BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to administer funding for public safety answering points for the implementation and provision of Enhanced Wireless 911 service: City of Columbus.	)	Application No. 911-042.22 ORDER APPROVING USE OF SET ASIDE FUNDS AND ADVANCE Entered: December 17, 2013

BY THE COMMISSION:

O P I N I O N   A N D   F I N D I N G S

On October 4, 2013, the City of Columbus, and Boone, Butler, Merrick, Nance, Polk, and Saunders Counties (Applicants) filed applications to use set aside funds for the purchase of new equipment and a seven (7) year maintenance plan as part of a joint project for the east central region at a total cost of $1,043,636.88. Additionally, four of the seven PSAPs seek approval for advances of funding in varying amounts.

Each Applicant submitted a request to use set aside funds; however, the requests are all part of the Central 911 Equipment Consolidation Project. Therefore, the Commission held a joint hearing on the requests and produced a consolidated record on December 3, 2013.

Attorney Angela Melton appeared on behalf of Commission staff. No other attorneys entered an appearance.

E V I D E N C E

The Applicants have entered into an inter-local cooperation agreement creating the East Central 911 governing committee and designating the City of Columbus as the fiscal agent for purposes of the effort. A copy of the inter-local agreement was entered into the record.

Mr. Todd Thalken of the Columbus Police Department presented testimony in support of the requests and provided a description of the project. The Applicants will share certain Customer Premise Equipment (CPE) that will be placed in two geo-diverse sites. The vendor was selected after completing a feasibility study and a bidding process. Six bids were received and four vendors interviewed. The total cost of the project, including the prepaid seven (7) year maintenance is $1,043,636.88. The following is a summary of the amounts to be paid from wireless 911 set aside funds, including any advances sought by the counties.

PSAP	Total Cost	Wireless Ratio	Wireless Amount
Boone County	$135,209.98	84/16	$113,576.38
Butler County	$135,209.98	62/38	$83,830.19
Merrick County	$135,209.98	75/25	$101,407.49
Nance County	$135,209.98	73/27	$98,703.29
City of Columbus	$199,988.00	70/30	$139,991.60
Polk County	$135,209.98	74/26	$100,055.39
Saunders County	$167,598.98	55/45	$92,179.44
Total	**$1,043,636.88**		**$729,743.78**

Of the **$729,743.78** in costs to be paid with wireless 911 funds, **$295,816.95** relates to a prepaid seven (7) year maintenance contract. Mr. Thalken testified that the prepayment will save approximately $325,000 compared to a more traditional year to year agreement. He further stated that all of the PSAPs involved wanted to ensure that the costs of the project were clearly defined for the term of the inter-local agreement. Additionally, the maintenance agreement provides for software upgrades necessary for next generation 911 functionality as it becomes available. Mr. Thalken stated that if the Commission did not approve the use of the funds and advances as presented, the project would not go forward.

The following summarizes the advances sought and the monthly payments from the Enhanced Wireless 911 fund currently received by the PSAPs.

PSAP	Advance Requested	Current Monthly Payment
Boone County	$25,000	$4,473.73
Merrick County	$45,000	$4,564.71
Nance County	$38,000	$3,532.93
City of Columbus	$20,000	$7,023.08

Mr. Thalken testified that costs related to networking and call transport are not part of the requests. The PSAPs intend to use a state emergency communications network which depends on a series of microwave communications. He further stated that at this time, the PSAPs do not know the costs associated with the network; but that the group will sign a contract with the state CIO’s office for network services.

The Enhanced Wireless 911 Advisory Board considered the request at its October 21, 2013 meeting and recommended that the Commission approve the use of funds and advances.

O P I N I O N   A N D   F I N D I N G S

The Nebraska Public Service Commission (Commission) adopted the permanent cost model to administer funding for public safety answering points for the implementation and provision of Enhanced Wireless 911 service under Docket No. 911-019/PI-118.

Based upon the request for funding, supporting documentation, and in consideration of the recommendation of the Advisory Board, the Commission is of the opinion and finds that the costs associated with the request to use funding are eligible under Neb. Rev. Stat. § 86-465 as costs that have been incurred or will be incurred for the purchase, installation, maintenance or operation of telecommunications equipment and telecommunications services required for the provision of enhanced wireless 911 service.

Pursuant to the permanent funding mechanism, Columbus is receiving a monthly payment in the amount of **$7,023.08**. PSAPs are permitted to retain up to seventy-five percent (75%) of the amount allocated to that PSAP for the future purchase of equipment and software.

PSAPs wishing to utilize amounts set aside for purchases of equipment and software must file an application with the Commission which includes (1) a detailed description of the equipment and software including all specifications; (2) a statement that the PSAP has complied with all state and local bidding requirements; a detailed breakdown of the costs of the equipment, software and installation; a description of the funding being used for the purchase including landline 911 surcharge revenues, general funds, grant funding and enhanced wireless 911 funds; the expected delivery and installation dates; and copies of all contracts related to the purchase and installation of the equipment and software.[1]

Costs for equipment, software and maintenance are clearly eligible uses for enhanced wireless 911 funding, however, the Commission has not previously approved the use of set aside funds for the prepayment of maintenance seven (7) years in advance as proposed in this application.

By prepaying for a service agreement, Applicants risk the vendor leaving the market during the term with little leverage to ensure compliance with the contract. Each of these PSAPs currently has equipment that is no longer supported by the vendor and is well aware of risk. Although the Commission remains concerned with the approach taken, we recognize that the local governing authorities for the PSAPs are in the best position to

[1] Neb. Admin. Code, Title 291, Ch. 15 § 007.01C1 (2011).

evaluate the operational needs at the local level and have employed a thoughtful process in an attempt to minimize those risks.

Although the Commission is concerned about the prepayment of maintenance and service agreements for such an extensive period, we find that under these circumstances use of the funding for the purposes set forth in the Application should be approved.

PSAPs are not required to wait to apply for funding for these items until they have saved sufficient funds from their monthly allocation to cover the cost. To the extent that there is an insufficient balance in the PSAP's equipment and software fund, after an accounting is received of the funds the PSAP has available, the Commission will pay the appropriate percentage of the cost of the equipment and software and a deduction will be made from the future annual allocation to the PSAP until the expense is reimbursed to the Fund. This option is available only once to each PSAP. Columbus has not previously sought or received an advance.

Pursuant to Docket 911-019/PI-118, the equipment and software program established under the permanent funding mechanism did not contemplate advancing funds for maintenance agreements. Therefore, Columbus may not use any advance funds for that portion of the project related to maintenance.

Based upon the above, the Commission finds that request for an advance in the amount of **$20,000** should be approved. A deduction in the amount of **$333.33** shall be made from Columbus' monthly allocation over a sixty-month period commencing once payment has been made from the fund.

The sixty-month deduction period allows Columbus to continue saving funds from their monthly allocation to cover any future purchases of equipment and software and still reimburse the Fund. This reimbursement period should not be viewed as a standard repayment period for all funding requests for a PSAP's equipment and software. The Commission will determine the appropriate length of time for Fund repayment on a case-by-case basis based upon the amount requested, the PSAP's monthly allocation and other relevant factors.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the request to use set aside funds for the purchase of equipment, software and the prepayment of maintenance is hereby approved, as set forth herein in an amount up to **$139,991.60**.

IT IS FURTHER ORDERED that an advance against future funding be approved in an amount not to exceed **$20,000.00,** upon receipt of invoice or other documentation that the project is complete.

IT IS FINALLY ORDERED that a deduction in the amount of **$333.33** shall be made from Columbus' monthly allocation over a sixty-month period, commencing once payment has been made.

MADE AND ENTERED at Lincoln, Nebraska this 17th day of December, 2013.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director

IT IS FURTHER ORDERED that an advance against future funding be approved in an amount not to exceed **$20,000.00,** upon receipt of invoice or other documentation that the project is complete.

IT IS FINALLY ORDERED that a deduction in the amount of **$333.33** shall be made from Columbus' monthly allocation over a sixty-month period, commencing once payment has been made.

MADE AND ENTERED at Lincoln, Nebraska this 17th day of December, 2013.

NEBRASKA PUBLIC SERVICE COMMISSION

Anne Boyle

Chair

COMMISSIONERS CONCURRING:

Tim Schram

Rod Johnson

Gerald L Vap

//s//Anne C. Boyle

//s//Frank E. Landis

ATTEST:

Steve Meradith

Executive Director