



# CITY OF LONG BEACH

OFFICE OF THE CITY MANAGER

333 West Ocean Boulevard • Long Beach, CA 90802 • (562) 570-6711 FAX (562) 570-7650

## 34613

### AGREEMENT BETWEEN THE CITY OF LONG BEACH AND CITYMART, INC.

This Agreement ("AGREEMENT") is entered into as of the date of the later signature below, by and between Citymart, Inc., a for-profit corporation, and the City of Long Beach ("City"), a municipal corporation, (collectively, "the Parties", and singly, a "Party").

#### 1. Purpose.

The AGREEMENT reflects the Parties' intent to collaborate to pursue City initiatives identified in Exhibit A, which Exhibit may be modified from time-to-time. Neither Party intends for their collaborative activities to create legally binding rights and obligations except as set forth in Section 2 or in a separate definitive agreement.

#### 2. Terms and Conditions

- a) **Confidentiality and Public Disclosure.** Except to the extent required by City's public records law or court order, neither Party will disclose the existence or content of this AGREEMENT or discussions between the Parties relating to the activities and transactions contemplated herein unless both parties mutually agree in writing.
- b) **Relationship of the Parties.** Neither this AGREEMENT, nor any activities described herein, shall be construed as creating joint venture, franchise, agency, or other such relationships. Neither Party shall have the right, power, or authority to obligate or bind the other Party in any manner whatsoever, without the other Party's prior written consent.
- c) **Non-Exclusivity.** The relationship between the Parties is non-exclusive. Neither Party will be precluded from entering into similar agreements with other parties. Nothing in this AGREEMENT, including any exhibits, requires either Party to refrain from offering, acquiring, selling, licensing, promoting, or developing other services, platforms or products that compete with the services, platforms, or products that are subject of the relationship contemplated by this AGREEMENT.
- d) **Expenses.** Citymart and City agree that each Party shall pay its own fees, costs and expenses, and those of its agents, employees, independent contractors, and consultants, in connection with this AGREEMENT, including without limitation any legal fees, except as expressly specified herein or otherwise agreed upon in writing by both Parties.
- e) **Disclaimer of Warranties/Limitation of Liability.** Except as may be set forth in any separate written definitive agreement binding of the Parties, (a) all materials,

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information, or other items provided by one Party to the other are provided "as is" without warranty of any kind, and each Party disclaims all warranties, express or implied, with respect to any materials, information, or other items provided to the other in connection with this AGREEMENT, and (b) in no event will either Party be liable to the other for any direct, consequential, indirect, special, punitive, or other damages arising out of or related to this AGREEMENT, except with respect to violation of its confidentiality obligations or the other Party's intellectual property rights.

- f) **Intellectual Property.** All copyrights, patents, trade secrets, trademarks, or any other intellectual ("Intellectual Property") owned by one Party prior to the date of this AGREEMENT will continue to be owned by that Party. Neither Party will gain, by virtue of this AGREEMENT, any Intellectual Property rights owned by the other.
- g) **Governing Law.** This AGREEMENT shall be governed by the laws of California, including its conflict of law provisions.
- h) **Terms and Termination.** This AGREEMENT will expire twenty-four (24) months from the dated signature below, except that either Party may terminate this AGREEMENT without cause upon thirty days (30) prior written notice. Either Party may terminate this AGREEMENT immediately in the event of breach of any provision of this Section 2 by the other Party.
- i) **Entire Agreement.** This AGREEMENT constitutes the entire agreement between the Parties with respect to its subject matter and merges all prior and contemporaneous communications, both written and oral. This AGREEMENT shall not be modified except by a written agreement signed by both Parties.
- j) **Enforceability.** Only the terms of this Section 2 of this AGREEMENT are legally binding on the Parties. If and when the Parties wish to enter into a legally binding relationship related to the City Initiatives contemplated by this AGREEMENT, they will enter into a separate definitive written agreement setting forth the details of their respective rights and obligations.

CITY OF LONG BEACH

By: 

Name: Tom B. Medica

EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER. Title: Assist. City Mgr.

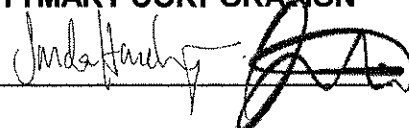
Date: 5/4/17

APPROVED AS TO FORM

4-24, 2017  
CHARLES PARKIN, City Attorney

By:   
AMY R. WEBBER  
DEPUTY CITY ATTORNEY

CITYMART CORPORATION

By: 

Name: Sascha Haselmayer / Julia Haselmayer

Title: CEO / Head of City Partnerships

Date: 4/7/2017

**EXHIBIT A**  
**CITYMART AGREEMENT ACTIVITIES**

1. **Name of City:** Long Beach
2. **City Initiatives:** One-year commitment of consecutive programming of the Citymart platform that provides tools, workflows, and data to make municipal problem solving more connected and collaborative
3. **Activities in Support of the City Initiative:**
  - a. City intends to provide regular feedback and input from users to support the development process
    - ✓ Provide executive support from leadership of participating departments
    - ✓ Commitment of a cluster of 5-10 project staff in a minimum of two departments
    - ✓ Allow Citymart to gather feedback from users at frequent intervals
    - ✓ Availability of and access to staff (i.e. staff email addresses) to communicate directly
    - ✓ Citymart to provide tools, workflows, and data to make municipal problem-solving more connected and collaborative
  - b. Citymart intends to perform the following in support of the commitment from Citymart
    - ✓ Access to Citymart Platform during the one-year collaboration
    - ✓ Priority support during this period
    - ✓ Training activities for management and project staff
    - ✓ Access to all new features and upgrades upon release
  - c. The Parties intend to jointly perform the following in support of the City initiatives:
    - ✓ Participation in training activities by management and staff (on-site virtual training) led by Citymart
4. **Resources/Personnel:**
  - ✓ Citymart to provide a platform for tools, workflows, and data to make municipal problem-solving more connected and collaborative
  - ✓ Citymart to provide free access and priority user support for all Citymart software during the one-year collaboration
  - ✓ Citymart to provide training on problem solving in cities
  - ✓ City to participate in training activities by management and staff
  - ✓ City to commit a cluster of 5-10 project staff in a minimum of 2 departments
5. **Schedule:** TBD with City of Long Beach input around schedules

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6. **Metrics (if any):** TBD