

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

AGREEMENT

**32020**

1  
2  
3 THIS AGREEMENT is made and entered, in duplicate, as of December 18,  
4 2010, for reference purposes only, pursuant to a minute order adopted by the City  
5 Council of the City of Long Beach at its meeting on December 14, 2010, by and between  
6 SPRINT SOLUTIONS, INC. ("Sprint"), a Delaware corporation, located at 12502 Sunrise  
7 Valley Drive, Reston, VA, 20196, and the CITY OF LONG BEACH, a municipal  
8 corporation ("Client").

9 WHEREAS, Client desires to procure cellular telephone and blackberry  
10 services; and

11 WHEREAS, Sprint desires to be engaged by Client; on the terms and  
12 conditions of this Agreement; and

13 WHEREAS, the State of California General Services has entered into a  
14 Participating Addendum with Sprint under the Western States Contracting Alliance  
15 ("WSCA") cooperative purchase agreement for wireless products and services; and

16 WHEREAS, Section 1802 of the Charter of the City of Long Beach permits  
17 the City to participate in joint and cooperative purchasing of telecommunications services  
18 with other cities, counties, districts, state and federal governments and other  
19 governmental agencies by purchasing under their contracts on a voluntary and selective  
20 basis when authorized by a resolution of the City Council; and

21 WHEREAS, City Council at its meeting of December 14, 2010, did  
22 authorize the purchase of telecommunication services under the State of California  
23 WSCA Participating Addendum Agreement # 7-10-70-15 ("California-Agreement # 7-10-  
24 70-15") incorporated herein by reference;

25 NOW, THEREFORE, in consideration of the mutual terms and conditions  
26 herein, the parties agree as follows:

27 1. AMOUNT: The amount of this Agreement shall not exceed Four  
28 Hundred Forty-Five Thousand Dollars (\$445,000.00) during the term.

1           2.     TERM: The term of this Agreement shall commence on December  
2 14, 2010, and shall remain in effect for as long as California-Agreement # 7-10-70-15 is in  
3 effect. This Agreement may be terminated by Client for cause or convenience on thirty  
4 (30) days prior notice without penalty or further obligation after Client has paid for services  
5 rendered through the date of termination. Sprint may terminate this agreement in  
6 accordance with California-Agreement # 7-10-70-15.

7           3.     INVOICES: Sprint shall submit monthly invoices to Client for services  
8 rendered that were provided in the previous calendar month.

9           4.     PAYMENT DEFAULT: Client agrees to pay the invoices of Sprint  
10 within thirty (30) days after receipt of a valid invoice by having such payment delivered to  
11 Sprint at P.O. Box 4181, Carol Stream, IL, or such other location or manner as Sprint  
12 shall hereafter direct in writing.

13           5.     CLIENT PROPERTY:

14           A.     Work Product: Rights In Work Product shall be in accordance  
15 with California-Agreement # 7-10-70-15 (specifically, Attachment 1 – General  
16 Provisions paragraph 37, GSPD-401IT, 6/8/10).

17           B.     Confidentiality: Sprint recognizes that while performing its  
18 duties under this Agreement, Sprint and its Workers may be granted access to  
19 certain proprietary and confidential information regarding Client's business, clients,  
20 and employees. Sprint shall keep such information confidential (unless compelled  
21 to reveal such information by court), and the obligations of this paragraph will  
22 survive the termination of this Agreement. This paragraph does not apply to  
23 information that: (i) was previously known to Sprint prior to disclosure by Client to  
24 Sprint; (ii) is available in the public domain; (iii) Sprint receives without restriction  
25 from a third party free to disclose it without obligation to Client; (iv) is developed  
26 independently by Sprint; (v) is required to be disclosed by law, regulation, or court  
27 or governmental order; or (vi) is disclosed with the prior written consent of the  
28 Discloser. In addition, confidentiality shall be accordance with California-

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 Agreement # 7-10-70-15 (specifically, Attachment 1 – General Provisions  
2 paragraphs 34, 38, GSPD-401IT, 6/8/10).

3 6. NOTICES:

4 A. Manner: Any notice or other communication required or  
5 permitted under this Agreement shall be in writing and either delivered personally  
6 or sent by overnight courier, or U.S. certified or registered mail, postage prepaid,  
7 return receipt requested.

8 B. Addressee: Notice shall be addressed to:

9 SPRINT: SPRINT  
10 12502 Sunrise Valley Drive  
11 Reston, VA, 20196  
12 Attn: Legal Dept – Public Sector

13 Client: City of Long Beach  
14 333 W. Ocean Boulevard  
15 Long Beach, CA 90802  
16 Attn: City Manager

17 With a copy to: City of Long Beach  
18 333 W. Ocean Boulevard, 12th Floor  
19 Long Beach, CA 90802  
20 Attn: Curtis Tani

21 C. Delivery: Notice delivered personally shall be deemed given  
22 only if acknowledged in writing by the person to whom it is given. Notice sent by  
23 overnight courier shall be deemed given on the date shown on the courier's  
24 records. Notice that is sent by U.S. certified mail or registered mail shall be  
25 deemed given on the date shown on the return receipt.

26 D. Changes: Either party may designate, by notice to the other,  
27 substitute addressees, addresses for notices, and thereafter, notices are to be  
28 directed to those substitute addresses.

7. INSURANCE: As a condition precedent to the effectiveness of this  
Agreement, Sprint shall procure and maintain at Sprint's expense for the duration of this  
Agreement from an insurance company that is admitted to write insurance in California or

1 from authorized non-admitted insurance companies that have ratings of or equivalent to  
2 A:VIII by A.M. Best Company:

3 (a) Commercial general liability insurance equivalent in coverage scope  
4 to ISO form CG 00 10 10 01 in an amount not less than One Million Dollars (\$1,000,000)  
5 per occurrence and Two Million Dollars (\$2,000,000) general aggregate. This insurance  
6 shall name the City of Long Beach, its boards, commissions, officials, employees and  
7 agents additional insureds on an endorsement equivalent in coverage scope to ISO form  
8 CG 20 26 11 85.

9 (b) Workers' compensation insurance as required by the California  
10 Labor Code and employer's liability insurance in an amount not less than One Million  
11 Dollars (\$1,000,000) per accident or occupational illness.

12 Any self-insurance program, self-insured retention, or deductible shall  
13 protect the City of Long Beach, its officials, employees and agents in the same manner  
14 and to the same extent as they would have been protected had the policy or policies not  
15 contained retention provisions. Each insurance policy shall state that coverage shall not  
16 be suspended, voided or canceled by either party except after thirty (30) days prior  
17 written notice to Client or in accordance with the insurance policy provisions, and shall be  
18 primary and not contributing to any other insurance or self-insurance maintained by the  
19 City of Long Beach, its officials, employees and agents.

20 Upon request by the City of Long Beach, Sprint shall deliver to Client  
21 certificates of insurance and required endorsements, including any insurance required of  
22 Sprint's contractors and subcontractors, for approval as to sufficiency and form. In  
23 addition, Sprint shall, prior to expiration of the insurance required hereunder, furnish to  
24 Client certificates of insurance and endorsements evidencing renewal of such insurance.  
25 Sprint shall make available to Client all books, records and other information relating to  
26 the insurance coverage required herein upon reasonable prior notice during normal  
27 business hours at Sprint's Corporate Headquarters at 6480 Sprint Pkwy, Overland Park,  
28 KS.

1 Any modification or waiver of the insurance requirements herein shall only  
2 be made with the written approval of Client's Risk Manager or designee. Not more  
3 frequently than once every third year, Client's Risk Manager or designee may require that  
4 Sprint, Sprint's contractors and subcontractors change the amount, scope or types of  
5 coverages required herein if, in his or her sole opinion, the amount, scope, or types of  
6 coverages herein are not adequate.

7 The procuring or existence of insurance shall not be construed or deemed  
8 as a limitation on liability relating to Sprint's performance of services or as full  
9 performance of or compliance with the indemnification provisions herein.

10 8. MISCELLANEOUS:

11 A. No party shall transfer or assign any or all of its rights or  
12 interests under this Agreement or delegate any of its obligations without the prior  
13 written consent of the other party; which consent shall not be unreasonably  
14 withheld; provided however, Sprint may assign in whole or in part its rights or  
15 duties under this Agreement without prior consent of Client or any parent, affiliate  
16 or subsidiary or to any party acquiring any portion of the assigning party's capital  
17 stock or assets including, without limitation, any assignment by operation of law.

18 B. This Agreement shall be governed by and construed pursuant  
19 to the laws of the State of California (except those provisions of California law  
20 pertaining to conflicts of laws). Any action involving this Agreement shall be  
21 brought in the Los Angeles County Superior Court, Long Beach Judicial District.

22 C. This Agreement constitutes the entire understanding between  
23 the parties hereto and supersedes all other agreements, whether oral or written,  
24 with respect to the subject matter herein.

25 D. Indemnification shall be in accordance with the California-  
26 Agreement # 7-10-70-15 except that the word "State" shall be replaced with the  
27 word "Client" specifically, in Attachment 1 – General Provisions paragraphs 28 and  
28 39, GSPD-401IT, revised and effective 6/8/10.

1 E. Subject to applicable laws, rules, and regulations, neither  
2 Client nor Sprint shall discriminate in the performance of this Agreement on the  
3 basis of race, color, religion, national origin, sex, sexual orientation, gender  
4 identity, AIDS, and AIDS related condition, age, disability or handicap, disabled or  
5 veteran status.

6 F. The acceptance of the services or the payment of any money  
7 by Client shall not operate as a waiver of any provision of, this Agreement, or of  
8 any right to damages or indemnity stated in this Agreement. The waiver of any  
9 breach of this Agreement shall not constitute a waiver of any other or subsequent  
10 breach of this Agreement.

11 G. Termination or expiration of this Agreement shall not affect  
12 rights or liabilities of the parties which accrued pursuant prior to such termination  
13 or expiration.

14 H. Sprint shall not use the name of the City of Long Beach, its  
15 officials or employees in any advertising or solicitation for business, nor as a  
16 reference, without the prior approval of Client's City Manager or designee.

17 I. If Client's blackberry or cell phone Unit is lost or stolen ("Lost  
18 Unit"): (1) Client must notify Sprint promptly and ask Sprint to deactivate the Lost  
19 Unit; and (2) provide Sprint within fourteen (14) days, any reasonable  
20 documentation Sprint requests (such as a copy of a filed police report if the Unit is  
21 stolen). If Client completes the above requirements, Client will not be liable for  
22 any unauthorized airtime charged fraudulently incurred on the Lost Unit, although  
23 Client agrees to assist Sprint with any prosecution.

24 J. Sprint shall not be liable for any deficiency in performance  
25 caused in whole or in part by act or omission of an underlying carrier or service  
26 client, dealer, equipment or facility failure, lack of coverage or network capacity,  
27 equipment or facility upgrade or modification, acts of God, strikes, fire, terrorism,  
28 war, riot, emergency, government actions, equipment or facility shortage or

1 relocation, or causes beyond Sprint's reasonable control, including without  
2 limitation the failure of an incoming or outgoing call, including a 9-1-1 emergency  
3 call, to be connected or completed or for the functionality of location services,  
4 including 9-1-1 location services. Even if Sprint or any of Sprint's affiliates have  
5 been advised of the possibility of damages, they will not be liable to Client or any  
6 of Client's employees, agents, end users, customers or any third parties for any  
7 damages arising from use of the service or any equipment, including without  
8 limitation: disclaimed damages or loss of privacy damages; personal injury or  
9 property damages; or any damages whatsoever resulting from interruption or  
10 failure of service, lost profits, loss of business, loss of data, cost of replacement  
11 products and services, suspension, termination, or the inability to use the service,  
12 the content of any data transmission, communication or message transmitted to or  
13 received by any equipment, or losses resulting from any goods or services  
14 purchased or messages received or transactions entered into through the service.

15 K. In no event shall Sprint or its affiliates have any liability to  
16 Client and its collective officers, employees or agents, for any indirect, special,  
17 incidental, punitive, or consequential damages (including without limitation loss of  
18 profits, loss of sales, loss of investment or other expenditures, investments, or  
19 commitments) however caused and, whether in contract, tort or under any other  
20 theory of liability, whether or not Sprint and its affiliates have been advised of the  
21 possibility of such damage.

22 L. This Agreement, including all referenced attachments,  
23 documents, annexes, or exhibits, and related orders, constitutes the entire  
24 agreement and understanding between the parties and supersedes all prior or  
25 contemporaneous negotiations or agreements, whether oral or written, relating to  
26 its subject matter. In the event of an inconsistency between any of the provisions  
27 of this Agreement and/or any exhibit attached hereto the inconsistency shall be  
28 resolved by giving precedence in the following order:

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

a. The provisions of this Agreement

b. State of California WSCA Participating Addendum Agreement #7-10-70-15.

IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

SPRINT SOLUTIONS, Inc., a Delaware corporation

January 28, 2011

By [Signature]

Officer's Title Manager, Contract Negotiations

January 28, 2011

By [Signature]

Officer's Title Manager Contract Negotiations

"SPRINT"

CITY OF LONG BEACH, a municipal corporation

Assistant City Manager

2.15, 2011

By [Signature]  
City Manager

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

"Client"

This Agreement is approved as to form on 2/1, 2011.

ROBERT E. SHANNON, City Attorney

By [Signature]  
Deputy