

CITY OF OAKLAND
AGENDA REPORT

CITY OF OAKLAND
COMMUNICATIONS
JUN 12 2007

TO: Office of the City Administrator
ATTN: Deborah A. Edgerly
FROM: Finance and Management Agency
DATE: June 12, 2007

RE: Resolution Authorizing The City Administrator Or Her Designee To 1) Waive The Request For Proposals Competitive Selection Process and Negotiate And Execute An Agreement With Sprint/Nextel Communications For The Replacement, Retuning, Upgrade And Modification Of The City's 800 MHz Radio Equipment Per The FCC Rebanding Agreement; 2) Allocate Funds From The Radio Replacement Fund In An Amount Not To Exceed Three Hundred Thousand Dollars (\$300,000) And Authorize The City Administrator To Execute Contracts Through Competitive Bids For Inventory Control Software, Battery Charger And Training Without Return To Council

SUMMARY

This report requests that the City Council authorize the City Administrator or her Designee to waive the competitive selection process and negotiate and execute an agreement with Sprint/Nextel Communications for the replacement, retuning, upgrade and modification of the City's 800 MHz Radio equipment as required by the Federal Communications Commission's (FCC) Rebanding Agreement. A resolution has been prepared for the City Council to authorize the City Administrator to reallocate Three Hundred Thousand Dollars (\$300,000) from the Radio Replacement Fund and execute contracts through the competitive bid process for inventory software, a battery charger and staff training, without return to Council.

The FCC settlement requires Nextel Communications, Inc., to replace the majority of the City's radio units. Without the FCC mandate, the estimated cost of the City's upgrade is approximately \$13,000,000 for fleet radios, infrastructure upgrades, financing and new site acquisitions. Sprint/Nextel, as part of its negotiations with the FCC, is obligated to pay for the cost of the move to a new area of radio spectrum. Due to the age of the City's existing radios, Sprint/Nextel is obligated to replace them with units capable of accepting the new frequencies. This allows the City to upgrade its fleet at a fraction of the original estimated cost.

In December 2005, the City Council passed Resolution No. 79665 c.m.s., authorizing the City Administrator or her designee to negotiate an agreement with Sprint/Nextel Communications for the replacement, retuning, upgrade and modification of the City's 800 MHz radio equipment per the FCC Rebanding Agreement. An amendment to that resolution requires the agreement be brought back to Committee for review and comment once negotiations are concluded. The amendment also requires identification of the timeline for reimbursement of cost incurred by the

Item: _____
Public Safety Committee
June 12, 2007

City of Oakland. As per the attached agreement, Nextel will pay to the City of Oakland and its vendors the estimated amount within 30 days of signing the agreement.

Due to the time constraints and urgent need for the replacement of the public safety radios, staff is presenting all of the negotiated agreements in this report. The City of Oakland is scheduled to conclude negotiations with Sprint/Nextel, Inc. by the time of the Council Committee meeting. Attached are the submitted replacement amounts as presented to Sprint/Nextel. If available, an update will be presented at committee.

FISCAL IMPACT

Sprint/Nextel is responsible for the cost of relocating all affected 800 MHz users to a new spectrum with comparable technological and operational capabilities to those presently in use. To ensure that adequate funding is available for the entire 800 MHz reconfiguration, the FCC has required Sprint/Nextel to secure irrevocable letters of credit in the amount of \$2.5 billion and commit to providing additional funding if necessary.

Of the requested \$300,000 in radio replacement funds, all but \$81,500 is eligible for reimbursement. This \$81,500 is for the battery charger/analyzer of which the lower maintenance costs for batteries will pay for the initial cost during its life-cycle. In addition, with a projected shipment of over 1700 radio batteries, the timely charging of these batteries will be an essential part of the total deployment of replacement equipment.

The following is the breakdown of the estimated cost:

<i>Item</i>	<i>Estimated Cost</i>
Radio Inventory System (MCM Technologies)	\$106,000
Radio battery charger and analyzer (Valesco systems)	\$81,500
Radio staff training (MA-COM Communication)	\$95,000

BACKGROUND

In 1992, the City purchased a General Electric (now M/A-COM/ Tyco Communications) 800 MHz trunked radio system via competitive bid in response to the Oakland Hills Fire. Over the last 13 years the City has invested approximately \$20 million in this system.

The current portable and mobile radios are at the end of their useful life and need replacement. In 2004, the Information Technology Department staff presented a plan to the City Council to replace the fleet of radios and make necessary upgrades to the system. The original proposal was

to negotiate a \$13 million, ten-year lease for radio replacement and system upgrade. The lease was to be paid by user departments, including Police and Fire.

In early 2005, Sprint/Nextel, as part of negotiations with the FCC, negotiated a settlement of existing radio interference complaints, a condition of the settlement was to relocate public safety radio frequencies to a new location on the radio spectrum.

Due to the age of the City's existing radios, Sprint/Nextel is obligated to replace the City's existing radios with units capable of accepting the new frequencies. The City will now be able to upgrade its fleet at a fraction of the original cost.

Rebanding will be coordinated through a Federal Transition Administrator who released a schedule that requires the rebanding to be completed nationwide by the middle of 2008.

KEY ISSUES AND IMPACTS

The City must retune or replace every piece of radio equipment during the 36 months allotted for the rebanding process. This is a mandatory project resulting from a settlement between the FCC and Sprint/Nextel Communications, Inc. The City must have this work done or it will not be licensed to operate its radio system. Approximately 1,000 vehicles and 1,400 portable radios will be impacted by the project.

PROJECT DESCRIPTION

This project will allow the City to take full advantage of the Sprint/Nextel funding to acquire public safety fleet radios that meet or exceed current regional radio proposals and government standards. Additionally, this project allows the City to:

- Purchase a 128-slot portable radio battery analyzer/charger. This will allow City staff to accept the new radios and batteries and properly charge and analyze them prior to deployment. This is estimated to add as much as an additional year of service to the batteries and allow for the detection of faulty units prior to deployment. It is also estimated that this unit will pay for itself in reduced battery cost during two battery life-cycles.
- Replacement of the current Communications Asset Tracking system. The current software program is 10 years old and will not support barcodes or other asset fields that will be part of the new radio deployment. This software and equipment is needed prior to the actual deployment of the radio. This is an identified item that is eligible for reimbursement under this agreement.

- City staff radio training. Staff will need to be trained on the new radios and associated equipment prior to deployment. This is an identified item that is eligible for reimbursement under this agreement.

SUSTAINABLE OPPORTUNITIES

Economic

The purchase of the battery charger/analyzer will increase the life expectancy of the battery stock and reduce the total number of batteries to be disposed.

Environmental

With the proper charging and reconditioning of the batteries, it is expected to add to the life of the batteries a minimum of one year. This will reduce the total number of batteries that will need special disposal.

Social Equity

No direct social equity opportunities have been identified.

DISABILITY AND SENIOR CITIZEN ACCESS

This project will enhance the City's existing emergency response system and provide additional service to those with the greatest needs.

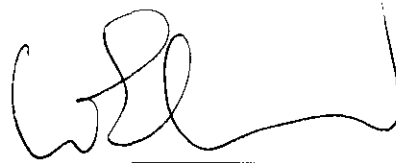
RECOMMENDATION(S) AND RATIONALE

Staff recommends authorization for the City Administrator or her designee to 1) Negotiate and execute an agreement with Sprint/Nextel Communications for the replacement, retuning, upgrade and modification of the City's 800 MHz radio equipment per the FCC Rebanding agreement; 2) approve the resolution to: Allocate funds from the Radio Replacement Fund in an amount not to exceed three hundred thousand dollars (\$300,000) and authorize the City Administrator to execute contracts through competitive bids for inventory control software, battery charger and training without return to Council. This project saves the City a considerable amount of money and provides the City's public safety units with replacement radio equipment and equipment that will sustain the radio system.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council authorize the City Administrator or her designee to 1) Negotiate and execute an agreement with Sprint/Nextel Communications for the replacement, retuning, upgrade and modification of the City's 800 MHz radio equipment per the FCC Rebanding agreement; 2) approve the resolution to: Allocate funds from the Radio Replacement Fund in an amount not to exceed three hundred thousand dollars (\$300,000) and authorize the City Administrator to execute contracts through competitive bids for inventory control software, battery charger and training without return to City Council.

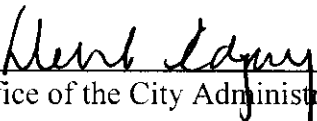
Respectfully submitted,



**William E. Noland, Director
Finance and Management Agency**

Prepared by:
Bob Glaze, Chief Technology Officer
Information Technology Division

APPROVED AND FORWARDED TO THE
PUBLIC SAFETY COMMITTEE:


Office of the City Administrator

FREQUENCY RECONFIGURATION AGREEMENT

THIS FREQUENCY RECONFIGURATION AGREEMENT (this "Agreement") is made as of this ____ day of _____, 2007 ("Effective Date"), by and between **City of Oakland**, a municipal subdivision of the State of California, ("Incumbent"), and **Nextel West Corp.** ("Nextel"), a wholly owned indirect subsidiary of Sprint Nextel Corp., a Kansas corporation (each is referred to in this Agreement as a "Party" and collectively as the "Parties").

RECITALS

- A. On August 6, 2004, the Federal Communications Commission ("FCC") issued a Report and Order that modified its rules governing the 800 MHz band. The purpose of the Order was to reconfigure the 800 MHz band to minimize harmful interference to public safety radio communications systems in the band ("Reconfiguration").
- B. On December 22, 2004, the FCC issued a Supplemental Order and Order on Reconsideration. The August 6, 2004 and December 22, 2004 FCC orders, and any supplemental FCC Orders in the Reconfiguration proceeding or subsequent actions after the date of this Agreement, are collectively referred to as the "Order."
- C. Pursuant to the Order, Incumbent and Nextel are licensed on frequency allocations subject to Reconfiguration. Incumbent is also authorized to operate on frequency allocations associated with call signs WPGR333 and WPNV860 licensed to the City of Richmond ("Richmond Frequencies"), and frequency allocations associated with WPPF534, WPPU273, and WPSH605 licensed to the San Francisco Bay Area Rapid Transit District ("BART Frequencies") designated for inter-agency communications (collectively the "Interoperable Frequency Operators") subject to Reconfiguration pursuant to independent agreements with Sprint Nextel.
- D. Pursuant to the Order, Nextel will pay Incumbent an amount to effect a Reconfiguration of Incumbent's affected frequency allocations ("Reconfiguration Cost"). Incumbent will certify to the Transition Administrator appointed pursuant to the Order (the "Transition Administrator") that the Reconfiguration Cost is the minimum amount necessary to provide comparable facilities.

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

AGREEMENT

1. **Frequencies to be Reconfigured:** Incumbent is the licensee under the license(s) granted by the FCC identified in Schedule A (the "Incumbent Licenses") for the operation of certain 800 MHz frequencies at the locations identified on Schedule A (the "Incumbent Frequencies") Nextel, including its subsidiaries or affiliates, is the licensee under license(s) granted by the FCC (the "Nextel Licenses") for the operation of Specialized Mobile Radio ("SMR") systems on the frequencies and at the locations identified in Schedule B (the "Replacement Frequencies"). Pursuant to the Order, Incumbent must relinquish the Incumbent Frequencies and relocate its system to the Replacement Frequencies.

2. **Frequency Reconfiguration Process:**

(a) On or before the Closing Date (as defined below) (i) Nextel or Incumbent will cause the modification of the Incumbent Licenses to add the Replacement Frequencies or Nextel will cause the creation of a new FCC license for Incumbent that includes the Replacement Frequencies; (ii) Incumbent will

cause the assignment of the Incumbent Frequencies to Nextel or will cause the deletion of the Incumbent Frequencies from the Incumbent Licenses following Reconfiguration of Incumbent's system; and (iii) Nextel will cause the modification and/or cancellation of the FCC licenses it holds for the operation of 800 MHz frequencies that are co-channels of the Replacement Frequencies, to the extent required to meet the technical short-spacing requirements of Section 90.621(b) of the FCC's Rules, 47 C.F.R. § 90.621(b), as such rule may be amended from time to time by the FCC.

(b) The parties agree that Nextel and the Incumbent (as appropriate) will cooperate in making the FCC assignment filings for the Replacement Frequencies on a future date to be determined by the parties through mutual agreement, as provided in Section 5(iii). The Parties agree to notify Nextel and the Incumbent (as appropriate) of the FCC assignment filings in accordance with the Notice provision of this Agreement.

3. Reconfiguration Costs:

(a) Acknowledgement of Obligations. Incumbent agrees that:

(i) the cost estimate set forth in Schedule C (the "Cost Estimate") sets forth all of the work required to reconfigure Incumbent's existing facilities to comparable facilities that will operate on the Replacement Frequencies;

(ii) after all of the work contemplated by the Cost Estimate has been performed in accordance with this Agreement and Nextel has paid all amounts required by this Agreement, the Incumbent's reconfigured system shall be deemed for all purposes of the Order to be "comparable" to Incumbent's existing system prior to Reconfiguration, and Nextel shall be deemed to have satisfied its obligations under the Order to pay the cost of relocating Incumbent's system from the Incumbent Frequencies to the Replacement Frequencies.

(b) Payment Terms. In order to facilitate the Incumbent's transition to the Replacement Frequencies, Nextel will pay the costs incurred to reconfigure Incumbent's system in an amount not to exceed the Cost Estimate, except as modified pursuant to Section 3(b)(iii) and Section 8, of this Agreement, Nextel will pay the amount of the Cost Estimate in accordance with the payment terms identified on Schedule C and as set forth below for both payments made directly to Incumbent and payments made on behalf of Incumbent directly to each third party service vendor identified on the Cost Estimate ("Vendor").

(i) Prior to the Closing Date, Incumbent will submit to Nextel documentation (including without limitation invoices, receipts, and timesheets or equivalent documentation) demonstrating the actual costs that Incumbent reasonably incurred or paid to other entities to reconfigure Incumbent's system ("Actual Costs"). Upon receipt by Nextel of documentation of the Actual Costs, Nextel and Incumbent will reconcile the Actual Costs against the payments made by Nextel to Incumbent and the Parties will agree upon the amount of any additional payments (subject to Section 8) due to Incumbent or any refunds due to Nextel. The date of receipt by Nextel of Incumbent's signed Reconciliation Statement and Closing Documents is the "Reconciliation Date." Any additional payments due to Incumbent from Nextel will be disbursed to Incumbent within thirty (30) days of the Reconciliation Date, provided the additional payments do not result from Actual Costs that exceed the Cost Estimate (in which case the provisions of Section 3(b)(iii) and Section 8 of this Agreement will apply). Subject to any applicable local law, procedures or practices governing the appropriation and/or encumbrance of public funds, any refunds due from the Incumbent to Nextel will be made within thirty (30) days of the Reconciliation Date. Should the parties be unable to agree upon the amount of the additional payments, the parties shall follow the resolution procedures detailed in the FCC Order.

(ii) Any additional payments due to Incumbent from Nextel will be disbursed to Incumbent within thirty (30) days of the Reconciliation Date, provided the additional payments do not result from Actual Costs that exceed the Cost Estimate (in which case the provisions of Section 3(b)(iii) of this Agreement will apply). Any refunds due from the Incumbent to Nextel will be made within thirty (30) days of the Reconciliation Date.

(iii) In the event Incumbent's Actual Costs exceed the Cost Estimate, Incumbent must submit a Change Notice pursuant to Section 8 of this Agreement describing the change in scope of work that resulted in Incumbent's Actual Costs exceeding the Cost Estimate. Approval of any Change Notice will not be automatic but will be processed in accordance with Section 8 of this Agreement. Additional payments due to Incumbent, which result from any Change Notice prior to the Reconciliation Date or an excess of Actual Costs over the Cost Estimate, as agreed on the Reconciliation Date, will be disbursed to Incumbent and/or its vendors within thirty (30) days of execution by the Parties of the Amendment documenting the approved changes from such Change Notice.

(iv) Prior to the Closing Date, Nextel will pay on behalf of itself and Incumbent, both Parties' applicable sales and transfer taxes, if any, and all FCC fees in connection with the preparation and filing of the necessary FCC applications for the assignment(s) described in Section 2 of this Agreement.

4. **Reconfiguration Equipment.** If needed in order to facilitate the Incumbent's transition to the Replacement Frequencies, Nextel will loan any equipment identified in Schedule D as "Loaned Reconfiguration Equipment". The Loaned Reconfiguration Equipment and Nextel Replacement Equipment may be referred to collectively as the "Nextel Schedule D Equipment". Nextel will deliver any Loaned Reconfiguration Equipment to Incumbent in accordance with Schedule D. Incumbent will fax to Nextel a bill of lading associated with each shipment of Nextel Schedule D Equipment signed by an authorized representative of Incumbent acknowledging receipt of the Nextel Schedule D Equipment in good working order. Any Loaned Reconfiguration Equipment will be returned to Nextel by Incumbent prior to the Closing Date.

5. **Retuning Cooperation:** For purposes of this Section, the "Current Program Completion Date" shall mean June 26, 2008 or such other date as may be established by the FCC for the completion of the Reconfiguration. The Parties acknowledge that the number of frequencies and locations covered by this Agreement will require the Parties to cooperate closely with each other and also the Interoperable Frequency Operators in performing their respective reconfiguration activities. Generally, the reconfiguration process will entail the retuning of Incumbent's mobile and portable units to accommodate both the Incumbent Frequencies and the Replacement Frequencies; and the reconfiguration of Incumbent's base station infrastructure (sites) from the Incumbent Frequencies to the Replacement Frequencies. The Parties agree that: (i) as of the Effective Date, the Incumbent may begin the reconfiguration of its subscriber units, in accordance with the appropriate sections of Schedule C and Schedule D, (ii) Incumbent may commence such other activities associated with the reconfiguration of its system as further detailed on Schedule C hereof upon the approval of this Agreement by the TA; and (iii) the Parties will agree on a schedule to make the FCC filings, clear the Replacement Frequencies and decommission the Incumbent Frequencies (the "Schedule"). Depending on the timing of the adoption of this Schedule, it may require the submission of a Change Notice in accordance with Section 8 and/or an Amendment to this Agreement, but in any event the Parties agree to adopt the Schedule no later than forty-five (45) days from the Effective Date of this Agreement or July 31, 2007, whichever is later, or such other date as the FCC may require (the "Scheduling Period"); provided, however, that in the event the completion date in the Schedule for the reconfiguration of Incumbent's system extends beyond the Current Program Completion Date, the completion date in the Schedule will be subject to FCC approval. Incumbent will then synchronize the retune of Incumbent's system with the Interoperable Frequency Operators and will clear all users from the Frequencies pursuant to the Schedule to be

negotiated with Nextel. Incumbent will coordinate the retune with the Interoperable Frequency Operators. This coordination will include, but not be limited to, maintaining periodic contact with the Interoperable Frequency Operators to allow Incumbent to remain cognizant of the Interoperable Frequency Operators' reconfiguration Schedules. If, by the end of the Scheduling Period no agreement on the Schedule has been reached by the Parties, the Parties will jointly seek resolution in accordance with the dispute resolution provisions of the Order, including the dispute resolution procedures adopted by the Transition Administrator, as they may be amended from time to time. Nothing in this Section shall prohibit the Incumbent from beginning work immediately on replacement of the subscriber units and/or subscriber software programming.

6. **Representations and Warranties:** Each Party represents and warrants to the other as follows:

(a) it is duly organized, validly existing and in good standing under the laws of the state of its incorporation;

(b) this Agreement has been duly authorized and approved by all required organizational action of the Party;

(c) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement will conflict with, or result in any material violation or default under, any term of its articles of incorporation, by-laws or other organizational documents or any agreement, mortgage, indenture, license, permit, lease, encumbrance or other instrument, judgment, decree, order, law or regulation by which it is bound;

(d) it is the lawful and exclusive FCC licensee of its respective license(s) described in this Agreement, such licenses are valid and in good standing with the FCC, and it has the authority to request the FCC to assign, modify or cancel such licenses;

(e) there is no pending or threatened action or claim that would have the possible effect of enjoining or preventing the consummation of this Agreement or awarding a third party damages on account of this Agreement; and

(f) to the best of its knowledge, all information provided to the other Party concerning the transactions contemplated by this Agreement is true and complete.

All representations and warranties made in this Agreement shall survive the Closing (defined below) for two (2) years.

7. **Covenants:** From the Effective Date until the Closing Date (defined below), each Party will promptly notify the other Party upon becoming aware of any pending or threatened action by the FCC or any other governmental entity or third party to suspend, revoke, terminate or challenge any license described in this Agreement or to investigate the construction, operation or loading of any system authorized under such licenses. From the Effective Date until the Closing Date, Incumbent will not enter into any agreement resulting in, or otherwise cause, the encumbrance of any license for the Incumbent Frequencies, and Nextel will not enter into any agreement resulting in, or otherwise cause, the encumbrance of any of the Replacement Frequencies.

8. **Changes:** The Parties acknowledge that as the Reconfiguration of Incumbent's facilities proceeds in accordance with the work contemplated by the Cost Estimate, the need for changes to the scope of such work may arise. The Parties agree that their review of any such needed changes must be performed expeditiously to keep the work on schedule and that they will provide sufficient staff to manage changes. If either Party believes that a change to the work contemplated by the Cost Estimate is required (including changes by Vendors), such Party will promptly notify the other Party in writing. Such

written notice (the "Change Notice") shall set forth (i) a description of the scope of the change to the work contemplated by the Cost Estimate believed to be necessary and (ii) an estimate of any increase or decrease in the Cost Estimate and in the time required to reconfigure Incumbent's existing facilities to operate on the Replacement Frequencies. A Party receiving a Change Notice shall immediately perform its own analysis of the need for and scope of the change and its impact on the Cost Estimate and schedule and negotiate the change in good faith with the other Party. After the Parties have agreed upon a change to this Agreement, they shall prepare a proposed amendment to this Agreement pursuant to Section 25 and submit to the Transition Administrator a copy of the proposed amendment together with a written request for its approval. Such request shall be accompanied by reasonable documentation supporting the need for and scope of the change and any proposed increase or decrease in the Cost Estimate and in the time required to reconfigure Incumbent's existing facilities to operate on the Replacement Frequencies. Incumbent is responsible for all unauthorized changes necessary as it relates to work performed by a Vendor on behalf of Incumbent. No change to the Cost Estimate, the work contemplated by the Cost Estimate or the time required to reconfigure Incumbent's existing facilities to operate on the Replacement Frequencies shall become effective until the Transition Administrator has approved the change in writing and both Parties have signed an amendment incorporating such approved change into this Agreement pursuant to Section 25. In this regard, in the event that the Transition Administrator is unable to approve the proposed amendment within ten (10) business days, then the deadline by which the Incumbent must clear all users from the Replacement Frequencies, pursuant to Section 5, will be automatically extended by the number of days beyond ten (10) business days in which the Transition Administrator does not take final action to approve the proposed amendment. Should the Transition Administrator not approve the proposed amendment, either Party may appeal the decision consistent with the FCC Order, in which event the deadline in Section 5 will be extended by the number of days it takes for such appeal to be resolved. If the Parties are unable to agree on modification of this Agreement consistent with the Change Notice, either Party may request mediation consistent with the FCC Order. Once mediation has been requested, the deadline in Section 5 will be extended by the number of days it takes for all appeals to be resolved.

9. **Closing:** The closing ("Closing") of the transactions contemplated by this Agreement will take place within thirty (30) days after (i) FCC approval of the assignment of the Incumbent Frequencies to Nextel and/or deletion of the Incumbent Frequencies from the Incumbent Licenses, (ii) FCC approval of the modification to add the Replacement Frequencies to the Incumbent Licenses with no material conditions or the creation of a new license for Incumbent with no material conditions that includes the Replacement Frequencies, (iii) notification by Incumbent to Nextel that the Incumbent Frequencies have been cleared of all Incumbent users pursuant to Section 5 of this Agreement, (iv) delivery by Incumbent of all receipts, invoices and other documentation required to substantiate the Actual Cost, (v) FCC approval of the modification and/or cancellation of the FCC licenses Nextel holds for the operation of 800 MHz frequencies that are co-channels of the Replacement Frequencies, to the extent required to meet the technical short-spacing requirements of Section 90.621(b) of the FCC's Rules, 47 C.F.R. § 90.621(b), as such rule may be amended from time to time by the FCC, (vi) the refund to Nextel or payment to Incumbent as described in Section 3(b)(ii), (if applicable) and (vii) the satisfaction of all other conditions specified in this Agreement (the "Closing Date").

10. **Closing Conditions:** Performance of each Party's Closing obligations is subject to satisfaction of the following conditions (except to the extent expressly waived in writing by the other Party):

(a) the continued truth and accuracy of the other Party's representations and warranties set forth in this Agreement;

(b) all of the covenants of the other Party described in this Agreement are performed in all material respects; and

(c) execution and delivery by the other Party of Closing documents as well as any other Closing instruments and documents either Party or its counsel may reasonably request. Incumbent will execute and deliver to Nextel a closing certification required by the Transition Administrator.

(d) The Parties will cooperate in good faith and exercise their reasonable best efforts to finalize and execute these instruments and documents on or prior to the Closing Date in order to effect the Reconfiguration contemplated.

11. **Review Rights:** Incumbent agrees to maintain records and other supporting evidence related to the costs that Incumbent has expended in connection with the Reconfiguration contemplated by this Agreement and that Nextel has paid or will pay to Incumbent pursuant to this Agreement. Incumbent agrees to maintain such records and make them reasonably available to the Transition Administrator for review or reproduction until eighteen (18) months after the date of Incumbent's executed Completion Certification required by this Agreement or for a longer period if Incumbent, for its own purposes, retains such records for a longer period of time. As used in this provision, "records" includes books, documents, accounting procedures and practices and other data regardless of type and regardless of whether such items are in written form, in the form of computer data or in any other form. Nextel shall be responsible for all post-Closing audit expenses of the Incumbent, except those expenses resulting from fraudulent activity on behalf of the Incumbent. To the extent that any post-Closing audit determines that Nextel paid a third-party vendor more than provided for under the FCC Order, Nextel's sole remedy is to seek reimbursement directly from the third-party vendor, unless such overpayment was the result of fraud or negligence of the Incumbent.

12. **Excluded Assets; No Assumption of Liabilities:** Nothing in this Agreement should be construed as a transfer or assignment from either Party to the other Party of any assets (including FCC licenses) except as expressly set forth in this Agreement. Other than as expressly provided in this Agreement, neither Party is obligated to assign and transfer to the other Party any asset, tangible or intangible, nor is either Party entitled to assume any asset, tangible or intangible. Neither Party is assuming, nor is either Party responsible for, any liabilities or obligations of the other Party arising out of or in connection with the other Party's licenses (or related systems and facilities) that are the subject of this Agreement.

13. **Confidentiality:** The terms of this Agreement and any proprietary, non-public information regarding the Incumbent Frequencies, Replacement Frequencies, Nextel's business and Incumbent's business must be kept confidential by the Parties and their employees, shareholders, agents, attorneys and accountants (collectively, "Agents"), which confidentiality will survive the Closing or termination of this Agreement for a period of two (2) years. The Parties may make disclosures as required by law and to the Transition Administrator and to a Vendor (but only to the extent that such disclosure specifically relates to that Vendor's work and costs under this Agreement (as identified on Schedule C) or Motorola's work and costs under this Agreement (as identified on Schedule C and/or Schedule D) as required to perform obligations under this Agreement, Nextel, Incumbent and their respective Agents may make disclosures regarding the terms of this Agreement to other public safety licensees and their Agents in accordance with the FCC Order, WT Docket No. 02-55, adopted January 8, 2007. Each Party will cause all of its Agents to honor the provisions of this Section.

14. **Cooperation:** The Parties will cooperate with each other and the Transition Administrator with respect to the Reconfiguration work contemplated by this Agreement. Without limiting the foregoing obligations, the Parties agree to cooperate in the preparation of any applications required to be filed with the FCC, and Incumbent agrees to provide reasonable access to its facilities so that the Transition Administrator may comply with any audit obligations and so any Reconfiguration work contemplated by this Agreement may be performed in accordance with the Cost Estimate and performance schedule. If a Party is subject to a denial of FCC benefits for delinquent non-tax debts owed

to the FCC that would prevent or delay the timely processing of any FCC applications, such Party shall cure such delinquency in an expeditious manner and at its sole expense.

15. **Indemnification:** From and after the Closing Date, each Party (the “Indemnifying Party”) will indemnify and defend the other Party, its officers, directors, employees and agents (collectively, the “Indemnified Party”), from and against all third party demands, claims, actions, losses, damages, liabilities, costs and expenses, including, without limitation, reasonable attorneys’ fees and expenses (collectively, “Costs”), asserted against, imposed upon or incurred by the Indemnified Party arising from or related to: (i) any breach of any covenant, agreement, representation or warranty of the Indemnifying Party contained in, or made pursuant to, this Agreement; or (ii) any and all liabilities (including successor liabilities) or obligations relating to periods prior to the Closing Date resulting from the Indemnifying Party’s operation of the system operated pursuant to the Incumbent Licenses or the Nextel Licenses, as applicable, or the ownership or use of those licenses or from the Indemnified Party’s employment, or termination of employment, of its employees. The obligations under this Section survive the Closing for a period of three (3) years.

16. **Disputes:** The Parties agree that any dispute related to the Replacement Frequencies, Nextel’s obligation to pay any cost of the Reconfiguration of Incumbent’s system contemplated by this Agreement, or the comparability of Incumbent’s reconfigured system to Incumbent’s existing system prior to Reconfiguration, which is not resolved by mutual agreement, shall be resolved in accordance with the dispute resolution provisions of the Order, including the dispute resolution procedures adopted by the Transition Administrator, as they may be amended from time to time.

17. **No Gratuities:** No gift, gratuity, credit, thing of value or compensation of any kind shall be offered or provided by Incumbent, directly or indirectly, to any officer, employee or official of either Party for the purpose of improperly obtaining or rewarding favorable treatment under this Agreement.

18. **Liens:** If any liens or security interests attach to any of Incumbent’s facilities in favor of any vendor or service provider that is performing any Reconfiguration work contemplated by this Agreement as a result of Nextel’s breach of any obligation to make direct payment (not in dispute) to such vendor or services provider, Nextel upon receipt of Notice from Incumbent will cooperate to remove any Liens.

19. **Vendor Performance Issues:** Incumbent will select and contract directly with any vendor or service provider performing work required to reconfigure the Incumbent’s existing facilities to operate on the Replacement Frequencies. Neither the Transition Administrator nor Nextel will be responsible for, or assume the risk of any failure of that Vendor to perform its obligations under any contract entered into between Incumbent and such Vendor in connection with the Reconfiguration contemplated by this Agreement.

20. **Title to Replaced and Replacement Equipment:**

(a) If the reconfiguration of the Incumbent’s existing facilities to operate on the Replacement Frequencies involves the replacement of any of Incumbent’s existing equipment (“Replaced Equipment”) with equipment provided by Nextel (as identified on Schedule D) or equipment the cost of which is being paid by Nextel pursuant to this Agreement as listed in Schedule C (collectively the “Replacement Equipment”). Prior to Closing Date Incumbent shall deliver the Nextel Replaced Equipment to Nextel at Nextel’s costs and pursuant to Nextel’s instructions. Title to Replaced Equipment listed in Schedule D shall pass to Nextel at Closing free and clear of liens and any other encumbrances, and Incumbent shall execute such documentation as Nextel may reasonably request to transfer title to Nextel. Title to Replacement Equipment provided by Nextel will pass to Incumbent at Closing and Nextel shall execute such documentation as Incumbent may reasonably request to transfer title to Incumbent free and clear of liens.

(b) If Incumbent fails to return any item of the Replaced Equipment to Nextel, Incumbent must return to Nextel those items of the Replacement Equipment that would have replaced the Replaced Equipment not returned, in new condition prior to the Closing Date. If Incumbent fails to return any item of the Replaced Equipment to Nextel under this Section 20(b), a Product Typical Value will be established for such equipment in accordance with the provisions of Schedule E for the item of Replacement Equipment then either: (i) Nextel will deduct the Product Typical Value (as set forth in Schedule E) for those items of Loaned Reconfiguration Equipment and/or Replacement Equipment loaned or provided to replace the Replaced Equipment not returned to Nextel (including tax (if any) and shipping) (the "Nextel Equipment Refund") from the final payment due to Incumbent after the Reconciliation; (ii) Incumbent must pay Nextel the Nextel Equipment Refund for those items of Loaned Reconfiguration Equipment and/or Replacement Equipment not returned to Nextel prior to the Closing Date (if no final payment is due to Incumbent); or (iii) Nextel will deduct the portion of the Nextel Equipment Refund up to the value of the final payment due to Incumbent and Incumbent must pay Nextel the remaining Nextel Equipment Refund not covered by the final payment prior to the Closing Date (if the final payment due Incumbent is less than the Nextel Equipment Refund), or (iv) Licensee can purchase equipment identical to the Replacement Equipment from any source and send the equipment to Nextel prior to Closing.

21. **Termination:** This Agreement may be terminated and the transactions contemplated by this Agreement abandoned: (i) by mutual consent of the Parties provided in writing; (ii) for cause by either Party upon material breach of the other Party, following a thirty (30) day period for cure by the breaching Party following written notice of the breach; (iii) by Incumbent, in the event that a proposed amendment is not approved, pursuant to Section 8; or (iv) by Nextel prior to Closing in the event of any Adverse Decision affecting the Order by any governmental entity of competent jurisdiction. For purposes of this Agreement, an "Adverse Decision affecting the Order" means an order, decree, opinion, report or any other form of decision by a governmental entity of competent jurisdiction that results, in whole or part, in a stay, remand, or reversal of the Order, or otherwise in any revision to the Order that Nextel determines, in its sole discretion, to be adverse to its interests. In the event of termination, the Parties shall take all necessary action (including preparing and filing FCC documents) to return the *status quo ante* on the date of this Agreement. In the event of termination, Nextel shall pay all costs associated with the return to the *status quo ante*, as well as all Incumbent costs expended in the Agreement negotiations and implementation, except if such termination was due to an uncured material breach by Incumbent. Should Incumbent terminate this Agreement pursuant to subsection (iii), Incumbent shall not be released of its obligations under the Order.

22. **Attorney's Fees:** In any legal proceeding by a Party to enforce its rights under this Agreement against the other Party, the Party prevailing in such proceeding will be entitled to recover its reasonable attorney's fees and costs from the other Party.

23. **Notices:** All notices and other communications under this Agreement must be in writing and will be deemed given (i) the same day if delivered personally or sent by facsimile; (ii) the next business day if sent by overnight delivery via a reliable express delivery service; or (iii) after five (5) business days if sent by certified mail, return receipt requested, postage prepaid. All notices are to be delivered to the Parties at the following addresses:

<p>If to Incumbent, to: City of Oakland 150 Frank Ogawa Plaza, Suite 7216 Oakland, CA 94612 Attn: Bob Glaze, CIO Phone: (510) 238-2390 Fax: _____</p>	<p>If to Nextel, to: Nextel of California, Inc. c/o Nextel Communications, Inc. 2001 Edmund Halley Drive Reston, VA 20191 Attn: Heather P. Brown, Esq. Phone: (703) 433-4000 Fax: (703) 433-4483</p>
<p>With a copy that shall not constitute Notice: Alan S. Tilles, Esquire Shulman Rogers Gandal Pordy & Ecker, P.A. 11921 Rockville Pike, Third Floor Rockville, Maryland 20852 Phone: (301) 231-0930 Fax: (301) 230-2891</p>	<p>With a copy that shall not constitute Notice: Nextel Communications, Inc. 6575 The Corners Parkway Norcross, GA 30092 Attn: William Jenkins, VP Spectrum Resources Phone: (770) 326-7484 Fax: (678) 405-8252</p>

24. **Assignment:** This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assigns. Either Party may assign this Agreement to any direct or indirect subsidiary or affiliate of the Party, upon delivery of written notice to the other Party.

25. **Amendments:** This Agreement, including without limitation the scope of work contemplated hereby and the Estimated Cost thereof to be paid by Nextel, may be amended or modified only by a written instrument signed by authorized representatives of both Parties, provided, however, no amendment or modification to this Agreement shall become effective until approved by the Transition Administrator, or the FCC after an adverse decision by the Transition Administrator.

26. **Benefits:** This Agreement is for the benefit of the Parties and their successors and permitted assigns, and nothing in this Agreement gives or should be construed to give any legal or equitable rights under this Agreement to any person or entity, other than (i) the successors and assigns of the Parties, and (ii) the Transition Administrator as specifically provided in Sections 3(b), 8, 11, 14, 19, and 25.

27. **Miscellaneous:** If any provision(s) of this Agreement is held in whole or part, to be invalid, void or unlawful by any administrative agency or court of competent jurisdiction, then such provision(s) will be deemed severable from the remainder of this Agreement, will in no way affect, impair or invalidate any other provision contained in the Agreement and the Parties will use their commercially reasonable efforts to amend this Agreement to make the unlawful provision compliant with applicable law so as to preserve the rights and obligations of the Parties. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement, together with the Schedules, constitutes the entire understanding and agreement between the Parties concerning the subject matter of this Agreement, and supersedes all prior oral or written agreements or understandings. This Agreement is governed by the laws of the State of California without regard to conflicts of law principles thereof. This Agreement may be executed in one or more counterparts, including by facsimile, which will be effective as original agreements of the Parties executing the counterpart. In consideration of the mutual consideration set forth herein, this Agreement is effective as a legally binding agreement between the Parties upon execution by the Parties.

In consideration of the mutual consideration set forth herein, this Agreement is effective as a legally binding agreement between the Parties upon execution by the Parties.

INCUMBENT:
City of Oakland

NEXTEL:
Nextel West Corp.

By: _____

By: _____

Name:

Name:

Title:

Title:

SCHEDULE A

Incumbent Frequencies

Incumbent Name: City of Oakland

Incumbent Assigns to Nextel:

Call Sign	Freqs.	Licensee	Location	# Freqs.	Exp. Date	Lat(N)	Long(W)
WPUQ545	866.1250	Oakland, City of	Oakland CA	1	4/15/2012	37-48-10.7N	122-16-21.8W
WPUQ545	866.3250	Oakland, City of	Oakland CA	1	4/15/2012	37-48-10.7N	122-16-21.8W
WPUQ545	866.3750	Oakland, City of	Oakland CA	1	4/15/2012	37-45-22.7N	122-9-25.8W
WPUQ545	866.4000	Oakland, City of	Oakland CA	1	4/15/2012	37-48-10.7N	122-16-21.8W
WPUQ545	866.6000	Oakland, City of	Oakland CA	1	4/15/2012	37-48-10.7N	122-16-21.8W
WPUQ545	866.7000	Oakland, City of	Oakland CA	1	4/15/2012	37-45-22.7N	122-9-25.8W
WPUQ545	867.0500	Oakland, City of	Oakland CA	1	4/15/2012	37-48-10.7N	122-16-21.8W
WPUQ545	867.3000	Oakland, City of	Oakland CA	1	4/15/2012	37-48-10.7N	122-16-21.8W
WPUQ545	867.8250	Oakland, City of	Oakland CA	1	4/15/2012	37-48-10.7N	122-16-21.8W
WPUQ545	868.1750	Oakland, City of	Oakland CA	1	4/15/2012	37-48-10.7N	122-16-21.8W
WPUQ545	868.3125	Oakland, City of	Oakland CA	1	4/15/2012	37-45-22.7N	122-9-25.8W
WPUQ545	868.4625	Oakland, City of	Oakland CA	1	4/15/2012	37-48-10.7N	122-16-21.8W
WPUQ545	868.5625	Oakland, City of	Oakland CA	1	4/15/2012	37-48-10.7N	122-16-21.8W
WPUQ545	868.5875	Oakland, City of	Oakland CA	1	4/15/2012	37-45-22.7N	122-9-25.8W
WPUQ545	868.8250	Oakland, City of	Oakland CA	1	4/15/2012	37-48-10.7N	122-16-21.8W
WPUQ545	868.9625	Oakland, City of	Oakland CA	1	4/15/2012	37-45-22.7N	122-9-25.8W

SCHEDULE B

Replacement Frequencies

Incumbent Name: City of Oakland

Nextel Assigns to Incumbent:

Replacement Freqs.	Lat(N)	Long(W)	ERP (w)	Grnd. Elev. (ft.)	Ant. Hgt. (ft.)	Licensee	Comments
851.1750	37-48-10.7N	122-16-21.8W	19	43	371	Oakland, City of	
851.4500	37-48-10.7N	122-16-21.8W	19	43	371	Oakland, City of	
851.6625	37-48-10.7N	122-16-21.8W	19	43	371	Oakland, City of	
851.7125	37-45-22.7N	122-9-25.8W	331	300	62	Oakland, City of	
851.7875	37-45-22.7N	122-9-25.8W	331	300	62	Oakland, City of	
852.1125	37-48-10.7N	122-16-21.8W	19	43	371	Oakland, City of	
852.1375	37-48-10.7N	122-16-21.8W	19	43	371	Oakland, City of	
852.2875	37-48-10.7N	122-16-21.8W	19	43	371	Oakland, City of	
852.7250	37-48-10.7N	122-16-21.8W	19	43	371	Oakland, City of	
852.8875	37-48-10.7N	122-16-21.8W	19	43	371	Oakland, City of	
853.1750	37-48-10.7N	122-16-21.8W	19	43	371	Oakland, City of	
853.2000	37-48-10.7N	122-16-21.8W	19	43	371	Oakland, City of	
853.3375	37-45-22.7N	122-9-25.8W	331	300	62	Oakland, City of	
853.4625	37-48-10.7N	122-16-21.8W	19	43	371	Oakland, City of	
853.7000	37-45-22.7N	122-9-25.8W	331	300	62	Oakland, City of	
853.8375	37-45-22.7N	122-9-25.8W	331	300	62	Oakland, City of	

SCHEDULE C

800 MHZ RECONFIGURATION

COST ESTIMATE – CERTIFIED REQUEST

Incumbent’s Name: City of Oakland

Request for Reconfiguration Funding

Pursuant to the Order, Incumbent is required to reconfigure its existing facilities and requests Nextel to fund the estimated reconfiguration costs included below:

Incumbent Payment Terms: Nextel will pay Incumbent an amount not to exceed the Estimated Cost(s) for Incumbent with respect to each category of work, as set forth below. Nextel will pay Incumbent <\$ amount> within 15 days (30 days if Incumbent elects to be paid by check rather than electronic funds transfer) after receipt by Sprint Nextel of the fully executed Agreement and fully completed Incumbent Information Form (as set forth on Exhibit A). Nextel will pay any outstanding balance of the Actual Costs due to Incumbent within 30 days after the Reconciliation Date (as “Actual Costs” and “Reconciliation Date” are defined in Section 3(b)(i)).

Vendor Payment Terms: Sprint Nextel will pay each Vendor an amount not to exceed the Estimated Cost(s) for that Vendor with respect to each category of work, as set forth below. Sprint Nextel will pay each Vendor within 30 days after receipt by Sprint Nextel of (A) an invoice from the Vendor and (B) Incumbent’s approval of receipt of goods and services and approval of associated costs included on the Vendor invoice.

1. System Description: Describe the facilities to be reconfigured in this section in accordance with the TA Guidelines for Preparing a Cost Estimate.

<Provide system description>

The major system elements to be reconfigured are summarized in the table below:

	Total In System	Total Included in FRA
Base station frequencies		
- Voice channels		
- Home/Control channels		
Repeater sites		
Other sites (remote recv, BDA)		
Subscriber units retuned		
Subscriber units reprogrammed		
Subscriber units replaced		
Entities operating on the system		

2. Reconfiguration Milestones:

Reconfiguration Task	Estimated Duration in # of Days
Reconfigure Subscriber Equipment	
Reconfigure Infrastructure Equipment	

3. Implementation Plan: The attached Implementation Plan and associated deliverables describe the reconfiguration implementation plan resulting from funds expended under the Planning Funding Agreement dated August 7, 2006.

See attachment.

4. Cost Estimate:

Description of Work To Be Performed	Payee (separately identify Incumbent and each Vendor being paid for work performed)	Estimated Cost(s) for Incumbent and each Vendor (Not to exceed listed amount)
I. Subscriber Equipment Reconfiguration		
a. Subscriber Equipment Reconfiguration		
b. Project Management		
c. Travel Costs		
II. Infrastructure Equipment Reconfiguration		
a. Central Site Infrastructure		
b. Repeater Site Infrastructure		
c. Miscellaneous Components		
d. Project Management		
e. Travel Costs		

III. Engineering and Verification a. Planning Costs, if Required 1. Frequency Analysis 2. System Inventory 3. Implementation Plan b. System Verification		
IV. Contracts and Legal a. Legal Fees to Negotiate FRA b. FCC Licensing Work c. Other Legal Fees		
V. Other Costs a. Other Project Management b. Taxes		
Total Estimated Costs		

Certification

Pursuant to the Order, Incumbent hereby certifies to the Transition Administrator appointed pursuant to the Order that the funds requested above are the minimum necessary to provide Incumbent reconfigured facilities comparable to those presently in use. Incumbent further certifies, to the best of Incumbent's knowledge, that any vendor costs listed on Schedule C are comparable to costs that vendor previously charged Incumbent for similar work.

Signature: _____
Print Name: _____
Title: _____
Phone Number: _____
E-mail: _____
Date: _____

Dailey Wells Commications

City of Oakland Expenses

Oakland Rebanding

1.0 <u>Reprogramming/Replace Mobile and Portable Units</u>	Count	Hrs	Rate	Total
	3370			
City employee time for radio exchanges		240.0	\$62.81	\$ 15,074.40
City employee time for escort and coordination during reprogramming		160.0	\$62.81	\$ 10,049.60
City employee time for escort and delivery of vehicles		1053.0	\$62.81	\$ 66,138.93
City PM time for 1.0		240.0	\$73.77	\$ 17,704.80
City removal and installation of prisoner cages in Police cars		448.0	\$75.00	\$ 33,600.00
City costs to aid in Patrol car installations	212	318.0	\$85.00	\$ 27,030.00
		Total		\$ 169,597.73
Total Reprograms only	1446			
Total Remote Mount Removal/Installs:	691			
Total Front Mount Removal/Installs:	1413			
Total vehicles to be delivered	2104			
2.0 <u>Reconfigure/Replace APL Site (Mastr I)</u>				
Number of MII Stations Reconfigured:	12			
City employee time for escort assistance in site work		24.0	\$62.81	\$ 1,507.44
City PM time for 2.0	0	24.0	\$73.77	\$ 1,770.48
		Total		\$ 3,277.92
3.0 <u>Reconfigure/Replace Seneca Site (MII and MIII)</u>				
Number MII Aux Receiver Reconfigured:	12			
Number MIII Stations Reconfigured:	5			
City employee time for escort assistance in site work		16.0	\$62.81	\$ 1,004.96
City PM time for 3.0		16.0	\$73.77	\$ 1,180.32
		Total		\$ 2,185.28
4.0 <u>Reconfigure/Replace Corporate Yard Site (MII)</u>				
Number MII Aux Receiver Reconfigured:	12			
City employee time for escort assistance in site work		24.0	\$62.81	\$ 1,507.44
City PM time for 4.0		24.0	\$73.77	\$ 1,770.48
		Total		\$ 3,277.92
5.0 <u>Clean Up Reprogram Mobile and Portable Units</u>				
Number of Clean Up Reprogrammings:	2			
Total Radios:	3370			
City employee time for radio exchanges		320.0	\$62.81	\$ 20,099.20
City employee time for escort and coordination during reprogramming		320.0	\$62.81	\$ 20,099.20
City employee time for escort and delivery of vehicles		2006.0	\$62.81	\$ 125,996.86
City PM time for 5.0		240.0	\$73.77	\$ 17,704.80
		Total		\$ 183,900.06
6.0 <u>Project Management & Engineering</u>				
Senior Project Management		320.0	\$140.00	\$ 44,800.00
Project Management		260.0	\$73.77	\$ 19,180.20
				\$ 63,980.20
7.0 <u>City Legal Department Review</u>		40.0	\$212.00	\$ 8,480.00
		City Total		\$ 434,699.11

Dailey Wells Communications
City of Oakland
Rebanding Inventory

City of Oakland, California
Total Radio Inventory

Total Mobiles	1340
Total Portables	2030
Total Subscriber Units	3370

TO BE REPLACED

Mobiles	1052
Portables	1598
Total Subscriber Units to be Replaced	2650

Details

Mobiles:

Model

Mobiles to be replaced

		Dash	Remote
FMD-SCAN, DASH MOUNT	57	57	
FMD-SYS, DASH MOUNT	4	4	
MDX, DASH MOUNT	294	294	
MDX, REMOTE MOUNT	4		4
MONOGRAM, DASH MOUNT	6	6	
RANGR, REMOTE MOUNT	687		687
Total	1052	361	691

Mobile Radios to be reprogrammed ONLY

Models

500M, DASH MOUNT	93
725M, DASH MOUNT	16
M7100 DASH MOUNT	29
ORION, REMOTE MOUNT	150
Total	288
Total Units	1340

Portables

Model

Portable Radios to be Replaced

300P	48
MPA	36
MPA-AEGIS	2
MPA-SCAN	91
MPA-SYSTEM	898
M-PD SCAN	49
M-PD SYSTEM	32
MTL	119
PCS	323
Total	1598

Dailey Wells Communications
City of Oakland
Rebanding Inventory

Portable Radios to be reprogrammed ONLY

Model	
700P	129
LPE-200	147
LPE-50	84
MRK	41
P7100	21
P7150	10
Total	432

Portable Accessories to be replaced

300P BATTERIES	28			
MPA BATTERIES	1184			
MPD BATTERIES	70			
MTL BATTERIES	118			
PCS BATTERIES	322			
	Total Batteries	1722		
MPA HOLSTERS	794		Holster with Belt loop and swivel	
PCS HOLSTERS	7			
	Total Holsters	801		
300P SPEAKER MICS	9		Speaker Mic with antenna	
MPA SPEAKER MICS	800			
Total Speaker Mics				
MPA 6 BANK CHARGER	55			
PCS 6 BANK CHARGER	3			
MPA 5 BANK CHARGER	9			
PCS SINGLE CHARGER	178			
MPA/MTL DESK CHARGER (59)	59			
300P DESK CHARGER	32		Dash	Remote
ENHANCEDVEHICULAR CHARGER	1052		1052	
		Total Installs	1413	691
				2104

SCHEDULE D

**REMOVE ANY CATEGORY OF EQUIPMENT BELOW THAT IS NOT APPLICABLE.
LOANED RECONFIGURATION EQUIPMENT IS DEFINED IN SECTION 4,
REPLACEMENT AND REPLACED EQUIPMENT IN SECTION 20.**

1) Loaned Reconfiguration Equipment

Quantity	Description	Model Number	New/Used

2) Replacement Equipment

Quantity	Description	Model Number	New/Used

3) Replaced Equipment (to be delivered to Nextel prior to Closing)

Quantity	Description	Model Number

SCHEDULE E

Product Typical Values

The Product Typical Values for Replacement Equipment shall be:

- a. for Replacement Equipment set forth on Schedule C, the cost shown on Schedule C for the item of Replacement Equipment; or
- b. for Replacement Equipment comprising M/A-COM subscriber radios, options and accessories, the most recent price list as of the date a reconciliation statement is sent to Incumbent by Nextel less 15%.

In lieu of paying the Product Typical Value as stated above, Licensee can purchase equipment identical to the Replacement Equipment from any source and send the equipment to Nextel prior to Closing.

Exhibit A

Incumbent Information

The following questions are required for processing Electronic Funds Transfers and if Incumbent wants Nextel to complete the FCC filings on its behalf. All information contained herein shall be kept strictly confidential and will be used only in completion of the Frequency Reconfiguration transaction.

I. INCUMBENT INFORMATION

Please provide the following information:

Company/Name: _____
Contact: _____ Title: _____
Address: _____
City/State/Zip: _____
Phone: _____
Fax: _____

If not identified in the contract, please provide the following:

If Incumbent is a Partnership, please provide name, address and phone numbers of all other partners:

Name: _____	Name: _____
Address: _____	Address: _____
_____	_____
City/State/Zip: _____	City/State/Zip: _____
Phone: _____	Phone: _____

II. BANK ACCOUNT INFORMATION (Required for payment via electronic funds transfer.)

Name of Bank: _____
Address of Bank: _____
City/State/Zip: _____
Bank Phone #: _____
ABA (Routing #): _____
Account #: _____
Name on Account: _____
Federal, State or Individual SS #: _____
Name of Brokerage Firm (if applicable): _____
Brokerage Account # (if applicable): _____

In the event Incumbent will not provide information for electronic funds transfer, Incumbent acknowledges that all payments made by check will be mailed within thirty (30) days of the date of performance required by Incumbent (for each payment) as stipulated in the Agreement.

Acknowledged by Incumbent: _____ (signature required only if Incumbent does not want an electronic funds transfer)

III. TAX INFORMATION

The Internal Revenue Service and state tax authorities require Nextel to report all transactions, even if the transaction is exempt from taxation (if so, it will be reported to the IRS as a like-kind exchange). Therefore, it is necessary for Nextel to collect the information below. If you have specific questions about your tax implications in this transaction, you should consult your own accountant or financial advisor.

Incumbent's Federal, State or Individual Tax ID #,
FEIN (Federal) or SSN (individuals): _____

State(s) – sales tax license, resale permit,
employment, etc.): _____

Local (if applicable): _____

Current State and County location for your
principal executive office: _____

If there has been more than one location for the
principal executive office within the past five (5)
years, list each such City/County/State location:

IV. REGULATORY INFORMATION

**Would you like Nextel's Regulatory department to prepare and file all necessary FCC paperwork
on your behalf? Yes / No**

If yes, please provide the following **Universal Licensing
System ("ULS")** information for your licenses:

FRN (FCC Registration Number): _____

ULS PASSWORD: _____

Contact Representative for any FCC related issues:

Name: _____

Phone Number: _____

If no, please provide the following information regard
who will take care of the preparation and filing of all
necessary FCC paperwork on your behalf:

Contact Name: _____

Organization: _____

Address: _____

City: _____

State/Zip: _____

Phone Number: _____

Email Address: _____

I hereby acknowledge that all of the information provided herein is true and correct as of the date signed below.

Incumbent Signature: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT B

Reconciliation Documentation

Certification of Labor Rates

Incumbent hereby certifies that the information provided herewith for the Frequency Reconfiguration Agreement dated _____ with Nextel ("FRA") is true and complete to the best of Incumbent's knowledge. Incumbent further certifies that the reimbursed rate/s listed in the attached invoice(s), if any, have been determined in accordance with the TA's policy on Incumbent Labor Rates as documented at <http://www.800ta.org/content/PDF/policy/IncumbentLaborRatePolicy.pdf> as of the date of this statement. The Incumbent acknowledges that all costs incurred and/or charged by Incumbent, if any, are subject to the Review Rights (as that term is defined in the FRA with Nextel) of the TA. Incumbent agrees to the foregoing calculations (without changes) in accordance with the terms of the FRA.

Incumbent Name: _____

Related Invoice #'s: _____

Signature: _____

Name: _____

Title: _____

Date: _____

INCUMBENT INTERNAL REBANDING COSTS

Pursuant to the Frequency Relocation Agreement made the ____ day of _____, 2006 by and between **Incumbent Name** and **Nextel Name, I,** _____ (“Incumbent”) verify and acknowledge that all goods/services identified in Schedule C for completion by the Incumbent and referenced below have been performed.

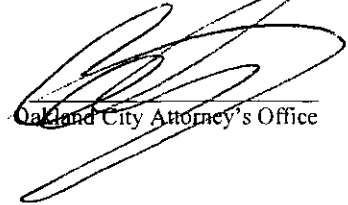
Description of Work Done	Hours or Units completed	Cost per Hour or Unit	Total Cost
Mobile/Portable Radios Retunes	xxx	\$\$\$	\$xxx.xx
Repeaters Retuned			\$xxx.xx
Combiners Retuned			\$xxx.xx
Install, verify operation & remove temporary equipment			\$xxx.xx
Field service preplanning support, Frequency Review, Develop Transition Plan, Testing			\$xxx.xx
Project Management, SOW Preparation, Cost Estimates, Contract Negotiations, Engineering Support and preplanning meeting, transition planning, coordination of personnel			\$xxx.xx
Engineering non-labor travel costs (Travel to/from, rental car, hotel)			\$xxx.xx
Other			\$xxx.xx
		TOTAL	\$xxx.xx

By: _____
 Name _____
 Title: _____
 Phone Number: _____
 Date: _____

OFFICE OF THE CITY CLERK

2007 MAY 31 PM 3: 21

Oakland City Attorney's Office



OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION ALLOCATING FUNDS FROM THE RADIO REPLACEMENT FUND IN AN AMOUNT NOT TO EXCEED THREE HUNDRED THOUSAND DOLLARS (\$300,000) AND AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO EXECUTE CONTRACTS THROUGH COMPETITIVE BIDS FOR INVENTORY CONTROL SOFTWARE, BATTERY CHARGER/ANALYZER AND STAFF TRAINING WITHOUT RETURN TO COUNCIL

WHEREAS, the Finance and Management Agency (FMA), Information Technology Division is working to update and improve the service and reliability of the City's 800 MHz radio infrastructure; and

WHEREAS, the City passed Resolution 79665 authorizing the City Administrator to return to Council with an negotiated agreement with Sprint/Nextel Communications; and

WHEREAS, the Information Technology Division has identified certain products that should be in place prior to the actual radio deployment; and

WHEREAS, the Information Technology Division has identified that the majority of this expenditure is eligible for reimbursement under the Sprint/Nextel agreement; and

WHEREAS, the products and services provided by this agreement is governed by the settlement agreement and mandate of the Federal Communications Commission; and

WHEREAS, the City's radio system will need major modifications in order to facilitate this rebanding effort by Sprint/ Nextel; and

WHEREAS, the primary funding source is the Radio Replacement Fund (Fund 4200 Account 33221 – undesignated fund balance); and

WHEREAS, the City finds that these products will be provided via the City's competitive bid process and

WHEREAS, the City finds estimated cost are listed software, hardware and training are contained in the staff report and

WHEREAS, the estimated cost of the Battery Charger/Analyzer (\$81,500), Inventory software (\$106,000) and staff training (\$95,000) are listed and contained in the staff report; and

WHEREAS, the City finds that this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now, therefore, be it

RESOLVED: That the City Council authorizes the City Administrator or her designee to allocate funds from the radio replacement fund in an amount not to exceed three hundred thousand dollars (\$300,000.00) and authorize the City Administrator to execute competitively bid contracts for the identified products as identified in the staff report without return to council; and be it

FURTHER RESOLVED: That the City Administrator or her designee is hereby authorized to take whatever action is necessary with respect to the agreement consistent with this Resolution and its basic purpose; and be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the City Attorney's Office for form and legality prior to execution, and a copy shall be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2007

PASSED BY THE FOLLOWING VOTE:

AYES-BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

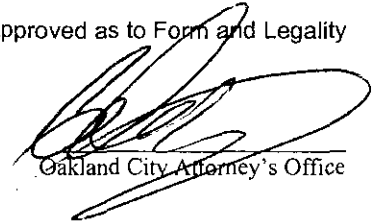
ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council of
the City of Oakland, California

OFFICE OF THE CITY CLERK

2007 MAY 31 PM 3:21

Approved as to Form and Legality



Oakland City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO WAIVE THE REQUEST FOR PROPOSALS COMPETITIVE SELECTION PROCESS AND NEGOTIATE AND EXECUTE AN AGREEMENT WITH SPRINT/NEXTEL COMMUNICATIONS FOR THE REPLACEMENT, RETUNING, UPGRADE AND MODIFICATION OF THE CITY'S 800 MHZ RADIO EQUIPMENT PER THE FCC REBANDING AGREEMENT WITHOUT RETURN TO COUNCIL

WHEREAS, the Finance and Management Agency (FMA), Information Technology Division is working to update and improve the service and reliability of the City's 800 MHz radio infrastructure; and

WHEREAS, as a result an Federal Communications Commission (FCC) order, Sprint/Nextel will pay at least \$2.8 billion for a rebanding process that will eliminate the current interleaved spectrum shared by Nextel and public-safety agencies of this RFP process; and

WHEREAS, the City passed Resolution 79665 authorizing the City Administrator to return to Council with an negotiated agreement; and

WHEREAS, the products and services provided by this agreement is governed by the settlement agreement and mandate of the Federal Communications Commission; and

WHEREAS, the current estimate is that as much as \$8 million of the estimated \$11 million dollar infrastructure and radio replacement needs will be paid through the Sprint/Nextel agreement; and

WHEREAS, the City finds that the services provided pursuant to the agreement authorized hereunder are of a professional, scientific or technical nature and are temporary in nature; and

WHEREAS, the City finds that this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service; and

RESOLVED: That the City hereby finds and determines that pursuant to Chapter 2.04, Article I, section 2.04.051 B, of the Oakland Municipal Code, it is in the best interests of the City to waive the Request For Proposals competitive selection process requirements of section 2.04.051

A, as this is a negotiated settlement with and mandated by the Federal Communications Commission and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator or her designee to execute an agreement with Sprint/Nextel Communications for the replacement, retuning, upgrade and modification of the city's 800 MHz radio equipment per the FCC rebanding agreement without return to Council; and be it

FURTHER RESOLVED: That the City Administrator or her designee is hereby authorized to take whatever action is necessary with respect to the agreement consistent with this Resolution and its basic purpose; and be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the City Attorney's Office for form and legality prior to execution, and a copy shall be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2007

PASSED BY THE FOLLOWING VOTE:

AYES-BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council of
the City of Oakland, California