

AGREEMENT

**35273**

THIS AGREEMENT is made and entered, in duplicate, as of April 5, 2019 for reference purposes only, pursuant to Resolution No. RES-19-0025 adopted by the City Council of the City of Long Beach at its meeting on March 5, 2019, by and between LOWE'S HOME CENTERS, LLC, a North Carolina limited liability company ("Contractor"), whose address is 1605 Curtis Bridge Road, Wilkesboro, North Carolina 28697, and the CITY OF LONG BEACH ("City"), a municipal corporation.

WHEREAS, Section 1802 of the Long Beach City Charter permits the City to make purchases under the purchasing contracts of other governmental agencies when authorized to do so by a resolution; and

WHEREAS, the City desires to purchase hand tools, automotive tools, specialty tools, hardware and miscellaneous items; and

WHEREAS, the Region 4 Education Service Center through the National Intergovernmental Purchasing Alliance has a contract for the purchase of maintenance, repair and operations, and supplies and related services, Contract No. R142104 ("National IPA Contract"); and

WHEREAS, Resolution No. RES-19-0025 authorizes the City to purchase maintenance, repair and operations, and supplies and related services by virtue of the National IPA Contract;

NOW, THEREFORE, in consideration of the terms and conditions contained in this Agreement, the parties agree as follows:

1. The National IPA Contract with Contractor, attached hereto as Exhibit "A", is incorporated by this reference as if fully set forth, and the same terms and conditions contained in the National IPA Contract shall be applicable here except as follows:

A. Wherever the National IPA Contract refers to the Region 4 Education Service Center through the National Intergovernmental Purchasing

1 Alliance, it shall be deemed to refer to the City of Long Beach;

2 B. Contractor shall sell, furnish and deliver to the City hand tools,  
3 automotive tools, specialty tools, hardware and miscellaneous items of  
4 substantially the same type and kind purchased under the Region 4 Education  
5 Service Center through the National Intergovernmental Purchasing Alliance, as  
6 modified by Exhibit "B" attached hereto and incorporated by this reference, in an  
7 amount not to exceed Four Hundred Thousand Dollars (\$400,000), including tax  
8 and fees. To the extent that the National IPA Contract and this Agreement are  
9 inconsistent, the following priority shall govern: (1) this Agreement and (2) the  
10 National IPA Contract.

11 C. Payment for the hand tools, automotive tools, specialty tools,  
12 hardware and miscellaneous items purchased from Contractor by the City shall be  
13 made by the City on delivery to and acceptance of the hand tools, automotive  
14 tools, specialty tools, hardware and miscellaneous items by the City and submittal  
15 of an invoice to the City. Payment is due thirty (30) days after the date of the  
16 invoice.

17 D. The term of this Agreement shall commence at midnight on  
18 April 15, 2019, and shall terminate at 11:59 p.m. on April 14, 2021. The parties  
19 have the option to extend the term for three (3) additional one-year periods, at  
20 the discretion of the City Manager. In the event the underlying Agreement  
21 expires prior to the renewal term, Contractor will enter into a new Agreement with  
22 substantially similar terms and conditions.

23 E. All warranties shall accrue to the City of Long Beach.

24 2. Neither this Agreement nor any money that becomes due to  
25 Contractor under this Agreement may be assigned by Contractor without the prior written  
26 consent of the City Manager or his designee.

27 3. Any notice given under this Agreement shall be in writing and  
28 personally delivered or deposited in the U.S. Postal Service, return receipt, and shall be

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 delivered or mailed to Contractor at the relevant address first stated above, and to the  
2 City at 333 West Ocean Boulevard, Long Beach, California 90802 Attn: City Manager.  
3 Notice shall be deemed given three days after deposit in the mail.

4 4. The terms appearing on the National IPA Contract are incorporated  
5 in this Agreement.

6 5. Contractor shall cooperate with the City in all matters relating to self-  
7 accrual of use tax. Contractor shall contact the City Treasurer for additional information  
8 regarding self-accrual.

9 6. This Agreement and all documents which are incorporated by  
10 reference in this Agreement constitute the entire understanding between the parties and  
11 supersede all other agreements, oral or written, with respect to the subject matter of this  
12 Agreement.

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

3 LOWE'S HOME CENTERS, LLC, a North  
4 Carolina limited liability company

5 May 21, 2019

By [Signature]  
6 Name Fred Stokes  
Title SVP Pro Sales

7 \_\_\_\_\_, 2019  
By \_\_\_\_\_  
8 Name \_\_\_\_\_  
Title \_\_\_\_\_

9 **Tom Modica**  
Assistant City Manager

"Contractor"

10 EXECUTED PURSUANT  
11 TO SECTION 301 OF  
THE CITY CHARTER

CITY OF LONG BEACH, a municipal  
corporation

12 June 3, 2019  
By [Signature]  
13 City Manager

"City"

14 This Agreement is approved as to form on 5-30, 2019.

15 CHARLES PARKIN, City Attorney

16 By [Signature]  
17 Deputy

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21 Fred Stokes is an Officer of LLC, not a manager, but is authorized to sign for the LLC  
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