

**LOCAL GOVERNMENT ENTITY AUTHORIZED USER AGREEMENT  
FOR STATE OF CALIFORNIA CONTRACT FOR WIRELESS SERVICES  
(MASTER CONTRACT #1S-05-58-02) 30342**

Verizon Wireless and the State of California (the "State") have entered into a Contract for Wireless Services (#1S-05-58-02) (The "Master Agreement") pursuant to which local government entities within the State may participate to purchase wireless services and products from Verizon Wireless, so long as they have complied with the State's designated purchasing processes, and the applicable requirements of their individual Charters or other governing documents.

The undersigned, on behalf of the Local Entity, acknowledges and agrees, as follows:

- (1) It is eligible to purchase wireless service and products from Verizon Wireless under the terms and provisions of the Master Agreement, subject to any applicable local purchasing laws and ordinances;
- (2) It desires to purchase wireless services and products from Verizon Wireless pursuant to the terms and conditions of the Master Agreement and any and all addenda and schedules thereto as the State may specify from time to time.

Local Entity agrees to purchase, and Verizon Wireless agrees to provide, the wireless services and products detailed below pursuant to the terms of the Master Agreement and any addenda and schedules thereto:

Local Government Entity Name:	<u>City of Long Beach</u>		
State Billing Code:	<u>Q3154 on VZW Acct 964067981-0001 &amp; 563715594 (WLBCC)</u>		
Authorized User Name:	<u></u>		
Authorized User Phone:	<u></u>		
Authorized User Address:	Street:	<u>333 W. Ocean Blvd 12<sup>TH</sup> Flr</u>	
	City:	<u>Long Beach</u>	
	ST:	<u>CA</u>	Zip: <u>90802</u>
Tax ID:	<u></u>	D&B #:	<u>133151378</u>
Tax Exempt:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
VZW Sales Rep Name:	<u>Duff Owens Wilmoth</u>		
Phone Number:	<u>310.339.0945</u>	Sales Rep ID:	<u>EDR88</u>

Further, the undersigned is designated and granted authority to act on behalf of Local Entity for any and all matters contemplated in the Master Agreement.

Executed as of this                      day of **MARCH**, 2006.

<p><b>APPROVED AS TO FORM</b> <u>4/27, 20 06</u> <b>ROBERT E. SHANNON</b>, City Attorney <u>[Signature]</u> DEPUTY CITY ATTORNEY</p>	<p><u>[Signature]</u> Authorized Signer <u>Gerald R. Miller</u> Printed Name <u>City Manager</u> Title</p>
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STATE OF CALIFORNIA  
DEPARTMENT OF GENERAL SERVICES - PROCUREMENT DIVISION

# CONTRACT NOTIFICATION

\*\*\*\*\* MANDATORY \*\*\*\*\*

CONTRACT NUMBER: 1S-05-58-01/02

DESCRIPTION: CALIFORNIA WIRELESS CONTRACT

CONTRACTOR: VARIOUS

EFFECTIVE DATES: 10/ 3/2005 THROUGH 10/ 2/2007

SUPERSEDES CONTRACT NO.: NONE

AREA: STATEWIDE

DISTRIBUTION: STATE AND LOCAL AGENCIES

\* TAX: Add appropriate sales and use tax.  
Exempt from Federal Excise Tax.

\*Food contracts are tax exempt.

RITA HAMILTON, Deputy Director

Use of this agreement by all agencies is mandatory with monetary exceptions stated herein or contained in State Administrative Manual.

To obtain assistance or report non-compliance by supplier, or for any suggestions or recommendations write:

Department of General Services, Procurement Division, P.O. Box 989054, W. Sacramento, CA 95798-9054,  
or call: Contract Administrator, **BONNIE BAHNSEN** 916- 375-4352

**CONTRACT (MANDATORY)****CONTRACT MANAGEMENT**

Use of this contract is MANDATORY for all State departments. To obtain contract information, ordering assistance, suggestions or report supplier non-compliance:

**CONTACT:**

State of California  
Department of General Services  
Procurement Division  
707 Third Street, 2<sup>nd</sup> Floor North  
P.O. Box 989054  
West Sacramento, CA 95798-9054

Contract Manager: Bonnie Bahnsen  
916-375-4352  
Email: [bonnie.bahnsen@dgs.ca.gov](mailto:bonnie.bahnsen@dgs.ca.gov)

**CONTRACTORS****Primary Contractor: Voice Services with or without Data Services**

Contractor: Verizon Wireless  
Contract Number: 1S-05-58-02  
Contact: Chris Rock  
Address: 255 Parkshore Drive  
Folsom, CA 95630  
Phone Number: 916-599-3003  
FAX Number: 916-357-2428  
E-mail Address: [chris.rock@Verizon Wireless.com](mailto:chris.rock@Verizon Wireless.com)  
Contract Website: <http://www.verizonwireless.com/cwc>

**Secondary Contractor: Voice Services with or without Data Services**

Contractor: Sprint Nextel Corporation  
Contract Number: 1S-05-58-01  
Contact: Shane Harper  
Address: 2180 Harvard St., Suite 100  
Sacramento, CA 95815  
Phone Number: 916-568-4526  
FAX Number: 916-565-6946  
E-mail Address: [shane.harper@sprint.com](mailto:shane.harper@sprint.com)  
Contract Website: [http://www.nextel.com/phones\\_plans/states/california/index.shtml](http://www.nextel.com/phones_plans/states/california/index.shtml)

**Primary Contractor: Walkie-Talkie Service with or without Voice and/or Data Service**

Primary Contractor: Sprint Nextel Corporation  
Contract Number: 1S-05-58-01  
Contact: Shane Harper

**WIRELESS USER INSTRUCTIONS – CONTRACT (MANDATORY)****1. SCOPE:**

This Statewide contract is designed to provide State departments with cellular service and equipment for wireless voice, voice with walkie talkie and data services. This contract has a two year term and contains an option for three one year extensions.

This contract is available for use by all State of California department and local agencies. A local agency is a city, county, city and county, district, or other local governmental body or corporation, including the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges empowered to expend public funds (Public Contract Code 10298).

The equipment and services offered under this contract are not intended for use as a primary means of communication during emergency/disaster situations. All emergency services and equipment requirements for emergency/disaster situations must be processed through Department of General Services Telecommunications Division.

**2. CONTRACT USAGE/RULES**

- A. Use of this contract is mandatory for all State departments. All service plan contracts cannot be written for more than one year. Thereafter, the contracts will automatically become month-to-month. All purchases of service and equipment against this contract shall be exempt from the requirements of Management Memo 03-10.
- B. Prior to placing orders against this contract, State departments must have been granted purchasing authority by DGS/PD for the use of the State's statewide contracts. The department's current purchasing authority number must be entered in the appropriate location on each purchase document. Departments that have not been granted purchasing authority by DGS/PD for the use of the State's contracts may access the Purchasing Authority Application at <http://www.pd.dgs.ca.gov/deleg/pamanual.htm> (see Chapters 1 and 13) or may contact DGS/PD's Purchasing Authority Management Section by e-mail at [pams@dgs.ca.gov](mailto:pams@dgs.ca.gov).
- C. Ordering State departments must adhere to all applicable state laws, regulations, policies, best practices, and purchasing authority requirements, e.g. California Codes, Code of Regulations, State Administrative Manual, Management Memos, State Contracting Manual and Purchasing Authority Manual.
- D. Purchases for service and equipment outside the contract must have an approved exemption pursuant to Management Memo 05-11. Please refer to the link below for additional information on the exemption process.

<http://www.documents.dgs.ca.gov/pd/poliproc/StatewideContractExemptionRequestProcess-Form.doc>

Departments seeking an exemption must justify their requests. Departments must first conduct a thorough analysis of whether goods and services available through the CSSI contract can meet their needs. They must then complete the "Justification for Purchasing Outside the CSSI State Contract" form. The form must be approved and signed by:

1. The Chief Information Officer of the requesting department.
2. The Procurement and Contracting Officer of the requesting department.
3. The Director of the requesting department.
4. The State Chief Information Officer

All four signatures are required. After the approvals have been obtained, the form must be stored with the Purchase Order file documentation and a copy must be sent to the Contract Manager for this contract, see Page 1.

- E. Local governmental agency use of this contract is optional. While the State makes this contract available to local governmental agencies, each local governmental agency should determine whether this contract is consistent with its procurement policies and regulations. **The above requirements and restrictions are not applicable to local government entities.**

**3. CONTRACTOR'S HOME PAGE/PRICING:**

The contractor will provide secure online access for Agency Telecommunications Representative's (ATR's) to manage accounts and order services. Before you are able to order from this site please contact your carrier representative.

Contractor will maintain, support and keep current a California specific contract home page with a Universal Resource Locator for the Internet Page. All pricing will be available on the contractor's website and updated on a monthly basis. Promotional offers will also be included. Please refer to the following links:

**Verizon Wireless:** <http://www.verizonwireless.com/cwc>  
(Before you are able to order from this site please contact your Verizon Wireless Representative)

**Sprint Nextel Corp:** [http://www.nextel.com/phones\\_plans/states/california/index.shtml](http://www.nextel.com/phones_plans/states/california/index.shtml)

**4. CUSTOMER SERVICE:**

Customer service will be available during normal business hours Monday – Friday 8:00A.M. – 5:00 P.M. (PST/PDT). Customer service will respond to any customer service requests within four (4) hours of notice. Further, the Contractor will provide general customer support accessible 24 hours a day, 7 days a week. (See page 1 for contact information).

**5. RATE PLAN SELECTION:**

One of the goals of the contract is to ensure that each subscriber is utilizing the most appropriate plan. This includes identifying subscribers that may be consistently incurring overage charges, and therefore should move to a plan with more minutes, or subscribers consistently under-utilizing a plan, and therefore should move to a plan with less minutes.

In order to simplify the transition process, maximize savings and ensure a user is on the right plan based on Minutes of Use (MOU) the following plans are offered:

- A. Local and National Share Plans: Share plans allow for a group of department users to share a pool of minutes. This plan will ensure that the department will not incur overage charges

and achieve maximum savings. The DGS-PD has done extensive analysis to identify the plans that will both maximize the savings achieved and minimize costs such as overage, roaming, etc. Since the majority of the users are primarily in California making in-State calls, these are the plans that the majority of users will be assigned to: For the Voice and Data category (Verizon Wireless), users will be placed on a 200 minute local share plan. For the Walkie-Talkie, Voice and Data category (Sprint Nextel Corporation), users will be placed on a 300 minute local share plan. In some instances, the contractor may already have sufficient data on a subscriber and may recommend a shared plan that is more beneficial to the user. For example, a group of users from a particular agency routinely makes national calls, so a national share plan will be more appropriate for that group.

- B. Local and National Individual Plans: On an as needed basis, users can be placed on individual plans. If a user cannot be placed on a pooled plan with other similar users, then an individual plan can be selected appropriate to the user's MOU and type of calls. For example, a user that is routinely traveling out of state, or needs international service, other than Canada or Mexico. Use of the individual plans should be limited to an exception basis.
- C. Consumption Plan: Seasonal and periodic users who consume zero minutes of use during a specified period will be placed on the Consumption Plan. All unused phones will be evaluated on a case by case basis since in some instances it is appropriate to have a phone with zero usage (i.e. alarm, and back-up phone system, etc.).
- D. Optimization: After the initial plan assignment, both contractors will routinely identify those users that are not on the most optimized plan and work with the DGS Contract Manager to place the user on the most optimized plan.

Other plans are available on an as needed basis.

6. **PRIMARY CONTRACTOR TO SECONDARY CONTRACTOR:**

The primary Contractor must provide adequate coverage and required functionality in primary areas of use. Once equipment has been received and tested and does not meet the requirements mentioned above, the ATR may utilize the secondary contractor. If the secondary contractor is unable to meet the requirements, the formal exemption process in 2.D. above must be followed. File documentation must include justification and approvals as appropriate.

ATR's must notify the DGS Contract Manager of all transfers.

7. **TRANSITION:**

All subscribers are targeted for transition to the new wireless contract by the end of the calendar year. Contractor will provide support to department Agency Telecommunications Representatives (ATR's) in order to facilitate moving subscribers onto Contractor's network and work with ATR's to determine suitable subscriber service plan and/or equipment changes as necessary. Transition of subscribers should occur with minimal disruption.

Attached is the form used by Verizon Wireless to facilitate the information required to transition the current lines of service to the new contract. The ATR can work directly with their Sprint Nextel Corporation government account representative for transition.



CWC\_VZW\_Existing  
Number Transition\_S

**Note: When transitioning from a supplier other than Verizon Wireless or Sprint Nextel Corporation, departments are responsible for requesting a remittance for any open rebate/credit due to the department.**

**8. LOCAL NUMBER PORTABILITY:**

Based on Federal law users may port existing telephone numbers to the new contract provider.

After the transition process, the number portability will be handled by the ATR as a regular order. Departments will determine which numbers are to be ported. There is no charge to port numbers from one service provider to another. The ATR must keep in mind the following requirements before porting numbers to the new carrier:

- A. All numbers must be active. Lines suspended or cancelled can not be ported.
- B. A copy of the current airtime invoice must be attached to the STD. 20 or STD. 65. The new supplier needs exact billing information to provide to the port center.
- C. Lines must be activated upon receipt. Delaying the activation process could result in the loss of the number. At that point the number will revert back to the original supplier.

Attached is the form used by Verizon Wireless to facilitate the information required to transition the current number from other carriers to Verizon Wireless. The ATR can work directly with their Sprint Nextel Corporation government account representative for number portability.



CWC\_VZW\_LNP Bulk  
Order\_Spreadsheet.x

**10. ORDERING PROCEDURES:**

All orders MUST be submitted by departmental ATR's. Departments are required to designate personnel defined as ATR's for purchasing all services and equipment and submit to the Department of Technology Services. Instructions are provided in the following link:

[www.applications.dqs.ca.gov/td/atrs/atr\\_lookup.asp](http://www.applications.dqs.ca.gov/td/atrs/atr_lookup.asp)

The contractor has been instructed not to accept orders from individuals other than the department designated ATR(s) and assumes liability for costs incurred by accepting a purchase from an unauthorized person. ATR's must establish procedures for purchasing with Verizon Wireless via an implementation call. Please contact Chris Rock at Verizon Wireless to start the process. All orders for service and equipment may be submitted to Contractor via FAX, on-line or by walk-in.

**A. Order of new service and equipment.**

Each subscriber rate plan tier includes a basic handset, battery charger and hands free device. Departments are required to submit a STD. 65 to pay taxes on the suggested retail for the no cost equipment offered under this contract. Service will be ordered via the use of an accompanying STD. 20.

**B. New service for existing equipment:**

A STD. 20 must be submitted to the Contractor to activate service on existing equipment.

C. Equipment only:

This contract includes the ability to purchase reserve stock (non-activated handsets). For the purchase of equipment upgrades and accessories as well as reserve stock, ATR's must submit a STD. 65.

Local agency procedure is the same as above, except local agencies will issue their own standard purchase order form directly to the supplier. Local agencies must note their State of California billing code on their purchase order. If a local agency cannot identify or needs a bill code, please contact Department of General Services at 916-375-4441 or [lynn.brown@dgs.ca.gov](mailto:lynn.brown@dgs.ca.gov)

11. ORDER SUBMITTAL:

- A. Electronic Order Entry: The Contractor has an on-line order system to be available for use 24 hours a day, 7 days a week for ordering products and services. However, orders will only be processed between the hours of 8:00 a.m. – 5:00 p.m. Monday through Friday.

Contractor's home page should contain the current pricing for equipment and services, including common offered plans, discount pricing, basic equipment offered along with the list of additional equipment and coverage maps. There will be updated coverage maps on the first day of every quarter.

- B. Facsimile Ordering System: Facsimile orders can be placed between the hours of 8:00 a.m.–5:00 p.m. (PST-PDT) Monday through Friday.

- C. Walk-In or Telephone Ordering: On an emergency/disaster situation only, the State department ATR's will have the ability to walk-in and order equipment or services provided for under this contract at locations designated by the Contractor. For telephone orders, the Contractor will provide expedited delivery (e.g., Overnight FedEx, shipping and handling fees will be waived) or enable the ATR to schedule to pick up the equipment at a retail center. ATR's will be required to substantiate that they are on the approved list in order to activate service and purchase equipment. This process will eliminate billing mistakes and fraud. A STD. 65 and/or STD. 20 are required for all walk-in orders including those paid by CAL-Card. ATR's should contact their representative in order to expedite a walk in request.

12. ORDER ACKNOWLEDGEMENT:

An Order Acknowledgement will be sent by the Contractor to department ATR's within one business day after receipt of an order. The acknowledgement will contain:

- A. Equipment and/or service plan purchased
- B. Contract order number
- C. Agency order number (purchase order number)
- D. Subscriber name
- E. Bill to address
- F. Ship to address
- G. Ordering department
- H. Account information

13. OUT OF STOCK



Department ATR's will be notified by Contractor within one business day of out of stock item(s). ATR's have the option to substitute another available product, or cancel the item ordered by submitting an amended purchase order to the Contractor.

**14. SHIPMENT CONFIRMATION:**

Contractor will provide a confirmation to the ATR on the day the order is shipped. Shipment confirmation will include:

- A. Phone number for new lines
- B. Electronic serial number
- C. Date shipped
- D. Tracking number
- E. Account number
- F. Subscriber name

**15. DELIVERY/ACCEPTANCE:**

Delivery time of in-stock products is within five (5) business days after order acknowledgement. Freight charges for delivery are prepaid by the Contractor.

Contractor shall provide each subscriber a 30 day acceptance period from time of delivery to test coverage, commencing at equipment receipt.

**16. PACKING SLIP INFORMATION:**

All shipped orders shall include a packing slip with the following information:

- A. ATR's name, section or unit and location
- B. Designated contact/name of ordering person if different than ATR
- C. Billing address
- D. Ship-to address
- E. Contractor Order number
- F. Department's order number (purchase order number)
- G. Description of items
- H. Additional information required by the State

**17. WARRANTY:**

Equipment (handsets) is covered by the manufacturer's consumer warranty for a one-year period. Service warranty will be provided by the manufacturer through an authorized warranty service location. ATR's will work directly with the contractor.

**18. DAMAGED AND DEFECTIVE ITEMS:**

Contractor will provide credit and/or replacement for freight-damaged or defective items within 48 hours after notification by the ATR at no charge. This also includes incorrect products shipped or an order entry error by the Contractor's customer service representative. The contractor cannot require the ATR to deal directly with the manufacturer. Additionally, Contractor shall provide the ATR with a prepaid and self addressed container suitable for the return of the item. Any restocking fees for all other reasons shall not exceed the lower of 10% of the value of the returned items, or the dollar amount as bid in the pricing sheet.

**19. ACTIVATIONS/TERMINATIONS/SUSPENSION OF SERVICE:**

Contractor must activate, terminate or suspend service on existing equipment and complete requested plan changes within 24 hours of notification by the ordering ATR. A STD. 20 must be submitted to the Contractor with no termination fee. Contractor must provide the appropriate ATR with an account change or termination acknowledgement within 24 hours of a change or termination request.

When service is suspended, the line must not incur any charges, and the wireless number must not change before, during, or after suspension. The maximum period of suspension will be 6 months. There will be no change fees or any service plan contract term extension when a State subscriber changes service plans. In addition, there will be no limits placed on the number of changes that can be made. The effective date for a plan change will be at the start or end of a billing cycle, and have no effect on billing cycle dates, unless specified otherwise by the ATR.

**20. DEPARTMENT REPORTS:**

The contractor will provide all reports in an electronic format available by email, CD, ftp, etc., and compatible with Microsoft Excel '97 and Access '97. Hardcopies are available upon request at no extra charge. Listed below are the management reports available to ATR's:

**Individual Subscriber Usage Reports (monthly)**

**Wireless Services Optimization Reports (quarterly or upon request)**

**Data Service Usage Report (upon request)**

**Overall Equipment Sales Report (upon request)**

**Voice and Combined Voice/Walkie-Talkie Service Usage Report (upon request)**

**Environmentally Preferable Products (EPP) and Specifications Report (upon request)**

**Custom Reports (upon request)**

The Optimization Report will be reviewed by the contractor and the DGS Contract Manager to assure the appropriate rate plan has been selected for subscribers. In addition, all reports are available upon request to the Contract Manager.

**21. EQUIPMENT RECALL:**

State departments and local agencies will be notified if a purchase item is affected by a product recall. The contractor will provide instructions on how to return or replace the equipment.

**22. EQUIPMENT RESERVE STOCK:**

Departments may order reserve stock equipment. The reserve stock shall not be part of a service plan or charged for any monthly service fees prior to activation.

**23. ESCALATION PROCESS:**

ATR's will work directly with the contractor on all escalation issues as stated below. The Contract Manager must be informed of all escalation issues.

Verizon Wireless: ATR should contact the Wireless Account Liaison for resolving problems pertaining to billing/invoicing, technical support, and network issues.

Sprint Nextel Corporation: ATR should contact the Account Executive for resolving sales/ordering and operational issues. If the problem cannot be resolved at this point then the ATR shall contact the Sales Manager.

**24. FRAUD MONITORING & PREVENTION:**

The contractor will monitor and immediately report unusual call volumes and patterns to the ATR. The contractor will contact a department when there appears to be cost doubling from a previous month or if usage goes to zero without ATR notification to the contractor. The contractor will immediately deactivate the phone if fraud activity is observed.

**25. ADMINISTRATIVE FEE/BILLING:**

The Department of General Services will directly bill each State department and local agency an administrative fee for use of this contract. (You may click on "DGS Price Book" at [www.dgs.ca.gov/publications](http://www.dgs.ca.gov/publications) for current fees.) Additionally, State departments will be billed a 10.5% fee for the savings portion realized with this strategically sourced contract. The calculation for this fee will be 10.5% of the difference between the baseline and the purchase order total (less any fees, delivery charges and taxes). The Department of General Services will invoice separately for this fee. These fees are not included in the purchase order, are not invoiced by the contractor, and are not to be remitted by the department or local agency before invoices are received. A copy of all State and local agency purchase orders must be sent to:

DGS – Procurement Division  
Second Floor, Attention: Data Entry  
P.O. Box 989052  
West Sacramento, CA 95798-9052

It is very important for departments and local agencies to promptly forward copies of any purchase order amendments to the above address to allow for adjustments for the administrative and/or savings fees.

**26. SMALL BUSINESS/DISABLED VETERAN BUSINESS ENTERPRISE (SB/DVBE):**

At this time, Department of General Services is not aware of any SB/DVBE participation for this contract.

**27. PAYMENT:**

Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et seq. Unless expressly exempted by statute, the Act requires State departments to pay properly submitted, undisputed invoices not more than 45 days after the date of acceptance of goods or performance of services or receipt of an undisputed invoice, whichever is later.

**28. FUND APPROPRIATION:**

The State's obligation to pay is solely from funds appropriated for the acquisition of the products and services on this contract. If the term of this contract extends into fiscal years subsequent to that in which it is approved, such continuation of the contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds are not appropriated for future fiscal years, the contract dollar amount will be reduced accordingly. Receipt of a purchasing authority purchase order under the contract is proof of availability of funds for that order.

**29. INVOICING:**

Departments can work directly with the contractor to determine additional needs as required. Listed below are the invoicing options/formats available:

- Invoices are available in electronic format compatible with Excel 97 and hard copies, paper based.
- Master/Parent invoices must be received by the DGS Contract Administrator and ATR's monthly and must use the Contractor's letterhead.
- Individual invoicing must be received monthly and must use the Contractor's letterhead.
- CAL-Card invoices will be processed separately. The CAL-Card invoice must itemize charges, and show a balance of zero dollars (\$0.00), to reflect payment by credit card.

Invoicing disputes will be acknowledged by the contractor within four hours of notice, and a plan for resolution will be submitted to the ATR and/or DGS Contract Manager within 24 hours. Services will not be interrupted during the dispute process.

**30. REBATES/CREDIT:**

The Contractor will review the State's total wireless service spend by bill code for all State departments. Verizon Wireless will provide a three percent rebate and Sprint Nextel Corporation will provide up to a 2 percent rebate which will be distributed quarterly based on the overall spend of the state. Rebate checks will be made payable directly to State departments by bill code and mailed by the 15th day of the month following quarter-end or a credit will be issued to each department by bill code to the next invoice following quarter end. Contractor will provide a report indicating the amounts rebated to each State department by bill code to the DGS Contract Administrator by the 15th day of the month following quarter-end.

A \$50 service credit will be issued by the Contractor's customer service representative and will appear on the ATR's monthly invoice as a separate line item for all new subscribers.

**31. CELL PHONE RECYCLING:**

Prior to a department's disposal or recycling of state-owned property, the agency must obtain approval from the State and Federal Property Reuse Program Office, Procurement Division, Department of General Services. Refer to the State Administrative Manual Section 3520. When approved, cell phones will be processed through the contractors' cell phone reuse/recycling program as stated below:

Sprint Nextel Corporation offers a Buyback Service exclusively for customers of Sprint Nextel Corporation with a valid account number. Phones from ANY CARRIER are accepted, but not all receive financial credit. Refer to the following link for more information about this service: [www.sprintbuyback.com](http://www.sprintbuyback.com) Choose the option to receive credit on the account balance, rather than a donation certificate. Some returned equipment may not be eligible for a credit so the choice will be limited to a donation certificate.

Verizon Wireless offers a Wireless HopeLine program. Through this phone recycling program, donated phones from ANY CARRIER are recycled or refurbished and sold, and the proceeds are used to award cash grants, phone and airtime to non-profit organizations to aid survivors of domestic violence. The state does not receive financial credit through this program. Please refer to the following link for more information on this program.

[www.verizonwireless.com/b2/aboutUs/communityservice/hopeLine.jsp](http://www.verizonwireless.com/b2/aboutUs/communityservice/hopeLine.jsp)

**Agencies are responsible for removing data on cell phones and preparing them for reuse/recycling.**

# California Wireless Contract



Contract # 1S-05-58-02

DGS Web Site

[www.dgs.ca.gov](http://www.dgs.ca.gov)

Add an ATR

[www.ons.dts.ca.gov/#resources](http://www.ons.dts.ca.gov/#resources)

VZW Web Site

[www.verizonwireless.com/cwc](http://www.verizonwireless.com/cwc)

# California Wireless Contract

This presentation Overview is provided to **City of Long Beach** by Verizon Wireless for informational purposes only and does not constitute an offer. Other services may be available. For complete details of the services and price plans available under the State of California-Verizon Wireless Contract for Wireless Services ("Contract"), and the associated terms and conditions, please see the actual Contract. For your convenience, the price plans are also summarized at:

[www.verizonwireless.com/CWC](http://www.verizonwireless.com/CWC)

Additional information can be found at:

<http://www.documents.dgs.ca.gov/pd/strategic/wirelessuserinstructions.pdf>

Purchase and usage of service and equipment under the Contract is subject to the terms and conditions of the Contract. Customer must qualify for purchase under the Contract by following the requirements set forth by the State.

This document is not intended for distribution outside of **City of Long Beach**.

# California Wireless Contract

## Verizon Wireless – Government Markets

### ACCOUNT MANAGEMENT TEAM DEDICATED TO CITY OF LONG BEACH

• <b>Duff Owens Wilmoth</b>	Government Account Manager	310.339.0945
• <b>Christian Bbohrer</b>	Data Solutions Manager	760.419.2335
• <b>Michael O'Hara</b>	Government Employee Program Rep	310.339.8620
• <b>Andrea Baugh-Lindsey</b>	Associate Director – Government	949.286.5309
• <b>Glenn Eggert</b>	Associate Director – Data Solutions	949.285.1735
• <b>David Wigney</b>	Director of Business Sales – Southern California Region	949.286.8804



# California Wireless Contract

## CSSI Overview

Strategic Sourcing is a process designed to allow the State of California to purchase the best products and best services for the best value. Using this purchasing approach, the buyer (California) analyzes what it's buying, what the market conditions are and, who can supply those goods or services. The buyer then uses that information--plus innovative contracting techniques--to find the best values available in the marketplace.

Verizon Wireless was awarded the primary provider of Voice and Data service and secondary provider for PTT and Data under with the CA Wireless Contract (CWC) offer. *City of Long Beach* can take advantage of the Local and National rate plans which were created exclusively for the CWC.

# California Wireless Contract

## Account Support Structure

**All** Local Agency Accounts will be assigned a Government Account Manager, Data Solutions Manager and Government Employee Program Representative.

- Government Liable lines, Porting, data projects, overall owner of account
- Employee Discount Program (not associated with CWC negotiated contract)

**All** Local Agency (100+ lines) will be serviced by the Corporate Connections Team in Rancho Cordova.

- Billing, My Business Account, My Account, changes to account, daily ordering.

# California Wireless Contract

## Local State of CA Calling Plans

Monthly Access without Push to Talk	Monthly Access with Push to Talk*	Monthly Allowance Minutes	Local IN Calling	Nights & Weekends	Domestic Long Distance	Home Airtime Rate & Coverage Area	Domestic Roaming Rate	Per Minute Overage Rate	Share Option & Overage Rate
	<b>\$28.99</b>	100	<b>\$5.00/month for UNLIMITED (100, 200 &amp; 300 MOU plans without PTT)</b>	Unlimited	20¢/minute Outside State of California Home Airtime Rate and Coverage Area	BGSA 308 - STATE OF CALIFORNIA	69¢/minute Outside State of California Home Airtime Rate and Coverage Area	\$ .45	\$2.00 additional monthly access per line & 35¢/minute overage
	<b>\$32.99</b>	200						\$ .45	
	<b>\$36.99</b>	300						\$ .45	
	<b>\$38.99</b>	400						\$ .40	
	<b>\$43.99</b>	500						\$ .40	
	<b>\$47.99</b>	600						\$ .35	
	<b>\$51.99</b>	700						\$ .35	
	<b>\$55.99</b>	800						\$ .35	
	<b>\$66.99</b>	1200						\$ .35	
	<b>\$83.99</b>	1800						\$ .25	
	<b>\$219.99</b>	Unlimited	N/A	N/A				N/A	N/A

### Important Notes:

State of CA Local Calling Plans with Share Option will share anytime minutes with any other State of CA Local Plan with Share Option including PTT and non-PTT pricing plans. State of CA America's Choice Plans with Share Option will share anytime minutes with any other State of CA America's Choice Plan with Share Option plan including PTT and non-PTT pricing plans. Minutes will not share with any other type of standard plans that shares minutes i.e. America's Choice for Business with Share Option, Family SharePlans, etc. It is recommended that customers activating on plans with Share Option activate all plans on one account with the same footprint to ensure that customers can easily understand their bill.

State of CA Local Plans with Push to Talk require Push to Talk capable handsets. For Rate Plan Terms and Conditions see [www.verizonwireless.com/cwc](http://www.verizonwireless.com/cwc)

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# California Wireless Contract

Local ZERO Access Plan	
Monthly Access	\$0.00
Rate Per Minute	6.5¢
Local IN Calling	N/A
Nights & Weekends	N/A
Domestic Long Distance	20¢/minute (calls outside California)
Domestic Roaming Rate	69¢/per minute
Home Airtime Rate & Coverage Area	State of California

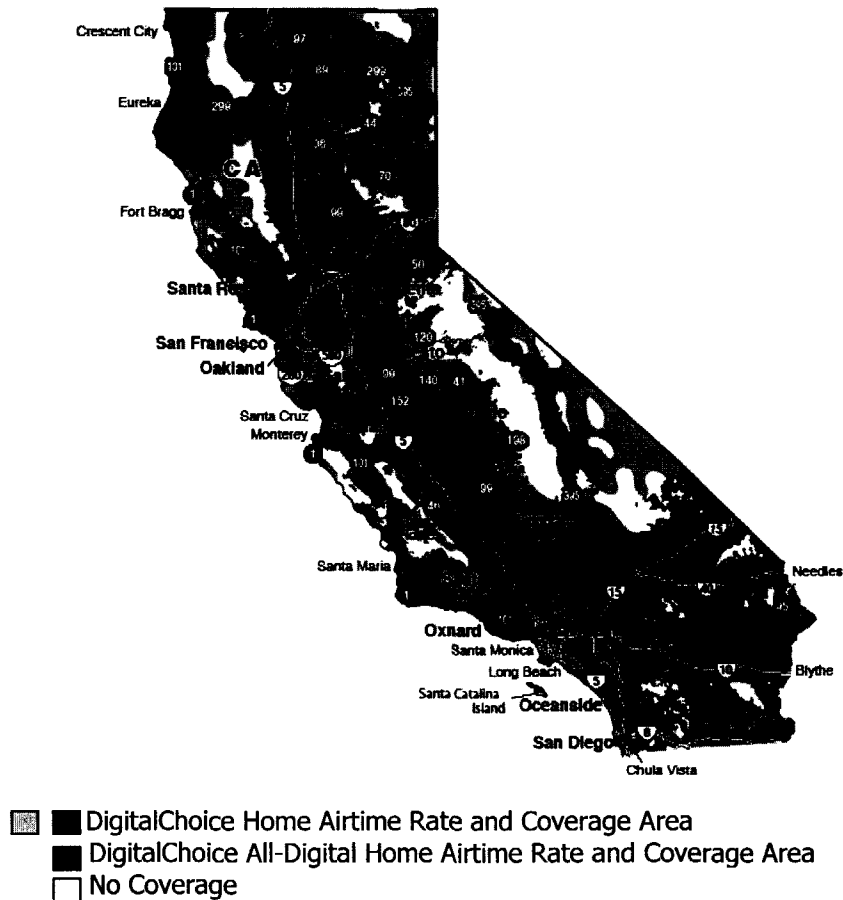
**Important Notes:**

- IN Calling and Nights & Weekend options are not available.
- For Rate Plan Terms and Conditions see [www.verizonwireless.com/cwc](http://www.verizonwireless.com/cwc)

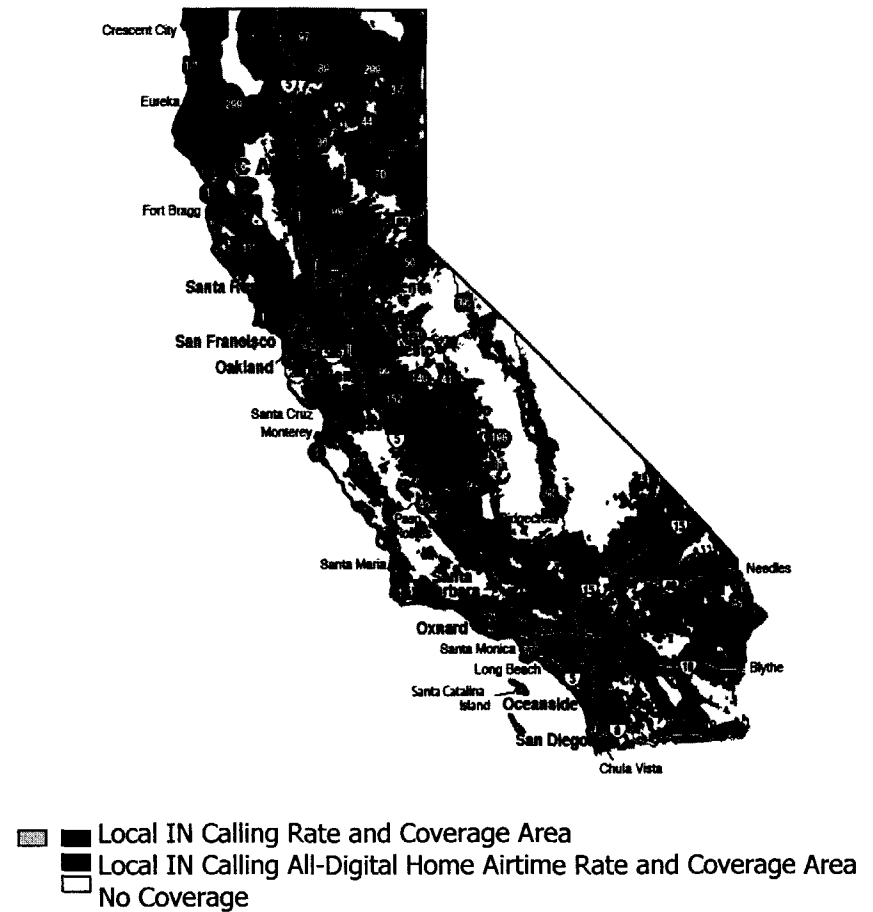
# California Wireless Contract

## Local Coverage

State of California Home Airtime Rate & Coverage Area



State of California IN Calling Rate & Coverage Area



# California Wireless Contract

## America's Choice Calling Plans

Monthly Access without Push to Talk	Monthly Access with Push to Talk*	Monthly Allowance Minutes	National IN Calling	Nights & Weekends	Domestic Long Distance	Domestic Roaming Rate	Per Minute Overage Rate	Share Option & Overage Rate
	<b>\$41.99</b>	400	<b>UNLIMITED</b>	<b>UNLIMITED</b>	<b>INCLUDED</b>	<b>NO ROAMING CHARGES</b>	40¢	\$2.00 additional monthly access per line & 35¢/minute overage
	<b>\$45.99</b>	500					40¢	
	<b>\$49.99</b>	600					35¢	
	<b>\$53.99</b>	700					35¢	
	<b>\$58.99</b>	800					35¢	
	<b>\$77.99</b>	1350					35¢	
	<b>\$94.99</b>	2000					25¢	
	<b>\$136.99</b>	4000					25¢	
	<b>\$175.99</b>	6000	N/A	N/A			20¢	N/A
	<b>\$847.99</b>	Unlimited					N/A	N/A

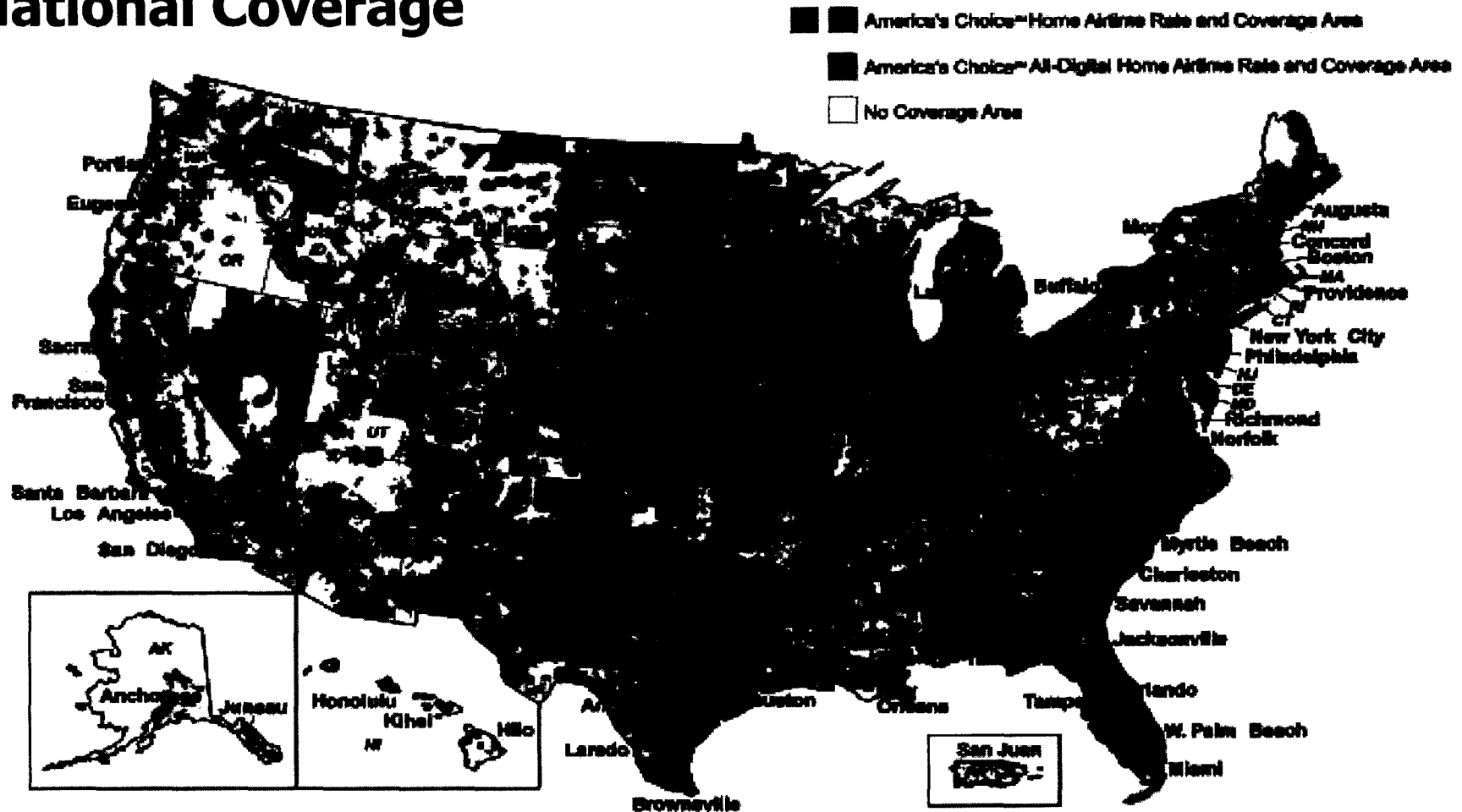
### Important Notes:

State of CA America's Choice Plans with Share Option will share anytime minutes with any other State of CA America's Choice Plan with Share Option plan including PTT and non-PTT pricing plans. Minutes will not share with any other type of standard plans that shares minutes i.e. America's Choice for Business with Share Option, Family SharePlans, etc. It is recommended that customers activating on plans with Share Option activate all plans on one account with the same footprint to ensure that customers can easily understand their bill.

State of CA America's Choice with Push to Talk Calling Plans require Push to Talk capable handsets. For Rate Plan Terms and Conditions see [www.verizonwireless.com/cwc](http://www.verizonwireless.com/cwc)

# California Wireless Contract

## National Coverage



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# California Wireless Contract

## TXT/PIX/FLIX Messaging

	TXT Messaging			PIX/FLIX Messaging			
	100	300	2,500	20	40	100	500
Monthly Access Fee (300 MOU or less plans)	\$1.99	\$3.99	\$19.99	\$2.99	\$4.99	\$9.99	\$49.99
Monthly Access Fee (PTT & 400+ MOU plans)	\$0.99	\$1.99	\$16.99	\$1.59	\$2.59	\$5.00	\$25.00
Overage Rate	10¢/message			25¢/message			

For Rate Plan Terms and Conditions see [www.verizonwireless.com/cwc](http://www.verizonwireless.com/cwc)



# California Wireless Contract

## National Access Plans\*

Data Allowance (1xRTT)	10MB	20MB	50MB	Unlimited
Monthly Access	\$24.99	\$29.99	\$43.99	\$49.99
Rate After Allowance	\$0.005/KB	\$0.005/KB	\$0.005/KB	N/A
Voice & Other Data Services	6¢/minute home airtime			
Domestic Long Distance	20¢/minute (calls outside California)			
Domestic Roaming Rate	69¢/minute			
Home Airtime Rate & Coverage Area (for Voice Services)	State of California			
Data Usage Coverage Area	National Enhanced Services Rate & Coverage Area Only			

\* For Rate Plan Terms and Conditions see [www.verizonwireless.com/cwc](http://www.verizonwireless.com/cwc)

## BlackBerry & PDA/Smartphone Plans\*

Data Allowance (1xRTT/EDVO)	5MB	10MB	20MB	Unlimited
Monthly Access	\$19.99	\$24.99	\$29.99	\$34.99
Rate After Allowance	\$0.005/KB	\$0.005/KB	\$0.005/KB	N/A
Voice & Other Data Services	6¢/minute home airtime			
Domestic Long Distance	20¢/minute (calls outside California)			
Domestic Roaming Rate	69¢/minute			
Home Airtime Rate & Coverage Area (for Voice Services)	State of California			
Data Usage Coverage Area	National Enhanced Services Rate & Coverage Area Only			

\* For Rate Plan Terms and Conditions see [www.verizonwireless.com/cwc](http://www.verizonwireless.com/cwc)

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# California Wireless Contract

## BlackBerry & PDA/Smartphone Feature Add-Ons

Data Allowance (1xRTT/EDVO)	5MB	10MB	Unlimited
Access	\$14.99	\$19.99	\$24.99
Rate After Allowance	\$0.005/KB	\$0.005/KB	\$0.005/KB
Voice & Other Data Services	Per your voice calling plan		
Data Usage Coverage Area	National Enhanced Services Rate & Coverage Area		

**Important Note:**

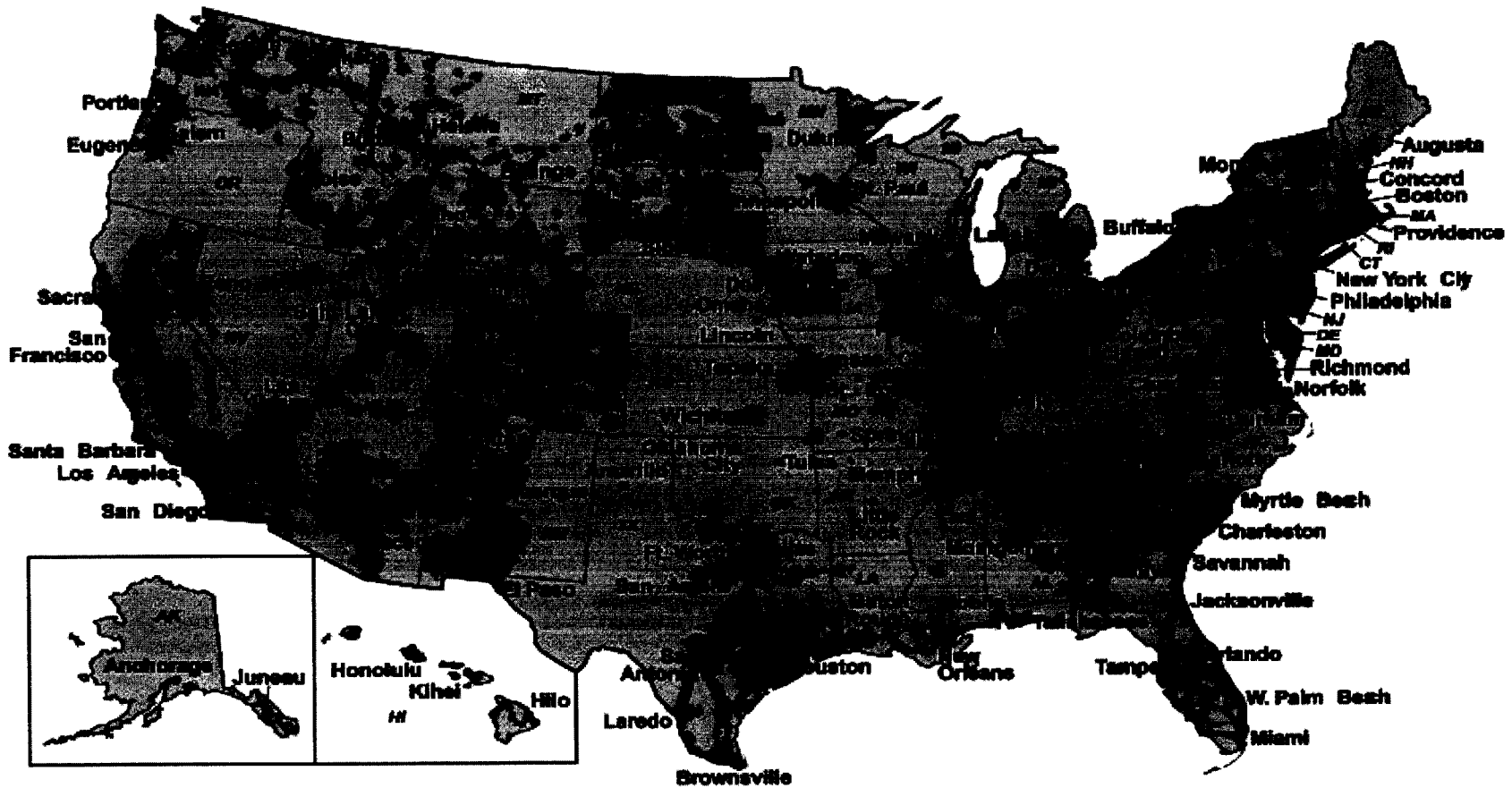
- Data Feature pricing available on all California Wireless Contract pricing.
- For Rate Plan Terms and Conditions see [www.verizonwireless.com/cwc](http://www.verizonwireless.com/cwc)

# California Wireless Contract

## National Data Coverage

■ NationalAccess, Push to Talk, Picture Messaging, Get It Now,  
Mobile Web, TXT Messaging Rate and Coverage Area

■ Enhanced Services Not Available

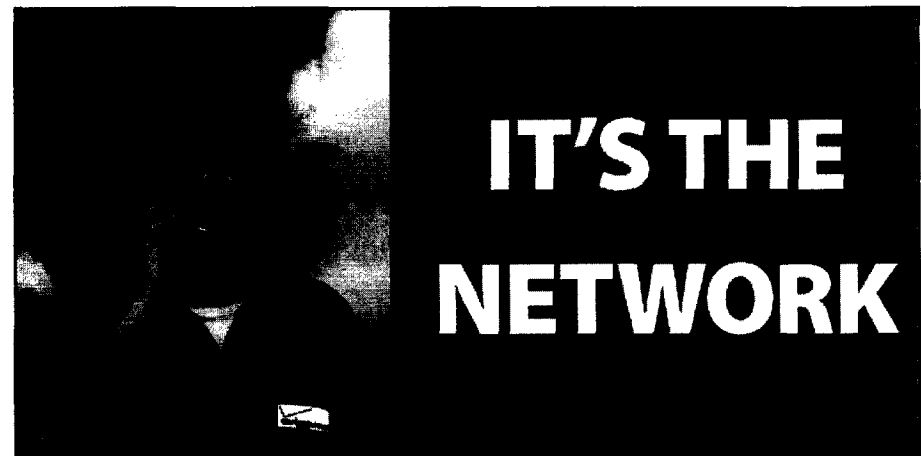


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# California Wireless Contract

## Enrollment Conference Call Overview

- **Introductions**
  - Business Service Center Team
  - Sales Team
  - CA Wireless Contract Team
- **BSC Overview**
- **Order Processing Overview**
  - Equipment Billing
  - Back Ordered Equipment
  - Review Order Form
- **Billing Hierarchy Review**
  - Billing Structure/Payment/IBAS
  - Billing Address
  - My Business
  - <https://www.ibas.verizonwireless.com>
  - Long on is IBASUNI. The Password is ibasuni
- **Timeline**
  - Embedded Base Move
  - Business Service Center Processing
- **Wrap up**
  - Contacts
  - List of Existing Users
  - Order Form Update
  - Billing Information (Structure/Attributes)
  - Other



# California Wireless Contract

## Physical Implementation Options

**Physical Implementation:** A successful port combined with a successful phone book transfer equates to a happy end user. As part of your initial implementation, Verizon Wireless will send a team to your location to facilitate port in and phone book transfers. You will need to book a room large enough for Verizon Wireless personnel and end users from your agency (20 line transfer minimum requested).

**Equipment Shipments:** For customers with at least 20 lines of service, unless otherwise requested by the customer, the Agency's devices will be shipped to the local Verizon Wireless office prior to delivery to the local ATR. Verizon Wireless will unpack all the devices and perform up to 3 test ports. Phone box and Accessories will be bundled together and a 'Getting Started Check List' attached. Each Phone box will be labeled with the User's Name and Mobile Number for easy identification. For customers with less than 20 lines, equipment will be shipped directly to customer.

**Deployment of Equipment:** A Verizon Wireless team will do the actual implementation on site at your agency. Your old phone will work until your Verizon Wireless phone is activated on site.

**Phonebook Transfers:** A Verizon Wireless team will be present at the deployment to transfer phonebooks for end users after the phone has been ported and programmed.

# California Wireless Contract

## Verizon Wireless HopeLine® Phone Program

Verizon Wireless® HopeLine Program puts used wireless phones and accessories to work to curb domestic violence. Through this exclusive national phone recycling program, donated phones from any carrier are recycled or refurbished and sold, and the proceeds are used to award cash grants, phones and airtime to non-profit organizations in aid survivors of domestic violence.



### Customer Benefits

- Provides an environmentally friendly way of disposing of old, used wireless phones and accessories
- Offers convenience: free collection boxes and prepaid shipping labels
- Creates an opportunity to educate survivors and increase community awareness about the impact of domestic violence, which is estimated to affect nearly 30 percent of women during their lifetimes

### Supplies & Process

Your company can request the following supplies (see contact information below):

- HopeLine collection boxes
- FedEx prepaid shipping labels
- Domestic violence awareness posters
- HopeLine information sheets

After accumulating at least 25 phones, ship as stated below:

- Use the HopeLine collection box, or a box of your choice for shipment
- Attach a FedEx prepaid shipping label™ to each box
- If FedEx does not make regular stops at your business, please contact FedEx at 800-777-4646 to arrange for a pick-up

**IMPORTANT:** The FedEx prepaid labels provided for HopeLine are ship phones. Failure to do so will result in shipping charges to your company.

### Contact Information

To order supplies and obtain more information on the HopeLine Program, please contact:

Natasha Williams, Public Relations Specialist  
Verizon Wireless  
Phone: 949-204-8285  
E-mail: [Natasha.Williams@VerizonWireless.com](mailto:Natasha.Williams@VerizonWireless.com)



## HopeLine

Arrange to collect all of the Agency's no longer needed equipment so you can donate and recycle it through our HopeLine Phone Program.

# California Wireless Contract

## Summary

- Contract # 1S-05-58-02
- Verizon Wireless was named the State's Primary Contractor for Wireless Voice and Data Services, secondary on Walkie Talkie
- Aggressive custom rate plans & features, exclusively for State of California Accounts.
- 100% Early Termination Fee waiver.
- One time \$50 service credit for new Voice activations. (Subject to Restrictions)
- Free earbud with every voice device. (Subject to Restrictions)
- Specialized State of California Support team
- Professional Implementation of your account

**STANDARD AGREEMENT AMENDMENT**

STD. 213 A (Rev 6/03)

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED \_\_\_\_\_ Pages

AGREEMENT NUMBER

1S-05-58-02

REGISTRATION NUMBER

AMENDMENT NUMBER

2

1. This Agreement is entered into between the State Agency and Contractor named below:

STATE AGENCY'S NAME

Department of General Services

CONTRACTOR'S NAME

Cellco Partnership d/b/a Verizon Wireless

2. The term of this

Agreement is 10/03/2005 through 10/02/2008

3. The maximum amount of this \$0.00

Agreement after this amendment is:

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

This contract amendment is for a one-year term extension only per RFP #DGS 5014, Section 1.1.

The entire eRFP 5014, Wireless Equipment and Services. Contractor's entire Final Proposal in response to eRFP 5014, and the associated Evaluation and Selection Report are hereby incorporated as part of this contract.

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

**CONTRACTOR**

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

Cellco Partnership d/b/a Verizon Wireless, a Delaware general partnership

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Roger Gurnani, West Area President

ADDRESS

15505 Sand Canyon Ave.  
Irvine, CA 92618**STATE OF CALIFORNIA**

AGENCY NAME

Department of General Services

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Rita Hamilton, Deputy Director

ADDRESS

707 Third St., 2<sup>nd</sup> Floor North, West Sacramento, CA 95605

CALIFORNIA  
Department of General Services  
Use Only  
**GENERAL SERVICES  
LEGAL SERVICES**

☐ Exempt per:

By: Tara L. Troge  
Staff Attorney  
Verizon Wireless



# STANDARD AGREEMENT

OR IT. GOODS/SERVICES ONLY

	REGISTRATION NUMBER
PURCHASING AUTHORITY NUMBER	AGREEMENT NUMBER
	IS-05-58-02 Amend #1

1. This Agreement for wireless services ("State of California Wireless Contract," hereinafter referred to as "Agreement") is entered into between the State Agency and the Contractor named below

STATE AGENCY'S NAME

Department of General Services

(hereafter called State)

CONTRACTOR'S NAME

Cellco Partnership d/b/a Verizon Wireless

(hereafter called Contractor)

2. The term of this Agreement is: 10/03/2005 through 10/02/2007

3. The maximum amount of this Agreement is: \$ 0.00 (No guarantee of contract expenditure, no maximum expenditure)

4. The parties agree to comply with the terms and conditions of the following attachments which are by this reference made a part of the Agreement:

Attachment 1 - General Provisions GSPD-401IT, 10/03/2005, ten (10) pages, can be downloaded from the following website link: [http://www.documents.dgs.ca.gov/pd/modellang/ITGP%2010-03-05%20\(Final\).pdf](http://www.documents.dgs.ca.gov/pd/modellang/ITGP%2010-03-05%20(Final).pdf)

Attachment 2a Voice Only (1) Pricing Sheet 03202006.xls (17 pages)

Attachment 2b Clarifications Voice only (1) Pricing Sheet.doc (3 pages)

Attachment 3a VoiceWT (2) Pricing Sheet 03202006.xls (17 pages)

Attachment 3b Clarifications WT (2) Pricing Sheet 8-31-05 Final.doc (3 pages)

Attachment 4a Data Only (3) Pricing Sheet 03202006.xls (10 pages)

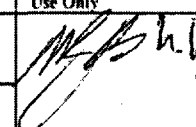
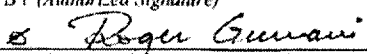
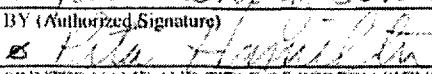

Attachment 4b Clarifications Data Only (3) Pricing Sheet 03152006.doc (2 pages)

Attachment 5 DGS Price Book Administrative Fee 03152006

Attachment 6 Equipment and Plan Changes 03152006

The entire eRFP 5014, Wireless Equipment and Services, Contractor's entire Final Proposal in response to eRFP 5014, and the associated Evaluation and Selection Report are hereby incorporated as part of this contract.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		CALIFORNIA Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) Cellco Partnership d/b/a Verizon Wireless, a Delaware general partnership		 GENERAL SERVICES LEGAL SERVICES
BY (Authorized Signature) 	DATE SIGNED 4-4-06	
PRINTED NAME AND TITLE OF PERSON SIGNING Roger Gurnani, West Area President		
ADDRESS 15505 Sand Canyon Ave. Irvine, CA 92618		
STATE OF CALIFORNIA		
AGENCY NAME Department of General Services		
BY (Authorized Signature) 	DATE SIGNED 4/8/06	
PRINTED NAME AND TITLE OF PERSON SIGNING Rita Hamilton, Deputy Director		
ADDRESS 707 Third St, 2nd Floor North, West Sacramento CA 95605		
Approved As To Form 		<input type="checkbox"/> Exempt
By: Edward R. McGah Jr. Sr. Counsel Verizon Wireless		

## GENERAL PROVISIONS – INFORMATION TECHNOLOGY

1. **DEFINITIONS:** The following terms shall be given the meaning shown, unless context requires otherwise or a unique meaning is otherwise specified.
  - a) **"Acceptance Tests"** means those tests performed during the Performance Period which are intended to determine compliance of Equipment and Software with the specifications and all other Attachments incorporated herein by reference and to determine the reliability of the Equipment.
  - b) **"Application Program"** means a computer program which is intended to be executed for the purpose of performing useful work for the user of the information being processed. Application programs are developed or otherwise acquired by the user of the Hardware/Software system, but they may be supplied by the Contractor.
  - c) **"Attachment"** means a mechanical, electrical, or electronic interconnection to the Contractor-supplied Machine or System of Equipment, manufactured by other than the original Equipment manufacturer, that is not connected by the Contractor.
  - d) **"Business entity"** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
  - e) **"Buyer"** means the State's authorized contracting official.
  - f) **"Commercial Software"** means Software developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
  - g) **"Contract"** means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.
  - h) **"Custom Software"** means Software that does not meet the definition of Commercial Software.
  - i) **"Contractor"** means the Business Entity with whom the State enters into this Contract. Contractor shall be synonymous with "supplier", "vendor" or other similar term.
  - j) **"Data Processing Subsystem"** means a complement of Contractor-furnished individual Machines, including the necessary controlling elements (or the functional equivalent) and Operating Software, if any, which are acquired to operate as an integrated group, and which are interconnected entirely by Contractor-supplied power and/or signal cables; e.g., direct access controller and drives, a cluster of terminals with their controller, etc.
  - k) **"Data Processing System (System)"** means the total complement of Contractor-furnished Machines, including one or more central processors (or instruction processors) and Operating Software, which are acquired to operate as an integrated group.
  - l) **"Deliverables"** means Goods, Software, Information Technology, telecommunications technology, and other items (e.g. reports) to be delivered pursuant to this Contract, including any such items furnished incident to the provision of services.
  - m) **"Designated CPU(s)"** means for each product, if applicable, the central processing unit of the computers or the server unit, including any associated peripheral units. If no specific "Designated CPU(s)" are specified on the Contract, the term shall mean any and all CPUs located at the site specified therein.
  - n) **"Documentation"** means nonproprietary manuals and other printed materials necessary or useful to the State in its use or maintenance of the Equipment or Software provided hereunder. Manuals and other printed materials customized for the State hereunder constitute Documentation only to the extent that such materials are described in or required by the Statement of Work.
  - o) **"Equipment"** is an all-inclusive term which refers either to individual Machines or to a complete Data Processing System or subsystem, including its Hardware and Operating Software (if any).
  - p) **"Equipment Failure"** is a malfunction in the Equipment, excluding all external factors, which prevents the accomplishment of the Equipment's intended function(s). If microcode or Operating Software residing in the Equipment is necessary for the proper operation of the Equipment, a failure of such microcode or Operating Software which prevents the accomplishment of the Equipment's intended functions shall be deemed to be an Equipment Failure.
  - q) **"Facility Readiness Date"** means the date specified in the Statement of Work by which the State must have the site prepared and available for Equipment delivery and installation.
  - r) **"Goods"** means all types of tangible personal property, including but not limited to materials, supplies, and Equipment (including computer and telecommunications Equipment).
  - s) **"Hardware"** usually refers to computer Equipment and is contrasted with Software. See also Equipment.
  - t) **"Installation Date"** means the date specified in the Statement of Work by which the Contractor must have the ordered Equipment ready (certified) for use by the State.
  - u) **"Information Technology"** includes, but is not limited to, all electronic technology systems and services, automated information handling, System design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite System controls, simulation, electronic commerce, and all related interactions between people and Machines.
  - v) **"Machine"** means an individual unit of a Data Processing System or subsystem, separately identified by a type and/or model number, comprised of but not limited to mechanical, electro-mechanical, and electronic parts, microcode, and special features installed thereon and including any necessary Software, e.g., central processing unit, memory module, tape unit, card reader, etc.
  - w) **"Machine Alteration"** means any change to a Contractor-supplied Machine which is not made by the Contractor, and which results in the Machine deviating from its physical, mechanical, electrical, or electronic (including microcode) design, whether or not additional devices or parts are employed in making such change.
  - x) **"Maintenance Diagnostic Routines"** means the diagnostic programs customarily used by the Contractor to test Equipment for proper functioning and reliability.
  - y) **"Manufacturing Materials"** means parts, tools, dies, jigs, fixtures, plans, drawings, and information produced or acquired, or rights acquired, specifically to fulfill obligations set forth herein.
  - z) **"Mean Time Between Failure (MTBF)"** means the average expected or observed time between consecutive failures in a System or component.
  - aa) **"Mean Time to Repair (MTTR)"** means the average expected or observed time required to repair a System or component and return it to normal operation.
  - bb) **"Operating Software"** means those routines, whether or not identified as Program Products, that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.
  - cc) **"Operational Use Time"** means for performance measurement purposes, that time during which Equipment is in actual operation by the State. For maintenance Operational Use Time purposes, that time during which Equipment is in actual operation and is not synonymous with power on time.

## GENERAL PROVISIONS – INFORMATION TECHNOLOGY

- dd) **"Performance Testing Period"** means a period of time during which the State, by appropriate tests and production runs, evaluates the performance of newly installed Equipment and Software prior to its acceptance by the State.
  - ee) **"Period of Maintenance Coverage"** means the period of time, as selected by the State, during which maintenance services are provided by the Contractor for a fixed monthly charge, as opposed to an hourly charge for services rendered. The Period of Maintenance Coverage consists of the Principal Period of Maintenance and any additional hours of coverage per day, and/or increased coverage for weekends and holidays.
  - ff) **"Preventive Maintenance"** means that maintenance, performed on a scheduled basis by the Contractor, which is designed to keep the Equipment in proper operating condition.
  - gg) **"Principal Period of Maintenance"** means any nine consecutive hours per day (usually between the hours of 7:00 a.m. and 6:00 p.m.) as selected by the State, including an official meal period not to exceed one hour, Monday through Friday, excluding holidays observed at the installation.
  - hh) **"Programming Aids"** means Contractor-supplied programs and routines executable on the Contractor's Equipment which assists a programmer in the development of applications including language processors, sorts, communications modules, data base management systems, and utility routines, (tape-to-disk routines, disk-to-print routines, etc.).
  - ii) **"Program Product"** means programs, routines, subroutines, and related items which are proprietary to the Contractor and which are licensed to the State for its use, usually on the basis of separately stated charges and appropriate contractual provisions.
  - jj) **"Remedial Maintenance"** means that maintenance performed by the Contractor which results from Equipment (including Operating Software) failure, and which is performed as required, i.e., on an unscheduled basis.
  - kk) **"Site License"** means for each product, the term "Site License" shall mean the license established upon acquisition of the applicable number of copies of such product and payment of the applicable license fees as set forth in the Statement of Work.
  - ll) **"Software"** means an all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Application Programs, and Program Products.
  - mm) **"Software Failure"** means a malfunction in the Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment (including its Operating Software) may still be capable of operating properly. For Operating Software failure, see definition of Equipment Failure.
  - nn) **"State"** means the government of the State of California, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of California.
  - oo) **"System"** means the complete collection of Hardware, Software and services as described in this Contract, integrated and functioning together, and performing in accordance with this Contract.
  - pp) **"U.S. Intellectual Property Rights"** means intellectual property rights enforceable in the United States of America, including without limitation rights in trade secrets, copyrights, and U.S. patents.
2. **CONTRACT FORMATION:**
- a) If this Contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2 (commencing with Section 10290), 3 (commencing with Section 12100), and 3.6 (commencing with Section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then Contractor's bid is a firm offer to the State which is accepted by the issuance of this Contract and no further action is required by either party.
  - b) If this Contract results from a solicitation other than described in paragraph a), above, Contractor's quotation or proposal is deemed a firm offer and this Contract document is the State's acceptance of that offer.
  - c) If this Contract resulted from a joint bid, it shall be deemed one indivisible Contract. Each such joint Contractor will be jointly and severally liable for the performance of the entire Contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint Contractors.
3. **COMPLETE INTEGRATION:** This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Contract.
4. **SEVERABILITY:** The Contractor and the State agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.
5. **INDEPENDENT CONTRACTOR:** Contractor and the agents and employees of Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State.
6. **APPLICABLE LAW:** This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this Contract shall be in Sacramento County, Sacramento, California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.
7. **COMPLIANCE WITH STATUTES AND REGULATIONS:**
- a) Contractor warrants and certifies that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California and agrees to indemnify the State against any loss, cost, damage or liability by reason of the Contractor's violation of this provision.
  - b) If this Contract is in excess of \$500,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).
  - c) To the extent that this contract falls within the scope of Government Code Section 11135, Contractor hereby agrees to respond to and resolve any complaint brought to its attention, regarding accessibility of its products or services.
8. **CONTRACTOR'S POWER AND AUTHORITY:** The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the State under this Contract.
9. **ASSIGNMENT:** This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the State. For the purpose of this paragraph, State will not unreasonably prohibit Contractor from freely assigning its right to payment, provided that Contractor remains responsible for its obligations hereunder.
10. **WAIVER OF RIGHTS:** Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State

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from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.

11. **ORDER OF PRECEDENCE:** In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply:
  - a) these General Provisions – Information Technology;
  - b) contract form, i.e., Purchase Order STD 65, Standard Agreement STD 213, etc., and any amendments thereto;
  - c) information technology special provisions;
  - d) statement of work, including any specifications incorporated by reference herein; and
  - e) all other attachments incorporated in the contract by reference.
12. **PACKING AND SHIPMENT:**
  - a) All Goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:
    - i) show the number of the container and the total number of containers in the shipment; and
    - ii) the number of the container in which the packing sheet has been enclosed.
  - b) All shipments by Contractor or its subcontractors must include packing sheets identifying: the State's Contract number; item number; quantity and unit of measure; part number and description of the Goods shipped; and appropriate evidence of inspection, if required. Goods for different Contracts shall be listed on separate packing sheets.
  - c) Shipments must be made as specified in this Contract, as it may be amended, or otherwise directed in writing by the State's Transportation Management Unit within the Department of General Services, Procurement Division.
13. **TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:** No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the Contract.
  - a) Contractor must strictly follow Contract requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the Buyer.
  - b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of General Services Procurement Division and a waiver is granted.
  - c) On "F.O.B. Shipping Point" transactions, should any shipments under the Contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the Equipment and/or material, Contractor, on request of the State, shall at Contractor's own expense assist the State in establishing carrier liability by supplying evidence that the Equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.
14. **DELIVERY:** Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities specified herein, the State shall not be required to make any

payment for the excess Deliverables, and may return them to Contractor at Contractor's expense or utilize any other rights available to the State at law or in equity.

15. **SUBSTITUTIONS:** Substitution of Deliverables may not be tendered without advance written consent of the Buyer. Contractor shall not use any specification in lieu of those contained in the Contract without written consent of the Buyer.
16. **INSPECTION, ACCEPTANCE AND REJECTION:** Unless otherwise specified in the Statement of Work:
  - a) Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering Deliverables and services under this Contract and will tender to the State only those Deliverables that have been inspected and found to conform to this Contract's requirements. Contractor will keep records evidencing inspections and their result, and will make these records available to the State during Contract performance and for three years after final payment. Contractor shall permit the State to review procedures, practices, processes, and related documents to determine the acceptability of Contractor's quality assurance System or other similar business practices related to performance of the Contract.
  - b) All Deliverables may be subject to inspection and test by the State or its authorized representatives.
  - c) Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
  - d) All Deliverables may be subject to final inspection, test and acceptance by the State at destination, notwithstanding any payment or inspection at source.
  - e) The State shall give written notice of rejection of Deliverables delivered or services performed hereunder within a reasonable time after receipt of such Deliverables or performance of such services. Such notice of rejection will state the respects in which the Deliverables do not substantially conform to their specifications. If the State does not provide such notice of rejection within sixty (60) days of delivery, such Deliverables and services will be deemed to have been accepted. Acceptance by the State will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the State might have at law or by express reservation in this Contract with respect to any nonconformity.
17. **SAMPLES:**
  - a) Samples of items may be required by the State for inspection and specification testing and must be furnished free of expense to the State. The samples furnished must be identical in all respects to the products bid and/or specified in the Contract.
  - b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.
18. **WARRANTY:**
  - a) Unless otherwise specified in the Statement of Work, the warranties in this subsection a) begin upon acceptance of the Deliverable or service in question and end one (1) year thereafter. Contractor warrants that (i) Deliverables and services furnished hereunder will substantially conform to the requirements of this Contract (including without limitation all descriptions, specifications, and drawings identified in the Statement of Work), and (ii) the Deliverables will be free from material defects in materials and workmanship. Where the parties have agreed to design specifications (such as a Detailed Design Document) and incorporated the same or equivalent in the Statement of Work directly or by reference, Contractor will warrant that its Deliverables provide all

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material functionality required thereby. In addition to the other warranties set forth herein, where the Contract calls for delivery of Commercial Software, Contractor warrants that such Software will perform in accordance with its license and accompanying Documentation. The State's approval of designs or specifications furnished by Contractor shall not relieve the Contractor of its obligations under this warranty.

- b) Contractor warrants that Deliverables furnished hereunder (i) will be free, at the time of delivery, of harmful code (i.e. computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software); and (ii) will not infringe or violate any U.S. Intellectual Property Right. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any Commercial Software delivered hereunder, Contractor will, upon the State's request, provide a master copy of the Software for comparison and correction.
- c) Unless otherwise specified in the Statement of Work:
  - (i) Contractor does not warrant that any Software provided hereunder is error-free or that it will run without immaterial interruption.
  - (ii) Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from (A) a modification made by the State, unless such modification is approved or directed by Contractor, (B) use of Software in combination with or on products other than as specified by Contractor, or (C) misuse by the State.
  - (iii) Where Contractor resells Hardware or Software it purchased from a third party, and such third party offers additional or more advantageous warranties than those set forth herein, Contractor will pass through any such warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will be supplemental to, and not relieve Contractor from, Contractor's warranty obligations set forth above.
- d) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and governmental users of the Deliverables or services.
- e) Except as may be specifically provided in the Statement of Work or elsewhere in this Contract, for any breach of the warranties provided in this Section, the State's exclusive remedy and Contractor's sole obligation will be limited to:
  - (i) re-performance, repair, or replacement of the nonconforming Deliverable (including without limitation an infringing Deliverable) or service; or
  - (ii) should the State in its sole discretion consent, refund of all amounts paid by the State for the nonconforming Deliverable or service and payment to the State of any additional amounts necessary to equal the State's Cost to Cover. "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or services of equivalent capability, function, and performance. The payment obligation in subsection (e)(ii) above will not exceed the limits on Contractor's liability set forth in the Section entitled "Limitation of Liability."
- f) EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION, CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

19. **SAFETY AND ACCIDENT PREVENTION:** In performing work under this Contract on State premises, Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and

requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

20. **INSURANCE:** When performing work on property in the care, custody or control of the State, Contractor shall maintain all commercial general liability insurance, workers' compensation insurance and any other insurance the State deems appropriate under the Contract. Contractor shall furnish an insurance certificate evidencing required insurance coverage acceptable to the State. Upon request by the Buyer, the Contractor may be required to have the State shown as an "additional insured" on selected policies.

### 21. TERMINATION FOR NON-APPROPRIATION OF FUNDS:

- a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, Contractor agrees to take back any affected Deliverables furnished under this Contract, terminate any services supplied to the State under this Contract, and relieve the State of any further obligation therefor.
- b) STATE AGREES THAT IF PARAGRAPH a) ABOVE IS INVOKED, DELIVERABLES SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

### 22. TERMINATION FOR THE CONVENIENCE OF THE STATE:

- a) The State may terminate performance of work under this Contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee, shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date thereof.
- b) After receipt of a Notice of Termination, and except as directed by the State, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
  - (i) Stop work as specified in the Notice of Termination.
  - (ii) Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continuing portion of the Contract.
  - (iii) Terminate all subContracts to the extent they relate to the work terminated.
  - (iv) Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts;
- c) Unless otherwise set forth in the Statement of Work, if the Contractor and the State fail to agree on the amount to be paid because of the termination for convenience, the State will pay the Contractor the following amounts; provided that in no event will total payments exceed the amount payable to the Contractor if the Contract had been fully performed:
  - (i) The Contract price for Deliverables or services accepted by the State and not previously paid for, adjusted for any savings on freight and other charges; and
  - (ii) The total of:
    - A) The reasonable costs incurred in the performance of the work terminated, including initial costs and preparatory expenses allocable thereto, but

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- excluding any cost attributable to Deliverables or services paid or to be paid;
- B) The reasonable cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract; and
- C) Reasonable storage, transportation, demobilization, unamortized overhead and capital costs, and other costs reasonably incurred by the Contractor in winding down and terminating its work.
- d) The Contractor will use generally accepted accounting principles, or accounting principles otherwise agreed to in writing by the parties, and sound business practices in determining all costs claimed, agreed to, or determined under this clause.

### 23. TERMINATION FOR DEFAULT:

- a) The State may, subject to the clause titled "Force Majeure" and to sub-section d) below, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to:
  - i) Deliver the Deliverables or perform the services within the time specified in the Contract or any amendment thereto;
  - ii) Make progress, so that the lack of progress endangers performance of this Contract; or
  - iii) Perform any of the other provisions of this Contract.
- b) The State's right to terminate this Contract under sub-section a) above, may be exercised if the failure constitutes a material breach of this Contract and if the Contractor does not cure such failure within the time frame stated in the State's cure notice, which in no event will be less than fifteen (15) days, unless the Statement of Work calls for a shorter period.
- c) If the State terminates this Contract in whole or in part pursuant to this Section, it may acquire, under terms and in the manner the Buyer considers appropriate, Deliverables or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those Deliverables and services, including without limitation costs third party vendors charge for Manufacturing Materials (but subject to the clause entitled "Limitation of Liability"). However, the Contractor shall continue the work not terminated.
- d) If the Contract is terminated for default, the State may require the Contractor to transfer title, or in the case of licensed Software, license, and deliver to the State, as directed by the Buyer, any:
  - (i) completed Deliverables,
  - (ii) partially completed Deliverables, and,
  - (iii) subject to—provisions of sub-section e) below, Manufacturing Materials related to the terminated portion of this Contract. Nothing in this sub-section d) will be construed to grant the State rights to Deliverables that it would not have received had this Contract been fully performed. Upon direction of the Buyer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.
- e) The State shall pay Contract price for completed Deliverables delivered and accepted. Unless the Statement of Work calls for different procedures or requires no-charge delivery of materials, the Contractor and Buyer shall attempt to agree on the amount of payment for Manufacturing Materials and other materials delivered and accepted by the State for the protection and preservation of the property; provided that where the Contractor has billed the State for any such materials, no additional charge will apply. Failure to agree will constitute a dispute under the Disputes clause. The State may withhold from these amounts any sum it determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

- f) If, after termination, it is determined by a final ruling in accordance with the Disputes Clause that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.
- g) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this Contract, and are subject to the clause titled "Limitation of Liability."

### 24. FORCE MAJEURE

Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and
- b) Acts of the federal or State government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted Deliverables or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

### 25. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:

- a) In the event any Deliverables furnished or services provided by the Contractor in the performance of the Contract should fail to conform to the requirements herein, or to the sample submitted by the Contractor, the State may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the State, and immediately replace all such rejected items with others conforming to the Contract.
- b) In addition to any other rights and remedies the State may have, the State may require Contractor, at Contractor's expense, to ship Deliverables via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the Contractor.
- c) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by the Contractor, any loss or damage sustained by the State in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor.
- d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to Contractor or to make a claim against the Contractor therefore.

### 26. LIMITATION OF LIABILITY:

- a) Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to two times the Purchase Price. For purposes of this sub-section a), "Purchase Price" will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule contract), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or service(s) that gave rise to the loss, such that Contractor will have a separate limitation of liability for each purchase order.
- b) The foregoing limitation of liability shall not apply (i) to liability under the General Provisions, entitled "Patent, Copyright, and Trade Secret Protection" or to any other liability (including without limitation indemnification obligations) for infringement of third party intellectual property rights; (ii) to claims covered by any specific provision herein calling for liquidated damages; (iii) to claims arising under provisions herein calling for indemnification for third party claims against the State for bodily injury to persons or damage to

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real or tangible personal property caused by Contractor's negligence or willful misconduct; or (iv) to-costs or attorney's fees that the State becomes entitled to recover as a prevailing party in any action.

- c) The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price, as that term is defined in subsection a) above. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.
- d) In no event will either the Contractor or the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages, except (i) to the extent that Contractor's liability for such damages is specifically set forth in the Statement of Work or (ii) to the extent that Contractor's liability for such damages arises out of sub-section b)(i), b)(ii), or b)(iv) above.

### 27. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:

- a) The Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the Contractor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Contractor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor.
- b) Contractor shall not be liable for damages arising out of or caused by an alteration or an Attachment not made or installed by the Contractor, or for damage to alterations or Attachments that may result from the normal operation and maintenance of the Deliverables provided by the Contractor during the Contract.

### 28. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, resulting from the willful misconduct or negligent acts or omissions of Contractor or any of its agents, subcontractors, employees, suppliers, laborers, or any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract. Such defense and payment will be conditional upon the following:

- a) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

### 29. INVOICES: Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the Contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

### 30. REQUIRED PAYMENT DATE: Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. seq. Unless expressly exempted by statute, the Act requires State agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of Deliverables or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.

### 31. TAXES: Unless otherwise required by law, the State of California is exempt from Federal excise taxes. The State will only pay for any State or local sales or use taxes on the services rendered or Goods supplied to the State pursuant to this Contract.

### 32. NEWLY MANUFACTURED GOODS: All Goods furnished under this Contract shall be newly manufactured Goods; used or reconditioned Goods are prohibited, unless otherwise specified.

### 33. CONTRACT MODIFICATION: No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.

### 34. CONFIDENTIALITY OF DATA: All financial, statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of this Contract, or is rightfully obtained from third parties.

### 35. NEWS RELEASES: Unless otherwise exempted, news releases pertaining to this Contract shall not be made without prior written approval of the Department of General Services.

### 36. DOCUMENTATION

- a) The Contractor agrees to provide to the State, at no charge, a number of all nonproprietary manuals and other printed materials, as described within the Statement of Work, and updated versions thereof, which are necessary or useful to the State in its use of the Equipment or Software provided hereunder. The Contractor agrees to provide additional Documentation at prices not in excess of charges made by the Contractor to its other customers for similar Documentation.
- b) If the Contractor is unable to perform maintenance or the State desires to perform its own maintenance on Equipment purchased under this Contract then upon written notice by the State the Contractor will provide at Contractor's then current rates and fees adequate and reasonable assistance including relevant Documentation to allow the State to maintain the Equipment based on Contractor's methodology. The Contractor agrees that the State may reproduce such Documentation for its own use in maintaining the Equipment. If the Contractor is unable to perform maintenance, the Contractor agrees to license any other Contractor that the



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State may have hired to maintain the Equipment to use the above noted Documentation. The State agrees to include the Contractor's copyright notice on any such Documentation reproduced, in accordance with copyright instructions to be provided by the Contractor.

### 37. RIGHTS IN WORK PRODUCT:

- a) All inventions, discoveries, intellectual property, technical communications and records originated or prepared by the Contractor pursuant to this Contract including papers, reports, charts, computer programs, and other Documentation or improvements thereto, and including Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be Contractor's exclusive property. The provisions of this sub-section a) may be revised in a Statement of Work.
- b) Software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of this Contract or applicable purchase order ("Pre-Existing Materials") do not constitute Work Product. If Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Contract constitute Work Product, but other elements do not. Nothing in this Section 37 will be construed to interfere with Contractor's or its affiliates' ownership of Pre-Existing Materials.
- c) The State will have Government Purpose Rights to the Work Product as Deliverable or delivered to the State hereunder. "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. "Government Purpose Rights" also include the right to release or disclose the Work Product outside the State for any State government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any State government purpose. Such recipients of the Work Product may include, without limitation, State Contractors, California local governments, the U.S. federal government, and the State and local governments of other states. "Government Purpose Rights" do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose.
- d) The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this Contract by the Contractor or jointly by the Contractor and the State may be used by either party without obligation of notice or accounting.
- e) This Contract shall not preclude the Contractor from developing materials outside this Contract that are competitive, irrespective of their similarity to materials which might be delivered to the State pursuant to this Contract.

### 38. PROTECTION OF PROPRIETARY SOFTWARE AND OTHER PROPRIETARY DATA

- a) State agrees that all material appropriately marked or identified in writing as proprietary, and furnished hereunder are provided for State's exclusive use for the purposes of this Contract only. All such proprietary data shall remain the property of the Contractor. State agrees to take all reasonable steps to insure that such proprietary data are not disclosed to others, without prior written consent of the Contractor, subject to the California Public Records Act.
- b) The State will insure, prior to disposing of any media, that any licensed materials contained thereon have been erased or otherwise destroyed.
- c) The State agrees that it will take appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to licensed software and other proprietary data to satisfy its obligations under this Contract with respect to use, copying, modification,

protection and security of proprietary software and other proprietary data.

### 39. PATENT, COPYRIGHT AND TRADE SECRET INDEMNITY:

- a) Contractor will indemnify, defend, and save harmless the State, its officers, agents, and employees, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any U.S. Intellectual Property Right by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to the State such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide the State with indemnity protection equal to that called for by the Third Party Obligation, but in no event greater than that called for in the first sentence of this Section 39a). The provisions of the preceding sentence apply only to third party computer Hardware or Software sold as a distinct unit and accepted by the State.

Unless a Third Party Obligation provides otherwise, the defense and payment obligations set forth in this Section 39a) will be conditional upon the following:

- i) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- ii) Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
- b) Contractor may be required to furnish a bond to the State against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
- c) Should the Deliverables or Software, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Right, the State shall permit the Contractor at its option and expense either to procure for the State the right to continue using the Deliverables or Software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Deliverables or Software by the State shall be prevented by injunction, the Contractor agrees to take back such Deliverables or Software and make every reasonable effort to assist the State in procuring substitute Deliverables or Software. If, in the sole opinion of the State, the return of such infringing Deliverables or Software makes the retention of other Deliverables or Software acquired from the Contractor under this Contract impractical, the State shall then have the option of terminating such Contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Deliverables or Software and refund any sums the State has paid Contractor less any reasonable amount for use or damage.
- d) The Contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:



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- (i) The combination or utilization of Deliverables furnished hereunder with Equipment or devices not made or furnished by the Contractor; or,
  - (ii) The operation of Equipment furnished by the Contractor under the control of any Operating Software other than, or in addition to, the current version of Contractor-supplied Operating Software; or
  - (iii) The modification by the State of the Equipment furnished hereunder or of the Software; or
  - (iv) The combination or utilization of Software furnished hereunder with non-contractor supplied Software.
- e) Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer Software in violation of copyright laws.

**40. EXAMINATION AND AUDIT:** Contractor agrees that the State, or its designated representative shall have the right to review and copy any records and supporting Documentation pertaining to performance of this Contract. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Contract.

### 41. DISPUTES:

- a) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Contractor shall submit to the Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract, unless the State, on its own initiative, has already rendered such a final decision. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, Contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Contractor believes the State is liable. If the Contractor is not satisfied with the decision of the Department Director or designee, the Contractor may appeal the decision to the Department of General Services, Deputy Director, Procurement Division. In the event that this Contract is for Information Technology Goods and/or services, the decision may be appealed to an Executive Committee of State and Contractor personnel.
- b) Pending the final resolution of any dispute arising under, related to or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of Goods or providing of services in accordance with the State's instructions. Contractor's failure to diligently proceed in accordance with the State's instructions shall be considered a material breach of this Contract.
- c) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Department Director or designee or Deputy Director, Procurement Division if an appeal was made. If the State fails to render a final decision within 90 days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

### 42. STOP WORK:

- a) The State may, at any time, by written Stop Work Order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period up to 90 days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of 90 days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
  - (i) Cancel the Stop Work Order; or
  - (ii) Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
  - (i) The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
  - (ii) The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the State, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the Contractor for loss of profits because of a Stop Work Order issued under this clause.

### 43. FOLLOW-ON CONTRACTS:

- a) If the Contractor or its affiliates provides Technical Consulting and Direction (as defined below), the Contractor and its affiliates:
  - (i) will not be awarded a subsequent Contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Technical Consulting and Direction; and will not act as consultant to any person or entity that does receive a Contract described in sub-section (i). This prohibition will continue for one (1) year after termination of this Contract or completion of the Technical Consulting and Direction, whichever comes later.
  - (ii) "Technical Consulting and Direction" means services for which the Contractor received compensation from the State and includes:
    - (i) development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies;
    - (ii) development or design of test requirements;
    - (iii) evaluation of test data;
    - (iv) direction of or evaluation of another Contractor;
    - (v) provision of formal recommendations regarding the acquisition of Information Technology products or services; or
    - (vi) provisions of formal recommendations regarding any of the above. For purposes of this Section, "affiliates" are

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employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with the Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.

- c) To the extent permissible by law, the Director of the Department of General Services, or designee, may waive the restrictions set forth in this Section by written notice to the Contractor if the Director determines their application would not be in the State's best interest. Except as prohibited by law, the restrictions of this Section will not apply:
  - (i) to follow-on advice given by vendors of commercial off-the-shelf products, including Software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or
  - (ii) where the State has entered into a master agreement for Software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor's own products.
- d) The restrictions set forth in this Section are in addition to conflict of interest restrictions imposed on public Contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.

**44. PRIORITY HIRING CONSIDERATIONS:** If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with PCC Section 10353.

**45. COVENANT AGAINST GRATUITIES:** The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the State shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

**46. NONDISCRIMINATION CLAUSE:**

- a) During the performance of this Contract, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations

under this clause to labor organizations with which they have a collective bargaining or other agreement.

- b) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

**47. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:**

Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, PCC Section 10296.

**48. ASSIGNMENT OF ANTITRUST ACTIONS:** Pursuant to Government Code Sections 4552, 4553, and 4554, the following provisions are incorporated herein:

- a) In submitting a bid to the State, the supplier offers and agrees that if the bid is accepted, it will assign to the State all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of Goods, material or other items, or services by the supplier for sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tenders final payment to the supplier.
- b) If the State receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.
- c) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and
  - (i) the assignee has not been injured thereby, or
  - (ii) the assignee declines to file a court action for the cause of action.

**49. DRUG-FREE WORKPLACE CERTIFICATION:** The Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- b) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
  - (i) the dangers of drug abuse in the workplace;
  - (ii) the person's or organization's policy of maintaining a drug-free workplace;
  - (iii) any available counseling, rehabilitation and employee assistance programs; and,
  - (iv) penalties that may be imposed upon employees for drug abuse violations.
- c) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting Contract:
  - (i) will receive a copy of the company's drug-free policy statement; and,

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- (ii) will agree to abide by the terms of the company's statement as a condition of employment on the Contract.
- 50. FOUR-DIGIT DATE COMPLIANCE:** Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date Compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.
- 51. SWEATFREE CODE OF CONDUCT:**
- a) Contractor declares under penalty of perjury that no equipment, materials, or supplies furnished to the State pursuant to the contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.
  - b) Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (a).
- 52. RECYCLING:** Contractor hereby certifies under penalty of perjury that a percentage (0% to 100%) of the materials, Goods, supplies offered, or products used in the performance of this Contract meet or exceed the minimum percentage of recycled material as defined in PCC Sections 12161 and 12200.
- 53. CHILD SUPPORT COMPLIANCE ACT:** For any Contract in excess of \$100,000, the Contractor acknowledges in accordance with PCC Section 7110, that:
- a) The Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
  - b) The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 54. AMERICANS WITH DISABILITIES ACT:** Contractor assures the State that Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq).
- 55. UNION ACTIVITIES:** For all contracts, ~~except~~ fixed price contracts of \$50,000 or less, the Contractor acknowledges that: by signing this agreement, Contractor hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this agreement and agrees to the following:
- a) Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
  - b) No state funds received under this agreement will be used to assist, promote or deter union organizing.
  - c) Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.
  - d) If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.
- 56. ELECTRONIC WASTE RECYCLING ACT OF 2003:** The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.
- 57. USE TAX COLLECTION:** In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.
- 58. EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Sections 10286 and 10286.1, and is eligible to contract with the State.
- 59. DOMESTIC PARTNERS:** Commencing on July 1, 2004, Contractor certifies that it is in compliance with the applicable provisions of PCC Section 10295.3 with regard to benefits for domestic partners.