## REVISED STAFF REPORT

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| **Agenda Items:** |  | **Name:** | Miranda Leskinen |
| **Proposed No**.: | 2022-02752022-02762022-02772022-02782022-0279 | **Date:** |  |

**COMMITTEE ACTION**

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| ***Proposed Substitute Ordinances 2022-0275.2, 0276.2, 0277.2, 0278.2 and 0279.2, allowing the Executive to execute agreements for PSERN Operator use of county-owned space for network operations, passed out of committee on September 14, 2022, with a “Do Pass” recommendation. The Ordinances were each amended in committee to update the non-discrimination language in the agreements.*** |

**SUBJECT**

Proposed Ordinances relating to the use of county-owned space by the Puget Sound Emergency Radio Network (PSERN) Operator for network operations.

**SUMMARY**

The Executive has transmitted for Council approval five agreements (one license agreement and four lease agreements) between King County and the Puget Sound Emergency Radio Network Operator for the use of county-owned space for PSERN operations. As indicated by the Executive, these agreements require Council approval in advance of the PSERN Operator taking over the new emergency radio communications system (PSERN), which is scheduled to occur at project completion (Full System Acceptance or FSA) in 2023.

The transmitted agreements include:

* PO 2022-0275: Rattlesnake Rd. site in Snoqualmie (License Agreement)
* PO 2022-0276: Ring Hill site in Woodinville (Lease Agreement)
* PO 2022-0277: Top Hat site in Seattle (Lease Agreement)
* PO 2022-0278: RCECC site in Renton (Lease Agreement)
* PO 2022-0279: Squak Mountain site in Issaquah (Lease Agreement)

Each of the transmitted agreements would be for a term of 20 years with two extension options of 5 years each. Table 1 of the staff report provides an overview of key provisions for the agreements, including space and rent considerations. It is important to note that all but one of the agreements (RCECC Lease Agreement) include an Assignment and Bill of Sale that would entail the County assigning, selling, and transferring some premises-related assets, improvements and agreements to the PSERN Operator.

An amendment to each proposed ordinance is attached to the staff report that would make approval of the license/lease agreement contingent on executing an amendment that would replace the text of the agreement’s non-discrimination language with updated, County Charter-based text.

**BACKGROUND**

**PSERN Project.** On April 28, 2015, King County voters approved a nine-year property tax levy[[1]](#footnote-1) to fund the Puget Sound Emergency Radio Network (PSERN). Once completed, PSERN will replace and upgrade the county’s existing emergency radio communications system which is more than twenty years old.[[2]](#footnote-2) King County is responsible for leading and implementing the PSERN project per Ordinance 18075 (“Implementation ILA”).

**PSERN Operation after Project Completion.** Ordinance 19165, approved by the King County Council in September 2020, authorized the Executive to execute the Puget Sound Emergency Radio Network Operator Interlocal Cooperation Agreement (“PSERN Operator ILA”) with the cities of Auburn, Bellevue, Federal Way, Issaquah, Kent, Kirkland, Mercer Island, Redmond, Renton, Seattle and Tukwila to create the PSERN Operator[[3]](#footnote-3) that will assume ownership and control of the Puget Sound Emergency Radio Network (PSERN) following project full system acceptance (FSA). PSERN project FSA is anticipated for June 2023 (as of June 2022).

**ANALYSIS**

Under King County Code, lease or license agreements for the use of real property with a term longer than five years must be approved by the Council before execution by the Executive.[[4]](#footnote-4) Although County Code exempts leases or licenses for the possession or use of third-party property by the County for PSERN project implementation purposes from requiring Council review, agreements regarding PSERN Operator use of County-owned property are not exempt under that Code provision (K.C.C. 4A.100.070.D.5.). This is also noted in the transmitted Property Summary for each agreement. Additionally, County Code allows for intergovernmental sales and leases of real property “upon such terms as may be agreed upon and for such considerations as may deemed by the County to be adequate”.[[5]](#footnote-5)

**PO 2022-0275.** Proposed Ordinance 2022-0275 would approve a license agreement between King County and the PSERN Operator for a term of 20 years with two extension options of 5 years each for use of County space at an existing radio communications site located at 14600 Rattlesnake Road SE in Snoqualmie (Rattlesnake Site). Rent would not be charged in consideration for the County’s use of space (sublease) at no cost of the PSERN Operator’s West Seattle site. The license would begin on the Term Commencement Date.

It’s important to note that the County does not own the land, but instead licenses its use under an easement and a land use license agreement with the State. For context, the County obtained these rights from the State Department of Natural Resources (land owner) for the installation and operation of the County’s existing emergency radio communications system facilities (including a county-owned tower and equipment shelter).

The proposed license agreement would entail the PSERN Operator’s use of 1,500 square feet of equipment (ground) space on the site that the PSERN Operator’s shelter, fuel storage tank and related improvements constructed for PSERN, as well as connections to the (new) tower and tower space for its antennas. Of note, under the agreement, the PSERN Operator would pay the costs to decommission and remove the existing county-owned tower from the site. Also, per the agreement, the PSERN Operator would provide Northeast King County Regional Public Safety Communications Agency and Eastside Fire and Rescue with backhaul services[[6]](#footnote-6) for their communications systems as long as they are licensees at the site. Additionally, the Parties (King County and the PSERN Operator) have agreed that the County will assign, sell, and transfer certain site-related assets, improvements, and agreements to the PSERN Operator and that the PSERN Operator would assume those[[7]](#footnote-7) through the Assignment and Bill of Sale included with the agreement (Exhibit F to the agreement).

There is no cost to the County projected under the proposed agreement.

**PO 2022-0276.** Proposed Ordinance 2022-0276 would approve a lease agreement between King County and the PSERN Operator for a term of 20 years with two extension options of 5 years each for use of County space at an existing radio communications site located at 22705 NE Old Woodinville Duvall Road in Woodinville (Ring Hill Site). Rent would be charged at a rate of $26,872 per year (year one) with a 2 percent annual increase. The lease would begin on the Term Commencement Date.

The proposed lease agreement would entail the PSERN Operator’s use of 5,811 square feet of ground space on the county-owned radio communications site for placement of its communication facilities and rights for access and utilities. Under the proposed agreement, the County would reserve the right to use the PSERN Operator’s communications or to occupy space within its premises subject to certain terms and conditions (e.g., noninterference with PSERN operations). Additionally, the Parties have agreed that the County will assign, sell, and transfer certain site-related assets, improvements, and agreements to the PSERN Operator and that the PSERN Operator would assume those[[8]](#footnote-8) through the Assignment and Bill of Sale included with the agreement (Exhibit E to the agreement).

There is no cost to the County projected under the proposed agreement.

**PO 2022-0277.** Proposed Ordinance 2022-0277 would approve a lease agreement between King County and the PSERN Operator for a term of 20 years with two extension options of 5 years each for use of County space at an existing radio communications site located at 206 SW 112th Street in Seattle (Top Hat Site). Rent would be charged at a rate of $16,000 per year (year one) with a 2 percent annual increase. The lease would begin on the Term Commencement Date.

The proposed lease agreement would entail the PSERN Operator’s use of 5,079 square feet of ground space on the county-owned radio communications site for placement of its communication facilities and rights for access and utilities. Under the proposed agreement, the County would reserve the right to use the PSERN Operator’s communications or to occupy space within its premises subject to certain terms and conditions (e.g., noninterference with PSERN operations). Additionally, the Parties have agreed that the County will assign, sell, and transfer certain site-related assets, improvements, and agreements to the PSERN Operator and that the PSERN Operator would assume those[[9]](#footnote-9) through the Assignment and Bill of Sale included with the agreement (Exhibit E to the agreement).

There is no cost to the County projected under the proposed agreement.

**PO 2022-0278.** Proposed Ordinance 2022-0278 would approve a lease agreement between King County and the PSERN Operator for a term of 20 years with two extension options of 5 years each for use of space at the Regional Communications and Emergency Coordination Center (RCECC) located at 3511 NE 2nd Street in Renton (RCECC Site). King County is the property owner. The lease would begin on the Term Commencement Date.

The proposed lease agreement would entail the PSERN Operator’s use of 119 square feet of equipment space in the site building’s radio room, connections to the tower, space on the tower for its antennas, and rights for access and utilities.

Rent and utilities (i.e., electricity and backup/generator power) would not be charged for the PSERN Operator’s site use during the lease in consideration for the PSERN project’s having funded and made specific improvements that become the County’s property (i.e., dedicated HVAC system and battery ventilation for the radio room, a 25-foot tower extension, and electrical upgrades). Additionally, the County would be able to use the PSERN Operator’s DC power plant for operation of all Sheriff’s Office (KCSO) 911 phones located in the building during the term of the lease[[10]](#footnote-10). Moreover, the PSERN Operator would be responsible for maintaining the County’s tower during the lease term for a cost not to exceed $5,000 for any one item or $25,000 per year.

There is no cost to the County projected under the proposed agreement.

**PO 2022-0279.** Proposed Ordinance 2022-0279 would approve a lease agreement between King County and the PSERN Operator for a term of 20 years with two extension options of 5 years each for use of County space at an existing radio communications site located at 10900 Squak Mountain Rd. S in Issaquah (Squak Mountain Site). The lease would begin on the Term Commencement Date.

The proposed lease agreement would entail the PSERN Operator’s use of 48 square feet of ground space and 67 square feet of space in the County’s shelter and space on the tower for its antennas, connections to the tower, and rights for access and utilities.

Rent and utilities (i.e. electricity) would not be charged for the PSERN Operator’s site use during the lease in consideration for the County’s use of space (sublease) at no cost of the PSERN Operator’s Skyway site, as well as in consideration for the PSERN project’s having paid for improvements to the shelter that become the County’s property. Moreover, the PSERN Operator would be responsible with operating and maintaining the backup power generator during the lease term, and with operating and maintaining backhaul facilities and services. Additionally, the Parties have agreed that the County will assign, sell, and transfer certain site-related assets and improvements to the PSERN Operator and that the PSERN Operator would assume those[[11]](#footnote-11) through the Assignment and Bill of Sale included with the agreement (Exhibit E to the agreement).

There is no cost to the County projected under the proposed agreement.

**Table 1: Agreement Key Terms Summary**

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| **Site Name** | **Location** | **Ground Space** | **Rent** | **Term** |
| **Rattlesnake** | Snoqualmie (D3) | 1,500 sq.ft. | N/A | 20 years and 2 extension options (5 yrs. each) |
| **Ring Hill** | Woodinville (D 3) | 5,811 sq.ft. | $26,872 per year with 2% annual escalator | 20 years and 2 extension options (5 yrs. each) |
| **Top Hat** | Seattle (D 8) | 5,079 sq.ft. | $16,000 per year with 2% annual escalator | 20 years and 2 extension options (5 yrs. each) |
| **RCECC** | Renton (D 9) | 119 sq.ft. | N/A | 20 years and 2 extension options (5 yrs. each) |
| **Squak Mtn.** | Issaquah (D 9) | 48 sq.ft. and 67 sq.ft. shelter space | N/A | 20 years and 2 extension options (5 yrs. each) |

**AMENDMENT**

An amendment to each proposed ordinance is attached to the staff report that would make approval of the license/lease agreement contingent on executing an amendment that would replace the text of the agreement’s non-discrimination language with updated, County Charter-based text. Executive staff have expressed no concerns with the amendments.

1. Total levy projections, as of the August 2022 forecast, are an estimated $301 million (not adjusted for undercollections and reflecting a 1.01 limit factor). [↑](#footnote-ref-1)
2. For context, an emergency radio communications system, like PSERN, supports the dispatch of first responders (i.e., policy, fire and medical services) to incidents and allows responders to communicate with each other at those locations. [↑](#footnote-ref-2)
3. Per the PSERN Operator ILA, the PSERN Operator is established as a new separate governmental agency under RCW 39.34.030(3)(b) that is organized as a nonprofit corporation under RCW chapter 24.06 as authorized by the Interlocal Cooperation Act (Chapter 39.34 RCW) to assume ownership and control of PSERN following project full system acceptance. [↑](#footnote-ref-3)
4. K.C.C. Chapter 4.56. [↑](#footnote-ref-4)
5. K.C.C. Chapter 4.56. [↑](#footnote-ref-5)
6. Backhaul services refer to the connections designed to carry data between PSERN sites. [↑](#footnote-ref-6)
7. Described in Exhibit 1 to Exhibit F, Description of Facilities. Includes a shelter and its improvements (i.e., generator), fuel storage tank, ice bridge, utilities not owned by provider to/from shelter and fuel storage tank, all associated equipment and improvements, all security equipment and improvements in and around the shelter and fuel storage tank, and backhaul facilities. [↑](#footnote-ref-7)
8. Described in Exhibits 1 and 2 to Exhibit E, Description of Facilities and Description of Third-Party Leases. Facilities include a guyed tower and its improvements, shelter and its improvements (i.e., generator and fuel storage tank), utilities not owned by provider to/from shelter and fuel storage tank, all associated equipment and improvements, and all security equipment and improvements in and around the shelter and fuel storage tank. [↑](#footnote-ref-8)
9. Described in Exhibits 1 and 2 to Exhibit E, Description of Facilities and Description of Third-Party Leases. Facilities include a self-support tower and its improvements, shelter and its improvements (i.e., generator and fuel storage tank), utilities not owned by provider to/from shelter and fuel storage tank, all associated equipment and improvements, and all security equipment and improvements in and around the shelter and fuel storage tank, including shelter gates and fencing. [↑](#footnote-ref-9)
10. In 2003, KCSO’s Communications Section moved into the RCECC. Additional facility information is available on the KCSO website: <https://kingcounty.gov/depts/sheriff/about-us/enforcement/911center/facility.aspx>. Last accessed on September 5, 2022. [↑](#footnote-ref-10)
11. Described in Exhibit 1 to Exhibit E, Description of Facilities. Includes a generator, fuel storage tank (in shelter) and underground fuel storage tank, batter stack, and all associated fuel lines, equipment and improvements. [↑](#footnote-ref-11)