BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO DOCKET NO. 09A-721T

IN THE MATTER OF THE APPLICATION OF CITY OF GRAND JUNCTION EMERGENCY TELEPHONE SERVICE AUTHORITY BOARD FOR AUTHORITY TO INCREASE THE EMERGENCY TELEPHONE CHARGE

## STIPULATION AND SETTLEMENT AGREEMENT IN RESOLUTION OF PROCEEDING

This Stipulation and Settlement Agreement in Resolution of Proceeding ("Stipulation") is entered into by and among Grand Junction Emergency Telephone Service Authority Board ("the "Authority"), the Staff of the Public Utilities Commission of the State of Colorado ("Staff") and the Colorado Office of Consumer Counsel ("OCC"). The only other intervenor in this matter, Verizon Wireless, LLC d/b/a Verizon Wireless ("Verizon") filed an Unopposed Motion to Withdraw as Intervenor on February 4, 2010. Verizon's motion was granted by the Administrative Law Judge in this matter on February 17, 2010. The Authority, Staff and the OCC are referred to herein collectively as "the Parties" and individually as a "Party." The Parties state they have resolved by settlement (as among the Parties) all issues raised by Staff and the OCC regarding the Application filed by the Authority in Docket No. 09A-721T. The Parties have memorialized their compromise in this Stipulation.

#### I. Recitals

A. On October 13, 2009, the Authority filed a Verified Application for an emergency telephone surcharge increase pursuant to § 29-11-102(2)(b), C.R.S., requesting an increase in the surcharge from seventy cents (\$0.70), allowed by statute, to one dollar and

fifty cents (\$1.50) per service user per month. On October 23, 2009, the Authority filed an Amendment to the Application. Reference in this Stipulation is to the Application, as amended.

- B. On October 14, 2009, the Commission issued a Notice of Proposed Rulemaking regarding changes to the rules section concerning Emergency 9-1-1 Services to accommodate changes to the definitions contained in the Colorado Revised Statutes that went into effect on August 4, 2008 and billing and remittance of 9-1-1 surcharges on services provided through the use of interconnected voice-over-internet-protocol (VoIP) service. That docket is pending.
- C. The Parties acknowledge and agree that the Commission's rulemaking concerning the Emergency 9-1-1 Services is on-going and the potential exists for changes to the Emergency 9-1-1 Services rules that may have a future impact on the operation of the Authority.
- D. The Authority's Application seeks Commission approval to increase the emergency telephone surcharge rate to One Dollar and Fifty Cents (\$1.50) per service user per month and that if approved, the increased rate will be assessed on exchange access facility (wireline), wireless and voice-over-internet-protocol users. The rate increase applies to Mesa County, the area served by the Authority.
- E. Section 29-11-102(1)(a), C.R.S., allows a governing body to incur equipment, installation and other directly related costs for the continued operation of emergency telephone service as further described in § 29-11-104, C.R.S., and to pay for the costs of such service by imposing an emergency telephone charge for such service in those portions of the governing body's jurisdiction for which emergency telephone service will be provided.
- F. Section 29-11-102(2)(a), C.R.S., allows a governing body to impose a charge in an amount not to exceed seventy cents (\$0.70) per month per exchange access facility

(wireline), per wireless communications access and per interconnected voice-over-internet-protocol service in those portions of the governing body's jurisdiction for emergency telephone service. Section 29-11-102(2)(b), C.R.S., allows the governing body to seek approval from the Commission for a charge in excess of seventy cents (\$0.70) per month if the Commission determines it is necessary in order to provide continued and adequate emergency telephone service.

- G. The Authority is an emergency telephone service authority formed pursuant to an intergovernmental agreement ("IGA"), under Part 2 of Article 1 of Title 29 of the Colorado Revised Statutes, executed June 20, 1989 by and between the following parties: Mesa County, the City of Grand Junction, the City of Fruita, the Town of Palisade, the Town of DeBeque, the Town of Collbran, the Grand Junction Rural Fire Protection District, the Lower Valley Fire Protection District, the Palisade Fire Protection District, the Plateau Valley Fire Protection District, the East Orchard Mesa Fire Protection District, the Central Orchard Mesa Fire Protection District, the Clifton Fire Protection District, the Land's End Fire Protection District, the Gateway/Unaweep Fire Protection District and the Powderhorn Metropolitan District.
- H. The Commission assigned this matter to an Administrative Law Judge ("ALJ") and on December 17, 2009, the ALJ gave notice of the Application to the OCC, granted Staff's Motion for Leave to Intervene and Enter an Appearance Out of Time and granted Verizon's Motion to Permissibly Intervene and set the matter for a Prehearing Conference on January 8, 2010. The ALJ also noted the Commission deemed the Application complete as of December 9, 2009.

- I. On December 22, 2009, the ALJ granted OCC's Motion to Permissibly Intervene.
- J. By Order dated January 26, 2010, the ALJ memorialized the discussion and agreements of the January 8, 2010 prehearing conference, ordering *inter alia*, the Authority to file direct testimony on or before February 19, 2010, the intervenors to file answer testimony on or before April 6, 2010 and the Authority to file rebuttal testimony on or before May 4, 2010. The hearing is set for May 19 and 20, 2010, in Grand Junction, Colorado. Paragraph 43 of the January 26, 2010 Order requires the parties to file in hard copy, any stipulation or agreement and any supporting testimony or documents.
- K. On February 19, 2010, the Authority filed its direct testimony. Shortly thereafter, the Parties reached a settlement concerning the matters raised in this docket and believe that this Stipulation reflecting the terms of the settlement is necessary and proper in order for the Authority to provide continued and adequate emergency telephone service and should be approved by the Commission, as more fully explained below. The Parties to this Agreement are Parties to this docket.
- L. This Stipulation incorporates by this reference the Stipulation Attachments A through C, appended hereto, which are provided as documentary support for this Stipulation and are identified as follows:
  - Stipulation Attachment A Exhibit C of Application, E9-1-1 Special Revenue Fund, Other Equipment and Major Equipment 10-Year Summary
  - Stipulation Attachment B Calculations for Emergency Telephone Surcharge for Grand Junction Regional Communication Center

# Stipulation Attachment C - Grand Junction Regional Communication Center Response to Discovery 1-3 Exhibit 1 AGREEMENT

WHEREFORE, the Parties agree and stipulate as follows:

- 1. This Stipulation governs the emergency telephone surcharge the Authority seeks pursuant § 29-11-102(2)(b), C.R.S., which allows a governing body to seek approval from the Public Utilities Commission to increase the statutorily allowed seventy cents (\$0.70) per month for the provision of continued and adequate emergency telephone service.
- 2. The Authority may impose a surcharge rate of One Dollar Thirty cents (\$1.30) per service user per month for its emergency telephone service for the administration and operation of the emergency telephone services for the governing bodies identified above.
- 3. Regarding whether the Authority satisfied its burden of proof to demonstrate the cost of equipment directly relate to the receipt and routing of calls the Parties reached the following resolution:
  - a. The supporting documents used to demonstrate costs that are directly related to the implementation of emergency services are shown in Attachments A and C to this Settlement.
    - i. The Parties agree that an increase in the emergency surcharge is necessary in order to provide adequate emergency telephone service under § 29-11-102, C.R.S., due to the necessary investments mentioned below.
      - 1) The current CAD System is at the end of its useful life and will no longer be supported by the vendor beginning in the year 2011. A cost of \$2,004,751 is projected to replace this

aging equipment as shown in Attachment A. The cost will be offset with grant funds of \$750,000 for a total cost to the Authority of \$1,254,751.

- 2) An FCC mandate to modify radio systems by January 1, 2013 to comply with narrow-banding requirements requires the replacement of the current VHF system with 800 MHz system for a cost of \$13,224,000. The cost is offset by \$6,000,000 in non-Authority matching funds as shown in Attachment C.
- are necessary to replace the cooling systems (HVAC) needed for the technical systems. The replacement of the HVAC systems was started in the year 2009 and will be completed in 2010. Included in the \$200,000 expense is the cost to rebuild the outside walls of the building with additional support to hold the communication tower on the roof.
- 4) The projected cost of \$360,000 in 2011 for the 900 MHZ system will be used for the public safety agencies to receive dispatched calls to their mobile computers. Included in the cost is an AVL (automatic vehicle locator) so that the telecommunicators can view the location of emergency responders. The AVL will allow for reduced response times.

- 5) An expense of \$100,000 to replace the paging equipment. The new paging equipment will allow consistent paging of fire and emergency service personnel.
- 6) Update the system network with additional routers at an estimated cost of \$25,000.
- 7) The purchase of logging recorder equipment at a cost of \$90,000 to record 9-1-1 calls and emergency radio traffic.
- 4. Regarding whether the Authority satisfied its burden of proof to demonstrate the increased costs are directly related to the continued operation of emergency service/notification, the Parties reached the following resolution:
  - a. The supporting documents used to demonstrate that the costs are related to the maintenance, repair and for the continued operation of the emergency telephone service and the emergency notification service are shown in Attachment B to this Settlement. The Parties agree to the following adjustments as described below and shown in Attachment B.
  - b. Based on these updates and adjustments, the emergency telephone surcharge rate was calculated at \$1.30, an increase of \$0.60, in order to maintain a reasonable level of reserve balance for future expenditures. The increased surcharge rate will be assessed on exchange access facility (wireline), wireless and voice-over-internet-protocol users per line per month. The following updates and adjustments to the Authority's budget are as follows:

- i. 2009 revenues the Authority collected from 9-1-1 surcharge
   were included. The 2009 revenues the Authority collected from the 9 1-1 surcharge decreased by \$222,061 from 2008 revenues collected due
   to telecommunication carrier's loss of access lines.
- ii. Revenues for 2010-2012. Included the estimated amount of revenues the Authority would collect from the proposed 9-1-1 surcharge if this Agreement is approved for years 2010-2012. For year 2010, the proposed surcharge was used in the calculation for four months dependent on the earliest effective date of this Agreement.
- iii. Office Supply. Removed \$8,026 in office supply expense for the purchase of staples, binders, cleaning supplies, copy paper, pens, and headsets. These costs are not directly related to the cost of equipment necessary for the receipt and routing of emergency calls.
- iv. Food Stuffs. Removed \$71 expense not necessarily associated with persons employed to take calls and dispatch them.
- v. Printing and Publications. Removed \$2,195 expense for printing and publications of 9-1-1, police and fire educational material that are used for school programs.
- vi. Telephone CBI. Removed \$6,399.78 allocated costs of a T-1 line used by forensic law enforcement.
- vii. Rent-Land/Lease. Removed \$7,908.24 for building lease to store the Authority's van. This expense is not directly related to the

provision or maintenance of the emergency notification/telephone service.

- viii. Professional Develop-Travel. Removed \$1,881 for travel expenses for the manager to attend APCO or NENA meetings.
- ix. Comm. Participat. Removed \$2,356 in cost that was incurred to purchase 9-1-1 education material for Authority participation in safety fairs and children education.
- x. Interfund Charges. Removed expenses not directly related to the maintenance or repair of the emergency notification/telephone service such as \$613 expenses for fuel, \$40,495 Fleet Accrual-Replacement and \$610 Fleet Accrual-Maintenance. These expenses are related to the Authority's van which is not directly related to maintain the computer data base of the public safety answering point.
- 5. No earlier than 60 days after a final Commission order approving this Stipulation, which order does not contain any modification of the terms and conditions of this Stipulation that is unacceptable to any of the Parties, the Authority may implement the surcharge.
- 6. This Stipulation is made for settlement purposes only. No Party concedes the validity or correctness of any regulatory principle directly or indirectly incorporated in this Stipulation. No binding precedential effect or other significance, except as may be necessary to enforce this Stipulation, a Commission order concerning this Stipulation or the collection of the surcharge, shall attach to any principle contained in this Stipulation.

- 7. The Parties will support all aspects of this Stipulation embodied within this document in any hearing conducted to determine whether the Commission should approve this Stipulation, and/or in any other hearing, proceeding, or judicial review relating to this Stipulation or the implementation of its terms and conditions. Each party also agrees that, except as expressly provided in this Stipulation, it will take no action in any administrative or judicial proceeding, or otherwise, which would have the effect, directly or indirectly, of contravening the provisions, purposes or effect of this Stipulation. Nothing in this Stipulation shall constitute a waiver by a Party with respect to any matter not specifically addressed in this Agreement.
- 8. This Stipulation shall not become effective and shall be of no force and effect until the issuance of a final Commission order approving this Stipulation, which order does not contain any modification of the terms and conditions of this Stipulation that is unacceptable to any of the Parties. In the event the Commission modifies this Stipulation in a manner unacceptable to any Party hereto, that Party may withdraw from this Stipulation and shall so notify the Commission and the other Parties to this Stipulation in writing within ten (10) days of the date of the Commission order. In the event a Party exercises its right to withdraw from the Stipulation, this Stipulation shall be null and void and of no effect and no force in these or any other proceedings, and a hearing shall be set on the merits of the Application.
- 9. In the event this Stipulation becomes null and void or in the event the Commission does not approve this Stipulation, this Stipulation, as well as the negotiations or discussion undertaken in conjunction with the Stipulation, shall not be admissible into evidence in these or any other proceedings.

- 10. The Parties state they have reached this Stipulation by means of a negotiated process and that the increase in the surcharge is necessary in order to provide continued and adequate emergency telephone service and that the results reflected in this Agreement are just, reasonable and in the public's interest. The Parties agree that approval by the Commission of this Stipulation shall constitute a determination that the Stipulation is necessary in order to provide continued and adequate emergency telephone service and provides a just, equitable and reasonable resolution of the issues raised in the Authority's Application.
- 11. The Parties agree jointly to apply to the Commission for a waiver of compliance with any requirements of the Commission's Rules and Regulations to the extent necessary to permit all provisions of this Stipulation to be carried out and effectuated.
- 12. This Stipulation is an integrated agreement that may not be altered by the unilateral determination of any Party to the Agreement.
- an original. This Stipulation may be signed in counterparts, each of which shall be deemed an original. This Stipulation may be executed and delivered by facsimile or by e-mail and the Parties agree that such facsimile or scanned e-mail execution and delivery shall have the same force and effect as delivery of an original document with original signatures, and that each Party may use such facsimile or scanned signatures as evidence of the execution and delivery of this Stipulation by the Parties to the same extent that an original signature could be used.

Dated this  $15^{\circ}$  day of April, 2010.

GRAND JUNCTION EMERGENCY TELEPHONE SERVICES AUTHORITY BOARD (GJETSAB)

GJETSAB Board Chairman

ATTEST:

Glenna Sheley

GJETSAB Board Secretary

Approved as to form:

John P. Shaver, No. 16594

City Attorney and Counsel for the GJETSAB

250 N.5<sup>th</sup> Street

By:

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Approved as to form:

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FOR THE COLORADO OFFICE OF CONSUMER COUNSEL

John S. Camper GJETSAB Board Chairman

ATTEST:

Glenna Sheley

GJETSAB Board Secretary

Approved as to form:

John P. Shaver, No. 16594

City Attorney and Counsel for the GJETSAB

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Approved as to form:

STAFF OF THE COLORADO PUBLIC **UTILITIES COMMISSION** 

By:\_\_\_\_

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gregory.bunker@state.co.us

ATTORNEY FOR THE COLORADO OFFICE OF CONSUMER COUNSEL

# EXHIBIT C

#### E9-1-1 Special Revenue Fund

#### Other Equipment and Major Equipment 10 Year Summary

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	Grand Junction 911 Authority  Account Descriptions		Actual	H	
4322/4323	Revenues Collected from surcharge		xpenditure (*	-	djustments:
4610	Interest Income - 3.44%	\$	1,382,046	\$	1,159,985
4010	Fund Total: Enhanced 911 Fund	\$	47,593	\$	39,903
	rung lotai: Ennanced 911 Fung	\$	1,429,639	\$	1,199,888
	Expenses:				
5000-5910	Labor and Benefits	\$	1,055	\$	1,055
	Operating expenses: Exhibit B				
6105	Operating Supply	\$	18,363	\$	18,363
6105.03	Computer/Printer	\$	21	\$	21
6105.11	Office Supply	\$	8,026		
6120	Postage/Freight	\$	363	\$	363
6155	Food Stuffs	\$	71	Ě	
6210	Repairs/Maint (Radio Equipment)	\$	4,528	\$	4,528
6210.04	Repairs/Maint_Equipment (Radio Equipment)	\$	450	\$	450
6310	Printing/Publications	\$	2,195	<u> </u>	430
6510	Telephone	\$	•		1.947
6510.01	Telephone_CBI	\$	1,847 6,400	\$	1,847
6510.03	Telephone_Long Distance	\$	4,464	\$	4,464
6510.05	Telephone_Radio/Basic Circuit	\$	32,306	\$	32,306
6510.07	Telephone_E911 Lines	\$	100,113	\$	100,113
6550.01	Utilities Electricity	\$	7,645	\$	7,645
6640.01	Rent_Equipment-Logging Recorder	\$	28,612	\$	28,612
6640.02	Rent_Land/Lease	\$	10,908	\$	3,000
6640.03	Rent_Property/Space	\$	11,241	\$	11,241
6720	Premiums	\$	2,525	\$	
6830.01	Professional Develop_Training	\$	36,805	\$	2,525 36,805
6830.02	Professional Develop_Travel	\$	1,881	Ψ	30,009
7410	Contract Services	\$	4,298	\$	4,298
7410.06	Contract Services_Communication Tech	\$	52,250	\$	52,250
7430	Contract Maintenance	\$	2,564	\$	2,564
7430.01	Contract Maintenance_CAD	\$	91,086	\$	91,086
7430.02	Contract Maintenance_E911	\$	13,452	\$	13,452
7585	Comm Participat	\$	2,357		
7900.01	Operating Equip_Communications	\$	52,126	\$	52,126
7900.03	Operating Equip_Computer Software	\$	30,458	\$	30,458
7910	Furniture/Fixtures	\$	293		
	Operating	\$	527,648	\$	498,517
	TOTAL Direct/Continued Operating Expenses				
	Interfund Charges				
7620.01	Data Process Chgs_Basic	\$	44,436	\$	44,436
7640	Liability Insurance	\$	3,424	\$	3,424
7680	Interfund Fuel	\$	613		
7685.01	Fleet Accrual_Replacement	\$	40,495		
7685.02	Fleet Accrual_Maintenance	\$	610		
	Total Interfund Charges	\$		\$	47,860
	Operation Expense Total E911	\$	1,383,037	\$	547,432

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	Actual 9-1-1 Reven	ues Collected	andro organización
	Collected Per Year	Collected Per Month @ \$0.70	Number of Access Lines/Wireless Acounts
2008	\$ 1,382,046	\$ 115,171	164,529
2009	\$ 1,159,985	\$ 96,665	138,093

2010		 venues from Surcahrge
8 Months Revenues C	Collected @ \$0.70	\$ 773,32
4 Months Revenues C	ollected @ \$1.30	\$ 718,086
Total Revenues 2010		\$ 1,491,409
2011and 2012		
Revenues Collected 12	2 Months @ \$1.30	\$ 2,154,258

Docket No. 09A-721T Attachment B Stipulation Settlement Agreement Page 3 of 3

(1) (1) (1) (1) (1) (1) (1) (1) (1) (1)	122	2008	190	2009	0,14	2010	40	2011	Qgj.	2012
		Actual		Actual	90	100		04300	TR	15 (M.)
Revenues from surcharge based on \$1.30	5	1,382,046	3	1,159,985	3	1,491,409	5	2,154,258	\$	2,154,258
Interest @ 3.44%	5	47,542		39,903	3	51,304	5	74,106	\$	74,100
Grant Reimbursement Revenue	3	367,368	3	459,968	3	1,619,588				
Fund Transfer	3	1,229,949	3	792,045		See Line	50	THE TEN	SE	
TOTAL Revenue	5	3,026,906	5	2,451,901	\$	3,162,302	\$	2,228,364	5	2,228,36-
EXPENSES.	ME Section					4			和日	
Labor and benefits		1.055	3	1,065	5	1.055	3	1.055	5	1,05
Operating Expenses	5	498,517	4	498,517	\$	498,517	\$	498,517	5	498,517
Interfund Charges	5	47,860	\$	47,860		47,860	5	47,860	\$	47,880
TOTAL Expenses		547,432	3	547,432	\$	547,432	3	547,432	5	547,43
Investment (Stip. Attch. F)		764,756	5	2 129,214	\$	4,465,246	5	1,760,000	5	1,700,000
TOTAL Expenses & Investments	\$	1,312,188	5	2,676,646	\$	5,012,678	5	2,307,432	\$	2,247,43
Fund balance	3	844,625	5	2,555,196	\$	2.226,304	5	375,928	5	296,860
Revenues	\$	3,026,906	3	2,451,901	3	3,162,302	\$	2,228,364	56.	2,228,364
Expenses & Investments		1,312.188	5	2,676,646	\$	5,012,678	5	2,307,432		2,247,43
Fund balance	5	2,555,196	3	2,226,304		375,928		296,860	3 (S	277,792

### Grand Junction Regional Communication Center 800MHz Project

#### Budget Details:

Major Activity	Description	Value			
1. Upgrade six	\$20,000 per site for 5 sites and	\$325,000			
existing sites	Ψ323,000				
2. Establish four new sites	\$2,700,000				
3. Purchase Radios	\$2,954,000				
	Mobile: 304 each, @ 3,500 = \$1,064,000				
4. Upgrade GJRCC	\$155,000				
and add 10 control	, , , , , , , , , , , , , , , , , , , ,				
stations					
Grant Total	\$6,134,000				
Match by GJRCC - Pr	\$100,000				
Match by BLM/City/C	\$6,000,000				
\$1M each	40,000,000				
Match by GJRCC - In	\$990,000				
three new sites, \$330,0	Ψ220,000				
Total Match					
Project Total	\$7,090,000 \$13,224,000				
		\$15,227,000			