

REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT (“Agreement”) is made and entered into effective February __, 2022, by and between Sprint Communications Company L.P., a Delaware limited partnership, and its successors and assigns (“Sprint”), and Albany County, New York (the “County”).

RECITALS

A. The County plans to replace the bridge in the Albany County Rail Trail that crosses over New Scotland Road/NYS Route 85 (the “Project”).

B. Sprint owns fiber optic cable and other telecommunications facilities (the “Sprint Facilities”) that are located in the former right-of-way of the Delaware & Hudson Railway Company (the “Right-of-Way”) and that must be relocated to permit the Project to proceed.

C. The work required to relocate the Sprint Facilities (the “Relocation Work”) is described in the attached Exhibit A, which is incorporated herein.

D. Sprint, under the terms hereinafter stated, is willing to perform the Relocation Work based on the County’s promise to pay Sprint for all of its costs and expenses, both direct and indirect, incurred in connection with the Relocation Work.

AGREEMENT

In consideration of the promises and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Sprint and the County agree as follows:

1. The County represents and warrants that Exhibit A accurately describes the Relocation Work that the County has requested Sprint to perform.

2. Sprint will perform the Relocation Work in accordance with Exhibit A in a workman-like and safe manner and in conformance with all applicable industry standards and government regulations, subject to the terms and provisions of this Agreement.

3. The County will pay, in accordance Paragraph 5 below, all direct and indirect costs and expenses incurred by Sprint in connection with the Relocation Work, including, but not limited to, third-party payments, direct internal labor, materials, construction, inspection, indirect internal labor, overhead, engineering review work, taxes, and legal fees (the “Relocation Costs”).

The total of the Relocation Costs Sprint expects to incur is estimated to be \$199,414.79 (the “Anticipated Relocation Costs”). The Anticipated Relocation Costs are set forth in further detail in the attached Exhibit B. The Relocation Costs may be more or less than the Anticipated Relocation Costs.

4. The County will pay the Relocation Costs, based upon this Agreement and upon the estimate set forth in Exhibit B, in this manner:

a. At least 30 days in advance, the County will provide Sprint with a notice informing Sprint of the date on which it is to commence the Relocation Work (the “Notice to Proceed”). Within 10 days after the Notice to Proceed, the County will deposit with Sprint, by wire transfer, the Anticipated Relocation Costs.

b. If at any time the Relocation Costs exceed the Anticipated Relocation Costs, Sprint may provide an invoice or invoices to the County for such additional Relocation Costs (the “Interim Relocation Costs”), together with reasonable supporting documentation, if applicable. The County will pay each invoice for Interim Relocation Costs within 30 days of receipt of the invoice and supporting documentation.

c. Within 180 days following the completion of the Relocation Work, Sprint will provide an invoice to the County setting forth the total Relocation Costs, together with any supporting documentation that has not been previously provided (the “Completion Package”). If the total Relocation Costs are more than the total of (1) the previously paid Anticipated Relocation Costs and (2) all previously paid Interim Relocation Costs, then the County will pay Sprint the excess Relocation Costs within 30 days of delivery of the Completion Package. If the total Relocation Costs are less than the total of (1) the previously paid Anticipated Relocation Costs and (2) all previously paid Interim Relocation Costs, Sprint will pay the County the difference within 30 days of the delivery of the Completion Package.

d. Hard copies of the electronic versions of third-party invoices will be appropriate supporting documentation for expenses incurred to third parties. Time summaries will be appropriate supporting documentation for Sprint’s internal labor costs. No additional supporting documentation shall be required for Sprint’s standard indirect internal labor and overhead costs or for legal fees incurred prior to the effective date of this Agreement. For any legal fees incurred after the effective date of this Agreement, summary invoices showing the amounts incurred on a monthly basis for services rendered and expenses disbursed will be appropriate supporting documentation.

e. If the County disputes any portion of any payment to be made under this Agreement, the parties shall follow this dispute resolution process:

- i. The County must pay the entire amount of each invoice for Interim Relocation Costs and any Excess Relocation Costs, as provided in Paragraphs 5.b and c above.
- ii. Within 10 days of receipt of an invoice for Interim Relocation Costs or the Completion Package, the County shall notify Sprint in writing of any dispute, specifically noting what charges are in dispute and the grounds for the dispute.
- iii. Within 10 days of receipt of any notice of dispute, Sprint shall make a written response.
- iv. Within 20 days of Sprint’s receipt of any notice of dispute, the parties shall conduct a virtual meeting to attempt to resolve the dispute. A representative of each Party with authority to settle the dispute shall attend any dispute resolution meeting.
- v. If any dispute remains unresolved, then, within 60 days of the County’s receipt of the Completion Package, either Party may submit the dispute to binding arbitration before a single arbitrator to be appointed by the American Arbitration Association. The parties’ submissions to the arbitrator shall be limited to a single memorandum of no

more than 25 double-spaced pages in length. A memorandum may attach documentary exhibits, which shall not count against the page limit. Any testimonial exhibits shall count against the page limit. The parties' submissions shall be simultaneous. The arbitrator shall resolve the dispute based solely on those submissions. Neither Party may make additional, oral, written, or evidentiary submissions. The arbitrators' award shall include reasonable attorneys' fees and expenses in favor of the prevailing Party. The arbitrator's award need not include reasons for the award.

- vi. The dispute resolution procedures set forth above, including the arbitration provisions of Paragraph 5.e.v, shall apply only to disputes over invoices for Interim Relocation Costs and the Completion Package.

f. Payments shall be made by wire transfer in accordance with the instructions set forth in the attached Exhibit C.

Each payment shall be accompanied by a notation indicating that the payment is for "PID 92786E104".

5. Any operation or work performed by or for the County on the Project that (a) is within 10 feet of the Sprint Facilities, (b) would compromise any structure to which the Sprint Facilities are attached, or (c) poses any risk of damage to the Sprint Facilities ("Conflict Work") must be performed in a workman-like and safe manner and in conformance with all applicable industry standards and government regulations.

6. No Conflict Work may be performed until (a) the County provides advance notice to Sprint of its intent to commence Conflict Work and (b) Sprint notifies the County that the pertinent portion of the Relocation Work has been completed, so that the Conflict Work to be performed poses no risk of damage to the Sprint Facilities. The notice to Sprint must be provided 48 hours in advance of commencement of any Conflict Work; Saturdays, Sundays, and legal holidays shall not be included in determining compliance with the 48-hour requirement; and the notice shall be given to Sprint by email to Michael.J.Hanifan@t-mobile.com and Kris.Leung@t-mobile.com. Sprint will be entitled to have an inspector on site during the performance of any Conflict Work and the costs or expenses of any inspection will be included in the Relocation Costs.

7. Each Party will indemnify, defend, and hold the other Party, its officers directors, agents and employees harmless from all loss, claims, liability and costs incurred by the indemnified Party, including, without limitation, losses resulting from claims for damages to property or injuries to or death of persons, judgments, court costs and attorneys' fees, which arise out of the negligent or intentionally culpable acts or omissions of the indemnifying Party, its contractors, subcontractors, representatives, agents, or employees with respect to the Project, including, but not limited to, the construction, maintenance, presence on the Right-of-Way, or other operations or activities of the indemnifying Party.

8. It is expressly understood by the parties that the Project, the Relocation Work, and this Agreement have no effect on any right, title or interest Sprint has in the Right-of-Way. Sprint expressly reserves all such rights, title, and interest.

9. Nothing in this Agreement shall be construed to infer or to constitute a concession by either Party, to set a precedent, to serve as evidence that a conflict does or does not exist between any other project and

the Sprint Facilities, or otherwise to be relevant to any other past, present, or future project, dispute, or interaction between Sprint and the County, related to the Sprint Facilities or the Right-of-Way.

10. In any proceeding to enforce this Agreement, the prevailing Party shall be entitled to recover, in addition to damages and costs, its attorneys' fees and expenses.

11. This Agreement constitutes the entire agreement between Sprint and the County with respect to the subject matter hereof, and all prior oral or written agreements, discussions, negotiations, or understandings on the subject matter of this Agreement are merged into and superseded by this Agreement.

12. The terms of this Agreement shall be binding and inure to the benefits of Sprint, the County, and their respective successors and assigns.

13. Notwithstanding anything to the contrary contained herein, Sprint will not be required to perform any Relocation Work during the period of November 15th of any year through January 2nd of the following year.

WHEREFORE, the parties have caused this Agreement to be executed by their proper duly authorized officials as of the dates indicated below.

SIGNATURE PAGES FOLLOW

WITNESSES:

SPRINT COMMUNICATIONS COMPANY L.P.,
a Delaware limited partnership

Print Name:

By: _____

Name: _____

Title: _

Print Name:

T-Mobile Legal Approval:

By: _____

Principal Corporate Counsel
Sprint Communications Company L.P.

WITNESSES:

COUNTY OF ALBANY, NEW YORK

Print Name:

By: _____

Name: _____

Title: _____

Print Name: