

AMENDMENT TO CONTRACTUAL SERVICE AGREEMENT

THIS AMENDMENT TO CONTRACTUAL SERVICE AGREEMENT ("Amendment") is made and entered into as of this 17 day of September, 2021, by and between **WIZTRONICS, INC.**, a Washington State corporation ("**Wiztronics**"), and **WHATCOM TRANSPORTATION AUTHORITY**, a Washington Public Transportation Benefit Area ("**WTA**"), and subject to the following agreed facts:

A. Wiztronics provides radio service to WTA pursuant to the parties' October 31, 2016, Contractual Service Agreement for Digital Radio System, WTA Contract No. 2016-212RFP, a true and correct copy of which is attached hereto and incorporated by reference as Exhibit A ("Service Agreement").

B. Wiztronics uses the following, in addition to other associated equipment, to provide WTA with such radio service:

- those licenses issued by the Federal Communications Commission ("FCC") under the call signs WNMT373, WNAR349, WNPS655, WNMR629, and all channels that are associated with such licenses ("FCC Licenses");

- those separate microwave channels (10735.000 MHz and 11225.000 MHz) that are associated with the microwave link between Squalicum Mountain and Lookout Mountain, Whatcom County, Washington ("Microwave Channels"); and

- that equipment that is set out on Exhibit B, which is attached hereto and incorporated by reference ("Equipment").

(Collectively "Radio System").

C. Wiztronics and WTA have entered a Radio System Purchase and Sale Agreement ("PSA"), under which WTA has purchased the Radio System. As part of the PSA, Wiztronics has agreed to continue to provide WTA with radio service, using the Radio System and other necessary equipment retained by Wiztronics.

D. Wiztronics shall continue to provide WTA with radio service after Closing of the PSA, under the terms and conditions of the original Service Agreement, as amended herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and

AMENDMENT TO CONTRACTUAL SERVICES AGREEMENT

sufficiency of which is hereby acknowledged, the parties agree to amend the Service Agreement as follows:

1. **Exercise of Option to Extend Term.** The parties hereby confirm that the Service Agreement is extended for an additional five- (5-) year term, pursuant to paragraph 11 of the Service Agreement, and that WTA has complied with all conditions to exercise its right to extend. The Term of the Service Agreement shall be for the total period commencing on October 31, 2016, and expiring on October 30, 2026, subject to WTA's right to terminate.

2. **Ownership and Right to Use Radio System.** Paragraph 6 of the Service Agreement is hereby amended to state in its entirety as follows:

a. **Title and Maintenance of FCC Licenses, Leases.** WTA represents and warrants that it has all right, title, and interest in the Radio System. WTA shall maintain the FCC Licenses and Microwave Channels in good standing, and shall take all actions to obtain any necessary extensions in order for them to be available for Wiztronics to provide radio service for WTA. WTA represents and warrants that it has and will maintain leases/licenses to use the real property on which all Equipment comprising the Radio System is located, and that Wiztronics shall have the right to access such real property to perform services under the Services Agreement.

b. **Wiztronics' Right to Use Radio System for WTA Services and Obligation to Maintain.** Wiztronics shall have the right to possess the Equipment and use the Radio System during the Term for the exclusive purpose of providing radio service to WTA, except as otherwise allowed under the Service Agreement or Amendment. Wiztronics shall properly locate, maintain, and operate all components of the Radio System during the Term, including, but not limited to, the following specific obligations:

i. maintain backhaul connectivity between sites and the central system;

ii. maintain central system as is until migrated, including leaving all servers where located at the time of closing of the PSA, unless otherwise instructed by WTA;

iii. maintain all Equipment in operating order, conduct preventative maintenance as warranted, and respond to all incidents and issues as needed; and

iv. refrain from replacing, removing, or moving any Equipment from current locations, or make changes to any channels, without WTA's express written permission.

c. **Inspection and Return of Equipment.** Wiztronics shall allow WTA access to inspect and examine any of the Equipment upon reasonable notice. Upon

AMENDMENT TO CONTRACTUAL SERVICES AGREEMENT

termination or expiration of the Service Agreement, Wiztronics shall allow WTA access to the property, buildings, or towers where any of the Equipment is located, and allow WTA to remove Equipment, or for WTA to take possession of Equipment.

d. Right for WTA to Increase Service. WTA shall have the right to increase the services from Wiztronics using the Radio System and Wiztronics' associated equipment during the Term. Such shall include the right for WTA to increase the number of radios and other devices to be subject to Wiztronics' radio service, for use by WTA or any other municipality located in Whatcom County, subject to the same pricing set out under paragraph 3 of the Amendment. WTA shall provide Wiztronics with ten (10) days' notice of any increase in service needs.

e. Wiztronics' Right to Use Radio System for Other Service. As additional consideration for the radio service to WTA, WTA hereby grants Wiztronics the right to use the Radio System to provide service to existing private (i.e., non-governmental) Wiztronics customers for a period of twelve (12) months following the Closing date of the PSA. Such use shall not interfere, restrict, impact, or limit radio service provided by Wiztronics to WTA, nor WTA's use of the Radio System following any termination of the Service Agreement.

3. Contract Pricing. Paragraph 3 of the Service Agreement is hereby amended to state in its entirety as follows:

Contract price is firm for Ten and No/100 Dollars (\$10.00) per unit per month. In addition, there shall be a Thirty-Five and No/100 Dollars (\$35.00) per unit configuration and implementation fee, plus tax, which shall apply to

- a. adding any radio to the system;
- b. removing any radio from the system;
- c. changing any radio aliases; and
- e. programing any radio.

There shall be no charge for additional talk-groups.

A unit for purposes of pricing under the Service Agreement shall mean any portable radio, mobile radio, base station, or console. Each unit will be identified with a unique number (UNIT ID).

4. Deletion of Paragraph 7. Paragraph 7 of the Service Agreement is deleted and shall have no further force or effect.

AMENDMENT TO CONTRACTUAL SERVICES AGREEMENT

5. **Preservation of Title of Radio System.** Paragraphs 9 and 10 of the Service Agreement are hereby amended to state in their entirety as follows:

Wiztronics shall not pledge any portion of the Radio System as security, and otherwise keep the Radio System free from any liens or other encumbrances.

6. **Termination of Service Agreement.** In addition to WTA's right to terminate the Service Agreement for convenience pursuant to Part 7(16) of the Request for Proposal 2016-212 ("RFP"), or for breach or default under Part 7(17) of the RFP, the Service Agreement shall terminate automatically if the FCC Licenses expire or are otherwise terminated. Any termination for convenience pursuant to Part 7(16) of the RFP shall be effective upon WTA's giving thirty (30) days' notice to Wiztronics.

7. **Insurance.** WTA shall be responsible to maintain insurance covering the Equipment against any loss or damage.

8. **Annual Price Adjustment.** The first sentence of Paragraph 5.G of the RFP is hereby amended to state as follows: "Beginning on the first annual anniversary of the effective date of the Amendment, Wiztronics shall be entitled to an annual rate adjustment to the service fee. Entitlement to such adjustment shall be subject to Wiztronics' providing notice to WTA at least thirty (30) days before the new rate goes into effect, and to be calculated as follows:" Moreover, the following section in Paragraph 5.G of the RFP is deleted:

WTA, in its sole discretion, will decide whether to approve or deny any adjustment request by January 31. If approved, a rate increase shall take effect on February 1.

9. **Inconsistency With Terms of Service Agreement.** If there is any inconsistency between the terms of this Amendment and the Service Agreement, including any of its incorporated documents, then the term of this Amendment shall control and govern.

10. **Leases With Wiztronics' Related Entities.** Some of the Equipment is located on real property that is owned and/or controlled by Wiztronics' related entities. WTA's right to use these properties is subject to independent and distinct Licenses.

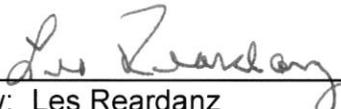
11. **Other Terms and Conditions.** Unless expressly amended herein, all other terms and conditions of the Service Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year set below each of their signatures.

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WHATCOM TRANSPORTATION
AUTHORITY

WIZTRONICS, INC.



By: Les Reardanz
General Manager
Dated: 9/16/21



Gerald L. Noe
President
Dated: 9/17/2021