services Center of Washington (MRSC).

**Commented [PT2]:** Added to allow for the establishment of rosters or use of other rosters

## 6.0 PUBLIC WORKS

### 6.1 General Process (Non-Small Works)

**6.1.1 Contracts Less Than \$40,000.** PSERN, upon approval by the Board, may enter into a contract for Public Works estimated to cost less than \$40,000 through direct negotiation or any other method deemed appropriate.

**6.1.2 Competitive Bidding:** Except as otherwise provided by Section 6.1.1, or as otherwise allowed by this Policy (including the Small Works procedures authorized in Section 6.2), PSERN shall solicit all Public Works contracts through the following formal Invitation to Bid process.

**6.1.3 Notice:** PSERN shall provide public notice of all Invitations to Bid. Such notice shall:

- .1 Call for sealed bids in a newspaper of general circulation a least one (1) time, and at least thirteen (13) days prior to the last date upon which bids will be received;
- .2 Describe the nature of the contemplated Public Work and include an estimate of the contemplated cost; and
- .3 Direct prospective bidders to a location (physical or electronic) where such bidders can review the full Invitation to Bid, including the contract documents, plans, and/or specifications.

**6.1.4 Invitation to Bid:** The full Invitation to Bid shall include:

- .1 A direction to bidders as to when and where to submit sealed bids;
- .2 Contract Documents (including plans and specifications, as appropriate) containing all applicable public works requirements, including the bond, retainage and prevailing wage requirements identified in Section 6.5;
- .3 A requirement that the bidders submit subcontractor lists in accordance with RCW 39.30.060;

- .4 A requirement that the bidders submit a signed statement in accordance with RCW 39.04.350 (2);
  - .5 A requirement that the bidders include a bid bond of a minimum of 5%, which must be in the form of a surety bond, cash, cashiers or certified check;
  - .6 Any supplemental bidder responsibility criteria; and
  - .7 Bid protest procedures, as appropriate;
- 6.1.5** PSERN shall open bids at the time and place identified in the Invitation to Bid. After bid opening, PSERN will comply with RCW 39.04.105 which requires within two business days of the bid opening on a public works project that is the subject of competitive bids, PSERN must provide, if requested by a bidder, copies of the bids received for the project.
- 6.1.6** PSERN shall evaluate the bids and determine which bidder is apparent low responsive and responsible bidder, as defined by RCW 39.04.350.
- 6.1.7** PSERN shall allow at least two full business days after providing bidders with copies of all bids before executing a contract for the project. Intermediate Saturdays, Sundays, and legal holidays are not counted.

## **6.2 Limited and Small Works**

- 6.2.1 Authorization.** PSERN may establish a small works roster procedure for Public Works contracts consistent with and pursuant to the requirements of RCWs 35A.40.210, 35.23.352, and 39.04.155.
- 6.2.2 General.** PSERN may, as an alternative to the procedures established by Section 6.1, use the small works roster process where the estimated Contract amount for a Public Works project is \$350,000 or less.
- .1 Authorization under \$50,000; Limited Public Works.** The Executive Director may elect to use a “Limited Public Works” process for Public Works under \$50,000, as follows: PSERN must obtain at least three electronic or written quotes from the appropriate roster and must equitably distribute opportunities for these projects among contractors willing to perform the work.
  - .2 Authorization between \$50,000 and \$250,000.** The Executive Director may elect to use a “Small Works” process for Public Works estimated to cost between \$50,000 and \$250,000, as follows: PSERN shall invite at least five telephone, written, or electronic quotes from contractors on the appropriate roster that appear capable

of performing the work and in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. If preferred, PSERN may use this process for contracts under \$50,000 instead of the Limited Public Works process.

- .3 **Authorization between \$250,000 and \$350,000.** The Executive Director may elect to use a “Small Works” process for Public Works estimated to cost between \$250,000 to \$350,000, as follows: PSERN shall invite at least five telephone, written, or electronic quotes from contractors on the appropriate roster that appear capable of performing the work and in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. PSERN may invite quotations from less than the full roster applicable to the project, but if it does so, it must also notify all other contractors on the roster that PSERN is seeking quotations for the project. Notice under this section may be made by (i) publication in a newspaper of general circulation in the area where the work is to occur, (ii) mailed notice, or (iii) electronic notice.

#### **6.2.3 Invitation for Quotations and Award.**

- .1 Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.
- .2 PSERN shall award contracts to the responsible and responsive bidder with the lowest bid, as defined in RCW 39.04.010 and RCW 39.04.350.
- .3 PSERN may not favor certain contractors on the small works roster over other contractors on the small works roster who perform similar services. PSERN must equitably distribute the contractors it selects from the roster by not favoring certain contractors on the roster over other contractors. At the time bids are solicited, PSERN’s representative shall not inform a contractor of the terms or amount of any other contractor’s bid for the same project.
- .4 A written record shall be made by the PSERN representative of each contractor’s bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotes obtained shall be recorded, open to public inspection, and available by telephone inquiry or electronic request.

#### **6.2.4 Rosters.**

- .1 **Adoption of Other Agency Roster.** PSERN may use the small works roster created and maintained by MRSC, or any other state or local agency that maintains a roster for shared use.
  - .2 **Independent PSERN Roster.** If PSERN creates and maintains its own small works roster, it shall do the following:
    - **Maintaining the roster.** The small works roster shall consist of all responsible contractors who have requested to be on the roster and, where required by law, are properly licensed or registered to perform such work in the State of Washington. As may be requested by PSERN staff, contractors desiring to be placed on a roster must keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with PSERN.
    - **Publication.** PSERN shall publish at least once a year a notice of the existence of the roster and solicit the names of contractors for such roster in a newspaper of general circulation within the jurisdiction. Responsible contractors shall be added to a roster if they submit a written request and any records requested by PSERN. With the exception of PSERN's owner agencies, an interlocal contract or agreement between PSERN and other local governments establishing a small works roster to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the small works roster provisions.
  - .3 **Electronic rosters.** If any PSERN department wishes to maintain its own rosters or use rosters maintained by other agencies, it shall keep the roster on file in paper and/or electronic format.
- 6.2.5 Bond, Retainage, and Wages.** All provisions of Section 6.5 (relating to performance and payment bonds, contract retainage, and prevailing wages) apply equally to contracts entered under this small works roster process, except as authorized under this section.
- .1 **Retainage waiver.** The Executive Director may waive the retainage requirements for any project awarded under the small works roster process, but in doing so, PSERN may be required to assume liability for a contractor's failure to pay wages, failure to pay for materials or services, and failure to pay taxes that may be due from the project.
  - .2 **Limited Public Works; bond and retainage not required.** The Executive Director or any department head may waive contract retainage and contract bonds on any Limited Public Works contract.



If not so required, PSERN may be required to assume liability for a contractor's failure to pay wages, failure to pay for materials or services, and failure to pay taxes that may be due from the project.

- 6.2.6 List of projects awarded from roster.** PSERN must post a list of contracts awarded using the small works process at least once every year. At a minimum, the list must contain the name of the contractor that was awarded the contract, the contractor's registration number, the contract amount, a brief description of the contract work, and the date of contract award. The list must also state the location where the bid quotations for the awarded contracts are available for public inspection. In addition to these requirements, for Limited Public Works contracts only, PSERN must also maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four months.

### **6.3 Electronic Data / Telecommunications Equipment, Software or Services**

- 6.3.1 Authority.** As an alternative to the public bidding and small works processes above, PSERN may purchase electronic data processing or telecommunications equipment, software, or services pursuant to the RCW 39.04.270 "competitive negotiation" request for proposal (RFP) process. At a minimum, competitive negotiation must include the following process:

- .1 Publication.** PSERN must publish the RFP in a newspaper of general circulation at least 13 days before the last date on which the proposals will be received.
- .2 RFP Content.** The RFP must identify significant evaluation factors, including price, and their relative importance. PSERN must provide reasonable procedures for technical evaluation of the proposals, identification of qualified sources, and selection for awarding the contract.
- .3 Award.** PSERN must make the award to the qualified bidder whose proposal is most advantageous to PSERN. PSERN may reject all proposals for good cause and request new proposals.

- 6.3.2 Public Works.** To the extent such purchase of telecommunications and data processing equipment or software falls within the definition of "Public Work" as defined by this Policy, PSERN must still require retainage, prevailing wages, and performance and payment bonds as provided by Sections 6.5. Note that public works contracts made through competitive negotiation under this section, even if the contract amount falls within the limits for small works contracts, cannot utilize the bond and retainage waivers for small works unless the contracts are procured using the small works process.

## 6.4 Unit Priced Contracts

- 6.4.1 Procedure.** As an alternative to the public bidding and small works processes above, PSERN may enter into Unit Priced Contracts pursuant to RCW 36.32.235 and RCW 35.23.352(12).
- 6.4.2 Contract Term.** The initial term of any Unit Priced Contract shall not exceed one year. PSERN, at its option, may agree to an extension of the initial term for one additional year.
- 6.4.3 Bid Requirements.** Invitations for unit price bids must include, at a minimum, estimated quantities of the work and the manner in which PSERN will issue work orders, based on the hourly rates or unit prices bid, and specify how PSERN will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor.
- 6.4.4 Bid Award; Minority or Woman Contractors.** Unit Priced Contracts must be awarded to the lowest responsible bidder. Whenever possible, PSERN must invite at least one proposal from a certified minority or woman contractor that qualifies for the work. If PSERN issues a Unit Priced contract(s) in any calendar year, it must make an annual report to the Department of Commerce that includes the total number of bids awarded to certified minority or women contractors, including a description of the how notice was provided to those contractors.
- 6.4.5 Prevailing Wages.** Unit Price contractors must pay prevailing wages based on the prevailing wage rates in effect at the beginning date for each contract year. Intents and affidavits for prevailing wages paid must be submitted for all work completed within the previous twelve-month period.
- 6.4.6 Retainage and Bond.** PSERN and the Unit Price contractor should comply with the provisions of chapter 60.28 RCW. Current advice from the State Department of Labor and Industries (L&I) is that each Unit Price Contract must conduct contract closeout at the expiration of each twelve-month Unit Price Contract Period, even if the contract is for a multi-year term. The closeout process should include submission of appropriate affidavits and releases required by law. L&I has not provided direction on performance and payment bond requirements, if any. PSERN staff should consult with L&I for clarification on retainage and bond requirements before issuing a notice for bids on a Unit Priced Contract.

## 6.5 General Public Works Requirements

### 6.5.1 Retainage Requirements.

- .1 **Retainage required.** Unless otherwise provided herein, for all Public Works contracts, PSERN shall reserve a contract retainage not to exceed five percent (5%) of the moneys earned by the contractor for the protection and payment of: (1) The claims of any person arising under the contract; and (2) the state with respect to taxes, increases, and penalties imposed pursuant to Titles 50 (Unemployment), 51 (Industrial Insurance), and 82 (Excise Tax) RCW which may be due from such contractor.
- .2 **Waiver.** For contracts of \$35,000 or less, the Executive Director or any Department Head may consider and grant a request to waive these retainage requirements.
- .3 **Release of retainage.** Except as otherwise required by law, PSERN will release the contract retainage sixty (60) days after PSERN issues its Final Acceptance of the Project or at the most reasonably practical time immediately thereafter, subject to (1) confirmation that no claims concerning nonpayment of prevailing wage rates have been filed with the Department of Labor & Industries; (2) submission by contractor of approved Statements of Intent to Pay Prevailing Wage and Affidavits of Wages Paid; (3) receipt of all necessary releases from the Departments of Revenue, Labor and Industries, and Employment Security (to the extent the departments issue such releases as a matter of law or policy); and (4) settlement of any liens filed under RCW 60.28.
- .4 **Retainage Bond.** PSERN shall otherwise release all or part of the contract retainage in accordance with the requirements of RCW 60.28.011, including upon provision of a retainage bond by contractor that conforms to the requirements of RCW 60.28.011(6).

### 6.5.2 Payment and Performance Bonds.

- .1 **General Bond Requirement.** Except as otherwise provided herein, PSERN shall require Payment and Performance Bonds for all Public Works contracts in an amount of at least 100% of the contract for the purpose of completion of projects and fulfillment of claims and liens, regardless of whether such contract is subject to competitive bidding requirements.
- .2 **\$150,000 or Less.** PSERN may waive the requirement for a payment and performance bond for contracts of \$150,000 or less, at the option of contractor, and instead retain ten percent (10%) of the contract amount for a period of thirty (30) days after final acceptance

of the work or until receipt of all necessary releases from the Departments of Revenue, Labor and Industries, and Employment Security (to the extent the departments issue such releases as a matter of policy), and settlement of any liens filed under RCW 60.28, whichever time period is greater. Exercising this ten percent (10%) bond waiver option must be in addition to, and may not be combined with, the five percent (5%) retainage requirement.

- 6.5.3 Prevailing Wage.** PSERN must require all contractors to pay prevailing wages on all Public Works and as otherwise provided by law. For Public Works contracts, a “Statement of Intent to Pay Prevailing Wages” must be received from the contractor and all subcontractors before any payment is made, and an “Affidavit of Wages Paid” must be received from the contractor and all subcontractors following PSERN’s final acceptance of the contracted work.
- 6.5.4 Bidder Responsibility Criteria.** A contractor under consideration for award of a Public Works project shall submit a sworn statement to PSERN in accordance with the requirements of RCW 39.04.350(1) and (2) certifying the bidder is in compliance with all bidder responsibility criteria identified in RCW 39.04.350(1) and (2) and with the requirements of Chapter 39.06 RCW pertaining to unregistered or unlicensed contractors, subcontractors, or other violators.
- 6.5.5 Notice of Completion:** Upon completion of a Public Works Contract with a value over \$35,000, PSERN shall provide the “Notice of Completion of Public Works Contract” to the Washington State Departments of Revenue, Labor and Industries and Employment Security. PSERN shall not make any payment from contract retainage to any person, until PSERN has received certifications from all three departments that all taxes, increases, and penalties due from the contractor, and all taxes due and to become due with respect to the contract have been paid in full or that they are, in each department's opinion, readily collectible without recourse to the state's lien on the retained percentage.

## 7.0 CHANGES TO CONTRACTS

- 7.1 Change Order.** All material Changes to Contracts are required to be memorialized at the earliest possible time in writing in a change order or other equivalent document.
- 7.2 Bid Requirement.** Bids are not required when unforeseen extra work becomes necessary under a valid preexisting contract. However, a change in scope and purposes deviating substantially from the original plans so as to constitute a new undertaking may constitute a separate project and may require a separate contract process.

**7.3 Minor Changes.** A Department Head is authorized to sign contract change orders or amendments that (a) that involve only a minor extension of time for the contractor to perform; (b) do not cumulatively exceed the original Contract price by more than 20%; and (c) do not cumulatively exceed the authorized budget.

**7.4 Major Changes.** All other change order or amendments must be signed by the Executive Director. If the Executive Director is unavailable to execute the change order, and if a department head determines that an emergency exists that requires immediate approval of the change order or amendment, the Department Head may execute the change order or amendment and must subsequently inform the Executive Director as soon as possible.

## **8.0 INTERAGENCY AGREEMENTS**

**8.1 Authorization:** PSERN is authorized to procure Services and Goods from the contracts of another public agency (or group of public agencies) in accordance with the requirements of the Interlocal Cooperation Act, RCW 39.34.30.

**8.2 Confirmation:** PSERN shall confirm the following prior to utilizing another agency's contract:

**8.2.1** The contract has not expired and will be open and active for the relevant period.

**8.2.2** The contract allows for use by other agencies.

**8.2.3** The contract was awarded by a public agency. For purposes of this policy, a "public agency" means any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi-municipal corporations, special-purpose districts, and local service districts; any agency of the state government; any agency of the United States; any tribe recognized as such by the federal government; and any political subdivision of another state.

**8.2.4** The original bid or solicitation notice was posted on a website of a public agency, purchasing cooperative or similar service provider; or that there was an access link provided on the state's web portal to the notice.

**8.2.5** The awarding agency complied with its own bidding requirements. For purposes of this requirement, PSERN may either (1) review and retain the procurement documentation from the awarding agency; or (2) obtain a signed certification from the awarding agency attesting that it met its own bid requirements.

**8.3 Federal Agencies.** PSERN may purchase Services and Goods from or through a federal agency (including GSA) without going through the additional processes described in this policy.

## **9.0 EMERGENCIES**

The Executive Director shall have the power to enter into an immediate contract, change order, or amendment to an existing contract without compliance with the procedures required by this policy upon making a determination that an emergency requires such action.

The Executive Director shall have the power to make such an emergency determination where there are unforeseen circumstances beyond the control of PSERN that either: (a) present a real, immediate threat to the proper performance of essential functions, or (b) may result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

The Executive Director must issue a written basis for the emergency determination no later than two weeks following award of the emergency contract and file the written basis with PSERN.

## **10.0 SOCIAL EQUITY**

PSERN is committed to socially-responsible procurement and promoting social equity through our contracts. PSERN shall work to ensure open and fair procurements, competitive and fair pricing, environmentally-sustainable solutions, best labor practices, access to equal benefits and utilization of women- and minority-owned businesses, when applicable, in its contracts.

## **11.0 FEDERAL AND GRANT FUNDING**

If federal or state funding, financial assistance, or grant funding is involved in the proposed acquisition or contract, the solicitation requirements and clauses should be obtained from the appropriate granting entity and all required grant management procedures must be followed per 2 C.F.R. § 200.318 - 326. If funding source guidelines conflict with or are more stringent than this policy, then the stricter requirements apply and must be used.

## **12.0 OTHER**

**12.1 Real Property Interests.** The Board specifically authorizes the Executive Director to do the following:

**12.1.1** To acquire and convey property interests by lease or purchase.

**12.1.2** To enter into all lease agreements where PSERN is the lessor.

**12.2 Surplus property.** Except for real property, or utility equipment and property as provided for in RCW 35.94.040, or property that is sold to another governmental entity that is valued over fifty thousand dollars (\$50,000), as provided for in RCW 39.33.020, the Executive Director, upon a Department Head's recommendation, is

authorized to surplus equipment or property the Executive Director determines is surplus to PSERN's needs, and the Executive Director dispose of such surplus equipment or property in such a way to secure the best interests of PSERN.

**13.0 ETHICS AND CONFLICTS OF INTEREST IN PROCUREMENT**

**Commented [PT3]:** Ethics section added per Clark Nuber recommendation

**13.1** The purpose of this section regarding ethics is to give guidance to all PSERN employees so that they may conduct themselves in a manner that will be compatible with the best interest of PSERN.

**13.2** PSERN employees are expected to conduct themselves in a professional manner. Each employee must strive to promote positive relationships with suppliers and their representatives; demonstrating patient, courteous, and ethical behavior at all times will enable the PSERN to procure materials, equipment, supplies, and services in an efficient and cost-effective manner.

**13.3** If an employee has any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose to the Executive Director as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties and ensure the integrity of the purchasing process.

**13.4** Proper purchasing procedure requires that:

**13.4.1** Actions of all PSERN employees be impartial and fair.

**13.4.2** PSERN purchasing decisions are made in accordance with this procurement policy.

**13.4.3** Public employment is not to be used for personal gain.

**13.4.4** PSERN employees may not solicit, accept, or agree to accept any gratuity for themselves, their families or others that would or could result in financial or personal gain, advancement, establish or satisfy some obligation for or on behalf of the employee, the employee's family, or the employee's friends.

**13.4.5** Purchasing decisions must be made impartially.

REVIEWED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2021.

**PUGET SOUND EMERGENCY RADIO NETWORK (PSERN) OPERATOR  
PROCUREMENT POLICY**

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## 1.0 PURPOSE

The Puget Sound Emergency Radio Network Operator (hereinafter, PSERN) establishes this policy to ensure uniform, efficient, and competitive procurement to achieve the greatest attainable levels of quality and value permitted by law, and to ensure that all public procurement is executed and managed at the highest professional and ethical standards.

## 2.0 GOVERNING LAWS

This policy is governed by the relevant laws of the State of Washington; relevant federal laws, and any additional federal or grant requirements when applicable. When a conflict occurs, unless otherwise required by applicable law, the stricter of the law, rule or regulation, prevails. This policy does not create any enforceable rights or causes of action in third parties and does not in any way limit PSERN to procure goods and services in accordance with state and federal law.

## 3.0 DEFINITIONS

**A&E Services:** Services rendered by a consultant or any person, other than an employee of the agency, contracting to perform activities within the scope of the general definition of professional practice in RCW 18.08 (Architects), RCW 18.43 (Engineers and Land Surveyors) or RCW 18.96 (Landscape Architects).

**Board:** The Board of Directors of PSERN as provided and defined by the PSERN Operator ILA.

**Bid or Proposal:** An offer to provide goods and/or services in response to a solicitation for bids or proposals issued by PSERN.

**Bidder or Proposer:** Any person, firm, partnership or corporation or combination thereof that formally submits a bid, proposal or offers to provide goods and/or services in response to a solicitation for bids or proposals or a request for qualifications issued by PSERN.

**Change:** Any change, supplement, amendment, alteration or addendum to an existing Contract.

**Contract:** A written agreement between PSERN and one or more entities enforceable by law.

**Emergency:** Unforeseen circumstances beyond the control of PSERN that either a) present a real, immediate threat to the proper performance of essential functions; or b) will likely result in material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken.

**Executive Director:** The Executive Director of PSERN as provided and defined by the PSERN Operator ILA.

**Goods:** Goods generally are tangible objects, typically including, without limitation, materials, supplies, or equipment.

**Invitation to Bid (ITB):** Formal invitation to bid issued in connection with a Public Works project.

**PSERN:** The PSERN Operator, the governmental agency formed under RCW 39.34.030(3)(b) that is organized as a nonprofit corporation under chapter 24.06 RCW as authorized by the Interlocal Cooperation Act for the purpose of owning, operating, maintaining, managing and ongoing upgrading/replacing of the Puget Sound Emergency Radio Network system.

**PSERN Operator ILA:** The Puget Sound Emergency Radio Network Operator Interlocal Cooperation Agreement.

**Public Work:** Public Work means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at PSERN's cost as defined in RCW 39.04.010. Ordinary maintenance, in the context of Public Works contracts, is defined as work that is typically performed at least once per year.

**Request for Proposals (RFP):** Solicitation of proposals for professional services, or purchases of equipment, materials or supplies not associated with a Public Work.

**Request for Qualifications (RFQ):** Solicitation of statements of qualifications for a certain project or to establish an Architect and Engineering services roster.

**Services:** Services rendered by a consultant or any person, other than an employee of the agency and other than A&E Services or services that would constitute a Public Work. By way of example, and without limitation, Services includes consulting contracts, non-A&E professional services (such as by accounting, real estate, legal and other professional occupations), healthcare insurance coverage, investment consultants, training, and software licensing subscription, support, and maintenance agreements. Specifically, for the purposes of this policy, Services includes the purchase of software programs (for example, and without limitation, "software as a service" (SAAS)), whether provided by on-site installation or provided through cloud-based methodology.

**Taxes:** All amounts and thresholds contained herein shall be inclusive of applicable sales and use taxes at the time of soliciting for bids/proposals.

**Unit Priced Contracts:** A competitively bid contract for Public Works (as opposed to procurements) needed on a recurring basis, where the contractor agrees to a fixed period, indefinite quantity delivery of work, at a defined unit price for each category of work.

#### **4.0 AUTHORIZATION AMOUNTS AND SIGNATURE REQUIREMENTS**

- 4.1 **Up to \$10,000.** The Executive Director or any Department Head (or any person filling those roles in an authorized acting capacity) or their designees has authority to procure A&E Services, Goods, other Services, or Public Works with an estimated cost up to \$10,000, and the Executive Director, Department Head, or designee may sign these authorizations when signature is required.
- 4.2 **10,000 to \$50,000.** The Executive Director, Deputy Director, or Finance Manager (or any person filling those roles in an authorized acting capacity) may authorize procurement of A&E Services, Goods, other Services, or Public Works with an estimated cost from \$10,000 up to \$50,000. A Department Head (or any person filling that role in an authorized capacity) has the same authorization authority within the same monetary limits, but only for purchases that relate directly to, and are necessary for, the operations of the department managed by that Department Head.
- 4.3 **\$50,000 or more.** The Executive Director or designee may authorize procurement of A&E Services, Goods, other Services, or Public Works with an estimated value of \$50,000 or more, and the Executive Director or designee has authority to sign these procurements when signature is required.

**5.0 A&E SERVICES, SERVICES, AND GOODS**

**5.1 A&E Services**

PSERN shall procure A&E Services in accordance with the requirements of RCW 39.80 as follows:

**5.1.1 Process:** PSERN may select a firm to provide A&E Services as follows:

- .1 Publish an RFQ soliciting statements of qualifications to provide A&E Services on a single project. PSERN shall evaluate the statements of qualifications received in response to the RFQ and select the most highly qualified firm without regard to price; or
- .2 Select a qualified firm from a roster or list maintained in accordance with the requirements of RCW 39.80.030. PSERN may maintain its own roster and/or may utilize any roster maintained by a Party to the PSERN Operator ILA or the Municipal Research & Services Center of Washington (MRSC).

**5.1.2 RFQ Requirements:** PSERN shall publish RFQs in advance, concisely stating the general scope and nature of the project or work for which services are required; and providing the name and telephone number of a staff contact who can provide additional details.

**5.1.3 Negotiation:** PSERN shall enter into negotiations with the selected firm,

including pricing of the A&E Services to be provided. If a satisfactory contract cannot be negotiated, PSERN shall formally terminate the negotiations with that firm and attempt to negotiate a contract with the next most qualified firm. The process continues until an agreement is reached or the search is terminated.

## **5.2 Services**

PSERN may procure Services using the method it determines will provide the greatest attainable levels of quality and value, including without limitation, advertised bid, request for quote, request for proposal, or direct negotiation and contract, so long as the procurement is within overall budget capacity.

## **5.3 Goods**

PSERN shall procure Goods as follows.

**5.3.1 Requirements:** The following requirements apply to purchases of Goods, except as otherwise provided by this Policy.

- .1 \$0 to \$10,000.** PSERN may procure Goods with an estimated value of less than \$10,000 using the method it determines will provide the greatest attainable levels of quality and value.
- .2 \$10,000 to \$50,000.** PSERN may procure Goods with an estimated value between \$10,000 and \$50,000 by inviting, where practical, at least three telephone or written quotes from a roster maintained in accordance with the requirements of RCW 39.04.190. PSERN may maintain its own roster and/or may utilize any roster maintained by a Party to the PSERN Operator ILA or the Municipal Research & Services Center of Washington (MRSC). If utilizing a roster, PSERN shall (a) award the contract to the lowest responsible bidder; (b) record all bid quotations and make available for public inspection; and (c) post a list of contracts awarded at least every two months, including the name of the vendor, the amount of the contract, a brief description of items purchased, and the date of the award.
- .3 \$50,000 or more.** PSERN shall procure Goods with an estimated value of \$50,000 or more using the competitive solicitation process provided by Section 5.3.2:

**5.3.2 Competitive Solicitation Process.** Where competitive solicitation of Goods is required by this Policy, PSERN shall comply with the following process:

.1 PSERN shall prepare specifications and shall publish an advertisement for bids containing (a) the time and place where bids will be opened, (b) the time after which bids will not be received, (c) the materials, equipment, supplies, or services to be purchased, and that the specifications may be seen at PSERN's office. The advertisement shall be published at least once at least fourteen days prior to the last date upon which bids will be received. The bids shall be in writing, may be in either hard copy or electronic form as specified by PSERN, and shall be filed with PSERN. The bids shall be opened and read in public at the time and place named in the advertisement. Contracts requiring competitive bidding under this section may be awarded only to the lowest responsible bidder. Immediately after the award is made, the bid quotations shall be recorded and open to public inspection and shall be available by telephone inquiry. Any or all bids may be rejected for good cause.

**5.3.3 Waiver.** PSERN's Executive Director may waive purchasing requirements for the purchase of Goods for the following:

- .1 Emergencies. Emergencies in accordance with the requirements of Section 9;
- .2 Sole Source. Purchases clearly and legitimately limited to a single source of supply; or
- .3 Special Facilities or Market Conditions. Purchases that are subject to special facilities or market conditions.

Any waiver shall be documented in writing in a memorandum, which shall include (a) the basis for the waiver; and (b) the specific reasons that support the waiver. Purchases authorized under this section may be completed by direct negotiation or any other appropriate means.

**5.3.4 Auctions.** PSERN may purchase Goods at auctions conducted by the United States government or any of its agencies, or by the State of Washington and any of its political subdivisions, without being subject to the bidding requirements of this policy.

**5.3.5 Recycled Products.** Nothing in this Section shall prohibit PSERN from preferentially purchasing products made from recycled materials or products that may be recycled or reused, pursuant to Chapter 43.19A RCW.

**5.3.6 Interagency Agreements.** Nothing in this policy shall prohibit PSERN from purchasing goods through an Interagency Agreement entered into in accordance with Section 8.

**5.3.7 Vendor Rosters.** PSERN may maintain its own roster and/or may utilize any roster maintained by a Party to the PSERN Operator ILA or the Municipal Research & Services Center of Washington (MRSC).

## **6.0 PUBLIC WORKS**

### **6.1 General Process (Non-Small Works)**

**6.1.1 Contracts Less Than \$40,000.** PSERN, upon approval by the Board, may enter into a contract for Public Works estimated to cost less than \$40,000 through direct negotiation or any other method deemed appropriate.

**6.1.2 Competitive Bidding:** Except as otherwise provided by Section 6.1.1, or as otherwise allowed by this Policy (including the Small Works procedures authorized in Section 6.2), PSERN shall solicit all Public Works contracts through the following formal Invitation to Bid process.

**6.1.3 Notice:** PSERN shall provide public notice of all Invitations to Bid. Such notice shall:

- .1 Call for sealed bids in a newspaper of general circulation a least one (1) time, and at least thirteen (13) days prior to the last date upon which bids will be received;
- .2 Describe the nature of the contemplated Public Work and include an estimate of the contemplated cost; and
- .3 Direct prospective bidders to a location (physical or electronic) where such bidders can review the full Invitation to Bid, including the contract documents, plans, and/or specifications.

**6.1.4 Invitation to Bid:** The full Invitation to Bid shall include:

- .1 A direction to bidders as to when and where to submit sealed bids;
- .2 Contract Documents (including plans and specifications, as appropriate) containing all applicable public works requirements, including the bond, retainage and prevailing wage requirements identified in Section 6.5;
- .3 A requirement that the bidders submit subcontractor lists in accordance with RCW 39.30.060;

- .4 A requirement that the bidders submit a signed statement in accordance with RCW 39.04.350 (2);
  - .5 A requirement that the bidders include a bid bond of a minimum of 5%, which must be in the form of a surety bond, cash, cashiers or certified check;
  - .6 Any supplemental bidder responsibility criteria; and
  - .7 Bid protest procedures, as appropriate;
- 6.1.5** PSERN shall open bids at the time and place identified in the Invitation to Bid. After bid opening, PSERN will comply with RCW 39.04.105 which requires within two business days of the bid opening on a public works project that is the subject of competitive bids, PSERN must provide, if requested by a bidder, copies of the bids received for the project.
- 6.1.6** PSERN shall evaluate the bids and determine which bidder is apparent low responsive and responsible bidder, as defined by RCW 39.04.350.
- 6.1.7** PSERN shall allow at least two full business days after providing bidders with copies of all bids before executing a contract for the project. Intermediate Saturdays, Sundays, and legal holidays are not counted.

**6.2 Limited and Small Works**

- 6.2.1 Authorization.** PSERN may establish a small works roster procedure for Public Works contracts consistent with and pursuant to the requirements of RCWs 35A.40.210, 35.23.352, and 39.04.155.
- 6.2.2 General.** PSERN may, as an alternative to the procedures established by Section 6.1, use the small works roster process where the estimated Contract amount for a Public Works project is \$350,000 or less.
- .1 Authorization under \$50,000; Limited Public Works.** The Executive Director may elect to use a “Limited Public Works” process for Public Works under \$50,000, as follows: PSERN must obtain at least three electronic or written quotes from the appropriate roster and must equitably distribute opportunities for these projects among contractors willing to perform the work.
  - .2 Authorization between \$50,000 and \$250,000.** The Executive Director may elect to use a “Small Works” process for Public Works estimated to cost between \$50,000 and \$250,000, as follows: PSERN shall invite at least five telephone, written, or electronic quotes from contractors on the appropriate roster that appear capable

of performing the work and in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. If preferred, PSERN may use this process for contracts under \$50,000 instead of the Limited Public Works process.

- .3 Authorization between \$250,000 and \$350,000.** The Executive Director may elect to use a “Small Works” process for Public Works estimated to cost between \$250,000 to \$350,000, as follows: PSERN shall invite at least five telephone, written, or electronic quotes from contractors on the appropriate roster that appear capable of performing the work and in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. PSERN may invite quotations from less than the full roster applicable to the project, but if it does so, it must also notify all other contractors on the roster that PSERN is seeking quotations for the project. Notice under this section may be made by (i) publication in a newspaper of general circulation in the area where the work is to occur, (ii) mailed notice, or (iii) electronic notice.

### **6.2.3 Invitation for Quotations and Award.**

- .1** Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.
- .2** PSERN shall award contracts to the responsible and responsive bidder with the lowest bid, as defined in RCW 39.04.010 and RCW 39.04.350.
- .3** PSERN may not favor certain contractors on the small works roster over other contractors on the small works roster who perform similar services. PSERN must equitably distribute the contractors it selects from the roster by not favoring certain contractors on the roster over other contractors. At the time bids are solicited, PSERN’s representative shall not inform a contractor of the terms or amount of any other contractor’s bid for the same project.
- .4** A written record shall be made by the PSERN representative of each contractor’s bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotes obtained shall be recorded, open to public inspection, and available by telephone inquiry or electronic request.

### **6.2.4 Rosters.**



- .1 **Adoption of Other Agency Roster.** PSERN may use the small works roster created and maintained by MRSC, or any other state or local agency that maintains a roster for shared use.
- .2 **Independent PSERN Roster.** If PSERN creates and maintains its own small works roster, it shall do the following:
  - **Maintaining the roster.** The small works roster shall consist of all responsible contractors who have requested to be on the roster and, where required by law, are properly licensed or registered to perform such work in the State of Washington. As may be requested by PSERN staff, contractors desiring to be placed on a roster must keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with PSERN.
  - **Publication.** PSERN shall publish at least once a year a notice of the existence of the roster and solicit the names of contractors for such roster in a newspaper of general circulation within the jurisdiction. Responsible contractors shall be added to a roster if they submit a written request and any records requested by PSERN. With the exception of PSERN's owner agencies, an interlocal contract or agreement between PSERN and other local governments establishing a small works roster to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the small works roster provisions.
- .3 **Electronic rosters.** If any PSERN department wishes to maintain its own rosters or use rosters maintained by other agencies, it shall keep the roster on file in paper and/or electronic format.

**6.2.5 Bond, Retainage, and Wages.** All provisions of Section 6.5 (relating to performance and payment bonds, contract retainage, and prevailing wages) apply equally to contracts entered under this small works roster process, except as authorized under this section.

- .1 **Retainage waiver.** The Executive Director may waive the retainage requirements for any project awarded under the small works roster process, but in doing so, PSERN may be required to assume liability for a contractor's failure to pay wages, failure to pay for materials or services, and failure to pay taxes that may be due from the project.
- .2 **Limited Public Works; bond and retainage not required.** The Executive Director or any department head may waive contract retainage and contract bonds on any Limited Public Works contract.

If not so required, PSERN may be required to assume liability for a contractor's failure to pay wages, failure to pay for materials or services, and failure to pay taxes that may be due from the project.

**6.2.6 List of projects awarded from roster.** PSERN must post a list of contracts awarded using the small works process at least once every year. At a minimum, the list must contain the name of the contractor that was awarded the contract, the contractor's registration number, the contract amount, a brief description of the contract work, and the date of contract award. The list must also state the location where the bid quotations for the awarded contracts are available for public inspection. In addition to these requirements, for Limited Public Works contracts only, PSERN must also maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four months.

### **6.3 Electronic Data / Telecommunications Equipment, Software or Services**

**6.3.1 Authority.** As an alternative to the public bidding and small works processes above, PSERN may purchase electronic data processing or telecommunications equipment, software, or services pursuant to the RCW 39.04.270 "competitive negotiation" request for proposal (RFP) process. At a minimum, competitive negotiation must include the following process:

- .1 Publication.** PSERN must publish the RFP in a newspaper of general circulation at least 13 days before the last date on which the proposals will be received.
- .2 RFP Content.** The RFP must identify significant evaluation factors, including price, and their relative importance. PSERN must provide reasonable procedures for technical evaluation of the proposals, identification of qualified sources, and selection for awarding the contract.
- .3 Award.** PSERN must make the award to the qualified bidder whose proposal is most advantageous to PSERN. PSERN may reject all proposals for good cause and request new proposals.

**6.3.2 Public Works.** To the extent such purchase of telecommunications and data processing equipment or software falls within the definition of "Public Work" as defined by this Policy, PSERN must still require retainage, prevailing wages, and performance and payment bonds as provided by Sections 6.5. Note that public works contracts made through competitive negotiation under this section, even if the contract amount falls within the limits for small works contracts, cannot utilize the bond and retainage waivers for small works unless the contracts are procured using the small works process.

## 6.4 Unit Priced Contracts

- 6.4.1 Procedure.** As an alternative to the public bidding and small works processes above, PSERN may enter into Unit Priced Contracts pursuant to RCW 36.32.235 and RCW 35.23.352(12).
- 6.4.2 Contract Term.** The initial term of any Unit Priced Contract shall not exceed one year. PSERN, at its option, may agree to an extension of the initial term for one additional year.
- 6.4.3 Bid Requirements.** Invitations for unit price bids must include, at a minimum, estimated quantities of the work and the manner in which PSERN will issue work orders, based on the hourly rates or unit prices bid, and specify how PSERN will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor.
- 6.4.4 Bid Award; Minority or Woman Contractors.** Unit Priced Contracts must be awarded to the lowest responsible bidder. Whenever possible, PSERN must invite at least one proposal from a certified minority or woman contractor that qualifies for the work. If PSERN issues a Unit Priced contract(s) in any calendar year, it must make an annual report to the Department of Commerce that includes the total number of bids awarded to certified minority or women contractors, including a description of the how notice was provided to those contractors.
- 6.4.5 Prevailing Wages.** Unit Price contractors must pay prevailing wages based on the prevailing wage rates in effect at the beginning date for each contract year. Intents and affidavits for prevailing wages paid must be submitted for all work completed within the previous twelve-month period.
- 6.4.6 Retainage and Bond.** PSERN and the Unit Price contractor should comply with the provisions of chapter 60.28 RCW. Current advice from the State Department of Labor and Industries (L&I) is that each Unit Price Contract must conduct contract closeout at the expiration of each twelve-month Unit Price Contract Period, even if the contract is for a multi-year term. The closeout process should include submission of appropriate affidavits and releases required by law. L&I has not provided direction on performance and payment bond requirements, if any. PSERN staff should consult with L&I for clarification on retainage and bond requirements before issuing a notice for bids on a Unit Priced Contract.

## 6.5 General Public Works Requirements

### 6.5.1 Retainage Requirements.

- .1 **Retainage required.** Unless otherwise provided herein, for all Public Works contracts, PSERN shall reserve a contract retainage not to exceed five percent (5%) of the moneys earned by the contractor for the protection and payment of: (1) The claims of any person arising under the contract; and (2) the state with respect to taxes, increases, and penalties imposed pursuant to Titles 50 (Unemployment), 51 (Industrial Insurance), and 82 (Excise Tax) RCW which may be due from such contractor.
- .2 **Waiver.** For contracts of \$35,000 or less, the Executive Director or any Department Head may consider and grant a request to waive these retainage requirements.
- .3 **Release of retainage.** Except as otherwise required by law, PSERN will release the contract retainage sixty (60) days after PSERN issues its Final Acceptance of the Project or at the most reasonably practical time immediately thereafter, subject to (1) confirmation that no claims concerning nonpayment of prevailing wage rates have been filed with the Department of Labor & Industries; (2) submission by contractor of approved Statements of Intent to Pay Prevailing Wage and Affidavits of Wages Paid; (3) receipt of all necessary releases from the Departments of Revenue, Labor and Industries, and Employment Security (to the extent the departments issue such releases as a matter of law or policy); and (4) settlement of any liens filed under RCW 60.28.
- .4 **Retainage Bond.** PSERN shall otherwise release all or part of the contract retainage in accordance with the requirements of RCW 60.28.011, including upon provision of a retainage bond by contractor that conforms to the requirements of RCW 60.28.011(6).

### 6.5.2 Payment and Performance Bonds.

- .1 **General Bond Requirement.** Except as otherwise provided herein, PSERN shall require Payment and Performance Bonds for all Public Works contracts in an amount of at least 100% of the contract for the purpose of completion of projects and fulfillment of claims and liens, regardless of whether such contract is subject to competitive bidding requirements.
- .2 **\$150,000 or Less.** PSERN may waive the requirement for a payment and performance bond for contracts of \$150,000 or less, at the option of contractor, and instead retain ten percent (10%) of the contract amount for a period of thirty (30) days after final acceptance

of the work or until receipt of all necessary releases from the Departments of Revenue, Labor and Industries, and Employment Security (to the extent the departments issue such releases as a matter of policy), and settlement of any liens filed under RCW 60.28, whichever time period is greater. Exercising this ten percent (10%) bond waiver option must be in addition to, and may not be combined with, the five percent (5%) retainage requirement.

**6.5.3 Prevailing Wage.** PSERN must require all contractors to pay prevailing wages on all Public Works and as otherwise provided by law. For Public Works contracts, a “Statement of Intent to Pay Prevailing Wages” must be received from the contractor and all subcontractors before any payment is made, and an “Affidavit of Wages Paid” must be received from the contractor and all subcontractors following PSERN’s final acceptance of the contracted work.

**6.5.4 Bidder Responsibility Criteria.** A contractor under consideration for award of a Public Works project shall submit a sworn statement to PSERN in accordance with the requirements of RCW 39.04.350(1) and (2) certifying the bidder is in compliance with all bidder responsibility criteria identified in RCW 39.04.350(1) and (2) and with the requirements of Chapter 39.06 RCW pertaining to unregistered or unlicensed contractors, subcontractors, or other violators.

**6.5.5 Notice of Completion:** Upon completion of a Public Works Contract with a value over \$35,000, PSERN shall provide the “Notice of Completion of Public Works Contract” to the Washington State Departments of Revenue, Labor and Industries and Employment Security. PSERN shall not make any payment from contract retainage to any person, until PSERN has received certifications from all three departments that all taxes, increases, and penalties due from the contractor, and all taxes due and to become due with respect to the contract have been paid in full or that they are, in each department's opinion, readily collectible without recourse to the state's lien on the retained percentage.

## **7.0 CHANGES TO CONTRACTS**

**7.1 Change Order.** All material Changes to Contracts are required to be memorialized at the earliest possible time in writing in a change order or other equivalent document.

**7.2 Bid Requirement.** Bids are not required when unforeseen extra work becomes necessary under a valid preexisting contract. However, a change in scope and purposes deviating substantially from the original plans so as to constitute a new undertaking may constitute a separate project and may require a separate contract process.

- 7.3 Minor Changes.** A Department Head is authorized to sign contract change orders or amendments that (a) that involve only a minor extension of time for the contractor to perform; (b) do not cumulatively exceed the original Contract price by more than 20%; and (c) do not cumulatively exceed the authorized budget.
- 7.4 Major Changes.** All other change order or amendments must be signed by the Executive Director. If the Executive Director is unavailable to execute the change order, and if a department head determines that an emergency exists that requires immediate approval of the change order or amendment, the Department Head may execute the change order or amendment and must subsequently inform the Executive Director as soon as possible.

## **8.0 INTERAGENCY AGREEMENTS**

- 8.1 Authorization:** PSERN is authorized to procure Services and Goods from the contracts of another public agency (or group of public agencies) in accordance with the requirements of the Interlocal Cooperation Act, RCW 39.34.30.
- 8.2 Confirmation:** PSERN shall confirm the following prior to utilizing another agency's contract:
- 8.2.1** The contract has not expired and will be open and active for the relevant period.
  - 8.2.2** The contract allows for use by other agencies.
  - 8.2.3** The contract was awarded by a public agency. For purposes of this policy, a "public agency" means any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi-municipal corporations, special-purpose districts, and local service districts; any agency of the state government; any agency of the United States; any tribe recognized as such by the federal government; and any political subdivision of another state.
  - 8.2.4** The original bid or solicitation notice was posted on a website of a public agency, purchasing cooperative or similar service provider; or that there was an access link provided on the state's web portal to the notice.
  - 8.2.5** The awarding agency complied with its own bidding requirements. For purposes of this requirement, PSERN may either (1) review and retain the procurement documentation from the awarding agency; or (2) obtain a signed certification from the awarding agency attesting that it met its own bid requirements.

**8.3 Federal Agencies.** PSERN may purchase Services and Goods from or through a federal agency (including GSA) without going through the additional processes described in this policy.

## **9.0 EMERGENCIES**

The Executive Director shall have the power to enter into an immediate contract, change order, or amendment to an existing contract without compliance with the procedures required by this policy upon making a determination that an emergency requires such action.

The Executive Director shall have the power to make such an emergency determination where there are unforeseen circumstances beyond the control of PSERN that either: (a) present a real, immediate threat to the proper performance of essential functions, or (b) may result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

The Executive Director must issue a written basis for the emergency determination no later than two weeks following award of the emergency contract and file the written basis with PSERN.

## **10.0 SOCIAL EQUITY**

PSERN is committed to socially-responsible procurement and promoting social equity through our contracts. PSERN shall work to ensure open and fair procurements, competitive and fair pricing, environmentally-sustainable solutions, best labor practices, access to equal benefits and utilization of women- and minority-owned businesses, when applicable, in its contracts.

## **11.0 FEDERAL AND GRANT FUNDING**

If federal or state funding, financial assistance, or grant funding is involved in the proposed acquisition or contract, the solicitation requirements and clauses should be obtained from the appropriate granting entity and all required grant management procedures must be followed per 2 C.F.R. § 200.318 - 326. If funding source guidelines conflict with or are more stringent than this policy, then the stricter requirements apply and must be used.

## **12.0 OTHER**

**12.1 Real Property Interests.** The Board specifically authorizes the Executive Director to do the following:

**12.1.1** To acquire and convey property interests by lease or purchase.

**12.1.2** To enter into all lease agreements where PSERN is the lessor.

**12.2 Surplus property.** Except for real property, or utility equipment and property as provided for in RCW 35.94.040, or property that is sold to another governmental entity that is valued over fifty thousand dollars (\$50,000), as provided for in RCW 39.33.020, the Executive Director, upon a Department Head's recommendation, is

authorized to surplus equipment or property the Executive Director determines is surplus to PSERN's needs, and the Executive Director dispose of such surplus equipment or property in such a way to secure the best interests of PSERN.

### **13.0 ETHICS AND CONFLICTS OF INTERST IN PROCUREMENT**

- 13.1** The purpose of this section regarding ethics is to give guidance to all PSERN employees so that they may conduct themselves in a manner that will be compatible with the best interest of PSERN.
- 13.2** PSERN employees are expected to conduct themselves in a professional manner. Each employee must strive to promote positive relationships with suppliers and their representatives; demonstrating patient, courteous, and ethical behavior at all times will enable the PSERN to procure materials, equipment, supplies, and services in an efficient and cost-effective manner.
- 13.3** If an employee has any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose to the Executive Director as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties and ensure the integrity of the purchasing process.
- 13.4** Proper purchasing procedure requires that:
  - 13.4.1** Actions of all PSERN employees be impartial and fair.
  - 13.4.2** PSERN purchasing decisions are made in accordance with this procurement policy.
  - 13.4.3** Public employment is not to be used for personal gain.
  - 13.4.4** PSERN employees may not solicit, accept, or agree to accept any gratuity for themselves, their families or others that would or could result in financial or personal gain, advancement, establish or satisfy some obligation for or on behalf of the employee, the employee's family, or the employee's friends.
  - 13.4.5** Purchasing decisions must be made impartially.

REVIEWED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2021.





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**RESOLUTION NO. 22-06**

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**RESOLUTION TO ESTABLISH A VENDOR ROSTER PURSUANT TO RCW 39.04.190.**

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A **RESOLUTION** of the PSERN Operator Board of Directors to establish vendor roster pursuant to RCW 39.04.190.

**WHEREAS**, RCW 39.04.190 provides a uniform process to award contracts for the purchase of materials, equipment, supplies, or services in lieu of sealed bidding.

**WHEREAS**, the PSERN Operator is authorized to use this uniform process pursuant to, *inter alia*, RCW 36.32.245.

**WHEREAS**, RCW 39.04.190 requires the PSERN Operator to adopt a resolution implementing this authority.

**NOW, THEREFORE, BE IT RESOLVED** by the PSERN Operator Board of Directors as follows:

**Section 1.** The Executive Director is hereby authorized, consistent with the requirements of RCW 39.04.190 and for purchases not to exceed \$50,000, to establish a vendor roster for the purchase of materials, equipment, supplies, or services in lieu of sealed bidding. If utilizing a vendor roster, the PSERN Operator shall (a) award the contract to the lowest responsible bidder; (b) record all bid quotations and make available for public inspection; and (c) post a list of contracts awarded at least every two months, including the name of the vendor, the amount of the contract, a brief description of items purchased, and the date of the award.

**Section 2.** If any portion of this resolution is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution.

**Section 3.** This resolution shall take effect immediately upon its passage.

**ADOPTED** at the regular meeting of the PSERN Operator Board of Directors, this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

**PSERN OPERATOR  
KING COUNTY, WASHINGTON**

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[Lora Ueland], Chair

# PSERN Operator Board of Directors

## Staff Report - Agenda Item #10



**Title:** 2023 PSERN Operating Budget and Rate Setting  
**Meeting Date:** September 22, 2022  
**Staff Contact:** Tracy Plouse, Finance & Admin Services Manager  
**Action:** Discussion/Decision

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### **SUMMARY:**

This report presents a draft 2023 operating budget and service fee rates for the Board’s consideration and discussion. At the August 2022 meeting a draft budget and service fee rates were presented. The Board directed staff to revise the drafts by increasing the budget from 2022 to 2023 by the Consumer Price Index for Urban Wage Earners (Seattle CPI-W) rate rather than the Implicit Price Deflator (IPD) rate. The revised scenarios using the CPIW rate are presented for discussion and potential adoption by the Board of Directors.

### **ANALYSIS AND DISCUSSION:**

At the July 11<sup>th</sup> budget workshop, the Board provided direction to develop and present up to three scenarios for use of the currently allocated rate stabilization funds (\$2.6M). The Board further directed that the methodology used should result in the rate stabilization funds reducing service fees for all users of the PSERN system, not just those agencies that currently have KCERCS rates below the projected rates for PSERN. The Board also approved a revised cost allocation methodology and directed that no operating reserve should be collected in 2023.

The following changes and assumptions have been made, in comparison to an initial draft budget that was presented for discussion in April 2022:

- The 2023 budget assumes commencement of operation and PSERN service fees on July 1<sup>st</sup> 2023
- No operating reserve is to be collected in 2023; two sets of scenarios have been presented for subsequent years - one with operating reserved collected in 2024 and one without; subsequent years reflect an operating reserve set at 5% of total operating expense
- Headcount is projected to be 23 FTE in 2023, growing to 26 in 2026; this change is intended to reflect a realistic view of the ability to recruit for new positions in the PSERN Operator
- Staffing and benefits costs are estimated based on King County supplying staff per the existing staffing and agreement through 2027
- “King County Services” includes the cost associated with the County providing HR and staffing function, per the staffing and hiring agreement
- Timing for transition to the Operator employing its own staff has not yet been determined, but when the transition occurs, both HR and benefits costs are expected to increase
- Quantity of radios has increased in comparison to the April estimate:
  - Public Safety – increased to 13,937 from 12,945
  - Non-Public Safety – increased to 4,506 from 4,287
- Console quantities increased to 144 from 143

- Network operating expenses have been reviewed and revised; however, expenses are still estimates and based on limited operational history and experience and will need to be adjusted as more information is obtained from the Project
- Cost escalation is assumed to be 5% in 2023, based on the CPIW. In subsequent years the escalation is assumed to be 4% for salaries/benefits and 3% for most other categories.
- Costs for Motorola post-warranty support (approximately \$1.4M annual) are assumed to start 2 years after commencement of operation, which equates to July 1, 2025

Service Fee Rates and Application of Rate Stabilization Funds

For reference, current KCERCS service fees (2022) are as follows:

<b>Current KCERCS Service Fees</b>	
	Rate per Public Safety Radio per month
King County	\$39.00
EPSCA	\$25.25
Seattle	\$26.06
VCC (average)	\$6.63

Note that dispatch agencies are not currently charged for consoles on a per-console basis.

The new method of calculating service fees<sup>1</sup> as directed by the Board at the July 2022 workshop has been used, with costs being allocated into employee-related, corporate/administrative and network/operations categories. Using this method of cost allocation results in the following service fee rates for radios and consoles.

Operating Budget

Four scenarios for use of application of rate stabilization fund have been developed, incorporating the assumptions described below.

Scenario 1:

The rates in this scenario are calculated by allocating \$2.6M of rate stabilization funds in a gradually decreasing fashion, with 1/3 of the subsidy being removed in each of years 2 and 3. This equates to the expenditure of rate stabilization funds as follows: 50% of the total for the first year; 33% for the second year and 17% for the third year. Note that the budget and rates are based on a June 30, 2023 commencement of operations date.

Therefore, the first year is 7/1/2023 to 6/30/2024, the second year is 7/1/2024 to 6/30/2025 and so on. As with the baseline scenario, the increase in rates from year to year is due to increased operating expenses based on estimated CPIW (5% in year 2023, 4% for salaries/benefits and 3% for most other categories in years 2024-2027), a 5% operating reserve that will be collected beginning January 1, 2024, increased headcount and Motorola contracted services of approximately \$1.4M beginning July 1, 2025 (two years post transition date). Rates from 2027 onwards will be stable, i.e. will escalate at the rate of inflation.

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<sup>1</sup> Expenditures were allocated to determine rates as follows: Employee-related 83% radios/17% consoles | Corporate Administrative 75% radios/25% consoles | Technical Operations 70% radios/30% consoles

### Scenario 2

The rates in this scenario are calculated by allocating \$2.6M of rate stabilization funds in the manner as scenario 1. This scenario excludes the collection of the 5% operating reserve in 2024.

### Scenario 3

The rates in this scenario are calculated by allocating the \$2.6M rate stabilization funds over the first three years (2023, 2024, 2025) in a manner that result in a uniform increase from year to year (20%, 20% and 21%). As with scenario 1, rates from 2027 onwards will be stable, i.e. will escalate at the rate of inflation.

### Scenario 4

The rates in this scenario are calculated the same as in Scenario 2 but do not include the collection of a 5% operating reserve in 2024.

A summary of the PSERN Operator's proposed operating budget for 2023 (partial year) and projected budgets for 2024-2027 is shown in the table below. A more detailed budget report can be found in Appendix A.

# PSERN Operator Budget Draft

## Presented to PSERN Operator Board of Directors September 22, 2022

Assumes 5.0% increase over 2022 based on CPIW rate of 4.99%      Assumes 4% increase over previous year for salary/benefits and 3% increase for other categories      Assumes 4% increase over previous year for salary/benefits and 3% increase for other categories      Assumes 4% increase over previous year for salary/benefits and 3% increase for other categories      Assumes 4% increase over previous year for salary/benefits and 3% increase for other categories

### Annual Cost to Operate

Budget Item	2023 6 months	2024 24 FTE	2025 25 FTE	2026 26 FTE	2027	
SALARY AND BENEFITS:	\$2,422,142	\$5,238,922	\$5,592,377	\$5,965,735	\$6,144,707	
INSURANCE:	\$250,000	\$520,000	\$540,800	\$548,912	\$565,379	
CONSULTING SERVICES ( <i>outsourced</i> ):	161,000	300,705	305,216	309,794	319,088	
KING COUNTY SERVICES	\$17,159	\$35,641	\$36,679	\$37,749	\$38,881	
OTHER OFFICE COSTS:	\$274,168	\$568,678	\$585,738	\$603,310	\$621,410	
OTHER ONE-TIME COSTS:	\$15,538	\$32,318	\$33,288	\$34,286	\$35,315	
NETWORK OPERATING COSTS:	\$1,016,289	\$2,133,881	\$2,197,898	\$2,263,835	\$2,331,750	
<b>Cost Offset Due to Leases</b>	(\$250,000)	(\$500,000)	(\$515,000)	(\$530,450)	(\$546,364)	
MSI SERVICES:		\$0	\$720,798	\$1,451,514	\$1,495,060	
<b>Baseline - No Operating Reserve or Rate Stabilization Funds</b>	<b>Total Operating Expenses</b>	<b>\$ 4,156,295</b>	<b>\$ 8,830,145</b>	<b>\$ 10,012,794</b>	<b>\$ 11,215,136</b>	<b>\$ 11,551,590</b>
<b>Scenario 1: Original Rate Stabilization Allocation, 5% Operating Reserve Beginning 2024</b>	Operating Reserve		\$441,507	\$500,640	\$560,757	\$577,579
	Rate Stabilization Funds	(\$654,852)	(\$1,090,983)	(\$654,852)	(\$218,720)	
	<b>Total Operating Expenses</b>	<b>\$ 3,501,444</b>	<b>\$ 8,180,669</b>	<b>\$ 9,858,582</b>	<b>\$ 11,557,172</b>	<b>\$ 12,129,169</b>
<b>Scenario 2: Original Rate Stabilization Allocation, 5% Operating Reserve Beginning 2025</b>	Operating Reserve		\$0	\$500,640	\$560,757	\$577,579
	Rate Stabilization Funds	(\$654,852)	(\$1,090,983)	(\$654,852)	(\$218,720)	\$0
	<b>Total Operating Expenses</b>	<b>\$ 3,501,444</b>	<b>\$ 7,739,162</b>	<b>\$ 9,858,582</b>	<b>\$ 11,557,172</b>	<b>\$ 12,129,169</b>
<b>Scenario 3: "Smoothing" Rate Stabilization Allocation, 5% Operating Reserve Beginning 2024</b>	Operating Reserve		\$441,507	\$500,640	\$560,757	\$577,579
	Rate Stabilization Funds	(\$758,396)	(\$1,117,874)	(\$743,135)	-	\$0
	<b>Total Operating Expenses</b>	<b>\$ 3,397,899</b>	<b>\$ 8,153,778</b>	<b>\$ 9,770,298</b>	<b>\$ 11,775,893</b>	<b>\$ 12,129,169</b>
<b>Scenario 4: "Smoothing" Rate Stabilization Allocation, 5% Operating Reserve Beginning 2025</b>	Operating Reserve		\$0	\$500,640	\$560,757	\$577,579
	Rate Stabilization Funds	(\$758,396)	(\$1,117,874)	(\$743,135)	-	\$0
	<b>Total Operating Expenses</b>	<b>\$ 3,397,899</b>	<b>\$ 7,712,271</b>	<b>\$ 9,770,298</b>	<b>\$ 11,775,893</b>	<b>\$ 12,129,169</b>

	PSERN Draft Rates														
	Presented to PSERN Operator Board of Directors September 22, 2022														
	Public Safety Radios					Non-Public Safety Radios					Consoles				
	2023	2024	2025	2026	2027	2023	2024	2025	2026	2027	2023	2024	2025	2026	2027
<b>Baseline - No Operating Reserve or Rate Stabilization Funds</b>	\$30.96	\$34.53	\$39.16	\$43.86	\$45.18	\$24.15	\$26.94	\$30.54	\$34.21	\$35.24	\$1,058.32	\$1,180.42	\$1,338.52	\$1,499.25	\$1,544.22
<b>Scenario 1: Original Rate Stabilization Allocation, 5% Operating Reserve Beginning 2024</b>	\$26.08	\$30.47	\$36.72	\$43.05	\$45.18	\$20.34	\$23.77	\$28.64	\$33.58	\$35.24	\$891.57	\$1,041.52	\$1,255.14	\$1,471.40	\$1,544.22
<b>Scenario 2: Original Rate Stabilization Allocation, 5% Operating Reserve Beginning 2025</b>	\$26.08	\$28.83	\$36.72	\$43.05	\$45.18	\$20.34	\$22.48	\$28.64	\$33.58	\$35.24	\$891.57	\$985.31	\$1,255.14	\$1,471.40	\$1,544.22
<b>Scenario 3: "Smoothing" Rate Stabilization Allocation, 5% Operating Reserve Beginning 2024</b>	\$25.31	\$30.37	\$36.39	\$43.86	\$45.18	\$19.74	\$23.69	\$28.38	\$34.21	\$35.24	\$865.21	\$1,038.10	\$1,243.90	\$1,499.25	\$1,544.22
<b>Scenario 4: "Smoothing" Rate Stabilization Allocation, 5% Operating Reserve Beginning 2025</b>	\$25.31	\$28.72	\$36.39	\$43.86	\$45.18	\$19.74	\$22.41	\$28.38	\$34.21	\$35.24	\$865.21	\$981.89	\$1,243.90	\$1,499.25	\$1,544.22

**RECOMMENDATION:**

If no additional scenarios are requested by the board, it is recommended that the Board vote to approve the adoption of one of the four budget scenarios presented. The board could vote to approve one scenario for 2023 or for the biennium 2023/2024. However, if other scenarios are requested, staff will revise the report and bring the revisions for the Board’s approval at the October 2022 meeting.

It should be noted that, by adopting the 2023 budget, the Board authorizes PSERN Operator to begin collecting service fees on July 1, 2023.

If the Board wishes to adopt the budget and set user service fee rates, then a motion similar to the following will need to be passed:

MOTION: That the PSERN Operator Board adopt scenario \_\_ for the [2023] or [2023/2024] fiscal year as presented in this report by approving Resolution 22-04 as provided in Appendix B.

**SUPPORTING DOCUMENTATION:**

Appendix A: Draft budget detail

Appendix B: Draft Resolution 22-04

SUPPORTING DOCUMENTATION:

Appendix A: Draft Budget Detail

## PSERN Operator Budget Draft

### Presented to PSERN Operator Board of Directors September 22, 2022

Budget Item	Annual Cost to Operate				
	2023 6 months	2024 24 FTE	2025 25 FTE	2026 26 FTE	2027
<b>SALARY AND BENEFITS:</b>	\$2,422,142	\$5,238,922	\$5,592,377	\$5,965,735	\$6,144,707
Labor	\$1,521,822	\$3,308,865	\$3,539,662	\$3,783,628	\$3,897,137
Overtime	\$138,858	\$288,825	\$300,378	\$312,394	\$321,765
After Hours Support	\$84,183	\$175,100	\$182,104	\$189,389	\$195,070
Benefits	\$638,279	\$1,385,011	\$1,486,679	\$1,594,265	\$1,642,093
Recruiting Expense	\$0	\$0	\$0	\$0	\$0
Employee Development	\$39,000	\$81,120	\$83,554	\$86,060	\$88,642
<b>INSURANCE:</b>	\$250,000	\$520,000	\$540,800	\$548,912	\$565,379
Insurance	\$250,000	\$520,000	\$540,800	\$548,912	\$565,379
<b>CONSULTING SERVICES (outsourced):</b>	161,000	300,705	305,216	309,794	319,088

*Assumes 5.0% increase over 2022 based on CPIW rate of 4.99%*

*Assumes 4% increase over previous year for salary/benefits and 3% increase for other categories*

*Assumes 4% increase over previous year for salary/benefits and 3% increase for other categories*

*Assumes 4% increase over previous year for salary/benefits and 3% increase for other categories*

*Assumes 4% increase over previous year for salary/benefits and 3% increase for other categories*



Other Consulting/Prof. Svcs	\$37,500	\$50,000	\$50,750	\$51,511	\$53,057
Auditor	\$12,500	\$25,375	\$25,756	\$26,142	\$26,926
Legal	\$36,000	\$73,080	\$74,176	\$75,289	\$77,548
Security consulting	\$37,500	\$76,125	\$77,267	\$78,426	\$80,779
HR and labor relations	\$12,500	\$25,375	\$25,756	\$26,142	\$26,926
Accounting and financial management	\$25,000	\$50,750	\$51,511	\$52,284	\$53,852
Procurement services	\$0	-	-	-	\$0
	\$0				\$0
<b>KING COUNTY SERVICES</b>	<b>\$17,159</b>	<b>\$35,641</b>	<b>\$36,679</b>	<b>\$37,749</b>	<b>\$38,881</b>
Admin & finance	\$1,000	\$2,030	\$2,060	\$2,091	\$2,154
Human Resources	\$16,159	\$33,611	\$34,619	\$35,658	\$36,727
Office space					\$0
IT					\$0
					\$0
<b>OTHER OFFICE COSTS:</b>	<b>\$274,168</b>	<b>\$568,678</b>	<b>\$585,738</b>	<b>\$603,310</b>	<b>\$621,410</b>
Office lease (including furniture & space for files)	\$79,524	\$163,819	\$168,734	\$173,796	\$179,010
Utilities (Office(s))	\$6,000	\$12,480	\$12,854	\$13,240	\$13,637
Vehicle Lease & Operating	\$72,050	\$149,864	\$154,360	\$158,991	\$163,760
Vehicle Acquisitions	\$0	\$0	\$0	\$0	\$0
Fuel & Parking	\$50,325	\$104,676	\$107,816	\$111,051	\$114,382
Financial Management System	\$10,056	\$20,916	\$21,544	\$22,190	\$22,856
Asset Management System	\$9,113	\$18,954	\$19,523	\$20,108	\$20,712
ITSM System	\$18,000	\$37,440	\$38,563	\$39,720	\$40,912
Records Management	\$0	\$0	\$0	\$0	\$0
MS365	\$3,900	\$8,112	\$8,355	\$8,606	\$8,864

Training & Other Travel	\$10,000	\$20,800	\$21,424	\$22,067	\$22,729
Telephone	\$0	\$0	\$0	\$0	\$0
Cell Phones	\$10,200	\$21,216	\$21,852	\$22,508	\$23,183
Miscellaneous	\$5,000	\$10,400	\$10,712	\$11,033	\$11,364
<b>OTHER ONE-TIME COSTS:</b>	<b>\$15,538</b>	<b>\$32,318</b>	<b>\$33,288</b>	<b>\$34,286</b>	<b>\$35,315</b>
Network		\$12,480	\$12,854	\$13,240	\$13,637
6,000					
Workstations		\$16,718	\$17,220	\$17,736	\$18,268
8,038					
Tools		\$3,120	\$3,214	\$3,310	\$3,409
1,500					
Vehicle Fit Out					\$0
					\$0
					\$0
<b>NETWORK OPERATING COSTS:</b>	<b>\$1,016,289</b>	<b>\$2,133,881</b>	<b>\$2,197,898</b>	<b>\$2,263,835</b>	<b>\$2,331,750</b>
Storage units (for spare parts)	\$1,200	\$2,496	\$2,571	\$2,648	\$2,727
Fiber Maintenance	\$10,500	\$21,840	\$22,495	\$23,170	\$23,865
Leased Ethernet (fr. PSERN)	\$9,000	\$18,720	\$19,282	\$19,860	\$20,456
Leased Ethernet (fr. MSI)	\$199,097	\$414,122	\$426,546	\$439,343	\$452,523
Supplies/Miscellaneous	\$10,000	\$20,800	\$21,424	\$22,067	\$22,729
Freight	\$7,500	\$15,600	\$16,068	\$16,550	\$17,047
Parts	\$5,000	\$10,400	\$10,712	\$11,033	\$11,364
Rentals	\$2,500	\$5,200	\$5,356	\$5,517	\$5,682
Radio Site Leases	\$686,523	\$1,427,967	\$1,470,806	\$1,514,930	\$1,560,378
Site Fuel & Fuel Maint	\$82,764	\$172,149	\$177,314	\$182,633	\$188,112
Utilities (Sites)	\$108,307	\$225,279	\$232,037	\$238,998	\$246,168

	Site Fire Alarm Monitoring/Teleco	\$10,000	\$20,800	\$21,424	\$22,067	\$22,729
	Roads Maintenance	\$10,500	\$21,840	\$22,495	\$23,170	\$23,865
	Site Maintenance	\$105,000	\$218,400	\$224,952	\$231,701	\$238,652
	Transportation/Winter Site access	\$18,398	\$38,268	\$39,416	\$40,599	\$41,817
						\$0
	<b>Cost Offset Due to Leases</b>	(\$250,000)	(\$500,000)	(\$515,000)	(\$530,450)	(\$546,364)
	<b>MSI SERVICES:</b>		\$0	\$720,798	\$1,451,514	\$1,495,060
	System Vendor Services	-	-	\$331,998	\$669,960	\$690,059
	System Updates & Upgrades	-	-	\$388,800	\$781,555	\$805,001
<b>Baseline - No Operating Reserve or Rate Stabilization Funds</b>	<b>Total Operating Expenses</b>	<b>\$ 4,156,295</b>	<b>\$ 8,830,145</b>	<b>\$ 10,012,794</b>	<b>\$ 11,215,136</b>	<b>\$ 11,551,590</b>
<b>Scenario 1: Original Rate Stabilization Allocation, 5% Operating Reserve Beginning 2024</b>	Operating Reserve		\$441,507	\$500,640	\$560,757	\$577,579
	Rate Stabilization Funds	(\$654,852)	(\$1,090,983)	(\$654,852)	(\$218,720)	
	<b>Total Operating Expenses</b>	<b>\$ 3,501,444</b>	<b>\$ 8,180,669</b>	<b>\$ 9,858,582</b>	<b>\$ 11,557,172</b>	<b>\$ 12,129,169</b>
<b>Scenario 2: Original Rate Stabilization Allocation, 5% Operating Reserve Beginning 2025</b>	Operating Reserve		\$0	\$500,640	\$560,757	\$577,579
	Rate Stabilization Funds	(\$654,852)	(\$1,090,983)	(\$654,852)	(\$218,720)	\$0
	<b>Total Operating Expenses</b>	<b>\$ 3,501,444</b>	<b>\$ 7,739,162</b>	<b>\$ 9,858,582</b>	<b>\$ 11,557,172</b>	<b>\$ 12,129,169</b>
<b>Scenario 3: "Smoothing" Rate Stabilization Allocation, 5% Operating Reserve Beginning 2024</b>	Operating Reserve		\$441,507	\$500,640	\$560,757	\$577,579
	Rate Stabilization Funds	(\$758,396)	(\$1,117,874)	(\$743,135)	-	\$0
	<b>Total Operating Expenses</b>	<b>\$ 3,397,899</b>	<b>\$ 8,153,778</b>	<b>\$ 9,770,298</b>	<b>\$ 11,775,893</b>	<b>\$ 12,129,169</b>
	Operating Reserve		\$0	\$500,640	\$560,757	\$577,579

<b>Scenario 4: "Smoothing" Rate Stabilization Allocation, 5% Operating Reserve Beginning 2025</b>	Rate Stabilization Funds	(\$758,396)	(\$1,117,874)	(\$743,135)	-	\$0
	<b>Total Operating Expenses</b>	<b>\$ 3,397,899</b>	<b>\$ 7,712,271</b>	<b>\$ 9,770,298</b>	<b>\$ 11,775,893</b>	<b>\$ 12,129,169</b>

**PUGET SOUND EMERGENCY RADIO NETWORK OPERATOR**

**RESOLUTION NO. 22-04**

A RESOLUTION of the Puget Sound Emergency Radio Network Operator Board of Directors adopting the 2023-2024 Budget.

**RECITALS**

WHEREAS, in accordance with Section 4.4 of the Puget Sound Emergency Radio Network Operator Interlocal Cooperation Agreement (the “Interlocal Agreement”), by and among King County and the cities of Auburn, Bellevue, Federal Way, Issaquah, Kent, Kirkland, Mercer Island, Redmond, Renton, Seattle, and Tukwila, the Board of Directors (the “Board”) of the Puget Sound Emergency Radio Network Operator (“PSERN Operator”) is responsible for approving a budget for PSERN Operator; and

WHEREAS, a biennial budget for the 2023-2024 period has been prepared by PSERN Operator staff and presented to this Board for consideration; and

WHEREAS, after due consideration the Board now desires to adopt the 2023-2024 budget as set forth herein;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE PUGET SOUND EMERGENCY RADIO NETWORK OPERATOR AS FOLLOWS:**

**Section 1. Adoption of 2023-2024 Budget.** The Board hereby approves and adopts the 2023-2024 budget in the total amount of \$[ ] (the “2023-2024 Budget”). The 2023-2024 Budget represents operating and capital costs that would be due and payable in fiscal years 2023 and 2024. A summary budget for 2023-2024 is attached hereto as Exhibit A and is incorporated herein by reference.

**Section 2. Mid-Annual Review.** The Board shall provide for a mid-annual budget review of the 2023-2024 Budget, and shall make modifications to such budget as determined to be necessary and in the best interest of PSERN Operator.

**Section 3. Further Authority; Prior Acts.** All PSERN Operator officials, agents, and representatives are hereby authorized and directed to undertake all action necessary or desirable from time to time to carry out the terms of, and complete the transactions contemplated by, this resolution. All acts taken pursuant to the authority of this resolution but prior to its effective date are hereby ratified and confirmed.

**Section 4. Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this resolution is declared unconstitutional or invalid for any reason, such decision shall not affect the viability of the remaining portions of this resolution.

**Section 5. Effective Date.** This resolution shall take effect immediately upon its passage and adoption.

PASSED at a regular meeting of the Puget Sound Emergency Radio Network Operator Board of Directors on this 22<sup>nd</sup> day of September, 2022.

CONCURRED by the Chairperson of the Puget Sound Emergency Radio Network Operator Board of Directors on this 22<sup>nd</sup> day of September, 2022.

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Lora Ueland, Chairperson, Board of Directors,  
Puget Sound Emergency Radio Network  
Operator

ATTEST:

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Secretary

# PSERN Operator Board of Directors Staff Report - Agenda Item #11



**Title:** 2023 PSERN Operator Board Meeting Schedule  
**Meeting Date:** September 22, 2022  
**PSERN Staff Contact:** Tracy Plouse, Finance & Administrative Services Manager  
**Action:** Decision

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## **SUMMARY:**

This report presents, for approval, a board resolution for adopting the 2023 PSERN Operator Board of Directors meeting schedule.

## **BACKGROUND/ANALYSIS:**

Section 3.01(b) of the PSERN Operator bylaws states that “Regular meetings of the Board shall be held at least twice per year in accordance with Section 4.3.4 and 4.3.6 of the Interlocal Agreement. The date, time and place of regular meetings for the upcoming calendar year shall be approved by resolution no later than the last regular meeting of the preceding calendar year.”

## **RECOMMENDATION:**

In order to adopt the 2023 Board meeting schedule, it is recommended that the Board of Directors approve *Resolution No. 22-05 Resolution Approving the Regular Meeting Schedule of the Puget Sound Emergency Radio Network (PSERN) Operator Board of Directors* attached to this report.

## **SUPPORTING DOCUMENTATION:**

**Appendix A: Board Resolution 22-05**



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**RESOLUTION NO. 22-05**

**RESOLUTION APPROVING THE REGULAR MEETING SCHEDULE OF THE PUGET SOUND EMERGENCY RADIO NETWORK (PSERN) OPERATOR BOARD OF DIRECTORS**

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A **RESOLUTION** of the PSERN Operator Board of Directors approving the regular meeting schedule of the PSERN Operator Board of Directors.

**NOW, THEREFORE, BE IT RESOLVED** by the PSERN Operator Board of Directors as follows:

**Section 1. Findings.** The regular 2023 meeting schedule of the PSERN Operator Board of Directors is noted as follows:

- January 26, 2023
- February 23, 2023
- March 23, 2023
- April 27, 2023
- May 25, 2023
- June 22, 2023
- July 27, 2023
- August 24, 2023
- September 28, 2023
- October 26, 2023
- November (no meeting)
- December 14, 2023

**Section 2. Findings.** All regular 2023 meetings, per the dates noted above, will begin at 3:45 PM (Pacific Time). The location of all regular meetings is Executive Conference Room 128 (1st Floor past elevators), Chinook Building, 401 5th Avenue, Seattle, WA 98104, or other such location as determined and approved by the Board. Information regarding revised location and remote meeting access can be found online at [PSERN.org](http://PSERN.org).

**Section 3.** If any portion of this resolution is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution.



**Section 4.** This resolution shall take effect immediately upon its passage.

**ADOPTED** at the special meeting of the PSERN Operator Board of Directors, this 22nd day of September, 2022.

**PSERN OPERATOR  
KING COUNTY, WASHINGTON**

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[Lora Ueland], Chair