



AGENDA ITEM

September 10, 2018

Consider, possibly approve, authorize the County Judge to execute, receive and file SPS VAR Services Agreement between Jefferson County, Texas and SPS VAR LLC as a recovery machine in cases of emergencies.



SPS VAR Services Agreement

Project Description

SPS VAR, L.L.C. (We) agree to provide Services described in a Statement of Work below or in an Attachment to our Customer (You) under the terms of this Agreement. You are responsible for project management and for any results achieved, unless specified otherwise in the Statement of Work. We do not provide Services under the terms of your purchase order.

Services are provided and billed either on an hourly ("Hourly Services") or on a fixed-price ("Fixed-Price Services") basis.

For Hourly Services, the Statement of Work specifies the hourly rate, the estimated hours and estimated expenses required to complete the project. This estimate is not a fixed-price commitment. Charges will equal the actual hours worked times the hourly rate, plus actual expenses and applicable sales taxes.

For Fixed-Price Services, the Statement of Work specifies the fixed-price and estimated expenses. This expense estimate is not a fixed-price commitment. Charges will equal the fixed-price plus actual expenses and applicable sales taxes.

Statement of Work

Project Name: Total Care Services – Custom Save Restore Test, Customer Led, (2) Tapes

Fixed-Price Services: \$550.00 Invoiced Upon Product Start

Estimated Expenses: \$ 0.00 Travel & Living Expenses

Estimated Start Date: _____ End Date: _____

Services: Equipment access and support services to perform a Save Restore Test using customer provided LTO5 Tapes. SPS VAR will load LIC and OS, enable VPN Access, and then allow customer to conduct a restore from a SAVSYS on LTO5 tape and an interim nightly save also on LTO5 tape. Customer will lead the restore test by accessing the equipment via VPN, and SPS VAR will support.

This Project Description, the Statement of Work and the Additional Terms on page 2 form our complete agreement (the "Agreement") regarding these Services and replace any prior oral or written communication between us. By signing below, both of us agree to these terms.

Agreed to:
Jefferson County
1149 Pearl Street
Beaumont, TX 77701

Agreed to:
SPS VAR, LLC
P.O. Box 8869
Atlanta, GA 31106

By: _____
Authorized Signature

Name (print): _____

Title: _____

Date: _____

Authorized Signature

Name (print): T. H. Lewis

Title: President

Date: August 22, 2018

Agreement Number: 20180822TD01

SPS VAR Services Agreement

Additional Terms

Billing

For Hourly Services, the minimum billing increment is fifteen (15) minutes. However, there will be a one-hour minimum for each day in which Services are provided on-site and a fifteen (15) minute minimum for each day in which Services are provided by telephone. We may increase our hourly billing rate and minimums by giving you three (3) months' written notice.

Hourly Services are invoiced weekly as the work progresses. Fixed-Price Services are invoiced as specified in the Statement of Work. Travel and other expenses are invoiced weekly using IRS mileage allowances for automobile transportation and actual cost for all other expenses.

Charges for Services and expenses are due within 15 days from the invoice date. Amounts past due are subject to a late payment charge of 1.5% per month. You agree to pay accordingly.

You agree to pay applicable sales taxes or supply exemption documentation.

Project Completion and/or Termination

Hourly Services will end when we provide the estimated number of hours or upon the estimated project end date unless you authorize additional hours or an extension of the end date. In the event that additional hours are not authorized for incomplete project which is provided on an Hourly Services basis, we do not warrant that the Services will be completed. Fixed-Price Services will end when the tasks described in the Statement of Work are complete.

Either party may terminate this Agreement on written notice to the other if the other breaches any material provision of this Agreement, including nonpayment of any charges hereunder. Upon termination, we will stop our work in an orderly manner as soon as practical.

You agree to pay for all Services we provide, all materials (including programs, program listings, documentation, reports or other similar works of authorship) we deliver and all expenses we incur through the project's termination, including charges we incur in terminating subcontracts.

Customer Obligation

You agree to provide us reasonable access to the premises where Services will be provided during your business hours. You will also provide other onsite cooperation and assistance as may be reasonably requested by us. You agree to sign and deliver to us the Acknowledgment of Completion of Services when the tasks described in the Statement of Work are complete, or when we have provided the estimated number of hours of Services for Hourly Services (unless additional hours are authorized), whichever comes first.

Subcontractors

We have the right subcontract any part of the Services to a third party as we deem appropriate, provided that we will remain ultimately responsible for the Services, subject to the terms of this Agreement.

Changes to Statements of Work

The Statement of Work may only be changed by a written Change Authorization signed by both of us. The terms of the Change Authorization will prevail over those of the Project Description, the Statement of Work and any previous Change Authorizations.

Warranty

We warrant that we perform Services using reasonable care and skill in accordance with recognized standards in the industry. **WE DO NOT PROVIDE ANY OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** We do not warrant uninterrupted or error free operation of any Service.

Limitation of Liability

In the event that you are entitled to recover damages from us, in each instance, regardless of the basis on which you are entitled to claim damages from us, we are liable only for an amount no greater than the sum of all payments you have made to us. This limit also applies to liabilities of any of our subcontractors. It is the maximum for which we and our subcontractors are collectively responsible. Under no circumstances are we or our subcontractors responsible to you or third parties for 1) loss of, or damage to, your records or data; or 2) special, incidental, consequential or other indirect damages (including lost profits or savings), even if we are informed of their possibility.

Disputes

The laws of the State of Texas govern this Agreement. Any controversy or claim arising out of or relating to this Agreement, or the breach of this Agreement, shall be settled by arbitration in accordance with the rules of the American Arbitration Association at a hearing in Beaumont, Texas. A judgment of a court having jurisdiction may be entered upon the arbitrator's award. All costs, including attorney's fees, incurred as a result of this dispute shall be borne by the party incurring the same and such are not recoverable by a prevailing party.

The arbitrator shall not have the power to add, to amend, modify, or subtract from the provisions of the Agreement in arriving at his/her decision on the issue or issues presented and shall confine his decision based on the Agreement. The parties retain the right to appeal the arbitrator's decision if the arbitrator lacks jurisdiction over the issue presented or exceeds his authority by amending, modifying or subtracting from the provisions of the Agreement. The arbitrator lacks jurisdiction on any issue wherein the arbitrator changes, questions or limits the budgetary power of the Jefferson County Commissioners' Court.

SPS VAR Services Agreement

Acknowledgement of Completion of Services

Customer hereby acknowledges that the Services required to be provided under Services Agreement No. 20180822TD01 have been completed, and such Services are hereby accepted.

Jefferson County, TX
[name of Customer]

By: _____

Name: _____

Title: _____

Date: _____