

E911 Wireless Service Board Meeting  
July 21, 2010  
10:00 AM - CESC

Members Present:	Michael Cline, Chairman David Von Moll - Comptroller Samuel Nixon, Jr. – CIO- VITA Lt. Col. Robert Kemmler Pat Shumate Linda Cage	Phil Heins Chief Ron Mastin Sheriff Fred Newman Chief Ed Frankenstein Robert Layman
Members Absent	John Knapp Robert McAvoy	Denise Smith Battalion Chief Tracy Hanger
Remote	Abingdon Culpeper	Roanoke Tidewater
Staff Present:	Dorothy Spears-Dean, Coordinator Terry Mayo, Administrative Assistant Samuel Keys, Regional Coordinator	Lewis Cassada, Project Manager Lisa Nicholson, Project Manager Susan Siegfried, AG

**1. CALL TO ORDER**

Mr. Cline called the meeting to order at 10:08 AM. Mr. Cline welcomed everyone. Ms. Spears-Dean did a roll call to the Regional Facilities.

**2. APPROVAL OF THE MINUTES FROM MAY 13, 2010**

Mr. Cline asked for changes/additions to the May 13, 2010 minutes, and there were none. A motion was made to approve the minutes, and the minutes were 2<sup>nd</sup> for approval. All approved the May 13, 2010 Minutes, **10-0-0**.

**3. FINANCIAL REPORT**

Ms. Spears-Dean addressed the Board and said that three financial documents are included in the Board packet for the Board to review at its leisure (see attachment). Ms. Spears-Dean asked for questions and there were none.

**4. REFRESH OF 9-1-1 COMPREHENSIVE PLAN**

Ms. Spears-Dean addressed the Board and gave a brief presentation on the refresh

of the 9-1-1 Comprehensive Plan. Ms. Spears-Dean said that this plan is not a “redo” of the Wireless 9-1-1 Services Board’s existing Plan, but rather a reality check with the 911 stakeholder community to make sure that the Plan is still on track. Ms. Spears-Dean said that she would like to make sure the plan is still as relevant today as when it was approved in 2008. Ms. Spears-Dean said the document is available on the ISP website if anyone would like to review it. Ms. Spears-Dean said that she believes that the plan is still applicable today; however, the 9-1-1 stakeholder community will need to be contacted. To achieve this objective, the stakeholder community will need to help make this determination. Ms. Spears-Dean informed the Board that this will occur through regional “Town Hall” meetings, which will be announced through various communications channels. The meetings will be two hours in length throughout the Commonwealth, and are scheduled to be held in Richmond; Tidewater; Valley Piedmont; Roanoke; and Abingdon (video conference due to state travel restrictions). Ms. Spears-Dean said that notes will be taken at each site and made available on the ISP website. The process will begin in August and will conclude by the end of the 2010 calendar year. A completed draft of the Comprehensive Plan will be presented to the Board at their January meeting. Mr. Cline asked Ms. Spears-Dean if she had a timeline for the dates of the meetings. Ms. Spears-Dean said the Richmond meeting will be held in late August and the other meetings would follow in September and October, but dates have not yet been established. Mr. Cline said that he hopes Board members will attend at least one of these meetings.

## **5. WIRELESS 9-1-1 SERVICES BILLING AGREEMENTS**

Ms. Spears-Dean addressed the Board and said she would like to address the FY 2011 CenturyLink and Verizon Billing Agreements separately.

**CenturyLink:** Ms. Spears-Dean said that with the exception of two localities (Franklin and Patrick), all PSAPs served by this LEC have opted into the billing agreement. Staff is recommending approval for execution of the CenturyLink Billing Agreement. Mr. Cline asked for comments from the Board, and Lt. Col. Robert Kemmler asked what happens to Franklin and Patrick since they have opted out of the agreement. Ms. Spears-Dean said that Patrick and Franklin County have opted out the billing agreement; however, have asked for grant funds to pay for the service. Mr. Robert Layman asked if CenturyLink has asked for a discount or cost differential if the localities decided to pay for the service individually. Ms. Spears-Dean said no. A lengthy discussion ensued in which afterwards the Board decided that a language change needs to be made to the agreement. Mr. Cline called for a motion to move forward with the CenturyLink Agreement with proposed language change, and with the PSAPs who have agreements on file with CenturyLink. Mr. Nixon made the motion, and Mr. Von Moll 2<sup>nd</sup> the motion. All approved **6-4-0** (with Linda Cage, Phil Heins, Ed Frankenstein, and Fred Newman voting against the motion).

**Verizon Billing Agreement:** Ms. Dorothy Spears-Dean briefed the Board on the comments she received from localities concerning the Verizon Billing Agreement. Ms. Spears-Dean said she received comments late last night and early this morning (included in Board packet). Ms. Spears-Dean said that all the PSAPs except Franklin have decided to opt in. The agreement is very close but some legal language is being finalized by Counsel for the Board and Verizon in the area of limitation of liability and protecting the PSAPs from any payment obligation. Staff is recommending approval for execution subject to review of final agreement by Counsel. Chairman Cline asked for comments from the Board and public. A lengthy discussion ensued. Mr. Cline called for a motion from the Board. Mr. Von Moll made a motion to authorize staff to continue to negotiate the contract with Verizon and authorizes the Board Chairman or such other legal authorized person to execute the contract subject to final approval of Board Staff and legal counsel within 30 days. Mr. Nixon 2<sup>nd</sup> the motion for approval. All approved the motion 9-1-0 (Pat Shumate voted no).

Ms. Spears-Dean updated the Board on recent discussion related to billing agreements for CenturyLink and Verizon for FY 2012 and beyond. Ms. Spears-Dean said that staff has met with the PSAP community and real progress has been made in exploring future options. The focus has been on two options: taking the payments for the wireless 9-1-1 services from the top of the wireless fund, knowing this would require a legislative budget change, and splitting the payments between the 60% and the 10% funding. Consensus at the meeting was to explore a blending of the 60% and 10% funding that would transition payment over three years from 100% grant funding (10% Fund) to 100% operating (60%). Mr. Cline asked if the Coordinator is going to have meetings with the PSAPs. Ms. Spears-Dean said there are going to be public meetings (statewide) scheduled. Mr. Cline said that the PSAPs need to attend these meetings to make sure that their concerns are heard.

## **6. WIRELESS 9-1-1 SERVICES GRANT**

Ms. Spears-Dean informed the Board that staff has received funding requests from PSAPs in the amount of \$4,019,840.30, primarily to support the Verizon and CenturyLink billing agreements. Ms. Spears-Dean directed the Board to review the handout provided in their packet (see hand-out), and review the total amounts for Verizon, CenturyLink, and “other”. The requests listed in the “other” column are from PSAPs that either did not wish to participate in the billing agreements, or had a LEC other than CenturyLink or Verizon. Staff has reviewed these requests and is recommending approval. Mr. Von Moll asked for clarification from staff that if the amounts listed are adjusted, would the amounts in the agreement change. Ms. Spears-Dean said yes. Mr. Von Moll made a motion that the approval be made with the caveat that the amounts be adjusted if the agreement

amount changes (documents included). Lt. Robert Kemmler 2<sup>nd</sup> the motion for approval. All approval **9-0-0** (Mr. Nixon was not present).

## **7. UPDATE ON PSAP GRANT PROGRAM**

Ms. Spears-Dean wanted the Board to know that the PSAP Grant Program is still a viable entity and anticipates that funding will be available to address the most critical grant needs. The amount of available funding is dependent upon completing the year end close out. Ms. Spears-Dean said she is not asking the Board to make any recommendation at this time; however, the approval of the remaining FY 2011 grants will be an agenda item at the September Board meeting.

Ms. Spears-Dean addressed the Board, and said that staff is seeking support from the Board for a corrective action from a recent APA audit. This correction action is Board endorsement for compliance with the PSAP Grant Guidelines. Previously, Board direction has been to err on the side of the PSAP, but moving forward all involved parties need to strictly adhere to the Guidelines. Mr. Von Moll made a motion that the Board directs staff to comply with the audit plan. Mr. Shumate 2<sup>nd</sup> the motion. All approved **9-0-0**.

Ms. Spears-Dean informed the Board that as of June 30, 2010 there is \$10,986,090 in outstanding grant awards that must be utilized by June 30, 2011. These amounts by year are: FY08 - \$692,183; FY09 - \$2,255,075; FY10 - \$8,038,832.

## **8. OLD BUSINESS**

**FY 2010 Verizon Wireless 9-1-1 Services Costs:** Ms. Spears-Dean addressed the Board and said that this information is for informational purpose only. Ms. Spears-Dean said that staff is still negotiating with Verizon on this issue. PSAPs will be able to opt in or opt out of any agreement related to the FY 2010 Verizon Wireless 9-1-1 Services Costs. No final agreement has been made. The final agreement will be presented at the September 9, 2010 Board meeting for approval. Mr. Von Moll asked if there is a liability associated with this agreement. Ms. Siegfried said that there is no legal obligation for the Commonwealth to pay. Mr. Cline asked more questions and there were none.

## **9. NEW BUSINESS**

- **PSAP Grant Committee:** Ms. Spears-Dean said the PSAP Grant Committee is still serving. There will be a meeting before the September 9<sup>th</sup> Board Meeting. There will be a lengthy report given at the September meeting. New Committee members will be reported at the next Board Meeting.
- **PSAP Scholarship Program Funding Request:** Ms. Spears-Dean addressed the Board and said that APCO has asked for \$60,000 from the PSAP Grant Program for their Fall Conference. Karen Johnson, Bill Agee and Julie Mckercher addressed the Board for funding of their APCO Fall conference in Roanoke. Chief Ron Mastin made a motion to approve the funding. Chief Ed Frankenstein 2<sup>nd</sup> the motion, and the motion was approved; **9-0-0.**

## **10. PUBLIC COMMENT**

Mr. Cline called for public comments at CESC and at the satellite locations. There were no comments

## **11. ADJOURNMENT OF THE MEETING**

Mr. Cline called for a motion to adjourn the meeting of the Board at 1:31 PM. All approved; **9-0-0.**

Respectfully Submitted:

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Terry D. Mayo

(Date)



**BILLING AGREEMENT BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
VERIZON VIRGINIA, INC.  
AND  
VERIZON SOUTH, INC. (“VERIZON”)**

**1. PARTIES AND SCOPE OF AGREEMENT**

This is an Agreement (the “Agreement”) between the **Commonwealth of Virginia, Wireless E-911 Services Board** (the “Commonwealth” or the “Board”), having its principal place of business address at 11751 Meadowville Lane, Chesterfield, VA 23219, and **Verizon Virginia, Inc. and Verizon South, Inc.** (each hereinafter referred to severally as the “Contractor” or “Verizon”), Virginia corporations having their principal place of business at 703 East Grace Street, Richmond, Virginia 23219, for the payment for wireless E-911 services on behalf of local Counties and Municipalities which serve as Public Safety Answering Points (“PSAPs”) (the “Services”).

The Contractors provide the Services to certain PSAPs. Those PSAPs have entered or will enter into individual service agreements with the Contractors which set forth the terms and conditions under which the Contractors agree to provide the Services to the PSAPs. The Contractors acknowledge that the Board is acting only as a billing agent for the convenience of the Contractors and the PSAPs. Under the Code of Virginia, any payment made by the Board is made on behalf of the PSAPs, and the PSAPs remain the primary obligors for payment for the Services.

Local Counties and Municipalities ordering Services pursuant to this Agreement shall be referred to as Ordering Agency and/ or Customer. The Board’s obligation to pay for the Services is subject to the PSAPs ordering the Services and subject to availability and appropriation of funds under Section 16 of this Agreement. The Services are described in Exhibit A hereto. Verizon Virginia Inc. and Verizon South Inc. do not assume joint and several liability for one another’s actions and performance, but each shall be liable for their own performance within their respective certified PSAP service area.

The Board is the approving authority for expenditures from the Virginia Wireless E-911 Fund, and is empowered to provide grant funds to, or on behalf of, PSAPs for the benefit of wireless E-911, as provided in Va. Code § 56-484.17(C). The Board has provided an opportunity for PSAPs to apply for grant funds for the payment of Services. If FY2011, certain PSAPs have applied for and been awarded grant funds to pay for the Services. In subsequent years of this agreement, the Board may utilize other funding methods permissible within the *Code of Virginia*.

Regardless of the methodology employed, the PSAPs must apply to the Board for payment of Services.

In order to eliminate the administrative steps involved in billing and receiving payment from individual PSAPs, along with the steps involved in the Board's reimbursing individual PSAPs, it is the parties' desire to enter into an agreement whereby each Contractor may submit one bill to Board on behalf of PSAPs which receive Services from that Contractor, and which have requested and received approval for the use of wireless E-911 funds for such purpose. The Board will pay for the Services with proceeds from the Wireless E-911 Fund that have been awarded to PSAPs for such payment. Each Contractor agrees to the Board's direct payment on behalf of the Ordering Agencies.

The Ordering Agencies are responsible for payment for the Services received from an applicable Contractor if the Board does not pay for such Services, at the then-applicable rates as governed by an applicable Contractor's interstate or state tariffs ("Tariff(s)").

## **2. BILLED PARTY; ORDERING AGENCIES**

A. **Billed Party.** The Board, on behalf of the Ordering Agencies, shall be the billed party for all Services ordered by said Ordering Agencies. On behalf of the Ordering Agencies, the Board shall make payment of all invoices in accordance with the provisions of Section 25 of this Agreement.

B. **Ordering Agencies.** The Board hereby authorizes each PSAP requesting the Board pay for Services on their behalf and awarded wireless E-911 funds to act as an Ordering Agency for this Agreement. Ordering Agencies which are governed by this Agreement, and the quantity of services ordered by each, are listed in Exhibit B.

The authority of an Ordering Agency is limited to ordering the Services, by written request which references this Agreement, and does not include the ability to add any additional Services not included on Exhibit A or to change or modify any prices, terms and conditions agreed upon by the parties hereto. The contractor reserves the right to refuse Services to Ordering Agencies outside of the Contractor's service area. All changes to this Agreement must be incorporated in a formal modification to this Agreement by the parties identified in paragraph entitled "Modifications" of this Agreement.

## **3. ENTIRE AGREEMENT**

This Agreement, comprised of these terms and conditions and Exhibits A and B attached hereto, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement. All prior agreements, representations, statements, negotiations and undertakings are hereby superseded with respect to these Services. No other written documents regardless of form or content shall be executed by any agency or institution for Services acquired under this Agreement unless signed by the Board, except for orders within the Ordering Agency's authority noted above.

## **4. APPLICABLE LAWS AND COURTS**

This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. Verizon shall comply with all applicable federal, state and local laws, rules and regulations.

## 5. NOTICES

Notices required by this Agreement must be in writing and sent to:

<u>Verizon:</u>	<u>Commonwealth</u>
Verizon Contract Repository	Wireless E-911 Services Board
700 Hidden Ridges	c/o VITA
MC: HQW02L25	11751 Meadowville Lane
Irving, TX 75038	Chesterfield, VA 23219

Names and addresses for notices may be changed by notice sent in accordance with this paragraph. Notices delivered by hand shall be effective upon delivery. Notices which are not hand-delivered shall be sent by certified mail, return receipt requested, and shall be effective on the date noted on the return receipt.

## 6. ANTI-DISCRIMINATION

The Contractor certifies to the Commonwealth that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians with Disabilities Act, the Americans with Disabilities Act and section 2.2-4311 of the Virginia Public Procurement Act.

- A. 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, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except 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 the purpose of meeting these requirements.
- B. The Contractor will include the provisions of A. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

## **7. IMMIGRATION REFORM AND CONTROL ACT OF 1986**

The Contractor certifies that it does not and will not during the performance of this Agreement employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

## **8. ETHICS IN PUBLIC CONTRACTING**

The Contractor certifies that this Agreement is made without collusion, or fraud and that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer, or subcontractor in connection with this Agreement, and that it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

## **9. TAXES**

Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request, and can be obtained online at <http://www.tax.virginia.gov/>. Deliveries against this Agreement shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

## **10. NONDISCRIMINATION OF CONTRACTORS**

A Contractor shall not be discriminated against in the award of this Agreement because of race, religion, color, sex, national origin, age, or disability or due to its status as a faith-based organization.

## **11. ASSIGNMENT OF CONTRACT**

To the fullest extent permitted by law, the parties agree that Contractor's rights under this Agreement shall not be assignable, in whole or in part to any other party without the Commonwealth's written consent, which shall not be unreasonably withheld, and that any purported assignment or transfer without such consent shall be null and void, provided Contractor may assign or transfer its rights and obligations under this Agreement, upon written notice to the Commonwealth, to any affiliated Verizon entity that is wholly owned by the parent Verizon Communications Inc.

To the extent applicable law limits the rights of the parties to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be determined in accordance with applicable law. In such cases, the Contractor shall give the Board prompt written notice of the assignment, signed by authorized representatives of both the Contractor and the assignee.

In the event the Commonwealth receives any notice from a third party claiming to be an assignee of any rights of the Contractor under this Agreement, Contractor agrees that payment or other

performance in respect of those rights shall not be due until at least thirty days after the Commonwealth's receipt of the notice required by the above paragraph or receipt of a similarly executed notice confirming the absence or revocation of the purported assignment. The Board shall promptly notify the Contractor of any assignment notice it receives.

## **12. FORCE MAJEURE**

Contractor shall not be liable for delays, losses, damages, or any other consequences of acts, omissions, events or failures in performance due to causes beyond Verizon's reasonable control, including, but not limited to, acts of governmental body or third parties, acts of God, fires, floods, civil disturbances, war, terrorism, riots, insurrections, strikes, other labor-related disputes, or its inability to obtain the necessary equipment or services.

## **13. TERMINATION**

Either party may terminate this Agreement by written notice in the event the other party (i) materially breaches this Agreement and (a) fails to cure such breach within thirty (30) days following written notice thereof, or (b) if such breach cannot reasonably be cured during that time, uses its best efforts to cure such breach as soon as practicable but in any event within ninety (90) days following written notice of the breach; or (ii) engages in fraud, criminal conduct or willful misconduct in connection with the business relationship of the parties. Further, the Board may terminate this Agreement immediately by written notice in the event Verizon becomes insolvent, ceases doing business in the ordinary course, enters bankruptcy proceedings or effects an assignment for the benefit of creditors. In the event either party terminates this Agreement pursuant to this Section 13, Commonwealth shall be liable to Contractor only for those Services provided through the date of termination subject to the availability of funds; provided that in any such instance of non-payment by the Commonwealth, the Ordering Agencies shall be responsible for payment for the Services received from an applicable Contractor at the then-applicable rates as governed by such Contractor's Tariffs..

## **14. INSURANCE**

Verizon certifies that it will have the following insurance coverage's at the time the Agreement becomes effective. Verizon further certifies that it and any subcontractors will maintain these insurance coverage's during the entire term of the Agreement and that all insurance coverage's will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

### **INSURANCE COVERAGES AND LIMITS REQUIRED:**

- a. Worker's Compensation – Statutory requirements and benefits.
- b. Employers Liability - \$100,000.
- c. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.

- d. Automobile Liability - \$1,000,000 per occurrence.

## **15. DRUG-FREE WORKPLACE**

During the performance of this Agreement, Verizon agrees to (i) provide a drug-free workplace for its 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 its 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 Verizon that it maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every 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 Verizon, the employees of who are prohibited from engaging in the unlawful manufacture, sale, distribution, possession or use of any controlled substance or marijuana during the performance of the Agreement.

## **16. NON-AVAILABILITY AND NON-APPROPRIATION OF FUNDS**

The Services are funded by the Commonwealth under the “Wireless E-911 fund” established pursuant to Virginia Code Sec. 56-484.17. All funds for payment of goods or Services ordered under this Agreement must be legislatively appropriated and legally available for this purpose and must have been awarded to PSAPs as wireless E-911 funds, for payment to be made by the Commonwealth. In the event of non-availability or non-appropriation of funds by the Legislature for the Services under this Agreement, the Commonwealth may terminate this Agreement for those Services for which funds are not available or have not been appropriated. Written notice will be provided to Verizon as soon as possible after legislative action is completed but in any event no later than 90 days before the start of the next contract year. Commonwealth shall be liable to Contractor for those Services provided through the date of termination; provided that in any such instance of non-payment by the Commonwealth, the Ordering Agencies shall be responsible for payment for the Services received from an applicable Contractor at the then-applicable rates as governed by such Contractor’s Tariffs.

If the Wireless E-911 Fund is insufficient to make any payment required under this Agreement, Verizon may bill the appropriate Ordering Agency or Agencies directly for any amounts not paid by the Board or unfounded for the next year at the then-applicable rates as governed by Contractor’s Tariffs.

## **17. CONTRACTUAL RECORDS**

Verizon shall make all books, records, and other documents directly related to this Agreement available to the Commonwealth and its designated agents for purposes of audit and examination for a period of four years after creation of the book, record, or document. Related records include, but are not limited to, this Agreement and all executed orders, attachments, modifications, invoices, and correspondence between the parties to this Agreement.

## 18. LIMITATION OF LIABILITIES; INDEMNITY

- A. Except for errors and omissions caused by gross negligence, willful or wanton misconduct, fraudulent conduct or violations of law by Verizon, and, to the extent not caused by acts, omissions or other occurrences attributable to the Commonwealth or any other person or entity, a Verizon entity's entire liability in tort, contract or otherwise for damages arising out of mistakes, interruptions, delays, failures, errors, acts, omissions, defects in transmission or other occurrences related to Verizon's provision of Wireless E-911 Services is limited by the terms set forth in Section B below. This limitation of liability extends to, but is not limited to, claims in connection with designing, developing, installing, implementing, maintaining, or operating the Wireless E-911 Services, attachment to, or use of any Commonwealth-provided equipment in conjunction with the Wireless E-911 Services, advice, recommendations or analysis provided, and/or for realizing subscriber information, including non-published or unlisted information, in connection with the provision of the Wireless E-911 Services. Verizon's provision of service to an Ordering Agency shall not create nor give to any third party any claim or right of action against the Commonwealth, an Ordering Agency or Verizon.
- B. If any of the Commonwealth's Ordering Agencies experience a service outage exceeding 24 hours the Commonwealth on their behalf will receive a credit allowance provided as follows:

When, after notice by the Commonwealth to Verizon of an interruption of Service, the service continues to be interrupted, a credit allowance will be given if the interruption continues for at least 24 hours. The allowance is equal to a pro rata adjustment of the fixed monthly trunk charge shown in Exhibit A for the services furnished by Verizon that are rendered useless or substantially impaired due to any cause other than the negligence or willful act of the Commonwealth's Ordering Agencies or the Commonwealth or the failure of any facilities provided by the Commonwealth or the Ordering Agencies. For purposes of administering this provision, every month is considered to have 30 days.

- C. Under no circumstance shall Verizon be responsible or liable for special, indirect, incidental or consequential damages.
- D. To the extent permitted by applicable law, the Commonwealth indemnifies and saves Verizon harmless against:
- (i) Claims for libel or slander arising from the Commonwealth's own acts, or infringement or copyright arising from the material transmitted over its facilities;
  - (ii) Claims for infringement of patents arising from combining with our using Commonwealth apparatus, equipment or systems in connection with Verizon's Services or facilities.

- E. Consistent with all the terms and conditions and limitation of liability provisions of Sections 18 A above, Verizon will indemnify the Commonwealth for any damages arising from third party claims that are not excluded or limited by Section 18 A.

## 19. MODIFICATIONS

This Agreement may be modified in accordance with Section 2.2-4309 of the Code of Virginia. Such modifications may only be made by the representatives noted below. No modification to this Agreement shall be effective unless it is on 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.

The only representatives authorized to modify this Agreement on behalf of the Commonwealth and Verizon are shown below.

<u>Verizon:</u>	<u>Commonwealth</u>
Attn Suleiman Hessami	Wireless E-911 Services Board Chairman
VP Pricing & Contracts	c/o VITA CESC
22011 Loudoun County Parkway	11751 Meadowville Lane
Ashburn, VA 20147	Chesterfield, VA 23219

## 20. CONTRACTUAL DISPUTES

In accordance with Section 2.2-4363 of the Code of Virginia, Agreement claims, whether for money or other relief, shall be submitted in writing to the Chairman of the Board no later than sixty days after final payment at the end of the Agreement; however, written notice of Verizon's intention to file such claim must also be given to the Board within 60 days of the occurrence or beginning of the work upon which the claim is based as required by the Code of Virginia. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The Board shall render a final decision in writing within thirty days after its receipt of Verizon's written claim. The parties acknowledge that Verizon's invoices at the start of the billing period each year will serve as written notice of Verizon's intention to seek payment for all Services rendered during the billing period.

Verizon may not invoke any available administrative procedure under Section 2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the Board's decision on the claim, unless the Board fails to render its decision within thirty days after receipt of Verizon's written claim. The decision of the Board shall be final and conclusive unless Verizon, within six months of the date of the final decision on the claim, invokes appropriate action under Section 2.2-4364, Code of Virginia or the administrative procedure authorized by Section 2.2-4365, Code of Virginia.

The Board, its officers, agents and employees, are executing this Agreement and any Orders issued hereunder, solely in its or their statutory and regulatory capacities as agent for the Commonwealth agency purchasing and receiving the Services identified in this Agreement or on the subsequent Order in question and need not be joined as a party to any dispute that may arise thereunder.

## **21. NO WAIVER**

A failure by either party to exercise its rights under this Agreement is not a waiver.

## **22. ADVERTISING/PUBLICITY**

The Parties to this Agreement shall not use the logo or trademarks of the other without prior written consent of the other party.

## **23. INSTALLATION OF SERVICE**

Except for specific limitations expressly stated in this Agreement, Verizon shall be responsible for completing and providing all component items necessary for installation and commencement for each ordered Service, including, without limitation, installation of any necessary access lines and switching/routing, or transport facilities in Verizon's network that are required for the Service to operate in accordance with the Exhibit A contained herein. When additional Services are ordered, it is anticipated that Verizon and the Ordering Agency will negotiate a mutually agreed upon estimated target completion date for those Services. Commonwealth shall begin to pay for the added Services in accordance with Exhibit A. For existing Services, Verizon shall bill and the Board Customer shall pay for Services upon execution of this Agreement.

## **24. INCREASE OR DECREASE OF SERVICES**

Any Ordering Agency may, at any time, increase or decrease the quantity of Wireless 911 Trunks to be provided to it hereunder. Any adjustment in charges resulting from such change shall be made under Exhibit A, prospectively at the start of the next year. Ordering Agencies may increase or decrease Wireless 911 Trunks through issuance of a written Telecommunications Services Order (TSO) indicating the effective date of the change. No termination charge of any kind shall be incurred as a result of decreasing the quantity of or otherwise terminating any Wireless 911 Trunks procured hereunder.

## **25. PAYMENT; BILLING DISPUTES and RECONCILIATIONS**

- A. All invoices shall show the state Contract number. All invoices shall be supported by documentation with the federal employer identification number and also sufficient to show the amounts of Services and charges attributable to each Ordering Agency. Verizon shall promptly provide such documentation with issuance of an invoice. Invoices for items ordered, delivered and accepted shall be submitted by Verizon directly to the Board, and shall be based on the charges shown in Exhibit A.

Payment shall be made annually in advance. Payment is due 30 days after invoice or delivery, whichever occurs last. The payment address is as follows: Verizon PO Box 660720, Dallas Texas 75266-0720.

- B. Any credits which have accrued during the prior year shall be included on the following years invoice. Within 30 days of the end of the contract term, Verizon shall issue payment to the Board for any credits accrued during the final year of the term.

- C. All Services provided under this Agreement that are to be paid for with public funds shall be billed by Verizon at the Agreement price, regardless of which Ordering Agency submitted the order.
- D. The following shall be deemed to be the date of payment: for purposes of late payment charges; 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.
- E. 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, Verizon 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 Verizon, in writing, as to those charges which it considers unreasonable and the basis for the determination. The provisions of this section do not relieve the Board of its prompt payment obligations with respect to those charges that are not in dispute (*Code of Virginia*, Section 2.2-4363).
- F. Payment to Subcontractors. If Verizon engages any subcontractor(s) pursuant to this Agreement, Verizon is hereby obligated:
- (1) To pay the subcontractor(s) within seven (7) days of Verizon'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
  - (2) To notify the Board and the subcontractor(s), in writing, of Verizon's intention to withhold payment and the reason.

Verizon is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by Verizon that remain unpaid seven (7) days following receipt of payment from the Commonwealth, 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.

- G. The Commonwealth shall notify Verizon in writing only when the billing and/or invoice information submitted by Verizon is rejected and the reasons therefore. If rejection is not made within 30 days of receipt of the information by the Commonwealth, then the billing and/or invoice information shall be deemed accepted.
- H. The Commonwealth reserves the right in accordance with the paragraph Entitled "Invoice Information", to make corrections to Verizon's invoices which have been paid but are later found to contain errors.

- I. With the goal of starting each new year of the Agreement with no billing disputes and with all past year items reconciled, and in order to meet the Board's obligation to determine the accuracy of its payments in relation to actual costs incurred by the Ordering Agencies, all of Verizon's claims for under billing or adjustments, and all Commonwealth claims for overbilling or other billing reconciliations to the prior year's invoice will utilize the following steps:
  - (a) in the first 90 days after the prior billing period has ended, the parties will make a reasonable effort to identify all reconciliation items from that prior billing period;
  - (b) in the next 180 days the parties obligate themselves to work in good faith to resolve all such items;
  - (c) in the final 90 days of the current billing year all reconciliation items must be resolved or reserved for further action by the parties.
  - (d) If a claim is not made in the first 90 days, it may still be made before the end of the year but the parties do have an obligation to make reasonable efforts to identify all reconciliation items in the first 90-day period under (a) above.

Nothing herein shall waive the requirements of paragraph 20 or Virginia Code 2.2-4363 regarding contractual disputes.

## **26. INVOICE INFORMATION**

No invoice may include any costs other than those identified in this Agreement.

All invoices shall be sent to the following address:

Wireless E-911 Services Board  
c/o Virginia Information Technologies Agency  
11751 Meadowville Lane  
Chesterfield, VA 23219

## **27. INDEPENDENT CONTRACTOR**

Verizon will be legally considered as an independent contractor and neither Verizon nor its employees will, under any circumstances, be considered servants or agent of the Commonwealth.

## **28. TERM**

A. This Agreement shall take effect July 1, 2010. The Board agrees to pay for services for thirty-six (36) consecutive months with a customer option for two, twelve (12) month extension, provided that the Ordering Agencies have requested the Board pay for Services on their behalf and been awarded funds from the Wireless E-911 Fund to pay for such services during such period. The Ordering Agencies are responsible for payment for the Services received from an

applicable Contractor if the Board does not pay for such Services, at the then-applicable rates as governed by then-applicable Tariffs.

The Board is required to pay the entire payment for service on an annual basis beginning July 1 of each year. This payment is not subject to reimbursement if service is discontinued during the 12 month period. Ordering Agencies may, at their sole discretion, discontinue service at any time upon written notification.

B. No later than 90 days prior to each anniversary of this Agreement, the Board shall notify Contractors as to whether the Ordering Agencies will continue to “opt-in” to receiving and being responsible for Service under this Agreement from said Contractors for the upcoming contract year. Absent receipt of an affirmative indication that an Ordering Agency has opted-in for the next year of the Contract, Contractors shall deem an Ordering Agency as NOT opting-in and shall follow the procedure set forth at Section 28(C) below. In addition, any such Ordering Agency who has or is deemed to have opted-out shall be precluded from opting back in throughout the remainder of this Agreement.

C. Any Ordering Agency who opts-out or is deemed to have opted-out of receiving Services under this Contract shall also indicate if it wishes to have the Services terminated. Due to the important nature of the Services for public safety, Contractors shall not terminate the Services unless they receive a written statement from any such Ordering Agency affirmatively requesting termination of the Service but rather will continue to supply the Services at then-applicable Tariff rates, terms and conditions.

## **29. NON-VISUAL ACCESS TO TECHNOLOGY**

If applicable, all information technology which, pursuant to this Agreement, 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 non-visual access standards from the date of purchase or upgrade until the expiration of this agreement:

- A. Effective, interactive control and use of the Technology shall be readily available by non-visual means;
- B. The Technology equipped for non-visual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of technology interacts;
- C. Non-visual Access Technology shall be integrated into any networks used to share communications among employees, program participants or the public; and
- D. The Technology for non-visual access shall have the capability of providing equivalent access by non-visual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing non-visual 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 the non-visual access because the essential elements of the Technology are visual and (ii) non-visual equivalence is not available.

Installation of hardware, software or peripheral devices used for non-visual 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 non-visual access software and peripheral devices.

If requested, Verizon must provide a detailed explanation of how compliance with the foregoing non-visual 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, Sections 2.2-3500 through 2.2-3504 of the *Code of Virginia*.

### **30. HEADINGS**

Headings are for reference purposes only and shall not be considered in construing this Agreement.

### **31. COUNTERPARTS**

This Agreement shall be executed by each party signing two original copies of the agreement, each party keeping one original.

[SIGNATURE PAGE TO FOLLOW]

**PERSONS SIGNING THIS AGREEMENT ARE AUTHORIZED PREPRESENTATIVES OF EACH PARTY TO THIS AGREEMENT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.**

**Commonwealth of Virginia**  
**Wireless E-911 Services Board**

**By:**

**Name:**

**Title:**

**Date:**

**Verizon Virginia, Inc.**  
**Verizon South, Inc.**

**By:**

**Name:**

**Title:**

**Date:**

**EXHIBIT “A”  
TO  
CONTRACT VA-2009-485697**

**Service Descriptions**

- A. Verizon will provide Wireless E-911 Services as outlined herein to the Ordering Agencies where facilities exist. Verizon reserves the right to refuse Services to out-of-region customers. Special Construction charges, if any, are not included in the rates for Services.
- B. Verizon will deliver to each Ordering Agency the data as required and specified by the FCC in CC Docket No. 94-102 (“the FCC Docket”). Verizon will deliver to the PSAP the same data as was received from the Wireless Service Provider (“WSP”). Verizon disclaims any and all responsibility for (1) the delivery of any additional data element that the WSP may choose to provide beyond those required and specified in the FCC Docket; (2) the content of the data delivered to the Ordering Agency, and (3) any data that the WSP fails to deliver to Verizon. In addition, Verizon shall not be responsible for the location determination technology, for the accuracy of the location determination technology, or for the investigation or maintenance of those technologies.
- C. The Ordering Agency must have all required elements of the Phase I Wireless E-911 Service configuration, utilizing ESRK or ESRD routing and cell site/sector location based information, in place before Phase II Wireless E-911 Service configurations can be implemented. In addition, all of the following requirements must be met prior to Phase II Service configuration implementation:
  - i. The ordering Agency’s ALI software must be upgraded to Verizon’s wireless ALI format to accommodate the X, Y data and the confidence and uncertainty element.
  - ii. The WSP must have a PDE and an MPC in its network. The PDE and MPC equipment is not provided by and is not the responsibility of Verizon, nor is Verizon responsible to ensure the WSP or their agent(s) are prepared to implement Phase II Service configurations.
  - iii. The WSP must have obtained an executed Interconnection Agreement to obtain connection with Verizon to the E-911 Tandem and to Verizon’s ALI database to provide the Phase I and Phase II data. Verizon is not responsible to provide Wireless E-911 Services without an executed Interconnection Agreement.
  - iv. The WSP must submit Master Street Address Guide (“MSAG”) – valid ALI records for each ESRK/ESRD in accordance with National Emergency Number Association (“NENA”) Standard 02-010.

*Centralized Automatic Line Identification (“CALI”) Wireless Processing.* Allows for Automatic Location Identification (“ALI”) processing for the following call delivery service configurations: Phase I Call Associated Signaling (“CAS”), Phase I Non-Call Associated Signaling (“NCAS”) and Phase II Wireline Compatibility Mode. The Service includes two system ports per Ordering Agency in the Verizon service area to connect Public Service Answering Points (“PSAPs”) to the ALI Database platform. The Service does not include circuits between the ALI Database platform and a) the PSAP, b) the WSP’s subscriber database, or c) its Mobile Position Center (“MPC”). The WSP’s subscriber database, its Position Determining Entity (“PDE”) and/or its MPC are not provided by or the responsibility of Verizon.

*Dual Selective Routing.* Allows for selective routing of the emergency call to the PSAP based on the Emergency Service routing Key (“ESRK”) or Emergency Service Routing Digits (“ESRD”). It also provides the following enhanced features and capabilities to the PSAP: wireless E-911 trunk concentration; selective, default and alternate routing; call transfer; night transfer; and forced disconnect. Includes ports on the E-911 Tandem to maintain a P.01 grade of service, and to facilitate connection with the PSAP or the WSP’s Mobile Switching Center (“MSC”). Trunks between the E-911 tandem and the PSAP may be purchased under this Agreement at the price listed below.

*Wireless Trunks.* Provides the telecommunications connection between the PSAP and the E-911 Tandem.

**Rates and Charges**

The Commonwealth agrees to pay the Contractor the amounts listed below for the Services. The amounts stated below do not include charges for any other aspect of E-911 services that may be used in connection with the Services provided pursuant to this Agreement. Payment for Services is charged annually for the prospective twelve month period. If the Wireless Board and/or Ordering Agency discontinue Services during the twelve month period, payment for such Services is not refundable. Special Construction charges, if any, are not included in the charges for Services.

Service Element:	Total Annual Charges for all Ordering Agencies on Exhibit B
CALI Wireless Processing & Dual Selective Routing (note 1)	\$3,434,712
Wireless Trunks, E911 Tandem to PSAP (note 2)	\$329,940
Total	\$3,764,652

Note 1: This rate reflects the total annual charges that were derived on a locality by locality basis using a formula that involves Verizon access lines plus non-Verizon records and a state-wide average of 50% number of wireless calls received at the PSAPs. Its initial count of Verizon access lines plus non-Verizon records and % number of wireless calls shall remain constant throughout the duration of this Agreement.

Note 2: The monthly recurring charge for each wireless trunk is \$58.75 per trunk as is based on the number of trunks installed in the Commonwealth as of July 1, 20010.

Verizon, at its discretion, may adjust the rates, terms and conditions of this Agreement if it is not signed and dated by the Board on or before July 31, 2010.

**Technology Upgrade:**

If, at any time after the completion of twelve (12) months of the Service Period, Verizon offers to the public a modification, enhancement or improvement to this Service that increases the speed, bandwidth or capacity of this Service (“Upgrade”) and such Upgrade is available in the areas of the Ordering Agencies’ locations, Ordering Agencies may request such Upgrade in replacement of all or a portion of this Service at the Ordering Agencies’ locations without termination liability for the replaced Service, provided that (i) Ordering Agencies subscribe to the Upgrade for a service period at least as long as the Service Period remaining for the replaced Service under this Agreement; (ii) Ordering Agencies subscribe to the Upgrade at the same Ordering Agencies locations as the replaced Service at the rates determined by Verizon and agreed upon by the parties for such Upgrade or at generally available tariffed rates for such Upgrade. The Upgrade shall be provided, and the applicable rates, terms and conditions will take effect, only after mutual agreement of the parties on all such rates, terms and conditions and only after all necessary filings are made with governmental entities and approvals from such entities are obtained. Rates for the Upgrade will apply prospectively only. Should an Ordering Agency/Customer request an upgrade, the Board shall indicate its approval of such upgrade.

EXHIBIT "B"

LIST OF ORDERING AGENCIES, QUANTITIES, AND CHARGES ATTRIBUTABLE TO EACH ORDERING AGENCY

Ordering Agency	# Trunks	Annual Rate
Alexandria	12	\$ 118,250
Amelia	4	\$ 7,389
Amherst	4	\$ 12,506
Appomattox	4	\$ 7,688
Arlington	24	\$ 191,634
Augusta	4	\$ 34,409
Bath	4	\$ 6,529
Bedford	6	\$ 30,534
Blacksburg	6	\$ 15,026
Bland		\$ 776
Botetourt	2	\$ 18,373
Brunswick	4	\$ 8,400
Buchanan	4	\$ 12,253
Buckingham		\$ 59
Campbell		\$ 10,556
Caroline	4	\$ 10,969
Charles City	4	\$ 5,393
Charlotte	2	\$ 5,827
Chesapeake	10	\$ 93,196
Chesterfield	6	\$ 134,065
Chincoteague	2	\$ 3,671
Christiansburg	4	\$ 10,177
Clarke	4	\$ 8,348
Clifton Forge		\$ 2,222
Colonial Beach		\$ 1,367
Colonial Heights	4	\$ 9,316
Covington		\$ 5,425
Culpeper	4	\$ 17,812
Cumberland	4	\$ 4,811
Danville	4	\$ 17,916
Dickenson	4	\$ 8,730
Dinwiddie	4	\$ 10,057
Eastern Shore	4	\$ 2,820
Emporia	4	\$ 5,072
Essex	4	\$ 7,032
Fairfax	12	\$ 716,449
Franklin Co		\$ 820
City of Franklin	4	\$ 6,087

Frederick	4	\$	26,429
Fredericksburg	6	\$	14,623
Fauquier	4	\$	28,024
Giles	2	\$	7,768
Gloucester	4	\$	15,230
Goochland	4	\$	12,539
Greensville	4	\$	5,690
Halifax		\$	1,341
Hampton	6	\$	81,439
Hanover	4	\$	50,061
Harrisonburg	8	\$	31,847
Henrico	12	\$	191,141
Hopewell	4	\$	8,927
Isle of Wight	4	\$	14,478
James City Co	6	\$	35,171
King & Queen	2	\$	3,759
King George	4	\$	10,021
King William	4	\$	6,631
Lancaster	4	\$	8,744
Loudoun	10	\$	167,249
Louisa	4	\$	13,916
Lunenburg		\$	737
Lynchburg	6	\$	56,697
Madison	4	\$	8,115
Manassas Pk.		\$	11,128
Manassas		\$	9,977
Mathews	2	\$	5,305
Mecklenburg	4	\$	17,766
Middlesex	4	\$	7,491
Montgomery	4	\$	11,296
Nelson	2	\$	8,769
New Kent	4	\$	8,821
Newport News	6	\$	94,999
Norfolk	12	\$	111,999
Northumberland	4	\$	9,076
Norton	2	\$	3,118
Orange	4	\$	14,124
Page		\$	179
Petersburg	4	\$	12,233
Pittsylvania	2	\$	22,710
Portsmouth	4	\$	35,294
Poquoson		\$	3,666
Powhatan	4	\$	11,580
Prince Edward		\$	499
Prince George	4	\$	11,294
Prince William	10	\$	130,166
Pulaski Co		\$	7,645
Pulaski Town	4	\$	14,081
Radford	2	\$	4,646
Rappahannock		\$	2,311

Richmond Co	4	\$	5,927
Richmond	8	\$	146,717
Roanoke City	10	\$	52,847
Roanoke Co	6	\$	40,501
Rockbridge		\$	1,151
Russell	4	\$	11,973
Salem	4	\$	15,965
Southampton	4	\$	8,179
Spotsylvania	4	\$	41,140
Stafford	10	\$	45,055
Staunton	4	\$	12,188
Suffolk	6	\$	31,474
Surry	4	\$	5,166
Sussex	4	\$	6,194
Tazewell	4	\$	18,574
Vinton		\$	2,590
Va. Beach	12	\$	301,386
Warren		\$	394
West Point	4	\$	4,046
Westmoreland	2	\$	7,092
Williamsburg		\$	10,361
Winchester	4	\$	18,791
Wise	4	\$	15,562
York	8	\$	28,666
<b>Total</b>	<b>468</b>		<b>3,764,652</b>

**BILLING AGREEMENT**

**BETWEEN**

**THE COMMONWEALTH OF VIRGINIA, WIRELESS E-911 SERVICES BOARD,**

**CENTRAL TELEPHONE COMPANY OF VIRGINIA**

**AND**

***UNITED TELEPHONE SOUTHEAST LLC***

**1. SCOPE OF AGREEMENT**

This is an agreement (the "Agreement") between the Commonwealth of Virginia, **Wireless E-911 Services Board** (the "Commonwealth," the "Board,"), Central Telephone Company of Virginia ("Central"), and United Telephone Southeast LLC ("United") (each of Central and United are collectively referred to in this Agreement as "Contractors"). Central is a Virginia corporation and United is a limited liability company.

Contractors provide wireless E-911 services described in this Agreement ("Services") to certain Virginia localities which serve as Public Safety Answering Points ("PSAPs"). Those PSAPs have entered into individual service agreements with Central or United (depending on the location of the PSAP), which set forth the terms and conditions under which each of Central or United agrees to provide Services to the PSAPs. The individual service agreements between Central or United and the relevant PSAPs are listed on Attachment A, attached and incorporated into this Agreement (each a "Service Agreement").

The Board is the approving authority for expenditures from the Virginia Wireless E911 Fund, and is authorized to provide grants to PSAPs for the benefit of wireless E-911, as provided in Va. Code § 56-484.17 (C). The Board has provided an opportunity for PSAPs to apply for grant funds for the payment of costs for Services described in the Service Agreements. Certain PSAPs have applied for and been granted funds to pay for the Services described in the Service Agreements.

In order to eliminate the administrative steps involved in billing and receiving payment from individual PSAPs, along with the steps involved in the Board issuing reimbursement to individual PSAPs, it is the parties' desire to enter into an agreement whereby (1) Central may submit one bill to the Board on behalf of all PSAPs which receive Services from Central, and (2) United may submit one bill to the Board on behalf of all PSAPs which receive Services from United. Each of Central and United are agreeable to the Board's direct payment, and allow for the Board to make a payment to each of Central and United, as applicable, on behalf of all agreeable PSAPs.

## 2. PARTIES

- 2.1.** The Commonwealth acknowledges that United or Central will provide the Services in each of its designated regions of the state of Virginia. The Services to be provided are listed and priced in the three Attachments to this Agreement (all Attachments are incorporated into this Agreement).
- 2.2.** Contractors acknowledge that the Board is acting only as a billing agent for the convenience of the Contractors and on behalf of Virginia localities which serve as PSAPs. Any payment made by the Board is made on behalf of the PSAPs, and the PSAPs remain the primary obligor for payment for the Services.
- 2.3. Ordering Agencies.** Each PSAP within the area served by Central or United that has requested the Board to pay grant funds on its behalf (an "Ordering Agency"), and the quantity of services ordered by each, are listed in Attachment C. When necessary, the Ordering Agency shall be responsible for issuing orders to either Central or United, as applicable, to procure Services.
- A. Limitations on Authority.** Any changes to the rates listed in the Attachments, not previously authorized by the Board, are void. The authority of an Ordering Agency under this Agreement is limited to ordering the Services, by written request to the applicable Contractor, which references this Agreement and the applicable Service Agreement. An Ordering Agency does not have the authorization from the Board to add any additional category of Services not included on Attachment B or to change or modify any prices or payment terms agreed upon by the parties hereto. The Contractors reserve the right to refuse Services to Ordering Agencies outside of either the applicable United or Central service areas. All changes to this Agreement must be incorporated in a formal modification to this Agreement by the parties in accordance with the paragraph herein entitled "Modifications."
- B. Billed Party.** The Board, on behalf of the Ordering Agencies, shall be the billed party for all Services ordered. On behalf of the Ordering Agencies, the Board shall make payment of all invoices in accordance with the provisions of the Section herein entitled "Payment."
- 2.4. Single Point of Contact.** Central shall serve as the single point of contact on behalf of the Contractors for the following functions: ordering; implementation coordination; billing inquiry and claims; and trouble inquiry, resolution and reporting; receipt of notices required by this Agreement, and any modification to this Agreement.
- 2.5. Services**  
Each of the Contractors will provide to the Ordering Agencies the local and custom voice network wireless E-911 Services described and priced in the Attachments, where facilities are available, pursuant to the rates, terms, and conditions of each Service Agreement listed in Attachment A. Local services are available on an intraLATA, intrastate basis.

## 3. INTERPRETATION OF AGREEMENT

- 3.1.** Headings are for reference purposes only and shall not be considered in construing this Agreement.

- 3.2. If any term or condition of this Agreement is found to be illegal or unenforceable, it shall be severed, and the validity of the remaining terms and conditions shall not be affected.
- 3.3. Nothing in this Agreement shall be construed as an express or implied waiver of the Commonwealth's sovereign or Eleventh Amendment immunity, or as a pledge of its full faith and credit.

**4. ENTIRE AGREEMENT**

The documents comprising this Agreement, and their order of precedence in case of conflict, are: (1) this document and all attachments, and (2) the Service Agreements. The foregoing documents represent the complete and final Agreement of the parties with respect to the subject matter of this Agreement.

The Service Agreements shall survive this Agreement, to the extent they are not in conflict. Where there is conflict between this Agreement and a Service Agreement, this Agreement will control.

**5. APPLICABLE LAWS AND COURTS**

This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Contractors shall comply with all applicable federal, state and local laws, rules and regulations.

**6. NOTICES**

Notices required by this Agreement must be in writing and sent to:

<p><u>Contractors:</u>          Central Telephone Company of          Virginia          911 Product Manager          MS: KSOPKJ0402-4041          5454 W. 110th          Overland Park, KS 66211</p>	<p><u>Commonwealth:</u>          Chair, Wireless E-911 Services Board          c/o VA Information Technologies Agency          11751 Meadowville Lane          Chester, VA 23836</p>
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Names and addresses for notices may be changed by notice sent in accordance with this paragraph. Notices delivered by hand shall be effective upon delivery. Notices which are not hand-delivered shall be sent by certified mail, return receipt requested, and shall be effective on the date noted on the return receipt.

**7. ANTI-DISCRIMINATION**

- 7.1. Each of the Contractors certifies to the Commonwealth that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and §2.2-4311 of the Virginia Public Procurement Act
- 7.2. In every contract over \$10,000 the provisions in A. and B. below apply:
  - A. During the performance of this Agreement, the Contractors agree as follows:
    - (1) The Contractors will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination

in employment, except there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractors. The Contractors agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- (2) The Contractors, in all solicitations or advertisements for employees placed by or on behalf of the Contractors, will state that such Contractors are equal opportunity employers.
- (3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

**B.** The Contractors will include the provisions of A. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

## **8. IMMIGRATION REFORM AND CONTROL ACT OF 1986**

Each of the Contractors certifies that it does not and will not during the performance of this Agreement employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

## **9. ETHICS IN PUBLIC CONTRACTING**

Each of the Contractor certifies that this Agreement is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with this Agreement, and that it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

## **10. TAXES AND OTHER CHARGES**

Sales to the Ordering Agencies are normally exempt from State sales tax. The Ordering Agencies will deliver sales and use tax certificates of exemption to the applicable Contractor. Delivery of Services by Central or United, as applicable, against the applicable Service Agreements shall be free of Federal excise and transportation taxes as permitted or required by applicable law.

## **11. NONDISCRIMINATION OF CONTRACTORS**

A Contractor shall not be discriminated against in the award of this Agreement because of race, religion, color, sex, national origin, age, or disability or status as a faith-based organization.

## **12. ANTITRUST**

By entering into a contract, each of the Contractors conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services for which the Commonwealth of Virginia has paid pursuant to this Agreement.

### **13. ASSIGNMENT**

- 13.1.** To the fullest extent permitted by law, the parties agree that each of the Contractors' rights under this Agreement shall not be assignable, in whole or in part, to any other party without the Commonwealth's written consent, and that any purported assignment or transfer without such consent shall be null and void. But the Contractors may assign this Agreement, after 30 days' prior written notice, to a parent company, controlled affiliate, affiliate under common control, or an entity that has purchased all or substantially all of a Contractor's assets or acquired a Contractor via merger or other similar transaction. To the extent applicable law limits the rights of the parties to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be determined in accordance with applicable law. The affected Contractor shall give the Board prompt written notice of the assignment, signed by authorized representative of both the affected Contractor and the assignee.
- 13.2.** In the event the Commonwealth receives any notice from a third party claiming to be an assignee of any rights of the Contractors under this Agreement, each of the Contractors agrees that payment of other performance in respect of those right shall not be due until at least thirty days after the Commonwealth's receipt of the notice required by the above paragraph or receipt of a similarly executed notice confirming the absence or revocation of the purported assignment. The Board shall promptly notify the Contractors of any assignment notice it receives.

### **14. DRUG-FREE WORKPLACE**

- 14.1.** During the performance of this Agreement, each of the Contractors 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 each of the Contractors' 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 each of the Contractors that each of the Contractors maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- 14.2.** 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 Agreement.

### **15. NON-APPROPRIATION**

- 15.1.** All payments of Services ordered under this Agreement are subject to the availability of funds and legislative appropriation for this purpose. In the event of non-availability of funds or non-appropriation of funds by the legislative body of the Commonwealth, the Commonwealth may terminate this Agreement for those Services for which funds are not available or have not been appropriated. Written notice will be provided to the Contractors as soon as possible after legislative action is completed.

15.2. If any purchases are to be supported by federal funding, and such funding is not made available, the Commonwealth may terminate this Agreement for Services dependent on such federal funds without further obligation.

## 16. CONTRACTUAL RECORDS

16.1. The Contractors shall make all books and records and other documents relating to matters under this Agreement available to the Commonwealth and its designated agents for purposes of audit and examination for a period of three years after termination of this Agreement.

16.2. Contractual records include, but are not limited to, this Agreement and all executed orders, attachments, modifications, and invoices between the parties to this Agreement, as well as all documentation which supports the amounts being charged hereunder.

## 17. MODIFICATIONS

This Contract may be modified in accordance with Section 2.2-4309 of the Code of Virginia. Such modifications may only be made by the representatives noted below. No modification to this Agreement 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.

The only representatives authorized to modify this Agreement on behalf of the Commonwealth and the Contractors are shown below.

### CONTRACTORS

Central Telephone Company of Virginia  
Attn: 911 Product Manager  
MS: : KSOPKJ0402-4041  
5454 W. 110th  
Overland Park, KS 66211

### COMMONWEALTH OF VIRGINIA

Chair, Wireless E-911 Services Board  
c/o VA Information Technologies Agency  
11751 Meadowville Lane  
Chester, VA 23836

## 18. CONTRACTUAL DISPUTES

18.1. In accordance with Section 2.2-4363 of the Code of Virginia, contractual claims, whether for money or other relief, shall be submitted in writing to the Chairman of the Board no later than sixty (60) days after final payment; however, written notice of a Contractor's intention to file such claim must be given to the Board at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The Chair shall render a final decision in writing within thirty (30) days after its receipt of a Contractor's written claim.

18.2. The Contractors may not invoke any available administrative procedure under Section 2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the Chair's decision on the claim, unless the Chair fails to render its decision within thirty (30) days. The decision of the Chair shall be final and conclusive unless a Contractor, within six (6) months of the date of the final decision on the claim, invokes appropriate action under Section 2.2-4364, Code of Virginia or the administrative procedure authorized by Section 2.2-4365, Code of Virginia.

- 18.3.** The Board, its officers, agents and employees are executing this Agreement and any orders issued hereunder, solely in its or their statutory and regulatory capacities as agent for the Commonwealth agency purchasing and receiving the services identified in the Attachments to this Agreement or on the subsequent order in question and need not be joined as a party to any dispute that may arise thereunder.

## **19. ADVERTISING/PUBLICITY**

Other than the Board's posted notice of award, the parties to this Agreement shall issue no public announcements, press releases, promotional materials or other forms of advertising concerning this Agreement without the prior written consent of the other party. In addition, neither party shall use the logo or trademarks of the other without prior written consent of the other party.

## **20. LIMITATION OF LIABILITIES; INDEMNITY**

- 20.1.** Except for errors and omissions caused by gross negligence, willful or wanton misconduct, fraudulent conduct or violations of law by a Contractor, and, to the extent not caused by acts, omissions or other occurrences attributable to the Commonwealth or any other person or entity, a Contractor's entire liability for all contractual claims arising under this Agreement is limited to: (A) proven direct damages for claims arising out of personal injury or death, or damage to real or personal property; or (B) proven direct damages for all other claims arising out of the Agreement, not to exceed in any 12-month period an amount equal to Commonwealth's total net payments to that Contractor for the affected Services in the 12 months preceding the month in which the non-performance occurred. Central's or United's provision of service to an Ordering Agency shall not create nor give to any third party any claim or right of action against the Commonwealth, an Ordering Agency, Central or United. The parties agree that damages caused by either United or Central are not considered damages caused by the other entity .

- 20.2.** If any of the Ordering Agencies experience a service outage exceeding 24 hours the Commonwealth on their behalf will receive a credit allowance provided as follows:

When, after notice by the Commonwealth to Central or United, as applicable, of an interruption of Service, the service continues to be interrupted, a credit allowance will be given if the interruption lasts for at least 24 hours. The allowance is equal to a pro rata adjustment of the fixed monthly circuit charge shown in Attachment B for the circuits furnished by either Central or United, as applicable, that are rendered useless or substantially impaired due to any cause other than the negligence or willful act of the Commonwealth's Ordering Agencies or the Commonwealth or the failure of any facilities provided by the Commonwealth or the Ordering Agencies. For purposes of administering this provision, every month is considered to have 30 days. Under no circumstance shall either Central or United be responsible or liable to the Commonwealth for special, indirect, incidental or consequential damages, including damages from loss of profits, revenue, data or use of the supplies, equipment and/or services delivered under this Agreement.

- 20.3.** Each of the Contractors will indemnify the Commonwealth from and against third party claims for damages, losses, or liabilities arising directly from performance of this Agreement and related to personal injury, death, or damage to tangible personal property that is alleged to have resulted, in whole or in part, from the negligence or willful misconduct of the applicable Contractor.

## 21. PAYMENT

- 21.1.** All invoices shall show the state Contract number. All invoices shall be supported by documentation with the federal employer identification number and also sufficient to show the amounts of Services and charges attributable to each Ordering Agency. If requested by the Board, Contractors shall promptly provide such documentation after issuance of an invoice. Invoices for items ordered, delivered and accepted shall be submitted by the Contractors directly to the Board, and shall be based on the charges shown in Attachment C.
- 21.2.** The Board will make payment to Central and United, respectively, annually in advance. Payment is due 30 days after Central or United, respectively, delivers its invoice to the Board. The payment address for invoices will be listed on the invoice.
- 21.3.** Any credits which have accrued during the prior year shall be included on the following year's invoice. Within 30 days of the end of the contract, each of the Contractors shall issue payment, or other mutually agreed-upon method of credit resolution, to the Board for any credits accrued during the final year of the term.
- 21.4.** All Services provided under this Agreement, that are to be paid for with public funds, shall be billed by either Central or United at the price listed in this Agreement, regardless of which Ordering Agency submitted the order. The parties acknowledge that an Ordering Agency may have separate agreements with Central, or United for other services unrelated to the Services described in this Agreement. The payment of charges for those separate agreements are subject to the terms of such agreements between an Ordering Agency and Central, or United.
- 21.5.** The following shall be deemed to be the date of payment: for purposes of late payment charges; 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.
- 21.6. 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 affected 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 the Board of its prompt payment obligations with respect to those charges that are not in dispute (Code of Virginia, § 2.2-4363).
- 21.7. Payment To Subcontractors.**
- A.** If a Contractor engages any subcontractor(s) pursuant to this Agreement, the Contractor is hereby obligated:
- (1)** 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 Agreement; or

- (2) To notify the Board and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
- B. The Contractor is obligated to pay the subcontractor(s) interest 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, except for amounts withheld as stated in subsection (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.
- C. The Commonwealth shall notify the affected Contractor in writing only when the billing and/or invoice information submitted by such Contractor is rejected and the reasons therefore. If rejection is not made within 30 days of receipt of the information by the Commonwealth, then the billing and/or invoice information shall be deemed accepted.

## **22. BILLING DISPUTES and RECONCILIATIONS**

**22.1.** With the goal of starting each new year of the Agreement with no billing disputes and with all past year items reconciled, and in order to meet the Board's obligation to determine the accuracy of its payments in relation to actual costs incurred by the Ordering Agencies, all Contractor claims for underbilling or adjustments, and all Commonwealth claims for overbilling or other billing reconciliations to the prior year's invoice will utilize the following steps:

- A. In the first 90 days after the prior billing period has ended, the parties will make a reasonable effort to identify all reconciliation items from that prior billing period;
- B. In the next 180 days the parties obligate themselves to work in good faith to resolve all such items;
- C. In the final 90 days of the current billing year, all reconciliation items must be resolved or reserved for further action by the parties; and
- D. If a claim is not made in the first 90 days, it may still be made before the end of the year but the parties do have an obligation to make reasonable efforts to identify all reconciliation items in the first 90-day period under subsection A. above.

Nothing herein shall waive the requirements of the Section herein entitled "Contractual Disputes" or Virginia Code 2.2-4363 regarding contractual disputes.

**22.2.** Any overpayment to either Contractor shall be refunded to the Board or credited toward future payments, at the sole option of the Board.

**22.3.** If the Commonwealth's Wireless Fund is insufficient at any time to make the payments required hereunder, the Board will notify the affected Contractor. The unpaid amount may be sought from the applicable Ordering Agency or carried over to the next billing period.

## **23. TERMINATION**

In addition to any other remedy provided herein or in the Service Agreement, any party may terminate this Agreement immediately by written notice in the event the other party (i) materially

breaches this Agreement or a Service Agreement and (a) fails to cure such breach within thirty (30) days following written notice thereof, or (b) if such breach cannot reasonably be cured during that time, uses its best efforts to cure such breach as soon as practicable but in any event within ninety (90) days following the written notice of the breach; or (ii) engages in fraud, criminal conduct or willful misconduct in connection with the business relationship of the parties. Further, the Board may terminate this Agreement immediately by written notice in the event a Contractor becomes insolvent, ceases doing business in the ordinary course, enters bankruptcy proceedings or effects an assignment for the benefit of creditors. In the event any party terminates this Agreement pursuant to this Section, Commonwealth shall be liable, subject to the availability of funds, to Contractors only for those Services provided through the date of termination, whether or not invoiced by the termination date.

In the event of termination, Contractor shall promptly refund the amount paid for Services, in an amount equal to the charges attributable to the remaining months in the billing period.

#### **24. INVOICE INFORMATION**

No invoice may include any costs other than those identified in this Agreement. All invoices shall be sent to the following address:

Wireless E-911 Services Board  
c/o Virginia Information Technologies Agency  
110 South 7<sup>th</sup> Street, 3<sup>rd</sup> Floor  
Richmond, VA 23219

#### **25. GOVERNMENT ORGANIZATIONAL CHANGES**

Upon written notification to the Contractors by the Board, or its successor, the Board's rights hereunder shall be exercisable by any other agency of the Commonwealth to which or into which the Virginia General Assembly may transfer, combine, or merge the Board or VITA or their respective functions.

#### **26. INCREASE OR DECREASE OF SERVICES**

Under the terms of its Service Agreement with either Central or United, any Ordering Agency may, at any time, increase or decrease the quantity of circuits to be provided to it hereunder. Any adjustment in charges resulting from such change shall be made prospectively at the start of the next year. Ordering Agencies may increase or decrease the quantity of circuits through issuance of a written order indicating the effective date of the change. No termination charge of any kind shall be incurred as a result of decreasing the quantity of or otherwise terminating any circuits.

#### **27. FORCE MAJURE**

No party will be liable for any delay or failure in performance under this Agreement arising out of acts or events beyond its reasonable control, including, but not limited to, acts of God, war, terrorist acts, fire, flood, severe weather, explosion, riot, embargo, acts of the Government in its sovereign capacity, labor disputes or strikes, unavailability of equipment or parts from vendors, or cut cable (unless a result of the Contractor's action or that of its subcontractor or agent). The affected party shall provide prompt notice to the other party and shall be excused from such performance to the extent of such caused delays or failures; provided that the party so affected

shall use reasonable efforts to remove such causes of such delays or failures and both parties shall proceed whenever such causes are removed.

## **28. TERM**

This Agreement shall take effect on July 1, 2010 provided that final execution by both parties has occurred on or before that date; otherwise the effective date will be the date of final execution by both parties. The Agreement term is 36 months and it shall continue for the duration of the entire period in which each Contractor provides Services to an Ordering Agency as defined in each Service Agreement and such Ordering Agency has received an award of grant funds to pay for the service. The Commonwealth will have the option to extend this Agreement for two additional one year terms if the Commonwealth chooses a Technology Migration as set forth in Section 33 of this Agreement.. .

## **29. SERVICES PHASE-OUT PERIOD**

The Contractors recognizes that the Services provided hereunder are vital to the Ordering Agencies, and indirectly, the Commonwealth, and must be continued without interruption. Therefore, the Contractors shall furnish phase-out Services to the Ordering Agencies after the expiration of the term of each Service Agreement listed in Attachment A for a 60-day period to allow implementation of a new agreement by each Ordering Agency. The phase-out Services shall be furnished on terms and conditions and at rates and charges that are the same as those in effect hereunder immediately prior to such termination. Should Ordering Agencies require that phase-out Services be furnished after the 60-day period as described above, then these phase-out Services shall be furnished on a month-to-month basis at prices to be determined by the Contractors but limited to no more than a 5% increase, and furnished on all other terms and conditions as are in effect hereunder immediately prior to this phase-out period.

## **30. MOST FAVORED AND PRICE PROTECTION**

Contractors agree and warrant that pricing for all Services priced under this Agreement are equal to or better than those offered to any individual Virginia county, city or local government, school district, special service district, any educational institution or any subdivision/agency thereof ("Entity") under equivalent contract term, quantity, and terms and conditions. For any occurrence whereby the Contractors (or any agent thereof) is found to be charging any Entity less than as is identified on this Agreement, the Contractors shall immediately lower the prices in this Agreement to a level equal to the prices charged on the other agreement.

## **31. OTHER RATES AND TARIFFS**

- 31.1.** This Agreement in no way prevents the Commonwealth from acquiring services as permitted under State Corporation Commission and Federal Communications Commission Regulations as they apply to the Commonwealth or under separate Agreements with other vendors.
- 31.2.** Any references made in this Agreement, including the Attachments to this Agreement, to any applicable tariff and/or schedule, however stated, shall be incorporated herein by reference and shall be only subordinate to the Agreement in the event of a conflict.

## **32. CONFIDENTIALITY**

- 32.1.** The Contractors agrees that the documents comprising this Agreement do not contain any information which is proprietary, confidential, or contains trade secrets as determined by the Contractors. All Contractor information provided in response to any request by the Commonwealth during the term of this Agreement shall not contain

any proprietary or confidential information. The Contractors hereby irrevocably withdraw any claim that any future document provided to the Commonwealth in response to actions under this Agreement, should be treated as proprietary, confidential or containing trade secret information.

- 32.2.** All documents comprising the Agreement may be released in their entirety under the Virginia Freedom of Information Act, and Contractors agree that any confidentiality or similar stamps or legends that are attached to any future documents or information that will become part of the Agreement may be ignored to the extent they claim confidentiality beyond that permitted herein.

### **33. TECHNOLOGY UPGRADE.**

- 33.1** The Commonwealth may elect, in writing, to replace all of a Service type with Comparable Services (a “Technology Migration”) at:
- A.** Contractor’s published rates, whether by Tariff or otherwise, for the Comparable Services, or
  - B.** such other rates as may be mutually agreed upon between the parties.
- 33.2** “Comparable Service(s)” means any service of a “higher level”, as compared to the existing Service, that is functionally equivalent or superior to the Service(s) and that is first generally offered by Contractor at any time during the applicable Order Term after the Service’s Commencement Date. For purposes of this section, “higher level” means improvements, upgrades or changes to telecommunications or information transmission technology producing higher functionality or increased capacity, where such improvements are determined according to recognized industry standards.
- 33.3** Upon the Commonwealth’s election of this option, the parties will amend the Agreement to add the Comparable Services.
- 33.4** Notwithstanding any other provision hereof, the Commonwealth will not be liable for any termination charges or other similar charges of Contractor under this Agreement, any tariff or any other agreement or instrument whatsoever, by virtue of replacing Services by a Technology Migration.

**PERSONS SIGNING THIS AGREEMENT ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS AGREEMENT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE AGREEMENT.**

**CENTRAL TELEPHONE  
COMPANY OF VIRGINIA**

**COMMONWEALTH OF VIRGINIA,  
WIRELESS E-911 SERVICES BOARD**

**BY:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**UNITED TELEPHONE – SOUTHEAST, LLC.**

**BY:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

APPROVED TPL July 2, 2010
ATTORNEY CenturyLink Law Dept.



**APPROVED**  
CenturyLink  
Enterprise Special Pricing  
NSF                      7/2/10

**ATTACHMENT A  
TO  
CONTRACT VA-06KBCD6LMN7Z**

**List of Individual Service Agreements between Ordering Agencies and Central or United**

**Central**

1. Special Service Arrangement between Central Telephone Company of Virginia and Campbell County E911)
2. Special Service Arrangement between Central Telephone Company of Virginia and Warren County E911
3. Special Service Arrangement between Central Telephone Company of Virginia and Charlottesville-Albemarle-UVA E911
4. Special Service Arrangement between Central Telephone Company of Virginia and Farmville E911
5. Special Service Arrangement between Central Telephone Company of Virginia and Fluvanna County E911
6. Special Service Arrangement between Central Telephone Company of Virginia and Greene County E911
7. Special Service Arrangement between Central Telephone Company of Virginia and Halifax County E911
8. Special Service Arrangement between Central Telephone Company of Virginia and Lunenburg County E911
9. Special Service Arrangement between Central Telephone Company of Virginia and Martinsville-Henry County E911
10. Special Service Arrangement between Central Telephone Company of Virginia and Nottoway County E911
11. Special Service Arrangement between Central Telephone Company of Virginia and Page County E911
12. Special Service Arrangement between Central Telephone Company of Virginia and Rappahannock County E911
13. Special Service Arrangement between Central Telephone Company of Virginia and Rockbridge County E911
14. Special Service Arrangement between Central Telephone Company of Virginia and Buckingham County E911
15. Special Service Arrangement between Central Telephone Company of Virginia and Floyd County E911

**United**

1. Special Service Arrangement between United Telephone-Southeast, Inc., and Bland County E911
2. Special Service Arrangement between United Telephone-Southeast, Inc., and City of Bristol Virginia E911
3. Special Service Arrangement between United Telephone-Southeast, Inc., and Scott County Virginia E911
4. Special Service Arrangement between United Telephone-Southeast, Inc., and Town of Wytheville E911
5. Special Service Arrangement between United Telephone-Southeast, Inc., and Wythe County E911
6. Special Service Arrangement between United Telephone-Southeast, Inc., and Washington County Office of Emergency Service E911
7. Special Service Arrangement between United Telephone-Southeast, Inc., and Smyth County Office E911
8. Special Service Arrangement between United Telephone-Southeast, Inc., and Twin County E911 Regional Commission

**ATTACHMENT B  
TO  
CONTRACT VA-06KBCD6LMN7Z**

**A. Service Descriptions**

The Service categories included in this Agreement are:

1. Extended ALI Display.
2. Voice Circuits.
3. 56 K ALI Circuits.

**B. Rates and Charges –**

The Commonwealth agrees to pay United or Central, as applicable, the rates listed below for the Services. The rates stated below do not include rates and charges for any other aspect of E9-1-1 services that may be used in connection with the Services provided pursuant to this Agreement. Special construction charges, if any, are not included in the rates for Services. The following rates do not include service order and trip charges described in the applicable Central or United tariffs that will be charged to the applicable PSAPs on a case-by-case basis.

1. **RATES.** Rates have been developed on an individual case basis in lieu of existing Tariff offerings. These rates will remain fixed for the Term of the Agreement. Upon termination of the Agreement and unless the parties agree to new rates for the voice circuits and 56K ALI circuits, the Ordering Agency must convert to the most current rates found in the Tariffs or Local Terms of Service for the Voice Circuits and 56K ALI Circuits, which are subject to change without notice. Other services listed in this Agreement will be priced upon request of the Commonwealth and subject to the rates agreed upon between the Commonwealth and the Contractors.
2. Nonrecurring charges are one-time charges which will be billed only as part of the first invoice under this Agreement. The rates for each Service are provided below.

**United Telephone – Southeast, Inc. (each Service/Installation Address is listed on Attachment C)**

<b>Type of Service</b>	<b>Term</b>	<b>Monthly Recurring Rate</b>	<b>Non-Recurring Charge</b>
Extended ALI	36 months	\$4,000.00	All non-recurring charges have been billed to the respective Ordering Agencies and already submitted to the Board for payment.
Voice Circuits	36 months	\$558.00	\$153.20

**Central Telephone Company of Virginia (each Service/Installation Address is listed on Attachment C)**

<b>Type of Service</b>	<b>Term</b>	<b>Monthly Recurring Rate</b>	<b>Non-Recurring Charge</b>
Extended ALI	36 months	\$7,500.00	All non-recurring charges have been billed to the respective Ordering Agencies and already submitted to the Board for payment.
Voice Circuits	36 months	\$2,714.88	\$329.40
56 K ALI Circuits	36 months	\$310.00	\$567.00

**3. TARIFFS / LOCAL TERMS OF SERVICE**

- 3.1. “Tariffs” refer to Sprint Local Telephone Interstate Access Tariff F.C.C. No. 3, the Sprint Access Service Tariff, the Sprint Interexchange Service Tariff and the Sprint General Subscriber Services Tariff filed with and approved by the Federal Communications Commission or the Virginia State Corporation Commission. Tariffs contain rules and regulations applicable to Sprint’s provision of the Service, general customer relations, general Sprint operations and Sprint facilities associated with the Service offered.
- 3.2. The individual agreement between an Ordering Agency and Central or United and the applicable Tariff will govern the terms for delivery of Service.

4. AUTOMATIC LOCATION (ALI) CIRCUITS. ALI circuits will be provided by Central or United to the Ordering Agency in the amounts shown in Attachment C. The ALI circuits are required to be provided by Central or United to support underlying contracted service.

**ATTACHMENT C TO  
CONTRACT VA-06KBCD6LMN7Z**

**LIST OF ORDERING AGENCIES, QUANTITIES AND CHARGES ATTRIBUTABLE TO  
EACH ORDERING AGENCY**

**Services provided through Central**

Service Description	Rate	Quantity	Total MRC	Total NRC				
Extended ALI Display Format (per PSAP)*	\$500.00	15	\$7,500.00	\$0.00				
Centel Voice Circuits (see below)	\$48.48	56	\$2714.88	\$329.40				
56K ALI Circuits - Floyd County**		2	\$310.00	\$567.00				
<b>Totals</b>			<b>\$10,524.88</b>	<b>\$896.40</b>				
*ALI Database for wireless service								
**Sprint's portion of meet-point trunks with Citizens								
County	PSAP Name	City	Lead Telco	Selective Router Locations	Total Trunks from 911 Tandem to PSAP Supporting Wireless Traffic	Tariff Rate Per Trunk	Total Wireless Trunks to PSAP MRC	Service Order and Trip Charge NRC
Albemarle	Charlottesville/Albemarle/UVA	Charlottesville	Sprint-Centel	Charlottesville/Farmville	6	48.48	290.88	21.96
Buckingham	Buckingham County 911	Buckingham	Sprint-Centel	Charlottesville/Farmville	2	48.48	96.96	21.96
Campbell	Campbell County 911	Rustburg	Sprint-Centel	Charlottesville/Farmville	4	48.48	193.92	21.96
Fluvanna	Fluvanna County 911	Palmyra	Sprint-Centel	Charlottesville/Farmville	4	48.48	193.92	21.96
Greene	Greene County 911	Stanardsville	Sprint-Centel	Charlottesville/Farmville	4	48.48	193.92	21.96
Halifax	Halifax County 911	Halifax	Sprint-Centel	Charlottesville/Farmville	4	48.48	193.92	21.96
Henry	Henry County 911	Collinsville	Sprint-Centel	Charlottesville/Farmville	4	48.48	193.92	21.96
Lunenburg	Lunenburg County 911	Lunenburg	Sprint-Centel	Charlottesville/Farmville	4	48.48	193.92	21.96
Nottoway	Nottoway County 911	Nottoway	Sprint-Centel	Charlottesville/Farmville	4	48.48	193.92	21.96
Page	Page County 911	Luray	Sprint-Centel	Charlottesville/Farmville	4	48.48	193.92	21.96
Prince Edward	Farmville/Prince Edward County 911	Farmville	Sprint-Centel	Charlottesville/Farmville	4	48.48	193.92	21.96
Rappahannock	Rappahannock County 911	Washington	Sprint-Centel	Charlottesville/Farmville	4	48.48	193.92	21.96
Rockbridge	Rockbridge County 911	Buena Vista	Sprint-Centel	Charlottesville/Farmville	4	48.48	193.92	21.96
Warren	Warren County 911	Front Royal	Sprint-Centel	Charlottesville/Farmville	4	48.48	193.92	21.96
Floyd	Floyd County 911	Floyd	Citizens/ Sprint	Charlottesville/Farmville				
<b>Totals</b>					<b>56</b>		<b>2714.88</b>	<b>329.40</b>

**Services provided through United**

Service Description	Rate	Quantity	Total MRC	Total NRC				
Extended ALI Display Format (per PSAP)*	\$500.00	8	\$4,000.00					
United Voice Circuits (see below)	\$31.00	18	\$558.00	\$153.20				
<b>Totals</b>			<b>\$4,558.00</b>					
*ALI Database for wireless service								
County	PSAP Name	City	Lead Telco	Selective Router Locations	Total Trunks from 911 Tandem to PSAP Supporting Wireless Traffic	Tariff Rate Per Trunk	Total Wireless Trunks to PSAP MRC	Service Order and Trip Charge NRC
Washington	Bristol, Virginia City of	Bristol	Sprint-United	Johnson City/Wytheville	2	31.00	62.00	19.15
Washington	Washington County, Va. 911	Abingdon	Sprint-United	Johnson City/Wytheville	2	31.00	62.00	19.15
Smyth	Smyth County, Va. 911	Marion	Sprint-United	Johnson City/Wytheville	2	31.00	62.00	19.15
Wythe	Town of Wytheville, Virginia 911	Wytheville	Sprint-United	Johnson City/Wytheville	2	31.00	62.00	19.15
Wythe	Wythe County, Va. 911	Wytheville	Sprint-United	Johnson City/Wytheville	2	31.00	62.00	19.15
Carroll/Grayson	Twin County, Virginia 911	Galax	Sprint-United	Johnson City/Wytheville	4	31.00	124.00	19.15
Bland	Bland County, Va. 911	Bland	Sprint-United	Johnson City/Wytheville	2	31.00	62.00	19.15
Scott	Scott County, Va. 911	Gate City	Sprint-United	Johnson City/Wytheville	2	31.00	62.00	19.15
<b>Totals</b>					<b>18</b>		<b>558.00</b>	<b>153.20</b>

MRC = Monthly Recurring Charge  
NRC = Non-recurring Charge

All NRCs have been billed to the respective Ordering Agencies. All Service Order and Trip Charge NRCs are billed directly to the applicable Ordering Agency requiring assistance, and will not be billed to the Board.

PSAP	LEC	%	Wireless Calls	Trunk Cost	Trunk Cost (Contract)	Trunk Cost (PSAP)	ALIS/R Cost (Contract)	ALIS/R Cost (PSAP)	Submitted	Box 1	Trunks	ALIS/R	Box 2	Trunks	ALIS/R	Box 3	Submitted by	Actual Verizon Agreement Rate	Additional Locality From Verizon Contract	CenturyLink (United) MRC Total	CenturyLink (United) One-Time Charges	CenturyLink (Central) MRC Total	CenturyLink (Central) One-Time Charges	Other Grant Request Amount		
Alexandria Police Communications	V	2.36%	60,351	12	\$ 8,460	\$ 12,096	\$ 81,690	\$ 106,197	YES	-	\$ 8,460.00	\$ 81,690.00	-	-	-	-	Joanne murree@alexandria.gov rmutterpaugh@co.alleghany.va.us	\$						\$ 118,250.00		
Alleghany County	X	N/A	9,693	3	\$ -	\$ -	\$ -	\$ -	YES	-	\$ -	\$ -	YES	\$ 5,520.96	\$ 2,160.00	-	-		Clifton Forge						\$ 2,222.00	
Amelia County	V	0.09%	2,342	4	\$ 2,820	\$ 4,032	\$ 3,170	\$ 4,121	YES	YES	\$ 2,820.00	\$ 3,170.00	-	-	-	-	rjmaloy@ameliasheriff.org	\$						\$ 7,389.00	\$ 7,680.96	
Armerst County Emergency Communications	V	0.48%	12,257	4	\$ 2,820	\$ 4,032	\$ 16,591	\$ 21,568	YES	-	\$ 2,820.00	\$ 16,591.00	-	-	-	-	gmmakes@countyofamherst.com	\$						\$ 12,506.00		
Augusta County	V	0.19%	4,793	4	\$ 2,820	\$ 4,032	\$ 8,392	\$ 8,455	YES	-	\$ 2,820.00	\$ 8,392.00	-	-	-	-	bobm@kingfield@spottsylvania.gov	\$						\$ 2,681.00		
Arlington County PSOC	V	2.87%	73,605	24	\$ 18,920	\$ 24,192	\$ 99,630	\$ 129,520	YES	YES	\$ 18,920.00	\$ 24,192.00	-	-	-	-	jdrcward@arlingtonva.us	\$						\$ 99,630.00		
Augusta County	V	0.81%	20,767	4	\$ 2,820	\$ 4,032	\$ 28,110	\$ 36,543	YES	-	\$ 2,820.00	\$ 28,110.00	-	-	-	-	gdgoff@co.augusta.va.us	\$						\$ 34,409.00		
Bath County	V	0.08%	1,495	4	\$ 2,820	\$ 4,032	\$ 2,820	\$ 2,820	YES	-	\$ 2,820.00	\$ 2,820.00	-	-	-	-	dm911@bathcountyva.gov	\$						\$ 3,400.00		
Bedford Communications Center	V	0.83%	16,193	6	\$ 4,230	\$ 6,048	\$ 21,919	\$ 28,244	YES	-	\$ 4,230.00	\$ 21,919.00	-	-	-	-	jbarrett@co.bedford.va.us	\$						\$ 30,534.00		
Blacksburg Police Communications	V	0.28%	4,768	6	\$ 4,230	\$ 6,048	\$ 9,838	\$ 12,789	YES	-	\$ 4,230.00	\$ 9,838.00	-	-	-	-	jdavis@blacksburg.org	\$						\$ 15,026.00		
Blind County	C	1.07%	2,376	2	\$ 744	\$ 744	\$ 6,000	\$ 6,000	YES	-	\$ 744.00	\$ 6,000.00	-	-	-	-	whowlett@howlettandassociates.com	\$						\$ 77.00		
Bonneton County GIS-Communications	V	0.30%	9,096	2	\$ 1,410	\$ 2,016	\$ 13,530	\$ 17,590	YES	-	\$ 2,886.00	\$ 24,806.00	YES	\$ 14,357.00	-	-	-	mmanple@bbonneton.org	\$		\$ 6,744.00	\$ 19.15			\$ 18,373.00	\$ 14,357.00
Bristol 9-1-1 Communications	C	4.99%	9,515	2	\$ 744	\$ 744	\$ 6,000	\$ 6,000	YES	-	\$ 744.00	\$ 6,000.00	-	-	-	-	brunsonbvped@bristolva.org	\$						\$ 8,400.00		
Brunswick County	V	0.27%	6,806	4	\$ 2,820	\$ 4,032	\$ 9,212	\$ 11,876	YES	YES	\$ 2,820.00	\$ 9,212.00	-	-	-	-	broberts@brunswickco.gov	\$						\$ 8,400.00		
Buchanan County	V	0.07%	1,800	4	\$ 2,820	\$ 4,032	\$ 2,436	\$ 3,167	YES	-	\$ 2,820.00	\$ 2,436.00	-	-	-	-	rhonda.mcclanahan@buchanancounty-va.gov	\$						\$ 12,253.00		
Buckingham County	C	1.00%	2,664	2	\$ 1,164	\$ 1,164	\$ 6,000	\$ 6,000	YES	-	\$ 1,164.00	\$ 6,000.00	-	-	-	-	kippers@buckinghamcountyva.com	\$						\$ 590.00		
Campbell County	C	7.21%	15,996	3	\$ 1,745	\$ 1,745	\$ 6,000	\$ 6,000	YES	-	\$ 1,745.00	\$ 6,000.00	-	-	-	-	lfnairchild@co.campbell.va.us	\$						\$ 10,556.00	\$ 21.96	
Caroline County	V	0.45%	11,527	4	\$ 2,820	\$ 4,032	\$ 15,603	\$ 20,284	YES	-	\$ 2,820.00	\$ 15,603.00	-	-	-	-	smoaser@co.caroline.va.us	\$						\$ 10,969.00		
Charles City County	V	0.05%	1,192	4	\$ 2,820	\$ 4,032	\$ 1,813	\$ 2,098	YES	-	\$ 2,820.00	\$ 1,813.00	-	-	-	-	mailto:Totse@co.charles-city.va.us	\$						\$ 5,393.00		
Charlottesville	V	0.03%	647	2	\$ 1,410	\$ 2,016	\$ 876	\$ 1,138	YES	-	\$ 2,820.00	\$ 876.00	-	-	-	-	ccs0911@cchssheriff.com	\$						\$ 5,827.00		
Charlottesville, UVA, Albemarle County ECC	C	24.48%	54,321	7	\$ 4,072	\$ 4,072	\$ 6,000	\$ 6,000	YES	-	\$ 4,072.00	\$ 6,000.00	-	-	-	-	thanson@albemarle.org	\$						\$ 9,490.56	\$ 21.96	
Chesapeake Police Communications	V	4.96%	127,001	10	\$ 7,050	\$ 10,080	\$ 171,906	\$ 223,478	YES	-	\$ 7,050.00	\$ 171,906.00	-	-	-	-	troshaier@cityofchesapeake.net	\$						\$ 93,196.00		
Chesapeake County ECC	C	3.79%	97,189	6	\$ 4,230	\$ 6,048	\$ 131,563	\$ 171,019	YES	-	\$ 4,230.00	\$ 131,563.00	-	-	-	-	thomas@chesapeakeva.gov	\$						\$ 134,065.00		
Chincoteague Police	V	0.02%	452	2	\$ 1,410	\$ 2,016	\$ 612	\$ 795	YES	-	\$ 1,410.00	\$ 612.00	-	-	-	-	rmills@chincoteagueva.gov	\$						\$ 3,671.00		
Christiansburg Police Communications	V	0.19%	4,956	4	\$ 2,820	\$ 4,032	\$ 6,708	\$ 8,721	YES	-	\$ 2,820.00	\$ 6,708.00	-	-	-	-	mcoo@christiansburg.org	\$						\$ 10,177.00		
Clarke County 9-1-1	V	0.15%	4,265	4	\$ 2,820	\$ 4,032	\$ 4,180	\$ 5,745	YES	-	\$ 2,820.00	\$ 4,180.00	-	-	-	-	phess@clarkecounty.gov	\$						\$ 6,346.00		
Colonial Heights 9-1-1 Communications	V	0.35%	9,071	4	\$ 2,820	\$ 4,032	\$ 12,275	\$ 15,962	YES	-	\$ 2,820.00	\$ 12,275.00	-	-	-	-	archiehl@colonialheights.com	\$						\$ 9,316.00		
Covington 9-1-1 Communications	C	1.10%	2,447	-	\$ -	\$ -	\$ 6,000	\$ 6,000	YES	-	\$ -	\$ 6,000.00	YES	\$ -	\$ 1,418.40	-	-	JBROUGHMAN@covington.va.us	\$						\$ 5,425.00	\$ 1,418.40
Craig County	X	N/A	459	-	\$ -	\$ -	\$ -	\$ -	YES	-	\$ -	\$ -	YES	\$ 2,800.80	\$ 1,713.60	-	-	croag911@tds.net	\$						\$ -	\$ 4,514.40
Cumberland 9-1-1 Center	V	0.13%	13,127	4	\$ 2,820	\$ 4,032	\$ 17,768	\$ 23,099	YES	-	\$ 2,820.00	\$ 17,768.00	-	-	-	-	abacost@cuppercounty.gov	\$						\$ 17,812.00		
Cumberland County	V	0.12%	3,009	4	\$ 2,820	\$ 4,032	\$ 4,073	\$ 5,295	YES	-	\$ 2,820.00	\$ 4,073.00	-	-	-	-	ahckman@cumberlandcounty.virginia.gov	\$						\$ 4,811.00		
Danville Emergency Services	V	1.25%	32,062	4	\$ 2,820	\$ 4,032	\$ 43,399	\$ 56,418	YES	-	\$ 2,820.00	\$ 43,399.00	-	-	-	-	brownb@co.danville.va.us	\$						\$ 17,916.00		
Dumfries County	V	0.11%	2,793	4	\$ 2,820	\$ 4,032	\$ 3,781	\$ 4,915	YES	-	\$ 2,820.00	\$ 3,781.00	-	-	-	-	mark@tds911.org	\$						\$ 3,781.00		
Durham County	V	1.38%	10,025	4	\$ 2,820	\$ 4,032	\$ 13,570	\$ 17,641	YES	-	\$ 2,820.00	\$ 13,570.00	-	-	-	-	DMsars@durhamva.us	\$						\$ 19,507.00		
Eastern Shore 9-1-1	V	0.96%	24,692	4	\$ 2,820	\$ 4,032	\$ 33,423	\$ 43,449	YES	-	\$ 2,820.00	\$ 33,423.00	-	-	-	-	flournoy@esva911.org	\$						\$ 2,820.00		
Emporia Police Communications	V	0.17%	4,331	4	\$ 2,820	\$ 4,032	\$ 5,862	\$ 7,621	YES	-	\$ 2,820.00	\$ 5,862.00	-	-	-	-	landerson@emporiapolice.org	\$						\$ 5,072.00		
Essex County	V	0.19%	4,830	4	\$ 2,820	\$ 4,032	\$ 6,503	\$ 8,503	YES	-	\$ 2,820.00	\$ 6,503.00	-	-	-	-	tenn@essex-virginia.org	\$						\$ 8,503.00		
Fairfax County PSOC	V	11.31%	289,587	12	\$ 8,460	\$ 12,096	\$ 391,980	\$ 509,574	YES	-	\$ 8,460.00	\$ 716,449.00	-	-	-	-	Mills, Eric J. [Eric.Mills@fairfaxcounty.gov]	\$						\$ 716,449.00		
Farmville Emergency Communications Center	C	2.85%	6,315	4	\$ 2,327	\$ 2,327	\$ 6,000	\$ 6,000	YES	-	\$ 2,327.00	\$ 6,000.00	-	-	-	-	gmcodr@farmvilleva.com	\$						\$ 499.00	Prince Edward Co.	
Floyd County	X	N/A	7,862	2	\$ 6,888	\$ 6,888	\$ 6,000	\$ 6,000	YES	-	\$ 6,888.00	\$ 6,000.00	-	-	-	-	hw@hoydova.com	\$						\$ 996.00	\$ 4,950.00	
Fincastle County	C	1.18%	4,520	2	\$ 2,327	\$ 2,327	\$ 6,000	\$ 6,000	YES	-	\$ 2,327.00	\$ 6,000.00	-	-	-	-	johnson@livermoresheriff.com	\$						\$ 2,327.00	\$ 21.96	
Franklin County	C	5.54%	12,294	4	\$ 2,327	\$ 2,327	\$ 6,000	\$ 6,000	YES	-	\$ 2,327.00	\$ 6,000.00	YES	\$ 2,327.00	\$ 6,000.00	-	-	billagee@franklincountyva.org	\$						\$ -	\$ 932.00
Franklin Police Communications	V	0.16%	4,175	4	\$ 2,820	\$ 4,032	\$ 5,651	\$ 7,347	YES	-	\$ 2,820.00	\$ 5,651.00	-	-	-	-	mtreil@franklinpolice.org	\$						\$ 6,087.00		
Frederick PSOC	V	0.83%	21,207	4	\$ 2,820	\$ 4,032	\$ 28,765	\$ 37,311	YES	-	\$ 2,820.00	\$ 28,765.00	-	-	-	-	tyler@frederickva.us	\$						\$ 37,311.00		
Fredericksburg Police Communications	V	0.83%	21,254	6	\$ 4,230	\$ 6,048	\$ 28,769	\$ 37,400	YES	-	\$ 4,230.00	\$ 28,769.00	-	-	-	-	Mpresuto@fpd.fredericksburgva.gov	\$						\$ 14,623.00		
Giles County	V	0.14%	3,653	2	\$ 1,410	\$ 2,016	\$ 4,945	\$ 6,428	YES	-	\$ 1,410.00	\$ 4,945.00	-	-	-	-	jdavis@gilesheriff.org	\$						\$ 7,768.00		
Gloucester County	V	0.33%	8,325	4	\$ 2,820	\$ 4,032	\$ 11,269	\$ 14,640	YES	-	\$ 2,820.00	\$ 11,269.00	-	-	-	-	gbains@glooucesterva.info	\$						\$ 15,230.00		
Goetzland County	V	0.32%	4,260	4	\$ 2,820	\$ 4,032	\$ 11,181	\$ 14,535	YES	-	\$ 2,820.00	\$ 11,181.00	-	-	-	-	tolvasanis@co.goetzland.va.us	\$						\$ 12,539.00		
Greene County	C	1.44%	3,190	4	\$ 2,327	\$ 2,327	\$ 6,000	\$ 6,000	YES	-	\$ 2,327.00	\$ 6,000.00	-	-	-	-	nmmcdaniel@gcvasheriff.us	\$						\$ -	\$ 8,327.04	\$ 21.96
Greensville Sheriff's Communications	V	0.20%	5,128	4	\$ 2,820	\$ 4,032	\$ 6,941	\$ 9,024	YES	-	\$ 2,820.00	\$ 6,941.00	-	-	-	-	mvalley@greenvillcountyva.gov	\$						\$ 5,690.00		
Hallfax County	C	5.99%	12,397	4	\$ 2,327	\$ 2,327	\$ 6,000	\$ 6,000	YES	-	\$ 2,327.00	\$ 6,000.00	-	-	-	-	es911@hfxcountyva.com	\$						\$ 6,000.00	\$ 8,327.04	\$



FW FY 2011 Verizon 9-1-1 Billing Agreement.txt

From: sbasnett [sbasnett@comcast.net]  
Sent: Tuesday, July 20, 2010 5:30 PM  
To: Spears-Dean, Dorothy (VITA)  
Subject: FW: FY 2011 Verizon 9-1-1 Billing Agreement

Dorothy,

I just received this from our County Attorney and our County Administrator (Frank Bossio) supports Roy's position on this issue. I want to get this to you and Steve as quickly as possible so I am sending it from home. Unfortunately I do not have Steve's email address handy, would you please forward this to him also.

---

From: ROY THORPE  
Sent: Tue 7/20/2010 4:41 PM  
To: STEVE BASNETT; FRANK BOSSIO  
Subject: RE: FY 2011 Verizon 9-1-1 Billing Agreement

Steve:

I appreciate your comments on the proposed billing agreement. Mine are more general and focus on the language in section 16, "Non-availability and non-appropriation of funds", and section 28, "Term..."

I question whether this entire agreement complies with Article X, Section 10 of the Virginia Constitution which prohibits the extension of credit by localities that is not otherwise authorized by law. Article VII, Section 10 (b) of the Constitution prohibits counties from incurring debt unless authorized by the General Assembly. This proposed agreement to which only Verizon and the Commonwealth of Virginia are parties (although the Wireless E-911 Services Board is signing on behalf of the Commonwealth) creates potential liabilities and financial obligations for the affected localities including Culpeper County to pay long term debts to Verizon. The Commonwealth is fully protected from debt because the agreement explicitly is subject to appropriation and availability of funds. This protection does not extend to the PSAPs. Section 16 states that "in any such instance of non-payment by the Commonwealth, Ordering Agencies shall be responsible for payment..."

Verizon might argue that the agreement constitutes a continuing services contract and does not constitute a long term debt or obligation of the localities, but the localities are not contracting parties. Only the Commonwealth is contracting for services. This document seems to create implied contracts with each listed locality, but legally there cannot be implied contracts with local governments. There can be no recovery of a debt from a county based upon unjust enrichment or implied contract. American-LaFrance & Foamite Industries, Inc. v. Arlington County, 164 Va. 1, 178 S.E. 783 (1935).

For this transaction to comply with the Virginia Public Finance Act, Culpeper County would have to conduct a referendum pursuant to section 15.2-2638 of the Va. Code.

The public purpose of the agreement is to provide a public safety communications service by Verizon paid for with tax funds derived from taxes collected by the Commonwealth. A fairer arrangement would be to structure an agreement between only Verizon and the Commonwealth that leaves out all mention of the localities except for a description of the service to be provided and limits the funding to pay for services to the dedicated tax revenue. If more funding is necessary, the Commonwealth can either raise taxes or find other funding rather than passing the cost on to the localities.

The Wireless E-911 Services Board can monitor the use of the services by the localities. If there is abuse of service, the Board should have the power to limit service but not to create debt for the localities.

This is a back door way to create debt for the listed localities. I do not think that it meets the law or is fair.

If it is signed by the Board, I question the Board's authority to do so. The Commonwealth of Virginia through the General Assembly has pushed more and more costs of government onto the localities, but I question the right of the Board to create a possible financial obligation for Culpeper County initially for \$17,812 but subject to further billing "at then-applicable Tariff rates".

My advice is to start over.

Roy

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From: STEVE BASNETT  
Sent: Tuesday, July 20, 2010 12:44 PM  
To: ROY THORPE; 'Anthony Clatterbuck'; BARRY ATCHISON; Chris Jenkins; DBORING@CULPEPER.TO; DONNA FOSTER; FRANK BOSSIO; Jeff Muzzy; JIM BRANCH; SUE D. HANSOHN; TOM WILLIAMS  
Subject: FW: FY 2011 Verizon 9-1-1 Billing Agreement

All,

As promised here are my thoughts, concerns and general comments concerning the most current proposed Verizon agreement with VITA, if you have any questions please contact me.

Steve Basnett

FW FY 2011 Verizon 9-1-1 Billing Agreement.txt

From: STEVE BASNETT  
Sent: Tuesday, July 20, 2010 12:10  
To: Marzolf, Steve (VITA); Agee, Bill  
Cc: mbramley@vbgov.com; Adams, Carol X; etotten@roanokecountyva.gov;  
jgately@gately.com; Heins, Phil; Mckercher, Julie; Johnson, Karen;  
klbjohnson64@gmail.com; KRICHARD@albemarle.org; Shumate, Pat;  
steve.souder@fairfaxcounty.gov; WeeseA@chesterfield.gov;  
brownbj@ci.danville.va.us; chris.knights@intrado.com; Elrod, Erin;  
hkreis@james-city.va.us; Rorrer, Susan; Spears-Dean, Dorothy (VITA)  
Subject: RE: FY 2011 Verizon 9-1-1 Billing Agreement

Steve,

Thank you for your efforts and updates on this document and getting it out to us as quickly as you have.

I have just finished reviewing and comparing the updated version received late last night to the original draft that was sent out last Friday, the updated version is better but still, in my opinion needs some additional wordsmithing and tweaking.

The following are my comments and concerns with the updated version.

Page 1, 3rd paragraph; Contractor may submit one bill to Board on behalf of PSAPs which receive Services from that Contractor, and which have received approval for the use of grant or other funds for such purpose.

This passage still gives the impression that the PSAP must apply for and receive approval for either grants or other funds.

I would like to see the word "grant" and any indication that a PSAP must apply for funds removed from the document all together.

You stated that Verizon has no issue with where the funding came from as long as they got paid.

Page 2, (top of the page) The Ordering Agencies are responsible for payment for the Services received from an applicable Contractor if the Board does not pay for such Services, at the then-applicable rates as governed by an applicable Contractor's interstate or state tariffs ("Tariff(s)").

This will need to be looked at by Counsel, our County Attorney is reviewing this, but I believe that this agreement cannot obligate the locality to pay if VITA fails to do so, without some form of formal agreement between Verizon the locality.

Page 2, Section B; Ordering Agencies. The Board hereby authorizes each PSAP applying for and awarded grant or other funds to act as an Ordering Agency for this Agreement.

This passage defines what an Authorized Ordering Agency is by forcing the PSAP to apply for and receive approval for a grant or other funds under this agreement. This is yet another way of forcing the WSB into obligating the "grant funds" for payment under this agreement. As it stands today, the only funds that the PSAPs must "apply" for are grant funds.

I suggest removing this language all together and stating "Agencies listed in Exhibit B and their authorized representative" shall constitute "Authorized Ordering Agencies."

Page 6, Section 16, 1st paragraph; All funds for payment of goods or Services ordered under this Agreement must be legislatively appropriated and legally available for this purpose and must have been awarded to PSAPs as grant or other funds, for payment to be made by the

Commonwealth

Again this requires the PSAP to apply for funding. As it stands today, the only funds that the PSAPs must "apply" for are grant funds.

I would like to see the word "grant" and any indication that a PSAP must apply for funds removed from the document all together

Page 6, Section 16, last paragraph; If the Wireless E-911 Fund is insufficient to make any payment required under this Agreement, Verizon may bill the appropriate Ordering Agency or Agencies directly for any amounts not paid

by the Board or unfunded for the next year at the then-applicable rates as governed by Contractor's Tariffs.

I believe that this agreement cannot obligate the locality to pay if VITA fails to do so, without some form of formal agreement between Verizon the locality and currently none exists today.

Page 11, Section 28a; ... provided that the Ordering Agencies have applied for and been awarded grant or other funds from the Wireless E-911 Fund to pay for such services during such period.

The Ordering Agencies are responsible for payment for the Services received from an applicable Contractor if the Board does not pay for such Services, at the then-applicable rates as governed by the applicable

Tariffs.

Again as stated earlier, any reference to the "PSAP applying for grant or other funding" should be removed from this document.

Any reference to failure of payment by VITA obligating the locality to pay should also be looked at by Counsel and removed, this Agreement cannot obligate the locality for payment if VITA fails to pay.

Page 16, Rate and Charges, Note 1; near end of first sentence, "state-wile" should be state-wi de.

Start of 2nd sentence the word "it" Not sure what the word should be or what this sentence is trying to indicate. Need clari fication

General comments; Still lacking the detail that I would like to see in regards to the SR/ANI charges, this was the same issue with the 2004 contract, it was vague and I believe left the door open for Verizon to adjust rates at will and wi thout justi fications.

I would like to see the detail provided in the spreadsheet attached to the email from Dorothy on July 15th 2010 added to this agreement. Whether or not the "shell record" is the correct mythology or not can be determined later, but the detail that is provided leaves nothing to change or interpretation.

That is all for now, again thank you for your time and efforts.

Steve Basnett

From: Marzolf, Steve (VITA) [mailto:steve.marzolf@vita.virginia.gov]  
Sent: Monday, July 19, 2010 22:45  
To: Agee, Bill  
Cc: mbramley@vbgov.com; Adams, Carol X; etotten@roanokecountyva.gov; jgately@gately.com; Heins, Phil; Mckercher, Julie; Johnson, Karen; klbjohnson64@gmail.com; KRICHARD@albemarle.org; Shumate, Pat; STEVE BASNETT; steve.souder@fairfaxcounty.gov; WeeseA@chesterfield.gov; brownbj@ci.danville.va.us; chris.knights@intrado.com; Elrod, Erin; hkreis@james-city.va.us; Rorrer, Susan; Spears-Dean, Dorothy (VITA)  
Subject: RE: FY 2011 Verizon 9-1-1 Billing Agreement

Bill, et als...

Probably released that last version a little premature before I (or Counsel) took a good look, but we wanted to get it out sooner rather than later. We had already waited too long for the draft back from Verizon. I scanned it for changes from Verizon, but didn't realize that they had made changes without change tracking turned on. Over the weekend, we were able to compare the versions and identify all of the changes Verizon made. Though Counsel is still reviewing a few of them pertaining to limitation of liability, I wanted to send you the draft we worked on today with Verizon. They agreed to remove the language that committed the PSAPs to paying the agreement rate if a tariff is not in place. That should have NEVER been in

FW FY 2011 Verizon 9-1-1 Billing Agreement.txt  
there since, as I have said, we cannot commit the PSAPs to this. I left in the language about paying the tariff since, if a tariff is in place, it automatically takes over, but Counsel is still reviewing if this is appropriate for inclusion. Of course, there is no tariff currently in place so Verizon will need to apply for one before anyone opts out or the contract expires.

To address your concern about the potential other funding sources, we added some language to the scope section and added "or other funds" any place that grant funds is mentioned. Again, Counsel is still confirming that this gets us where we need to be, but I really appreciate you pointing this one out. Verizon didn't have a concern one way or the other on this issue. It was just the way our Counsel had drafted it knowing the Board's position on FY2011. Since it is not a contentious issue, we could have dealt with it with the FY2012 amendment, but it is easier just to deal with it now by adding a few words. Verizon doesn't care the source as long as they get paid.

Now that you have had the weekend and today to review the document, please let me know if you (or anyone else) has any additional questions or comments...

Steve Marzolf  
Acting ITIES Director  
Virginia Information Technologies Agency (VITA) VITA - Enabling the Business of Government

steve.marzolf@vita.virginia.gov <mailto:steve.marzolf@vita.virginia.gov>

www.vita.virginia.gov <http://www.vita.virginia.gov/>

(804) 416-6019 (voice)  
(866) 4-VA-E911 (toll free)  
(804) 416-6353 (fax)

VITA Customer Care Center - Call (866) 637-8482 (toll free) to report an outage or request service. Or e-mail the VCCC at [vccc@vita.virginia.gov](mailto:vccc@vita.virginia.gov) <mailto:%20vccc@vita.virginia.gov>. Please note: E-mail should not be used to report critical issues or outages impacting an agency. To report a critical issue, please call the VCCC directly.

From: Agee, Bill [mailto:billagee@franklincountyva.org]  
Sent: Friday, July 16, 2010 10:21 PM  
To: Spears-Dean, Dorothy (VITA); Marzolf, Steve (VITA)  
Cc: mbramley@vbgov.com; Adams, Carol X; etotten@roanokecountyva.gov; jgately@gately.com; Heins, Phil; Mckercher, Julie; Johnson, Karen; klbjohnson64@gmail.com; KRI CHARD@albemarle.org; Shumate, Pat; Basnett, Steve; steve.souder@fairfaxcounty.gov; WeeseA@chesterfield.gov; brownbj@ci.danville.va.us; chris.knights@intrado.com; Elrod, Erin; hkreis@james-city.va.us; Rorrer, Susan  
Subject: RE: FY 2011 Verizon 9-1-1 Billing Agreement

I did a first read on the contract and one thing that jumped out at me REAL BIG was that in several places, the contract indicates that the Wireless Board "must have issued a Grant" to the PSAP for this to be paid. In paragraph 16

FW FY 2011 Verizon 9-1-1 Billing Agreement.txt

it says "must have been awarded to each PSAP as Grant Funds."  
It sounds like this contract could be used to FORCE the Wireless Board to continue to pay these costs out of the grant funds, which is what we're discussing now... This is done in paragraph 1 and again in paragraph 28. Why would the Wireless Board want to tie their own hands on how this will be paid and why would this be necessary to even be in the contract?? Why should Verizon care how the Wireless Board funds the payments?? Couldn't you just delete the word "grant" and simply say "awarded funds"?

I also have some issue with paragraph 28C where it appears that the contract attempts to obligate the localities to continue to pay Verizon at the current rate or at a 20% increase each year if they Opt-Out. Since the localities are not signers of this contract, we could not be obligated by this contract. However, Verizon may not see it this way and use this section to try to force us to pay even without a contract between Verizon and the locality. I know this section is attempting to keep Verizon from just cutting off the service if the contract is voided or ended between Verizon and VITA, but I'm not sure I like how it's worded.

Bill

-----Original Message-----

From: Spears-Dean, Dorothy (VITA)  
[mailto:Dorothy.SpearsDean@vita.virginia.gov]  
Sent: Friday, July 16, 2010 9:01 PM  
To: vapsaps@vnet.org  
Subject: FY 2011 Verizon 9-1-1 Billing Agreement

Greetings:

Late this afternoon we received the FY 2011 billing agreement from Verizon for wireless 9-1-1 services. This document has been posted to the ISP website and can be viewed via the following link:

<http://www.vita.virginia.gov/isp/default.aspx?id=12244>.

Thanks and have a great weekend.

Dorothy A. Spears-Dean, A. B. D.

Public Safety Communications Coordinator,

Integrated Services Program

Virginia Information Technologies Agency (VITA)

VITA - Enabling the Business of Government

dorothy.spearsdean@vita.virginia.gov

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FW FY 2011 Verizon 9-1-1 Billing Agreement.txt

**From:** Carol Adams [CAdams@co.stafford.va.us]  
**Sent:** Wednesday, July 21, 2010 8:30 AM  
**To:** Marzolf, Steve (VITA); Basnett, Steve  
**Cc:** mbramley@vbgov.com; etotten@roanokecountyva.gov; jgately@gately.com; Heins, Phil; Mckercher, Julie; Johnson, Karen; klbjohnson64@gmail.com; KRICHARD@albemarle.org; Shumate, Pat; steve.souder@fairfaxcounty.gov; WeeseA@chesterfield.gov; brownbj@ci.danville.va.us; chris.knights@intrado.com; Elrod, Erin; hkreis@james-city.va.us; Rorrer, Susan; Spears-Dean, Dorothy (VITA); Agee, Bill  
**Subject:** RE: FY 2011 Verizon 9-1-1 Billing Agreement

With regard to the contract, I have several comments/questions?

1. It appears to be a 5 year contract (36 months with two 1-year renewals).
2. ¶13 "finds" should be "funds".
3. ¶13 – what Tariffs?
4. ¶17 – Contractual Records – recommend, "Verizon shall make all books, records, and other documents ~~directly~~ related to this Agreement..." Remove the word "directly." Where are these records going to be available? Verizon headquarters or a full copy to the localities. Does this mean the cost figures related to the "services" are included?
5. ¶20 – Does not address what the locality can do if it has a contractual dispute?
6. ¶25(E) – No recourse to the locality if it believes charges are "Unreasonable."
7. ¶28(A) – relates to #1 – 5 year contract. In the 2<sup>nd</sup> paragraph, it talks about the "Ordering Agencies may, at their sole discretion, discontinue service at any time upon written notification." It does not spell out for us where, when and how this should occur. How far out does notice need to be given?
8. ¶28(B)(C) – Places the locality solely on the hook for the expenses should funding not be available through the Wireless Services Board.
9. I'm not overly convinced and feel very secure about the WSB awarding grant funds to pay for services. My interpretation is this is not a guarantee of funding.

I am not compelled to be inclined to encourage the WSB to enter into this agreement. For us to receive it on Friday, then a modified copy Monday night, another modified copy Tuesday night and expect us (9-1-1 experts, not lawyers) to interpret the "Agreement" and its impact on our localities (particularly costs) is totally unrealistic. My first read is this is totally backing the localities and us into a corner. I do not have any warm fuzzy that if I want to opt out that my locality will still not, in some way shape or form, be on the hook to Verizon.

*Carol W. Adams, RPL*

Communications Manager  
 Stafford County Sheriff's Office  
 Division of Emergency Communications  
 Post Office Box 189  
 Stafford, Virginia 22555  
 Office: 540-658-4712  
 Fax: 540-658-4419  
 Cellular: 540-295-7814

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**From:** Marzolf, Steve (VITA) [mailto:steve.marzolf@vita.virginia.gov]  
**Sent:** Tuesday, July 20, 2010 9:36 PM  
**To:** Basnett, Steve  
**Cc:** mbramley@vbgov.com; Carol Adams; etotten@roanokecountyva.gov; jgately@gately.com; Heins, Phil; Mckercher, Julie; Johnson, Karen; klbjohnson64@gmail.com; KRICHARD@albemarle.org; Shumate, Pat; steve.souder@fairfaxcounty.gov; WeeseA@chesterfield.gov; brownbj@ci.danville.va.us; chris.knights@intrado.com; Elrod, Erin; hkreis@james-city.va.us; Rorrer, Susan; Spears-Dean, Dorothy (VITA); Agee, Bill  
**Subject:** RE: FY 2011 Verizon 9-1-1 Billing Agreement

The attached is the latest draft and reflects the changes discussed earlier today. Dorothy and I will be meeting with Counsel in the morning to finalize any outstanding issues for the Board to consider such as those raised by your local Counsel.

Good night...

**Steve Marzolf**

Acting ITIES Director  
Virginia Information Technologies Agency (VITA)  
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(804) 416-6353 (fax)

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---

**From:** STEVE BASNETT [mailto:SBasnett@CULPEPERCOUNTY.GOV]

**Sent:** Tuesday, July 20, 2010 12:10 PM

**To:** Marzolf, Steve (VITA); Agee, Bill

**Cc:** mbramley@vbgov.com; Adams, CarolX; etotten@roanokecountyva.gov; jgately@gately.com; Heins, Phil; Mckercher, Julie; Johnson, Karen; klbjohnson64@gmail.com; KRICARD@albemarle.org; Shumate, Pat; steve.souder@fairfaxcounty.gov; WeeseA@chesterfield.gov; brownbj@ci.danville.va.us; chris.knights@intrado.com; Elrod, Erin; hkreis@james-city.va.us; Rorrer, Susan; Spears-Dean, Dorothy (VITA)

**Subject:** RE: FY 2011 Verizon 9-1-1 Billing Agreement

Steve,

Thank you for your efforts and updates on this document and getting it out to us as quickly as you have.

I have just finished reviewing and comparing it to the original draft that was sent out last Friday, the updated version is better but still , in my opinion needs some additional wordsmithing and tweaking.

The following are my comments and concerns with the updated version.

Page 1, 3<sup>rd</sup> paragraph; Contractor may submit one bill to Board on behalf of PSAPs which receive Services from that Contractor, and which have received approval for the use of grant or other funds for such purpose.

This passage still gives the impression that the PSAP must apply for and receive approval for either grants or other funds.

I would like to see the word “grant” and any indication that a PSAP must apply for funds removed from the document all together.

You stated that Verizon has no issue with where the funding came from as long as they got paid.

Page 2, (top of the page) The Ordering Agencies are responsible for payment for the Services received from an applicable Contractor if the Board does not pay for such Services, at the then-applicable rates as governed by an applicable Contractor’s interstate or state tariffs (“Tariff(s”).

This will need to be looked at by Counsel, our County Attorney is reviewing this, but I believe that this agreement cannot obligate the locality to pay if VITA fails to do so, without some form of formal agreement between Verizon the locality.

Page 2, Section B; **Ordering Agencies.** The Board hereby authorizes each PSAP applying for and awarded grant or other funds to act as an Ordering Agency for this Agreement.

This passage defines what an Authorized Ordering Agency is by forcing the PSAP to apply for and receive approval for a grant or other funds under this agreement. This is yet another way of forcing the WSB into obligating the “grant funds” for payment under this agreement. As it stands today, the only funds that the PSAPs must “apply” for are grant funds.

I suggest removing this language all together and stating “Agencies listed in Exhibit B and their authorized

representative" shall constitute "Authorized Ordering Agencies.

Page 6, Section 16, 1<sup>st</sup> paragraph; All funds for payment of goods or Services ordered under this Agreement must be legislatively appropriated and legally available for this purpose and must have been awarded to PSAPs as grant or other funds, for payment to be made by the Commonwealth

Again this requires the PSAP to apply for funding. As it stands today, the only funds that the PSAPs must "apply" for are grant funds.

I would like to see the word "grant" and any indication that a PSAP must apply for funds removed from the document all together

Page 6, Section 16, last paragraph; If the Wireless E-911 Fund is insufficient to make any payment required under this Agreement, Verizon may bill the appropriate Ordering Agency or Agencies directly for any amounts not paid by the Board or unfunded for the next year at the then-applicable rates as governed by Contractor's Tariffs.

I believe that this agreement cannot obligate the locality to pay if VITA fails to do so, without some form of formal agreement between Verizon the locality and currently none exists today.

Page 11, Section 28a; ... provided that the Ordering Agencies have applied for and been awarded grant or other funds from the Wireless E-911 Fund to pay for such services during such period.

The Ordering Agencies are responsible for payment for the Services received from an applicable Contractor if the Board does not pay for such Services, at the then-applicable rates as governed by the applicable Tariffs.

Again as stated earlier, any reference to the "PSAP applying for grant or other funding" should be removed from this document.

Any reference to failure of payment by VITA obligating the locality to pay should also be looked at by Counsel and removed, this Agreement cannot obligate the locality for payment if VITA fails to pay.

Page 16, Rate and Charges, Note 1; near end of first sentence, "state-wile" should be state-wide.

Start of 2<sup>nd</sup> sentence the word "it" Not sure what the word should be or what this sentence is trying to indicate. Need clarification

General comments; Still lacking the detail that I would like to see in regards to the SR/ANI charges, this was the same issue with the 2004 contract, it was vague and I believe left the door open for Verizon to adjust rates at will and without justifications.

I would like to see the detail provided in the spreadsheet attached to the email from Dorothy on July 15<sup>th</sup> 2010 added to this agreement. Whether or not the "shell record" is the correct mythology or not can be determined later, but the detail that is provided leaves nothing to change or interpretation.

That is all for now, again thank you for your time and efforts.

Steve Basnett

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**From:** Marzolf, Steve (VITA) [mailto:steve.marzolf@vita.virginia.gov]

**Sent:** Monday, July 19, 2010 22:45

**To:** Agee, Bill

**Cc:** mbramley@vbgov.com; Adams, CarolX; etotten@roanokecountyva.gov; jgately@gately.com; Heins, Phil; Mckercher, Julie; Johnson, Karen; klbjohnson64@gmail.com; KRICHARD@albemarle.org; Shumate, Pat; STEVE BASNETT; steve.souder@fairfaxcounty.gov; WeeseA@chesterfield.gov; brownbj@ci.danville.va.us; chris.knights@intrado.com; Elrod, Erin; hkreis@james-city.va.us; Rorrer, Susan; Spears-Dean, Dorothy (VITA)

RE: FY 2011 Verizon 9-1-1 Billing Agreement

Subject: RE: FY 2011 Verizon 9-1-1 Billing Agreement

Bill, et als...

Probably released that last version a little premature before I (or Counsel) took a good look, but we wanted to get it out sooner rather than later. We had already waited too long for the draft back from Verizon. I scanned it for changes from Verizon, but didn't realize that they had made changes without change tracking turned on. Over the weekend, we were able to compare the versions and identify all of the changes Verizon made. Though Counsel is still reviewing a few of them pertaining to limitation of liability, I wanted to send you the draft we worked on today with Verizon. They agreed to remove the language that committed the PSAPs to paying the agreement rate if a tariff is not in place. That should have NEVER been in there since, as I have said, we cannot commit the PSAPs to this. I left in the language about paying the tariff since, if a tariff is in place, it automatically takes over, but Counsel is still reviewing if this is appropriate for inclusion. Of course, there is no tariff currently in place so Verizon will need to apply for one before anyone opts out or the contract expires.

To address your concern about the potential other funding sources, we added some language to the scope section and added "or other funds" any place that grant funds is mentioned. Again, Counsel is still confirming that this gets us where we need to be, but I really appreciate you pointing this one out. Verizon didn't have a concern one way or the other on this issue. It was just the way our Counsel had drafted it knowing the Board's position on FY2011. Since it is not a contentious issue, we could have dealt with it with the FY2012 amendment, but it is easier just to deal with it now by adding a few words. Verizon doesn't care the source as long as they get paid.

Now that you have had the weekend and today to review the document, please let me know if you (or anyone else) has any additional questions or comments...

### Steve Marzolf

Acting ITIES Director

Virginia Information Technologies Agency (VITA)

*VITA – Enabling the Business of Government*[steve.marzolf@vita.virginia.gov](mailto:steve.marzolf@vita.virginia.gov)[www.vita.virginia.gov](http://www.vita.virginia.gov)

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---

**From:** Agee, Bill [mailto:billagee@franklincountyva.org]

**Sent:** Friday, July 16, 2010 10:21 PM**To:** Spears-Dean, Dorothy (VITA); Marzolf, Steve (VITA)

**Cc:** mbramley@vbgov.com; Adams, CarolX; etotten@roanokecountyva.gov; jgately@gately.com; Heins, Phil; Mckercher, Julie; Johnson, Karen; klbjohnson64@gmail.com; KRICARD@albemarle.org; Shumate, Pat; Basnett, Steve; steve.souder@fairfaxcounty.gov; WeeseA@chesterfield.gov; brownbj@ci.danville.va.us; chris.knights@intrado.com; Elrod, Erin; hkreis@james-city.va.us; Rorrer, Susan

**Subject:** RE: FY 2011 Verizon 9-1-1 Billing Agreement

I did a first read on the contract and one thing that jumped out at me **REAL BIG** was that in several places, the contract indicates that the Wireless Board "**must have issued a Grant**" to the PSAP for this to be paid. In paragraph 16 it says "**must have been awarded to each PSAP as Grant Funds.**" It sounds like this contract could be used to FORCE the Wireless Board to continue to pay these costs out of the grant funds, which is what we're discussing now....This is done in paragraph 1 and again in paragraph 28. Why would the Wireless Board want to tie their own hands on how this will be paid and why would this be necessary to even be in the contract?? Why should Verizon care how the Wireless Board funds the payments?? Couldn't you just delete the word "grant" and simply say "awarded

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Bill

-----Original Message-----

From: Spears-Dean, Dorothy (VITA) [<mailto:Dorothy.SpearsDean@vita.virginia.gov>]

Sent: Friday, July 16, 2010 9:01 PM

To: vapsaps@vipnet.org

Subject: FY 2011 Verizon 9-1-1 Billing Agreement

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<http://www.vita.virginia.gov/isp/default.aspx?id=12244>.

Thanks and have a great weekend.

Dorothy A. Spears-Dean, A.B.D.

Public Safety Communications Coordinator,

Integrated Services Program

Virginia Information Technologies Agency (VITA)

VITA - Enabling the Business of Government

[dorothy.spearsdean@vita.virginia.gov](mailto:dorothy.spearsdean@vita.virginia.gov)

[www.vita.virginia.gov](http://www.vita.virginia.gov)

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(804) 840-7260 (mobile)

(804) 416-6353 (fax)





**ASSOCIATION OF PUBLIC SAFETY COMMUNICATIONS OFFICIALS INTERNATIONAL, INC.  
VIRGINIA CHAPTER**

**1959 - 2009**

**50 years of Service to the Commonwealth's Public Safety Community**

July 1, 2010

Via facsimile (804) 416-6353

The Honorable Michael M. Cline, Chairman  
Commonwealth of Virginia Wireless Services Board  
11751 Meadowville Lane  
Chester, Virginia 23836

Dear Chairman Cline:

The scholarship program initiated by the Virginia Wireless Services Board has fulfilled a great need. In facilitating this benefit to the PSAP community in the Commonwealth, the Virginia Chapter of APCO respectfully requests a drawdown of \$60,000 to provide the logistical funding for the scholarship for the 2010 Fall Conference. We are committed to ensuring the guidelines of the scholarship are met and maintained. At the conclusion of the conference, the Chapter will provide a full accounting of the scholarship funding to the Wireless Board. At that time, any monies not utilized for the scholarship will be remitted back to the Wireless Board and, should we exceed the drawdown, a request for additional monies will be requested.

Our goal is to make sure that every eligible locality in the Commonwealth is aware of and takes advantage of this tremendous opportunity. Many have been unable to participate in the past due to funding and, as we've seen from the last two conferences, attendance from localities is increasing, especially amongst those who have never been able to participate. There will continue to be localities unable to participate because of staffing challenges (i.e. short-staffed, the cost of overtime, etc.); however, we will continue to explore ways to increase awareness and involvement.

On behalf of the PSAP community in Virginia and VA APCO, thank you for your support and for the commitment to public safety communications and we extend a special invitation for members of the Virginia Wireless Services Board to attend and experience, first hand, the results of your generosity. The interaction between staff and attendees at past conferences has been an invaluable outcome, providing opportunities for regional representatives to network with the PSAP community, participate in educational tracks and help one-on-one with questions and answers regarding existing and future grant requests from the Wireless Board.

Respectfully

**Karen Johnson, President**  
Virginia Chapter APCO

Cc: Dorothy Spears-Dean, PSC Coordinator

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# NEW KENT COUNTY SHERIFF'S OFFICE

*Farrar W. Howard, Jr., Sheriff*

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FAX (804) 966-5050

DISPATCHER (804) 966-9500  
EMERGENCY 911

## FAX MESSAGE

TO: VA Wireless Services Board	ATTENTION: Mr. Michael Cline
PHONE #:	FAX #: 804-416-6353
FROM: Karen Johnson	PHONE#: 804-966-9500
DATE: July 2, 2010	# OF PAGES INCLUDING COVER: 2
REFERENCE: Drawdown of Scholarship Funds	
MESSAGE:	