

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM: 3.34
(ID # 18115)**

MEETING DATE:
Tuesday, March 01, 2022

FROM : SHERIFF-CORONER-PA:

SUBJECT: SHERIFF-CORONER-PA Public Safety Enterprise Communication (PSEC): Ratify and Approve the Public Safety Enterprise Communication (PSEC) Holiday Rate Use Agreement with the City of Banning for six years, District 5. [\$302,000 - City of Banning Funds]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and Approve the Holiday Rate PSEC Use Agreement with the City of Banning for radio communication services for six years through June 30, 2025, and Authorize the Chair of the Board to sign three (3) copies of the Agreement on behalf of the County.

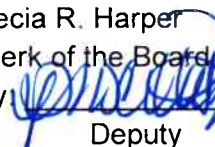
ACTION:Policy


Matthew Jimenez 2/15/2022

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Washington seconded by Supervisor Spiegel and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: March 1, 2022
xc: Sheriff-Coroner-PA

Kecia R. Harper
Clerk of the Board
By 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Revenue:	Ongoing Revenue
REVENUE	\$ 49,000	\$ 52,000	\$ 302,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: 100% City of Banning			Budget Adjustment: No	
			For Fiscal Year: 19/20 – 24/25	

C.E.O. RECOMMENDATION: Approve

BR: 22-060

Prev. Agn. Ref.: 3.16 10/20/15

BACKGROUND:

Summary

The City of Banning joined the Public Safety Enterprise Communications (PSEC) radio system in December 2015 on the holiday rate plan as outlined in Board Item 3.66, approved June 16, 2016. The attached City of Banning Holiday Rate Use Agreement renews use of the PSEC system for the City of Banning from July 1, 2019 through June 30, 2025.

On July 1 of every year, the rates for the PSEC System use under this Agreement will automatically adjust based upon the incorporated rate table, in accordance with the Riverside County PSEC Rate Guide. This agreement has been approved by the City of Banning and the PSEC Steering Committee.

Impact on Citizens and Businesses

The PSEC Radio System provides critical countywide communication among County public safety agencies. The goal is for interoperability among all the city and county public safety groups to enable a coordinated response in the event of a multi-jurisdictional emergency or disaster.

Attachments:

3 Copies of the PSEC Use Agreement with the City of Banning



 Gregory V. Priamos, Director County Counsel 2/14/2022



PSEC Use Agreement for
Full Time Use (Holiday Rate) with
City of Banning

PSEC FULL TIME USER AGREEMENT: City of Banning

MAR 01 2022 3,34

PSEC USE AGREEMENT

This PSEC Use Agreement (“Agreement”) is made and entered into this 1 day of July 2019 by and between the County of Riverside, a political subdivision of the State of California (“COUNTY”), and the City of Banning, a municipal corporation (“AGENCY”), collectively “the Parties.”

RECITALS

WHEREAS, COUNTY operates, manages and maintains the Public Safety Enterprise Communication System (“PSEC System”) and all infrastructure equipment utilized to support “subscribers” on the PSEC System; Maintenance of subscriber equipment i.e. consoles, handheld radios, mobiles radios, are not part of the subscriber monthly rate. If AGENCY chooses to utilize PSEC for maintenance, AGENCY will be required to enter into a separate agreement; and

WHEREAS, the Parties previously entered into a PSEC Use Agreement commencing December 1, 2015 and expiring at 12:01 a.m. on July 1, 2019 to permit Agency to operate on the PSEC System; and

WHEREAS, AGENCY desires to continue using the PSEC System, in compliance with the terms of this Agreement and without ever hindering the functionality or operation of the PSEC System; and

WHEREAS, COUNTY is willing to grant AGENCY a limited license to permit its continued and use of the PSEC System.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, COUNTY and AGENCY agree as follows:

I. Use Granted

Subject to and conditioned on AGENCY’s payment of the fees and compliance and performance in accordance with the terms and conditions of this Agreement, COUNTY grants to AGENCY and AGENCY hereby accepts a limited, nonexclusive, nontransferable, and non-assignable license (mobile or portable radios or dispatch console) to access and use, solely during the terms, as defined in Exhibit C, Statement of Work, which is attached and incorporated herein, the PSEC System, at COUNTY’s sole and exclusive discretion. Subject to the COUNTY’s approval, AGENCY may choose to add additional subscribers to the system. Additional subscribers may impact the system’s capacity thereby requiring the system to be expanded. Any system expansion costs incurred to support the additional subscribers will be billed to the AGENCY.

The County of Riverside Board of Supervisors (the “Board”) retains ultimate legal and financial authority over the PSEC System; however, the Board, through the PSEC Charter, has delegated administrative, operational and financial control to the PSEC Steering Committee. The PSEC Steering Committee provides governance and financial accountability. AGENCY agrees and acknowledges that AGENCY shall always be in compliance with the terms of this Agreement and never hinder the functionality or operation of the PSEC System. Users of the PSEC

System will abide by the direction/guidance provided by the PSEC Steering Committee. Supervision over the provision of COUNTY services, the standards of performance and other matters incident to the performance of such services, shall remain with the COUNTY at all times. The full PSEC Governance Charter is available upon request.

II. Period of Performance

The initial term of this Agreement shall commence on July 1, 2019 and expire on June 30, 2025 (the "Initial Term"), unless earlier terminated. Absent a written notice of termination pursuant to Section IV below, this Agreement shall automatically renew in five (5) year increments (each a "Renewal Term"), subject to approval by the COUNTY's Board of Supervisors. The rates payable by AGENCY during a Renewal Term is defined in Section III of this Agreement.

III. Payment

PSEC System rates are reviewed and approved annually by the Board, with changes taking effect automatically on July 1 of each year. On July 1 of every year, the rates for PSEC System use and maintenance under this Agreement will automatically adjust based upon these new rates, in accordance with Riverside County PSEC Rate Guide, which is attached as Exhibit A of this Agreement and incorporated herein by this reference.

COUNTY shall invoice AGENCY each month for AGENCY's use of the PSEC System. Payment shall be due on the first day of each calendar month during the term of this Agreement. In the event AGENCY fails to make its monthly payment within thirty (30) days after the due date, a non-refundable late fee of three hundred dollars (\$300.00) shall apply.

IV. Termination

Termination by COUNTY: COUNTY may terminate this Agreement without cause upon ninety (90) days written notice served upon AGENCY stating the extent and effective date of termination. Further, COUNTY shall have the right to immediately terminate this Agreement if AGENCY: files for voluntary or involuntary bankruptcy for the adjudication of Agency as a debtor; makes a general assignment, or AGENCY's interest hereunder is assigned involuntarily or by operation of law, for the benefit of creditors; fails to comply with the terms of this Agreement; or fails to comply with applicable law. AGENCY shall have thirty (30) days to cure any default, to the satisfaction of COUNTY, AGENCY's breach or default under this Agreement after written notice from the COUNTY.

Termination by AGENCY: This Agreement may be terminated by AGENCY without cause, provided that AGENCY has given at least ninety (90) days' prior written notice.

Upon expiration or termination of this Agreement, all rights, licenses, consents and authorizations granted by COUNTY to AGENCY shall immediately terminate, and COUNTY may disable all access to the PSEC System.

V. Restrictions

The Use granted herein is for AGENCY, and AGENCY only. AGENCY shall not permit any other individual or entity to, access or use the license except as expressly permitted in this Agreement. Specifically, AGENCY shall not:

- A. Enter into a separate agreement that provides any third-party access to the PSEC Radio System;
- B. Rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or make available in any manner or form any part of this license, or access to and/or use of the PSEC System;
- C. Access or use the PSEC System in any manner, or for any purpose that infringes, misappropriates or otherwise violates any intellectual property right or other right of any third party (including by any unauthorized access to, misappropriation, use, alteration, destruction or disclosure of any information obtained through the PSEC System), or that violates any applicable law;
- D. Bypass any security device or protection used to access the PSEC System, or access the PSEC System through any means other than by valid access credentials;
- E. Damage, destroy, disrupt, disable, impair, interfere with or otherwise impede or harm in any manner the PSEC System, including but not limited to, interference with the COUNTY's access to or use of the PSEC System;
- F. Otherwise access or use the Services beyond the scope of the authorization granted under Section I of this Agreement.

VI. Indemnification

AGENCY shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any access and/or use of the PSEC System by AGENCY, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. AGENCY shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services. With respect to any action or claim subject to indemnification herein by AGENCY, AGENCY shall, at its sole cost, have the right to use counsel of its own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of the County of Riverside; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes AGENCY's indemnification to Indemnitees as set forth herein.

VII. Coverage Performance

The PSEC System provides extensive and robust coverage across Riverside County. However due to the nature of radio systems (i.e. variation in geography, location in relation to PSEC radio sites, time dependent obstructions, radio performance and many other factors) coverage cannot be guaranteed for every location within the County. Coverage performance also cannot be guaranteed within buildings. AGENCY will perform radio tests of the system to verify their coverage needs will be met prior to onboarding onto the system. By onboarding onto the PSEC System, AGENCY chooses to accept the PSEC Radio System coverage as-is. If coverage expansion is requested by the AGENCY, any associated costs will be at the AGENCY's expense.

VIII. Miscellaneous

- A. Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship between the Parties.
- B. County's Representative: COUNTY appoints its Executive Office delegate on the PSEC Steering Committee and the PSEC Steering Committee Chairman, as its authorized representatives to administer this Agreement.
- C. Notices: Notices required or given by either Party shall be to the following:

<p><u>COUNTY:</u> County of Riverside, PSEC Timothy Brause, Lieutenant 7195 Alessandro Blvd. Riverside, CA 92506 (951) 955-2526</p>	<p><u>AGENCY</u> Matthew Hamner, Chief of Police City of Banning 125 E. Ramsey St. Banning, CA 92220</p>
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- D. AGENCY shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

- E. Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full, and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.
- F. AGENCY shall comply with all applicable Federal, State and local laws and regulations. AGENCY will comply with all applicable COUNTY policies and procedures. In the event there is a conflict between the various laws or regulations that may apply, the AGENCY shall comply with the more restrictive law or regulation.
- G. This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the Parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
- H. This Agreement, including any attachments or exhibits, constitutes the entire agreement of the Parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both Parties.

IX. Maintenance

County will maintain all PSEC infrastructure. Maintenance of any additional equipment including but not limited to AGENCY's consoles and subscriber equipment will be covered in Exhibit B, Support and Maintenance.

X. Electronic/Digital Signatures

This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. The Parties further agree that the electronic signatures of the p=Parties


included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the Party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY:
COUNTY OF RIVERSIDE

AGENCY:
CITY OF BANNING

By: 

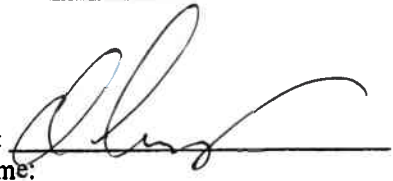
By: 

Name: **JEFF HEWITT**
Title: **CHAIR, BOARD OF SUPERVISORS**

Name: **Douglas Schulze**
Title: **City Manager**


Dated: MAR 01 2022

Dated: 12/21/21

By: 
Name:
Title: **PSEC Chairman**

Dated: 2-9-21

APPROVED AS TO FORM:
Gregory P. Priamos
County Counsel

By: 
Kristine Bell-Valdez
Deputy County Counsel

Dated: 1/11/22

ATTEST:
KECIA R. HARPER, Clerk
By: 
DEPUTY

EXHIBIT A
PSEC BOARD APPROVED RATES

The City of Banning is on the Holiday radio plan until June 30, 2025.

Year	FY	Rate	% Increase	New Rate	Monthly/Subscriber
1	15/16	\$32.00	N/A	N/A	Rate Holiday
2	16/17	\$32.00	3%	\$32.96	Rate Holiday
3	17/18	\$32.96	3%	\$33.95	Rate Holiday
4	18/19	\$33.95	3%	\$34.97	Rate Holiday
5	19/20	\$34.97	3%	\$36.02	\$36.02
6	20/21	\$36.02	6%	\$38.18	\$38.18
7	21/22	\$38.18	6%	\$40.47	\$40.47
8	22/23	\$40.47	6%	\$42.90	\$42.90
9	23/24	\$42.90	6%	\$45.47	\$45.47
10	24/25	\$45.47	6%	\$48.20	\$48.20

EXHIBIT B
SUPPORT AND MAINTENANCE

1. COUNTY maintenance and support of AGENCY's fleet of subscriber equipment will include the services listed below as part of the monthly subscriber rate paid to the COUNTY. AGENCY is responsible for scheduling all maintenance and for transporting radios to PSEC facility

Radios/Consoles

- Firmware/Software upgrades mandated by COUNTY
- County initiated codeplug updates*

Any radio or console repairs not covered by a separate subscriber (consoles/radios) maintenance agreement with PSEC, will be billed at the Board Approved Rate. If parts are needed as part of the repair, all parts will be billable.

Any AGENCY driven changes, including console configuration files (ELT)/codeplug modifications, will be billed on a time & material basis per board approved rates. Items not listed as covered under this agreement will be subject to additional cost one a time and material basis per Board approved rates.

2. Any changes to ELT/code plugs shall be reviewed by COUNTY to ensure no adverse impact on the overall system.
3. AGENCY and COUNTY will coordinate all firmware and software upgrades of subscribers (portable, mobile or consoles) prior to AGENCY action. AGENCY is responsible for ensuring that all console and subscriber equipment firmware and software version remains compatible with the current and future PSEC System release versions. Any upgrades and/or replacement of console or subscriber equipment to maintain compatibility with the PSEC System is the sole responsibility of the AGENCY.
4. Encryption key may be changed by COUNTY when required.
5. If radio is lost or stolen, and agency chooses to deactivate the radio, contact can be made 24x7 to PSEC's on-call technicians. On-call contact information is distributed to all PSEC customers on a weekly basis.

6. The COUNTY utilizes over-the-air tools to evaluate whether radios operating on the system are doing so within their factory rated specifications. Subscribers that operate outside of the factory specification tolerance can cause interference and degrade audio quality performance on the radio system. The COUNTY will notify the AGENCY of radios that are performing outside of their factory rated specifications and the AGENCY will be required to have radio serviced with their service provider prior to impacting the system or system users. If a subscriber piece of equipment is determined to be detrimental to the system or other PSEC user(s) the equipment will be removed and or deactivated from the system.
7. AGENCY must maintain an updated record of subscriber/Console firmware and software changes.

8. PSEC Facility Maintenance Operations

Subscriber repair covered under a separate agreement will be may be provided during normal business hours at one of the three PSEC radio shops. Drop off service for portable and mobile radios is available during normal business hours on appointment basis only. Radio shop contact information is listed below.

- **7195 Alessandro Blvd., Riverside, CA 92506**
☎ (951) 955-3644
- **82695 Dr. Carreon Blvd., Indio, CA 92201**
☎ (760) 863-8999
- **249 N. Spring Street, Blythe, CA 92225**
☎ (760) 921-5087 or (760) 921-5079

Normal business hours are: Mon - Thurs 7:00 a.m. to 4:30 p.m. and Friday 7:00 a.m. to 3:30 p.m. excluding holidays. PSEC does have 24x7 maintenance technicians available for emergency repairs. Contact can be made to COUNTY's on-call technicians. On-call contact information is distributed to all PSEC customers on a weekly basis.

9. COUNTY does not keep cache spares. AGENCY should have spares in the event equipment cannot be repaired in shop and may need to be shipped back and/or there is a prolonged waiting period for factory repair.

10. ADDITIONAL EQUIPMENT PURCHASES AND FEES

Additional equipment purchases are considered any equipment purchases/orders/added after the signing of the Agreement.

Additional equipment purchases, the initial mandatory setup fee and future AGENCY requested changes (i.e. ELT/code Plug changes driven by the Agency) are not included in the monthly subscriber rate and will be invoiced separately.

All radios purchased will require an Advanced System Key (ASK) feature. This includes Motorola, Harris, EF Johnson and any others.

- All radios purchased to operate on PSEC System must have hardware system key enabled and COUNTY will be the keeper of that key.
- All radio types and/or manufacturers must be pre-approved to come on the PSEC System by COUNTY prior to purchase.

11. APPROVED EQUIPMENT as of July 1, 2021

The following equipment has been approved by COUNTY for use on the PSEC Radio System:

- Motorola MCC7500 (Firmware 19.01.01)
- Motorola APX Console (Firmware 19.01.01)
- Motorola APX Series 4000 Portables (Firmware 19.01.01)
- Motorola APX Series 6000 Mobiles and Portables (Firmware 19.01.01)
- Motorola APX Series 7000 Mobiles and Portables (Firmware 19.01.01)
- Motorola APX Series 8000 Portables and Mobiles (Firmware 19.01.01)
- Harris XL-45 (Firmware Version R12)
- Harris XL-95 (Firmware Version R12)
- Harris XL-145 (Firmware Version R12)
- Harris XL-200 (Firmware Version R12)
- Harris Unity (Firmware version-XGPRO6K07_XG100P)
- Kenwood VP 6430 (Firmware 8.32.19)
- Kenwood VP5430 (Firmware 8.32.19)

- Kenwood NX5400 (Firmware 8.32.19)
- Kenwood VP 900 (Firmware 8.32.19)

All equipment to be used on the PSEC System MUST be pre-approved by COUNTY prior to operation on the System.

Although the COUNTY has evaluated the provided list of approved subscribers for System compatibility, the COUNTY is not responsible for any issues encountered by AGENCY with these subscribers that are deemed to be a manufacturer issue.

It is the responsibility of the AGENCY to test manufacturer subscribers, not included on the approved list, and obtain assurance from the manufacturer that their subscribers can operate on the PSEC Radio System per the AGENCY's and COUNTY's requirements. AGENCY may request the COUNTY to test other manufacturer's equipment to be used on the PSEC Radio System, depending on the level of testing required these services may be billed at the Board approved rates.

12. CALL OUTS

- COUNTY shall provide 24-hour service support for COUNTY maintained and operated infrastructure related issues and equipment.
- AGENCY owned infrastructure issues and equipment are the responsibility of the AGENCY. After-hours call out radio repair service that is not covered by a separate agreement for single subscriber issues must be deemed an emergency and will be billed at the board approved rate
- If AGENCY has a need for after-hours radio repair service, that service will be billed at a time and material rate in accordance within EXHIBIT A "PSEC BOARD APPROVED RATES".

13. SPECIAL PROVISIONS

- If AGENCY wants to program their own radios, they must sign the Advanced System Key (ASK) agreement.
- AGENCY does not have the authority to program radio subscriber equipment for other agencies, including Federal agencies, without previous authorization from PSEC.

- This Agreement only authorizes devices that are APCO P25 Phase II TDMA (time division multiple access) compliant. FDMA (frequency division multiple access) radios are not authorized on the PSEC Radio System.

EXHIBIT C
STATEMENT OF WORK

This Statement of Work between the AGENCY and COUNTY describes the duties of each of the Parties.

The AGENCY is requesting to continue on the PSEC Radio System as a full-time user with a total of 100 AGENCY owned subscribers for the Banning Police Department.

The AGENCY's area of operation will be covered by the Northwest and San Jacinto Simulcast cells. The coverage provided by the PSEC Radio System is "as is". This Agreement does not provide any coverage guarantees. It is the responsibility of the AGENCY to test their area of operation and determine if it meets their needs prior to joining the PSEC Radio System.

COUNTY will develop the fleet map, review vendor created codeplug, and activate the ID's on the network for AGENCY. These costs are listed in the Cost Estimate Table in EXHIBIT A "PSEC BOARD APPROVED RATES," of this Agreement.

Talkgroups

AGENCY will follow the COUNTY'S naming convention for talkgroup development. COUNTY will work in conjunction with AGENCY to develop the talkgroup structure for the AGENCY. COUNTY and AGENCY will jointly design and develop radio personalities for use on the PSEC System.

AGENCY represents by entering into this Agreement, that all their equipment conforms to the specifications of the PSEC System and AGENCY will abide by all programming guidelines set forth in this Agreement. All subscriber equipment on the PSEC System must support system key technology that will allow only authorized persons to program subscriber radios on the system.

County Responsibilities:

- COUNTY will hold the license for all master system key technologies and will provide child keys to AGENCY for radio programming.
- All subscribers (mobile, portable, and consolette) Logical Identification Numbers (LID) are defined and issued by the COUNTY. LID numbers are the intellectual property of the COUNTY and must be surrendered at termination of this Agreement.
- COUNTY will engrave all portables and mobiles with PSEC Trunked radio unit IDs.

Agency Responsibilities:

- AGENCY agrees that all their equipment conforms to the specifications of the PSEC System and will abide by all programming guidelines set forth.
- All subscriber equipment on the PSEC System must support Advanced System Key technology that will allow only authorized persons to program subscriber radios on the system.
- AGENCY is solely responsible for procuring all equipment and services related to implementing their dispatch centers.