

**PARTICIPATING ADDENDUM  
UNDER THE  
WESTERN STATES CONTRACTING ALLIANCE  
WIRELESS COMMUNICATION SERVICES AND EQUIPMENT  
BID NUMBER RFP: #1907  
PARTICIPATING ADDENDUM No: CW15546**

**PARTICIPANT: District of Columbia**

This Participating Addendum (the "PA") is made this 1<sup>st</sup> day of August, 2012 (the "PA Effective Date"), between District of Columbia ("Participant"), and AT&T Mobility National Accounts LLC ("Contractor") (Participant and Contractor are, at times, referred to individually as a "Party" or together as the "Parties").

**Section 1. Recitals.**

1.1 Contractor and the State of Nevada, acting through its Department of Administration, Purchasing Division, and the participating members of the Western States Contracting Alliance ("WSCA"), and the NASPO Cooperative, are parties to that certain Western States Contracting Alliance contract, #1907, dated March 15, 2012, successor contract to that certain Western States Contracting Alliance contract number 1523, dated October 10, 2006, as amended, successor contract to that certain Western States Contracting Alliance contract number 10-00115, dated June 29, 2001, as amended (the "Contract").

1.2 Participant wants to participate in the Contract pursuant to the terms and conditions of this PA.

**Section 2. Agreement.** In consideration of the recitals set forth in §1 above, which are hereby re-stated and agreed to by the Parties, and for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, Participant and Contractor hereby agree to the terms and conditions of this PA (the Contract and the PA, together with all Purchase Orders submitted to Contractor by Participating Entity, collectively, the "Agreement"). Unless otherwise defined, capitalized terms in this PA have the meanings ascribed to them in the Contract.

**Section 3. Authorized Participating Entities.** Participant hereby designates the DC Office of Contracting and Procurement as the only authorized Participating Entity under the Agreement.

**Section 4. Ordering – Purchase Orders.** Participating Entity must issue purchase orders hereunder that reference both Master Service Agreement #1907 and the PA #CW15546. Upon issuance of any such valid purchase order, Participating Entity will be bound by the terms and conditions of the Agreement including, without limitation, the obligation to pay Contractor for Service, Equipment, and related products provided. Notwithstanding the foregoing, any purchase orders submitted that do not properly reference the Contract number and/or the PA may be accepted, at Contractor's sole discretion, if Contractor can reasonably ascertain that such purchase order was properly authorized and intended for use with the PA. In such instances, the corresponding purchase order will be similarly valid and binding.

**Section 5. Primary Contacts.**

**Participant:**

Name: Priscilla Mack  
Title: Contracting Officer  
Address: 441 4th St NW  
Washington DC, 20001  
Telephone: 202-724-5236  
Fax Number: 202-727-0245  
E-Mail: Priscilla.mack@dc.gov

**Lead State:**

Name: Teri Smith  
Title: Purchasing Officer  
Address: 515 E. Musser St., Suite 300  
Carson City, NV 89701  
Telephone: 775-684-0178  
Fax Number: 775-684-0188  
E-Mail: tsmith@admin.nv.gov

**Contractor Account Team:**

Name: Robert Holgate  
Title: Account Manager  
Address: 7229 Parkway Drive  
Hanover, MD 21076  
Telephone: (410) 533-8855  
Fax Number:  
E-Mail: robert.holgate@att.com

**Contractor Main:**

Name: Twila Lively  
Title: Manager, Sales Operations  
Address: 2600 Camino Road  
San Ramon, CA 94583  
Telephone: (925) 487-9945  
Fax Number: (925) 261-2155  
E-Mail: twilalively@att.com

**Section 6. Authority.** By signing below, the corresponding Party's representative represents that such person is duly authorized by Contractor or Participant, as applicable, to execute this PA on behalf of the respective Party, and that the Contractor and Participant agree to be bound by the provisions hereof. In addition, Participant represents that it has received the requisite approvals from the applicable Chief Procurement Official and WSCA to participate in the Agreement.

**Section 7. Miscellaneous.**

**7.1 American Recovery and Reinvestment Act of 2009 ("ARRA").** If or when Contractor is notified in writing by ordering entity that a specific purchase or purchases are being made with ARRA funds, Contractor agrees to comply with the data element and reporting requirements as currently defined in Federal Register Vol. 74 #61, Pages 14824-14829 (or subsequent changes or modifications to these requirements as published by the Federal OMB) that are legally required of vendors as providers of goods and services to recipients or sub-recipients of ARRA funds. Each Participating Entity is responsible for informing Contractor in writing prior to ARRA funds being used for a purchase or purchases under the Contract. Contractor will provide the required report, if any, to the ordering entity with the invoice presented to the Participating Entity for payment. Contractor will provide the required report, if any, to the Participating Entity with the invoice presented to the Participating Entity for payment. Contractor, as it relates to purchases under the Contract, is not a sub-contractor, recipient, sub-recipient or sub-grantee, but simply a vendor, as defined in the OMB guidelines, and assumes no responsibilities under ARRA beyond those required of a vendor.

**7.2 Employee Benefit Program.** Participating Entity will participate with Contractor in efforts to obtain eligible Employees' participation in the Employee Benefit Program.

**Section 8. Notice of Administration Fees.** Participant and any and all other Participating Entities under this PA are hereby on notice of the following charges being paid by Contractor under the Contract.

- **WSCA.** Contractor is being charged a WSCA Administration Fee of 1/10<sup>th</sup> of 1% (one-tenth of one percent) of the Total Wireless Spend, pursuant to the schedule of payments set forth in the Contract.

**Section 9. Order of Precedence.** The Parties acknowledge and agree that in the event of a conflict between the terms contained in the various documents comprising this Agreement, the following order of precedence will control: (a) this PA; (b) the Master Service Agreement; and (c) any Purchase Order issued in connection therewith. This section specifically supersedes any order of precedence provisions set forth elsewhere in the Agreement.

**Section 10. Term and Option Periods.**

- A. The term of this PA will be from October 1, 2012, or the date of signing by the Contracting Officer (if later) through September 30, 2013.
- B. The District may extend the term of this contract for a period of three (3), one (1) year option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor a preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the contract.
- C. By the exercise of any term option, in no event shall the term extend beyond the Termination Date, as from time to time amended, provided in Section 3 of the Master Service Agreement.
- D. If the District exercises any option, the extended contract shall be considered to include this *Term and Option Periods* provision.
- E. The total duration of this contract, including the exercise of one or more options, shall not exceed four (4) years, but in no event shall it extend beyond the Termination Date provided in the WSCA Master Agreement.
- F. If the District exercises any option, it is the intent of the District to do so on a fiscal year cycle, beginning October 1 through September 30 of each subsequent year.

**Section 11. Authorized Changes By The Contracting Officer (CO).** The Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract on behalf of the District. The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the Contracting Officer. In the event the Contractor effects any change at the instruction or request of any person other than the Contracting Officer, the change will be

considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

**Section 12. Contract Administrator (CA).** The CA is responsible for general and technical administration of the contract and advising the CO as to the Contractor's compliance or noncompliance with the contract. The CA has the responsibility of ensuring the work conforms to the requirements of the contract and such other responsibilities and authorities as may be specified in the contract. These include:

- Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the contract;
- Coordinating site entry for Contractor personnel, if applicable;
- Reviewing invoices for completed work and recommending approval by the CO if the Contractor's prices and costs are consistent with the contractual amounts and progress is satisfactory and commensurate with the rate of expenditure;
- Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions; and
- Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.

The address and telephone number of the CA is:

Christopher Bennett  
Program Manager  
Enterprise Contracts Management Services  
202-286-5747 (Phone)  
[christopher.bennett@dc.gov](mailto:christopher.bennett@dc.gov)

The CA shall NOT have the authority to:

1. Award, agree to, or sign any contract, delivery order or task order. Only the CO shall make contractual agreements, commitments or modifications;
2. Grant deviations from or waive any of the terms and conditions of the contract;
3. Increase the dollar limit of the contract or authorize work beyond the dollar limit of the contract,
4. Authorize the expenditure of funds by the Contractor;
5. Change the period of performance; or
6. Authorize the use of District property, except as specified under the contract.

It is understood and agreed that the CA shall not have the authority to make changes in the specifications/scope of work or terms and conditions of the contract on behalf of Participant.

The Contractor will be fully responsible for any changes not authorized in advance, in writing, by the CO; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

**Section 13. Quick Payment Clause.** To the extent of a conflict between the Quick Payment Act, D.C. Official Code §2-221.01 et seq., and the "overdue account charges"

provision at Section 12, Payment, in the WSCA Master Service Agreement, the provisions of the Quick Payment Act, D.C. Official Code §2-221.01 et seq., shall prevail.

**Section 14. Department of Labor Wage Determinations.** The Contractor shall be bound by the Wage Determination 2005-2103, Revision 12, dated June 13, 2012, issued by the U.S. Department of Labor in accordance with the Service Contract Act 41 U.S.C. 351 et seq., prescribed herein by Section 19.i, SCP-24, of this PA. The Contractor shall be bound by the wage rates for the term of the contract. If an option is exercised, the Contractor shall be bound by the applicable wage rate at the time of the option. If an option is exercised and the Contracting Officer obtains a revised wage determination, the revised wage determination is applicable for the option periods and the Contractor may be entitled to an equitable adjustment. See Attachment A to this PA for the above-described current Wage Determination.

**Section 15. Contracts In Excess of One Million Dollars.** Any contract in excess of \$1,000,000 shall not be binding or give rise to any claim or demand against the District until approved by the Council of the District of Columbia and signed by the CO.

**Section 16. Contracts That Cross Fiscal Years.** Continuation of this contract beyond the current fiscal year is contingent upon future fiscal appropriations.

**Section 17. Freedom Of Information Act.** The District of Columbia Freedom of Information Act, at D.C. Official Code §2-532 (a-3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the CA who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the CA will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the CA within the timeframe designated by the CA. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code §2-532 and Chapter 4 of Title 1 of the D.C. Municipal Regulations.

**Section 18. Federal Requirements in Master Agreement.** The requirements of the federal laws identified in WSCA Master Agreement (Section 35), Nondiscrimination, and this paragraph, are, by federal law, applicable to this District of Columbia Task Order.

1. Nondiscrimination provision, WSCA Master Agreement, (Section 35)
2. Section 504 of the Rehabilitation Act of 1973, as amended

During the performance of the contract, the Contractor and any of its subcontractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded program and activities. See 29 U.S.C. §794 et seq.

3. Americans with Disabilities Act Of 1990 (ADA)

During the performance of the contract, the Contractor and any of its subcontractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. §12101 et seq.

#### 4. Equal Employment Opportunity

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are available at <http://www.ocp.in.dc.gov/ocp/site/default.asp>. An award cannot be made to any bidder who has not satisfied the equal employment requirements.

**Section 19. District of Columbia Standard Contract Provisions.** Only the SCPs listed below are applicable to the Participating Agreement and, as stated below, certain SCPs are of limited applicability or are subordinate to terms of the PA. To obtain a copy of the applicable SCPs, go to [www.ocp.dc.gov](http://www.ocp.dc.gov): Under the heading "Information," click on "Solicitation Attachments" – then click on "Standard Contract Provisions (March 2007)."

- a. SCP 1 – Covenant Against Contingent Fees
- b. SCP-8 – Default. Applicability of SCP-8 to the PA is limited to provisions governing procedures for resolution of defaults. Remedy granting or remedy limiting provisions of the PA shall in all instances have precedence and priority over SCP-9.
- c. SCP-11 – Taxes, which contains the District's representations as to its exemption from certain taxes.
- d. SCP-13 – District Employees Not To Benefit.
- e. SCP-14 – Disputes, to the following extent: Pursuant to SCP-14 and PA Section 24, Contractor will comply with District claim and dispute resolution procedures only to the extent required by District law.
- f. SCP-17 – Recovery Of Debts Owed The District.
- g. SCP-20 – Definitions
- h. SCP-21 – Health and Safety Standards
- i. SCP-24 – Service Contract Act of 1965
- j. SCP-27 – Termination of Contracts For Certain Crimes And Violations

**Section 20. Non-Discrimination.** To the extent applicable, Contractor agrees to comply with the District of Columbia Human Rights Act, approved December 13, 1977, as amended (D. C. Law 2-38; D. C. Official Code §2-1402.11) (2010 Ed.), and rules thereunder, including Mayor's Order 2002-175 (10/23/02), 49 DCR 9883 and Mayor's Order 2006-151 (11/17/06), 52 DCR 9351.

**Section 21. Pricing.** Prices shall be the current prices stated on the Contractor's program website, <http://purchasing.state.nv.us/Wireless/WSCA/WSCA.htm>, unless considerations are made in accordance with Section 11, "CONSIDERATION", of the Master Service Agreement against RFP/Contract #1907.

**Section 22. Invoice Payment.** Payment of invoices shall take place pursuant to Section 12, Payment, of the Master Service Agreement.

**Section 23. Invoice Submittal.** The Contractor will provide monthly billing in an electronic format. All pertinent monthly billing and usage detail will be available online through the Contractor Premier platform.

**Section 24. DISPUTES (Interim PPRA Version, July 2011).** (Delete Article 14, Disputes, of the General Provisions, of the Standard Contract Provisions for use with Specifications for District of Columbia Government Construction Contracts, Revised March 2007 and substitute the following Section 24, Disputes).

**24.1** All disputes arising under or relating to this contract shall be resolved as provided herein.

**24.2 Claims by a Contractor against the District:**

Claim, as used in paragraph 24.2 of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

**24.2.1** All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the CO for a decision. The Contractor's claim shall contain at least the following:

- 24.2.1.1** A description of the claim and the amount in dispute;
- 24.2.1.2** Data or other information in support of the claim;
- 24.2.1.3** A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and
- 24.2.1.4** The Contractor's request for relief or other action by the CO.

**24.2.2** The CO may meet with the Contractor in a further attempt to resolve the claim by agreement.

**24.2.3** The CO shall issue a decision on any claim within 120 calendar days after receipt of the claim. Whenever possible, the CO shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.

**24.2.4** The CO's written decision shall do the following:

- 24.2.4.1** Provide a description of the claim or dispute;
- 24.2.4.2** Refer to the pertinent contract terms;
- 24.2.4.3** State the factual areas of agreement and disagreement.

- 24.2.4.4** State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
- 24.2.4.5** If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
- 24.2.4.6** Indicate that the written document is the CO's final decision; and
- 24.2.4.7** Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

**24.2.5** Failure by the CO to issue a decision on a contract claim within 120 days of receipt of the claim will be deemed to be a denial of the claim, and will authorize the commencement of an appeal to the Contract Appeals Board as provided by D.C. Official Code § 2-360.04.

**24.2.5.1** If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim.

**24.2.5.2** Liability under Paragraph 24.2.5.1 shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.

**24.2.6** Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the CO.

**24.3 Claims by the District against a Contractor:**

**24.3.1** Claim as used in paragraph 24.3 of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

**24.3.2** The CO shall decide all claims by the District against a contractor arising under or relating to a contract.





**Section 25. First Source**

In consideration of the circumstances underlying this Participating Agreement ("PA"), the District of Columbia and Contractor agree that no new employment by Contractor will be created or result from the work required under the PA. In these circumstances, the parties agree that the District provisions implementing the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code, sec. 2-219.01 et seq. ("First Source Act") do not apply to the work by Contractor under the Agreement and have been omitted from the PA but should Contractor later subcontract, provisions implementing the First Source Act will apply to subcontractors of Contractor under the PA which agree to subcontracts totaling \$100,000 or more. Contractor will include in any subcontract totaling \$100,000 or more the First Source clause and the District's First Source Employment Agreement form.

Should circumstances change such that new employment Contractor, as envisioned by the First Source Act, is occasioned by performance of work under the PA, Contractor shall comply with standard First Source Act-related provisions omitted from the Participating Agreement pursuant to the parties understanding in this section and shall notify the District of the specific changes in circumstances and the new job(s) thereby created. The Contracting Officer shall then unilaterally modify the Agreement to remove this qualification as to Contractor's performance.

**Section 26. Entire Agreement.** The Master Service Agreement and Participant's Task Order Number CW15546 (executed with this PA) sets forth the entire agreement between the Parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Except as expressly provided in the Master Service Agreement, terms and conditions inconsistent with, contrary or in addition to the terms and conditions of the Agreement shall not be added to or incorporated herein by any subsequent purchase order; and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of the Agreement shall prevail and govern in the case of any such inconsistent or additional terms.

[TEXT ENDS HERE. SIGNATURE BLOCKS FOLLOW ON NEXT PAGE.]

IN WITNESS WHEREOF, the Parties have executed this PA as of the PA Effective Date.

**DC OFFICE OF CONTRACTING AND PROCUREMENT**

By: Priscilla Mack  
                    , duly authorized

Name: Priscilla Mack

Title: Contracting Officer

Date: 8-1-12

**AT&T MOBILITY NATIONAL ACCOUNTS LLC**

By: Marcellus Brooks  
                    , duly authorized

Name: Marcellus Brooks

Title: Senior Contract Manager

Date: July 31, 2012