


CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: 9/23/2013

AGENDA ITEM: Automated Meter Reading System Upgrade	
PREPARED BY: Karen Latimer, Operations Manager DEPARTMENT: Public Works	DIRECTOR APPROVAL: 
ATTACHMENTS: 1. Contract Documents.	
BUDGET CODE: 40140580.549000.1317	AMOUNT: \$169,430.00

SUMMARY:

A few years ago the City purchased an automated meter reading (AMR) system from Aclara Technologies LLC. The AMR system software should be updated at least annually and equipment should be replaced as it becomes obsolete or as technology changes.

This year the data collection units need to be replaced due to the discontinuance of a certain type of cellular phone service. The AMR system software must be updated and the network control computer replaced at the same time the data collection units are replaced to maintain compatibility throughout the AMR system.

Aclara Technologies LLC will not provide software updates or new equipment unless a master agreement, software license agreement and maintenance agreement are executed. The AMR system will not function without the data collection units, so these agreements have become a necessary part of the overall AMR system. A maintenance agreement was authorized by City Council in June 2012. The remaining agreements must be executed before the AMR upgrade project can proceed.

It should be noted that, as with the maintenance agreement, the master and software license agreements contain language that significantly limits the vendor's liability. The language of both agreements works to the disadvantage of the City. There are risks of loss beyond those normally accepted by the City; exclusions that will make it difficult to hold Aclara accountable for delayed delivery; the liability of Aclara for damages is limited to their gross negligence or willful acts and their aggregate liability is further limited to the dollar amount of their annual fee; limitations for incidental damages; and warranties contain limitations that exclude statutory warranties of merchantability and fitness for purpose with restricted remedy for repair or replacement.

As before, it is a policy decision for Council to determine whether this language is acceptable and to weigh the risk of claims against the City versus the need for the services by this unique vendor. On the advice of the City Attorney, staff has made reasonable efforts to renegotiate this language without significant success. The City has invested substantial amounts in the equipment that the vendor provides and it would be difficult and expensive to contract with a different vendor for the necessary services.

RECOMMENDED ACTION: Staff recommends that Council Authorize the Mayor to sign a Master Agreement and Software License Agreement with Aclara Technologies LLC.