



Contra
Costa
County

To: Board of Supervisors
From: Brian M. Balbas, Public Works Director/Chief Engineer
Date: January 7, 2020

Subject: Partial settlement of State of California ex rel. OnTheGo Wireless, LLC v. Cellco Partnership d/b/a Verizon Wireless, et al. (Sac. Superior Court)

RECOMMENDATION(S):

APPROVE and AUTHORIZE settlement with Nextel of California, Inc. (dba Sprint Nextel and Nextel Communications) and Sprint Solutions, Inc., (collectively, "Sprint") 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 Sprint to pay the County \$61,342.08, 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 Sprint from claims that were raised or that could have been raised in the lawsuit.

FISCAL IMPACT:

The County will receive \$61,342.08 in settlement funds from T-Mobile. Funds will be deposited in the General Fund, General Purpose Revenue.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **01/07/2020** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V 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: January 7, 2020

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

By: Stacey M. Boyd, Deputy

Contact: Carrie Ricci
925-313-2235

cc:

BACKGROUND:

This board order authorizes the County to participate in a settlement with Nextel of California, Inc. (dba Sprint Nextel and Nextel Communications) and Sprint Solutions, Inc., (collectively, “Sprint”) in a False Claims Act lawsuit filed on behalf of the State of California and several public agencies against several wireless carriers. The 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), alleges that several wireless carriers, including Sprint, billed public agencies more than they agreed to bill under multi-agency contracts for wireless services. The County participated in those contracts and paid Sprint approximately \$1,759,835 for wireless services under the contract during the period covered by the lawsuit (2006-2012). The relator OnTheGo Wireless, LLC, (“Relator”) 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 Sprint. This settlement will require Sprint to pay a total of \$9,220,391, plus attorney’s fees, for its alleged unlawful conduct. The Court will consider giving final approval of the settlement with Sprint on March 17, 2020. If the Court approves the settlement, and if the County signs and returns a release form by February 18, 2020, the County will receive \$61,342.08 from the Sprint settlement funds. The release form will release Sprint from all claims related to its alleged unlawful billing practices 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 Sprint 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 only receive approximately \$55,200 in settlement funds.