

Payment Continuation Agreement

This agreement, by and between Sprint Spectrum L.P., a limited partnership whose headquarters address is 6200 Sprint Parkway, Overland Park, KS 66251 (the Contractor or Service Provider), and the 9-1-1 Services Board (the Board), a public body of the Commonwealth of Virginia whose address is 11751 Meadowville Lane, Chester, VA 23836 (collectively the Parties).

WHEREAS:

- in accordance with Article 7 of Chapter 15 of Title 56 of the Code of Virginia, the Board administers the Wireless E-911 Fund (the Fund);
- Va. Code § 56-484.16, as amended and in effect prior to July 1, 2018, permits CMRS service providers to obtain payment from the Fund of wireless E-911 CMRS costs based on a process that begins with a service provider's submission of estimated costs on or before December 31 of each year;
- Service Provider made an appropriate submission of estimated costs on or before December 31, 2017;
- the Board reviewed such estimate and advised Service Provider on or before March 1, 2018, that the estimate qualified for payment and that the Fund was expected to be sufficient for such payment; and
- Va. Code § 56-484.16, as amended by 2018 Va. Acts ch. 532, calls for the Board to enter into contracts related to reimbursement of service provider costs;

NOW, THEREFORE, the Parties, in consideration of the acts taken thus far and the mutual covenants, promises and agreements herein contained, agree as follows:

1. **2018 PAYMENT:** The payment process initiated by Service Provider's December 2017 submission will proceed in accordance with Va. Code § 56-484.16, the Board's policies, and past practices.
2. **FUTURE PAYMENTS:** Payments in 2019 and beyond will depend upon the law and policies in effect at the time, as well as the availability of funds.
3. **APPLICABLE LAWS AND COURTS:** This agreement shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to that body of law controlling choice or conflicts of law, and any litigation related in any way to this agreement shall be brought in the courts of the Commonwealth. The Parties shall comply with all applicable federal, state and local laws, rules, and regulations.
4. **STATE CONTRACT TERMS:** This agreement includes, as set forth herein, the "Core Contractual Terms" required in every Virginia Information Technologies Agency (VITA) contract. Because this agreement does not involve a state procurement, nor federal tax information (FTI), it does not incorporate or include VITA SCM's "Required eVA Terms and Conditions" or "Mandatory Internal Revenue Service (IRS) Publication 1075)" terms.

5. ANTI-DISCRIMINATION:

a. To the extent allowed by law, during the performance of this Contract, the Contractor agrees as follows:

1) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity or expression, national origin, age, disability, status as a service disabled veteran in accordance with [§2.2-4310](#), or any other basis prohibited by state law relating to discrimination in employment, except when there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for meeting these requirements.

b. If there are any subcontracts or purchase orders under this contract, the Contractor will include the provisions of a. above in every such subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

6. IMMIGRATION: Contractor does not, and shall not during the performance of this Contract, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

7. CONTRACTOR/SUBCONTRACTOR PARTICIPATION IN E-VERIFY: In compliance with *Code of Virginia* § 2.2-4308.2, registration and use of federal employment eligibility verification program is required for all Contractors and subcontractors (“employer”) conducting business in the Commonwealth.

a. For purposes of this section, "E-Verify program" means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, § 403(a), as amended, operated by the U.S. Department of Homeland Security, or a successor work authorization program designated by the U.S. Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).

b. Any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract.

c. Any such employer who fails to comply with the provisions of subsection B shall be debarred from contracting with any agency of the Commonwealth for a period up to one year. Such debarment shall cease upon the employer's registration and participation in the E-Verify program.

If requested, a Contractor must show proof of their continued participation e-Verify.

8. INTENTIONALLY LEFT BLANK

9. PAYMENT:

a. To Prime Contractors:

1) Contractor shall provide social security number (for individual Contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).

2) Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.

3) All goods or services provided under this Contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the Contract price, regardless of which public agency is being billed.

4) The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.

5) Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges that appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect

to those charges that are not in dispute.

b. To Subcontractors:

1) A Contractor awarded a Contract under this solicitation is hereby obligated: (a) To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the Contract; or (b) To notify the agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.

2) Interest shall accrue at the rate of one percent per month (unless otherwise provided under the terms of the Contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth for work performed by the subcontractor, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary Contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

3) The Contractor will include the provisions of a. above in every subcontract or purchase order, so that the provisions will be binding upon each subcontractor or vendor.

10. MODIFICATIONS: This contract may be modified in accordance with § 2.2-4309 of the *Code of Virginia*. Such modifications may only be made by the representatives authorized to do so. No modifications to this contract shall be effective unless it is in writing and signed by the duly authorized representative of both parties. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent to breach is in writing.

Any contract issued on a firm fixed price basis may not be increased more than twenty five percent (25%) or \$50,000.00 whichever is greater, without the approval of the Governor of the Commonwealth of Virginia or his authorized designee. In no event may the amount of the contract be increased without adequate consideration.

The provisions of this section shall not limit the amount a party to a public contract may claim or recover against a public body pursuant to § 2.2-4363 (contractual claims) or any other applicable statute or regulation. The unauthorized approval of a modification cannot be the basis of a contractual claim as set forth in § 2.2-4363.

11. DRUG-FREE WORKPLACE: During the performance of this Contract, the Contractor agrees to (i) provide a drug- free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken

against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) if there are any subcontracts or purchase orders under this contract, include the provisions of the foregoing clauses in every such subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, “drug-free workplace” means a site for the performance of work done in connection with a specific Contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.

12. SECTION 508 COMPLIANCE: All information technology which, pursuant to this Contract, is purchased or upgraded by or for the use of any Commonwealth agency or institution or political subdivision of the Commonwealth (the “Technology”) shall comply with Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended. If requested, the Contractor must provide a detailed explanation of how compliance with Section 508 of the Rehabilitation Act is achieved and a validation of concept demonstration. The requirements of this Paragraph along with the Non-Visual Access to Technology Clause shall be construed to achieve full compliance with the Information Technology Access Act, §§ 2.2-3500 through 2.2-3504 of the *Code of Virginia*.

13. NON-VISUAL ACCESS: All information technology which, pursuant to this Contract, is purchased or upgraded by or for the use of any State agency or institution or political subdivision of the Commonwealth (the “Technology”) shall comply with the following nonvisual access standards from the date of purchase or upgrade until the expiration of this Contract:

(i) Effective, interactive control and use of the Technology shall be readily achievable by nonvisual means;

(ii) The Technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;

(iii) Nonvisual access technology shall be integrated into any networks used to share communications among employees, program participants or the public; and

(iv) The technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing nonvisual access standards shall not be required if the

head of the using agency, institution or political subdivision determines that (i) the Technology is not available with nonvisual access because the essential elements of the Technology are visual and (ii) nonvisual equivalence is not available.

Installation of hardware, software, or peripheral devices used for nonvisual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

If requested, the Contractor must provide a detailed explanation of how compliance with the foregoing nonvisual access standards is achieved and a validation of concept demonstration.

The requirements of this Paragraph shall be construed to achieve full compliance with the Information Technology Access Act, §§ 2.2-3500 through 2.2-3504 of the *Code of Virginia*.

14. **AUTHORIZED TO TRANSACT BUSINESS:** A Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law.

A Contractor shall not allow its existence as a partnership or corporation to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the *Code of Virginia*, to be revoked or cancelled at any time during the term of the Contract. The Commonwealth may void this Contract, in whole or in part, if the Contractor fails to remain in compliance with the provisions of this provision.

15. **INSURANCE:** The Contractor will maintain the following insurance coverages during the entire term of the Contract. All insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission. Contractor will provide Certificates of Insurance upon request to substantiate its compliance with these requirements.

(i) Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.

(ii) Employer's Liability - \$100,000.

(iii) Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability coverage is to include any person or organization acting on behalf of Contractor, bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be included as an additional insured by blanket additional insured endorsements.

- 16. DATA PRIVACY: In accordance with § 2.2-2009 of the *Code of Virginia*, during the performance of this contract, Contractor is required at all times to comply with all applicable federal and state laws and regulations pertaining to information security and privacy.
- 17. INTEGRATION: This is the full and final agreement of the Parties and supersedes all prior oral or written agreements, statements, and discussions. This agreement may not be modified except in a writing signed by authorized representatives of the Parties.
- 18. COUNTERPARTS: This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Electronic signatures shall have the same effect as original signatures.

IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed intending to be bound thereby.

Sprint Spectrum L.P.:

9-1-1 SERVICES BOARD:

By: _____ By: _____

Name: _____ Name: _____

Title: _____ Title: _____

Date: _____ Date: _____

Note: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

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