



Contra
Costa
County

To: Board of Supervisors
From: Brian M. Balbas, Public Works Director/Chief Engineer
Date: March 12, 2019
Subject: Settlement with T-Mobile USA, Inc.

RECOMMENDATION(S):

APPROVE and AUTHORIZE settlement with T-Mobile USA, Inc. in the False Claims Act lawsuit *State of California ex rel. OnTheGo Wireless, LLC v. Cellco Partnership d/b/a Verizon Wireless, et al.* (Sacramento Superior Court Case No. 34-2012-00127517), requiring T-Mobile USA to pay the County \$11,777, as recommended by the Purchasing Agent.

APPROVE and AUTHORIZE the Purchasing Agent to complete and return, on behalf of the County, a consent and release for non-intervenors, to agree to the terms of settlement and to release T-Mobile USA, Inc., from claims that were raised or that could have been raised in the lawsuit.

FISCAL IMPACT:

The County will receive \$11,777 in settlement funds from T-Mobile USA. Funds will be deposited in the General Fund, General Purpose Revenue.

BACKGROUND:

This board order authorizes the County to participate in a settlement with T-Mobile USA,

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **03/12/2019** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Candace Andersen, District II
Supervisor
Karen Mitchoff, District IV
Supervisor
Federal D. Glover, District V
Supervisor

ABSENT: Diane Burgis, District III
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: March 12, 2019

David Twa, County Administrator and Clerk of the Board of Supervisors

By: Stacey M. Boyd, Deputy

Contact: David Gould, (925)
313-2151

cc:

Inc., in a False Claims Act lawsuit filed on behalf of the State of California and several public agencies against several wireless carriers. The lawsuit,

BACKGROUND: (CONT'D)

State of California ex rel. OnTheGo Wireless, LLC v. Cellco Partnership d/b/a Verizon Wireless, et al. (Sacramento Superior Court Case No. 34-2012-00127517), alleges that several wireless carriers, including T-Mobile USA, Inc., billed public agencies more than they agreed to bill under multi-agency contracts for wireless services. The County participated in those contracts and paid T-Mobile USA approximately \$147,000 for wireless services under the contract during the period covered by the lawsuit (2006-2012). The relator, OnTheGo Wireless, LLC, litigated this lawsuit on behalf of the State of California, Contra Costa County, and several other cities, counties, and public agencies.

The County received a notice that the Relator has agreed to a settlement with T-Mobile USA. This settlement will require T-Mobile USA to pay a total of \$600,000, plus attorney's fees, for T-Mobile USA's alleged unlawful conduct between 2011 and 2012. The Court will consider approving the settlement with T-Mobile USA on May 3, 2019. If the Court approves the settlement, and if the County signs and returns a release form by March 21, 2019, the County will receive \$11,777 from the T-Mobile USA's settlement funds. The release form will release T-Mobile USA from all claims related to its alleged unlawful billing practices between 2011 and 2012 that were raised or could have been raised in this litigation. If the County does not sign and return a release form and the court approves the settlement, the County's settlement amount would be reduced by 10 percent.

The Purchasing Agent recommends approving the partial settlement with T-Mobile USA and authorizing the execution and return of a release form, to ensure that the County receives the full amount of its allocation of settlement funds.

CONSEQUENCE OF NEGATIVE ACTION:

If the County takes no action and the court approves the settlement, the County would receive approximately \$10,600 in settlement funds.