

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

AGREEMENT

32676

THIS AGREEMENT is made and entered, in duplicate, as of May 11, 2012, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on January 17, 2012, by and between SPRINT SOLUTIONS, INC. ("Sprint"), a Delaware corporation, located at 12502 Sunrise Valley Drive, Reston, VA 20166, and the CITY OF LONG BEACH, a municipal corporation ("Client").

WHEREAS, Client desires to procure cellular broadband services and modems; and

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

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

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

WHEREAS, City Council at its meeting of January 17, 2012, did authorize the purchase of cellular broadband services and modems under the State of California WSCA Participating Addendum Agreement # 7-10-70-15 ("California-Agreement # 7-10-70-15") incorporated herein by reference;

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

1. AMOUNT: The amount of this Agreement shall not exceed One Hundred Seventy-Six Thousand Dollars (\$176,000.00) annually.

1           2.     TERM: The term of this Agreement shall commence on the Effective  
2 Date and is coterminous with the WSCA Master Price Agreement No. 1523(7-10-70-15).  
3 This Agreement may be terminated by Client for cause or convenience on thirty (30) days  
4 prior notice without penalty or further obligation after Client has paid for services rendered  
5 through the date of termination. Sprint may terminate this agreement in accordance with  
6 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 10 UCP, Suite 2450, Universal City, CA 91608 or such other location or manner  
12 as Sprint shall hereafter direct in writing.

13           5.     CLIENT PROPERTY:

14           A.     Confidentiality: Sprint recognizes that while performing its  
15 duties under this Agreement, Sprint and its Workers may be granted access to  
16 certain proprietary and confidential information regarding Client's business, clients,  
17 and employees. Sprint shall keep such information confidential (unless compelled  
18 to reveal such information by court), and the obligations of this paragraph will  
19 survive the termination of this Agreement. This paragraph does not apply to  
20 information that: (i) was previously known to Sprint prior to disclosure by Client to  
21 Sprint; (ii) is available in the public domain; (iii) Sprint receives without restriction  
22 from a third party free to disclose it without obligation to Client; (iv) is developed  
23 independently by Sprint; (v) is required to be disclosed by law, regulation, or court  
24 or governmental order; or (vi) is disclosed with the prior written consent of the  
25 Discloser. In addition, confidentiality shall be in accordance with the provisions  
26 within California-Agreement # 7-10-70-15.

27           6.     NOTICES:

28           A.     Manner: Any notice or other communication required or

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1 permitted under this Agreement shall be in writing and either delivered personally  
2 or sent by overnight courier, or U.S. certified or registered mail, postage prepaid,  
3 return receipt requested.

4 B. Addressee: Notice shall be addressed to:

5 SPRINT: SPRINT SOLUTIONS, Inc.  
6 12502 Sunrise Valley Drive,  
7 Reston, VA 20166

8 Client: City of Long Beach  
9 333 W. Ocean Boulevard  
10 Long Beach, CA 90802  
11 Attn: City Manager

12 With a copy to: City of Long Beach  
13 333 W. Ocean Boulevard, 12th Floor  
14 Long Beach, CA 90802  
15 Attn: Curtis Tani

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

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

24 7. INSURANCE: As a condition precedent to the effectiveness of this  
25 Agreement, Sprint shall procure and maintain at Sprint's expense for the duration of this  
26 Agreement from an insurance company that is admitted to write insurance in California or  
27 from authorized non-admitted insurance companies that have ratings of or equivalent to  
28 A:VIII by A.M. Best Company:

(a) Commercial general liability insurance equivalent in coverage scope  
to ISO form CG 00 10 10 01 in an amount not less than One Million Dollars

1 (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) general  
2 aggregate. This insurance shall name the City of Long Beach, its boards,  
3 commissions, officials, employees and agents additional insureds on an  
4 endorsement equivalent in coverage scope to ISO form CG 20 26 11 85.

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

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

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

25 Any modification or waiver of the insurance requirements herein shall only  
26 be made with the written approval of Client's Risk Manager or designee. Not more  
27 frequently than once every third year, Client's Risk Manager or designee may require that  
28 Sprint, Sprint's contractors and subcontractors change the amount, scope or types of

1 coverages required herein if, in his or her sole opinion, the amount, scope, or types of  
2 coverages herein are not adequate.

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

6 8. MISCELLANEOUS:

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

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

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

21 D. Indemnification shall be in accordance with the California-  
22 Agreement # 7-10-70-15 except that the word "State" shall be replaced with the  
23 word "Client".

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

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

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

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

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

J. Sprint shall not be liable for any deficiency in performance caused in whole or in part by act or omission of an underlying carrier or service client, dealer, equipment or facility failure, lack of coverage or network capacity, equipment or facility upgrade or modification, acts of God, strikes, fire, terrorism, war, riot, emergency, government actions, equipment or facility shortage or relocation, or causes beyond Sprint's reasonable control, including without limitation the failure of an incoming or outgoing call, including a 9-1-1 emergency call, to be connected or completed or for the functionality of location services, including 9-1-1 location services. Even if Sprint or any of Sprint's affiliates have been advised of the possibility of damages, they will not be liable to Client or any

1 of Client's employees, agents, end users, customers or any third parties for any  
2 damages arising from use of the service or any equipment, including without  
3 limitation: disclaimed damages or loss of privacy damages; personal injury or  
4 property damages; or any damages whatsoever resulting from interruption or  
5 failure of service, lost profits, loss of business, loss of data, cost of replacement  
6 products and services, suspension, termination, or the inability to use the service,  
7 the content of any data transmission, communication or message transmitted to or  
8 received by any equipment, or losses resulting from any goods or services  
9 purchased or messages received or transactions entered into through the service.

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

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

- 24 a. The provisions of this Agreement  
25 b. State of California WSCA Participating Addendum Agreement #7-10-70-15.

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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

MAY 1, 2012

By [Signature]

Officer's Title MANAGER, CONTRACTS

MAY 11, 2012

By [Signature]

Officer's Title Manager, Contracts

"SPRINT"

CITY OF LONG BEACH, a municipal corporation

6-5, 2012

By [Signature] Assistant City Manager

"Client" City Manager EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

This Agreement is approved as to form on May 16, 2012.

ROBERT E. SHANNON, City Attorney

By [Signature]  
Deputy

Approved by  
Public Sector Legal  
as to legal form

KAC 4-27-12