

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

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FROM: Riverside County Information Technology

SUBMITTAL DATE:
August 25, 2009

SUBJECT: APPROVAL OF THE AGREEMENTS WITH TIME WARNER CABLE AND VERIZON BUSINESS NETWORK SERVICES INC., ON BEHALF OF VERIZON SELECT SERVICES INC., TO PROVIDE METRO ETHERNET SERVICES FOR THE ASSESSOR'S OFFICE

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and execute the five year Metro Ethernet Services Agreements with Time Warner Cable and Verizon Business Network Services Inc., for an annual amount of \$68,280 with the option to renew annually after the five year period until no longer needed by the County; and
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459.4, to exercise the renewal option, based on the availability of fiscal funding, and to sign amendments that do not change the substantive terms of the agreement, including amendments to the compensation provision that do not exceed the annual CPI rates.
3. Direct the Clerk of the Board to return two (2) original signed copies to the Purchasing and Fleet Services Department.

BACKGROUND: The County of Riverside requires an expansion of data access services for the Assessor-County Clerk-Recorder's Office. Data services provide the necessary data communications

(Continued on Page 2)

MATTHEW W. FRYMIRE
Chief Information Officer

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 60,100	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 60,100	Budget Adjustment:	No
	Annual Net County Cost:	\$ 68,280	For Fiscal Year:	FY 09/10

SOURCE OF FUNDS: Assessor's Office for Monthly Recurring Costs	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: Serena Chow
Serena Chow

County Executive Office Signature

Policy
 Policy
 Consent
 Consent
 Dept's Recomm.:
 Per Exec. Ofc.:

LARRY W. WARD
 ASSESSOR-COUNTY CLERK-RECORDER

DATE: _____
 BY: NEAL R. KIPNIS

Purchasing: _____
 Mark Seiler, Assistant Director

Department: Purchasing

BOARD OF SUPERVISORS

FORM 11: APPROVAL OF THE AGREEMENTS WITH TIME WARNER CABLE AND VERIZON BUSINESS NETWORK SERVICES INC., ON BEHALF OF VERIZON SELECT SERVICES INC., TO PROVIDE METRO ETHERNET SERVICES FOR THE ASSESSOR'S OFFICE

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BACKGROUND (Continued)

that is required by the County's existing infrastructure in order to increase productivity and improve customer service.

PRICE REASONABLENESS

Purchasing released a Request for Quote, mailing solicitations to twelve (12) companies and advertising on the County's Internet. Four (4) responses were received, with quotes submitted by Charter Communications, Time Warner Cable, TW Telecom, and Verizon Select Services Inc.

The quotes were reviewed by Purchasing and confirmed with RCIT and the ACR's Office that the bidders met all minimum requirements. The Purchasing Department selected Time Warner Cable for Palm Springs to Indio to provide 10 Mbps in the annual amount of \$14,700. The Purchasing Department selected Time Warner Cable for the ACR Gateway location to Riverside CAC to provide 100 Mbps Metro Ethernet services in the annual amount of \$53,280. In addition, Verizon Business Network Services for Temecula to Murrieta to provide 10 Mbps Metro Ethernet services in the annual amount of \$18,200. Each vendor was the lowest responsive/responsible bidder for that particular location, and shall not exceed the annual aggregate amount of \$71,480. These agreements will initially be for a period of five (5) years. After five years, the agreements will revert to an annual renewal if the service is still required. Bidders proposed annual monthly reoccurring costs ranging from \$18,200 to \$525,547, with the three lowest responsive/responsible vendors providing discounts within their service locations 10% to 30% below the other bid quotes.

The net operational and fiscal impact to the Assessor-County Clerk-Recorder's Office:

Description	Current Mbps	New Mbps	One Time	On-Going Per Month	Annualized Cost
Add Lines:					
From Riverside Gateway to Riverside CAC	45.0	100.0	\$1,500	\$3,090	\$38,580
From Indio to Palm Springs	1.5	10.0	\$1,500	\$1,100	\$14,700
From Temecula to Murrieta	3.0	10.0	\$200	\$1,500	\$18,200
Annualized for First Year, FY 09/10	49.5	120	\$3,200	\$5,690	\$71,480
Annualized for Years 2-5, FY 10/11 - 13/14	49.5	120	\$0	\$5,690	\$68,280
FY 09/10 Prorated Costs (Assuming Effective 09/01/2009): 10 months	\$6,190		\$3,200	\$5,690	\$60,100

BOARD OF SUPERVISORS

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Therefore, Purchasing and RCIT recommends that the award be given to Time Warner Cable and Verizon Business Network Services Inc., on behalf of Verizon Select Services Inc., as the lowest responsive/responsible vendors with the annual aggregated amount of \$71,480. Currently, the County pays \$2,700 per month for service from Riverside Gateway to Riverside CAC. The new contract will be offset by this amount so the actual increased cost to the County for the additional service is \$2,990 per month.

REVIEW/APPROVAL: County Counsel concurs with this request.



SERVICE AGREEMENT
(Intrastate ICB)

Routing Code: 5V

Customer Name and address:	County of Riverside ("Customer") 6147 Rivercrest, Riverside, CA 92507	Main Billing Tel. No:	951-486-7700
		ICB Case No.	2009-481953

Services. Customer hereby requests and agrees to purchase from the Verizon company(ies) identified in the applicable Exhibit(s) ("Verizon") the services identified in Exhibit(s) A attached to this Agreement, and in any Addendum expressly made a part hereof, and as further described in Verizon's applicable tariffs, (the "Services") for the service period stated in the Exhibit or Addendum applicable to such Service (the "Service Period"), subject to Verizon's receipt of any necessary regulatory and other governmental approvals required to provide the Services under the terms hereof. The Services will be provided under the terms of this Agreement to the Customer locations specified in the Exhibit(s) and Addenda attached to or made a part hereof.

Charges. Customer will pay the rates and charges set forth in the attached Exhibit(s) and in any Addendum made a part hereof, and shall also pay all applicable taxes, fees, and charges, including Federal End User Common Line Charges, charged pursuant to applicable law, regulations, or tariffs in connection with the Services. If Customer cancels or terminates this Agreement or any Services prior to expiration of the Service Period, Customer will promptly pay to Verizon termination charges as set forth in applicable Exhibit(s) and Addendum(a). Any tariffed back billing limitations otherwise applicable to the Services shall not apply under this Agreement.

Notices. Notices under this Agreement shall be sent by first-class U.S. mail, postage prepaid, to Customer at the address specified above, and to Verizon at Verizon Business, Attn: Customer Service, 6415 Business Center Drive, Highlands Ranch, CO 80. Notices shall be deemed effective five business days after such mailing.

Miscellaneous. (a) Neither party will disclose the terms of this Agreement to any other person without the prior written consent of other party, except as may be necessary to comply with applicable law, regulation, or filing requirements. Either party may issue permit issuance of a press release or other public statement concerning this Agreement provided its contents have been reviewed agreed upon by the parties.

(b) In the event of a claim or dispute, the law and regulations of the jurisdiction in which Verizon provides to Customer the particular Service that is the subject of such claim or dispute shall apply. This Agreement and its provisions shall not be construed or interpreted for or against any party hereto because that party drafted or caused that party's legal representative to draft any of its provisions.

(c) No liability shall result from Service failures caused by fires, floods, severe weather, acts of government or third parties, strikes, labor disputes, inability to obtain necessary equipment or services, or other causes beyond such party's reasonable control.

(d) If any provision of this Agreement or the provision of any Service under the terms hereof is illegal, invalid, or otherwise prohibited under applicable law or regulation in any State or jurisdiction, or does not receive any governmental or regulatory approval required by law in any State or jurisdiction, then this Agreement shall be construed as if not containing such provision or requiring the provision of such invalid, illegal, prohibited, or unapproved Service in such State or jurisdiction.

(e) Verizon may assign or transfer part or all of this Agreement to any affiliate or successor to substantially all of its assets in the locations where Service is provided hereunder. Upon reasonable prior written notice to Verizon, Customer may assign or transfer this Agreement to any company that is the successor to substantially all of its assets, provided all charges for Services provided prior to such transfer or assignment are paid in full when due. Except as otherwise required by applicable law or regulation, all other attempted assignments shall be void without the prior written consent of the other party.

(f) Except as otherwise required by applicable law or regulation, the Services provided hereunder may not be resold by Customer.

Tariffs and Limitation of Liability. The terms and conditions that shall apply in connection with these Services, and the rights and liabilities of the parties, shall be as set forth herein and in all applicable tariffs now or hereafter filed with the applicable state regulatory commission and/or the Federal Communications Commission. In no event shall Verizon be liable for any special, indirect, incidental, or consequential damages arising in connection with this Agreement or the provision of any Services, whether claim is sought in contract, tort (including negligence), strict liability or otherwise. This Agreement (including the Exhibits attached hereto and any Addenda made a part hereof) and all applicable tariffs constitute the entire agreement between the parties and shall supersede all prior oral or written quotations, communications, negotiations, representations, understandings or agreements made by or to any employee, officer, or agent of any party on the subject matter hereof. This Agreement may not be modified or rescinded except by a writing signed by authorized representatives of each party.

AGREED AND ACCEPTED:
COUNTY OF RIVERSIDE

By _____
Name/title _____
Date _____

VERIZON BUSINESS NETWORK SERVICES Inc. on behalf
of VERIZON CALIFORNIA INC.
By _____
Name/title _____
Date _____ Suleiman Hessami
VP Pricing/Contract Management

8/14/09

ICB Case No. 2009-481953

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ESC # 0147
VZ Generated By: TIA 6/2/09, revised 8/7/09
VZ Approved To Form: TIA 8/7/09

FORM APPROVED COUNTY COUNSEL
BY: NEAL R. KIPNIS DATE _____

For scanning

Exhibit A

Verizon company name: Verizon California Inc. (referred to in this Exhibit as "Verizon")
 In its capacity as an Incumbent Local Exchange Carrier

State: California

Customer name: County of Riverside

ICB Case No.: 2009-481953

Customer must sign and date this Agreement on or before September 8, 2009 or the proposed Service arrangement and pricing will no longer be available. This Agreement shall not be considered fully executed until signed by both parties.

1. **Services and Quantity Commitments.** Customer agrees to purchase the following Services from Verizon at the rates set forth below and in quantities set forth below for the Service Period identified below. Any other work, services or facilities required will be provided subject to prevailing tariff rates and charges, or if no tariff is applicable, under separate individual case basis agreement or formal amendment to this Agreement. Customer shall provide to Verizon at each Customer location suitable and secure space, with suitable environmental conditions and uninterruptible power supply, building entrance facilities and conduit, for placement of the facilities and equipment to be used by Verizon to provide such Service.

<u>Quantity</u>	<u>Service Item</u>	<u>Monthly Unit Rate</u>	<u>Non-recurring Charge / Unit</u>
2	Transparent LAN Service (TLS) Ethernet Relay Service (ERS) 10 Mbps Premier Access Line	\$700.00 each	N/A
0	ERS Interoffice Mileage (IOF)	\$100.00 per airline mile	N/A
1	Ethernet Virtual Circuit ERS-B 10Mbps	\$100.00 each	\$200.00 each
		Total MRC \$1,500.00	Total NRC \$200.00

Notes:

- (i) Any specially constructed facilities are owned and controlled by Verizon and, upon completion of construction, become part of Verizon's service network.
- (ii) IOF Mileage applies where the Local Serving Office is different from the installed TLS serving office. IOF charges may apply in the event that adequate IOF facilities are not available at the time Service is to be installed. To the extent IOF mileage applies and is not otherwise addressed in the TLS Service monthly rates above, IOF mileage will be billed. IOF Mileage shown above is estimated airline miles (ALM); actual ALM will be billed.
- (iii) Service is intraLATA, intrastate.
- (iv) Total Monthly Recurring Charges (MRC) and Total Non-recurring Charges (NRC) are based on the initial quantities and estimated ALM indicated above.
- (v) Non-recurring charges do not apply to the initial Service Quantities above. Non-recurring charges for additional quantities of Service or changes in the Service will be applied as set out in Verizon's applicable tariff.
- (vi) Customer may purchase additional quantities of the Service, subject to availability of adequate facilities, at the locations listed in Section 6 below at the rates shown above (a) during the first twenty-four (24) months of the Service Period with out incurring non-recurring installation charges, or (b) after the first twenty-four (24) months subject to a non-recurring charge of \$1,300.00. Any additional circuits added will be coterminous with the Service Period of the Agreement.
- (vii) Service is provided consistent with this Agreement and Verizon's applicable tariffs; Customer may purchase other TLS service features outside this Agreement and pursuant to applicable tariff rates, terms & conditions.
- (viii) The above charges do not include Federally mandated end user common line charges, any applicable local, state, or federal fees, taxes, surcharges, or other applicable tariffed charges.
- (ix) Minimum Service Commitment and Quantity for this Agreement is the Service type and quantity set out in this Exhibit A for the two (2) locations listed below. Customer must maintain this Minimum Service Commitment and Quantity for the Service Period. Failure to maintain the Minimum Service Commitment and Quantity for this Agreement will result in the termination of this Agreement, in which case the Service, if continuing, will be provided solely pursuant to applicable tariff rates, terms and conditions.

2. **Effective Date/Regulatory Filing and Review.** This Agreement, and any subsequent amendment(s), shall become effective upon execution by the parties, and may be filed subject to the California Public Utilities Commission ("Commission") rules and regulations. Customer acknowledges that the Services cannot be provided until the Agreement is fully executed. This Agreement shall at all times



be subject to such changes or modifications by the Commission as the Commission may, from time to time, direct in the exercise of its lawful jurisdiction.

3. Service or Term Period. Customer shall purchase such Services for a period of sixty (60) consecutive months from the in-service date (Initial Term Period). The in-service date shall be the date, after the effective date defined above, on which Verizon's provisioning has been completed and the Service is available for Customer's use.

The Parties agree that the Agreement may be extended for up to three (3) additional one (1) year term period (Optional Renewal Term) following the conclusion of the Initial Term Period provided Customer provides Verizon with written notice of its intent to exercise the Optional Renewal Term at least thirty (30) business days prior to the expiration of the then current Term Period.

A. If Customer fails to provide Verizon with the required timely written notice to extend this Agreement into the Optional Renewal Term, and Customer has not requested, in writing, disconnection of the Services, then the Services will be reverted to applicable tariff or other Commission-authorized rate(s) for the minimum service commitment period available. The applicable tariff or other Commission-authorized arrangement will govern the service arrangement prospectively, including rates, terms and conditions, which may include charges for termination prior to the end of the minimum tariff service commitment period. If there is no applicable tariff or other Commission-authorized service arrangement, then the Service will be subject to disconnection upon the expiration of the Service Period of this Agreement.

B. If Customer indicates to Verizon in writing that it desires to negotiate a new contract to continue the Services provided for herein, this Agreement shall automatically be extended for a period not to exceed 60 days from the end of the Initial Term or from the end of the Optional Contract Renewal Period to allow the parties to finalize a new agreement. Written notice must be provided by Customer at least 30 days prior to the expiration of the then current Term Period. For purposes of this paragraph only, written notice may be by facsimile.

4. Termination Charges. If Customer cancels this Agreement in whole or in part or terminates any Services prior to the expiration of the Service Period, Customer shall pay to Verizon a termination charge equal to 100% of the applicable monthly rate for the terminated Service multiplied by the number of months remaining in the unexpired portion of the Initial Term Period or Optional Renewal Term, if applicable. Any such termination liability charge shall be due and payable in one lump sum within thirty (30) days of billing. If Customer terminates this Agreement subsequent to the execution of this Agreement by the Parties but prior to the in-service date, Customer shall pay to Verizon all costs incurred by Verizon for contract and service preparation. Termination charges will not apply if an exception contained in Verizon's applicable tariff applies.

5. Additional Provisions.

a. Conditions. The parties acknowledge that the rates and other terms of this Agreement are premised on Customer's commitments, unique network design requirements, and Customer's service mix, usage patterns and concentration, and other characteristics.

b. Service Continuation. (i) If, at the time of expiration of the Service Period, a new agreement or tariffed service arrangement with Verizon for the Services is not effective as defined above and Customer has not requested, in writing, disconnection of the Services, then the Services will be reverted to applicable tariff or other Commission-authorized rate(s) for the minimum service commitment period available. The applicable tariff or other Commission-authorized arrangement will govern the service arrangement prospectively, including rates, terms and conditions, which may include charges for termination prior to the end of the minimum tariff service commitment period. If there is no applicable tariff or other Commission-authorized service arrangement, then the Service will be subject to disconnection upon the expiration of the Service Period of this Agreement. If, upon expiration of the Service Period, there is a delay in reverting rates to the applicable tariff or other Commission-authorized rate(s), or in disconnecting the Services if no tariff or Commission-authorized service arrangement is available, the Service Period shall be deemed temporarily extended on a month-to-month basis until such reversion of rates or disconnection of Services is completed. In no event, however, will such temporary extension of the Service Period continue more than twelve months after the expiration of the initial Service Period.

(ii) If Customer indicates to Verizon in writing that it desires to negotiate a new contract or tariffed service arrangement to continue or replace the Services provided for herein, this Agreement shall automatically be extended for a period not to exceed 60 days from the end of the initial Service Period to allow the parties to finalize a new agreement or to transition to a tariffed service arrangement. Written notice must be provided by Customer at least 30 days prior to the end of the initial Service Period. For purposes of this paragraph only, written notice may be by facsimile or electronic mail.

c. Detariffing. In the event any of the Services are hereafter detariffed, then the terms of the tariffs in effect immediately prior to such detariffing shall be deemed to be incorporated by reference and shall continue to apply to the provision of the Service to the same extent as such tariffs applied hereunder prior to such detariffing.

d. Facilities. Additional charges may be required if suitable facilities are not available to provide Services at any locations, or if any additional work, services, or quantities of Services are provided. In the event installation of additional network facilities is required to provide Services, Verizon will inform Customer of such applicable charges, and Verizon will install such facilities only upon mutual written agreement of the parties to such additional charges. If Customer does not agree to pay such additional charges, then this Agreement will be subject to termination by Verizon without application of the termination charges described above.



c. Customer Purchase Orders. The terms and conditions contained on a Customer purchase order document (whether signed by one or both parties) shall not serve to modify the terms and conditions of this Agreement.

6. Locations. The Services shall be provided to Customer under the terms hereof at the following locations.

42002 County Center Dr , Temecula, CA
30755 Auld Rd., Murrietta, CA



Dedicated Access Service Agreement

This Dedicated Access Service Agreement (the "Agreement") is entered into as of this [redacted] day of [redacted], 2009 (the "Effective Date"), by and between the **County of Riverside (ref RFQ ITARC080)** located at **6147 River Crest Drive, Suite A, Riverside, CA 92507** ("Customer") and the **Los Angeles** division of Time Warner Cable, with offices located at **3430 E. Miraloma Ave., Anaheim, CA 92806** ("TWC"). In consideration of the mutual promises and agreements made herein and intending to be legally bound, the parties agree as follows:

- SERVICE.** Subject to the terms and conditions of this Agreement, TWC shall provide Customer with a dedicated "Dedicated Access" service connection between Customer's facility and TWC's (or a TWC affiliate's) facility as further described on Exhibit A attached hereto (the "Service"). TWC shall use commercially reasonable efforts to provide the Service 7 days a week, 24 hours a day, excluding scheduled maintenance, required repair and events beyond TWC's reasonable control. TWC's provision of the Service is subject to availability.
- INSTALLATION.** Customer shall obtain and maintain throughout the Term (as defined in Section 5 below) such consents (including without limitation landlord and land owner consents) as are necessary to timely permit, and shall timely permit, TWC personnel to install, deliver, operate and maintain the Service and Equipment as contemplated herein at Customer's facilities. Customer shall permit TWC to access the Customer facilities at any time as needed to install, configure, upgrade, maintain or remove the Equipment and other service components collocated at Customer's facilities. Customer shall make and maintain throughout the Term all site preparations necessary to permit the installation, maintenance, and operation of the Service and any Equipment (as defined below) as specified by TWC. Provided that Customer properly performs all necessary site preparation and provides TWC with all required consents, TWC shall use commercially reasonable efforts to install the Service in accordance with a mutually agreed upon schedule. TWC shall provide Customer with a completion notice ("Completion Notice") upon completion of the installation of the Service. Interconnection of the Service and Equipment with Customer's equipment will be performed by Customer.
- SUPPORT & MAINTENANCE.** TWC shall use commercially reasonable efforts to maintain the TWC provided and installed cabling, routers and other TWC-installed- equipment, if any, (collectively, the "Equipment") used by TWC to provide the Service. TWC shall provide a telephone number and email address for inquiries and remote problem support for the Service. All such Customer support shall be provided to Customer's help desk personnel only. Customer is responsible for interfacing with its employees and end users. In no event shall TWC be responsible for providing such support for any network, equipment or software not provided and installed by TWC under this Agreement or for issues or problems beyond its direct control. Customer agrees to provide routine operational Service support for Equipment and service components collocated at Customer's facility, including without limitation by performing reboots, as requested by TWC.
- CUSTOMER OBLIGATIONS.** Customer's use of the Service (including all content transmitted via the Service) shall comply with all applicable laws and regulations, the terms of this Agreement, and any Terms of Use (which are incorporated herein by this reference). "Terms of Use" means all Service policies, including without limitation acceptable use policies, and other terms and conditions established by TWC and available on the TWC web site, [www.twcbc.com/la], as may be modified from time to time by TWC. Customer agrees not to resell or make any use of the Service other than for Customer's internal business purposes. Customer agrees to use the Service solely for data services. Customer shall maintain the Equipment free and clear of all liens and encumbrances and shall be responsible for loss or damage to the Equipment while at Customer's facilities. As between the parties, Customer is solely responsible for (a) all use (whether or not authorized) of the Service, which use shall be deemed Customer's use for purposes of this Agreement; and (b) all content that is stored or transmitted via the Service. Customer shall not upload, post, transmit or otherwise make available on or via the Service any material (including any message or series of messages) that violates or infringes in any way upon the rights of others, that is unlawful, threatening, abusive, obstructive, harassing, libelous, invasive of privacy or publicity rights, that in the circumstances would be obscene or indecent, that constitutes hate speech, that is otherwise offensive or objectionable, or that encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law or regulation. TWC may remove, or demand the removal of, content that in its judgment violates these standards. Customer agrees to conform its equipment and software to TWC's then-current network specifications and system requirements for the Service.
- TERM.** The Agreement shall be in effect for the Initial Term of Service set forth on Exhibit A, and unless terminated earlier in accordance with this Agreement, shall thereafter automatically renew on an annual basis unless either party notifies the other party at least thirty (30) days prior to the expiration of the then-current term of such party's intent not to renew (the Initial Term and any renewal term collectively referred to as the "Term").
- PAYMENT.** Customer agrees to pay TWC the one-time Service installation fee and monthly recurring Service fees (collectively the "Service Charges") set forth on Exhibit A in accordance with the following payment terms: Service Charges will be billed to Customer monthly in accordance with TWC's regular billing schedule and are payable within thirty (30) days after the date of invoice. Customer shall be responsible for all use, sales and other taxes and governmental charges applicable to the Service (which taxes and charges are not included in the Service Charges), except for taxes payable on TWC's net income. TWC shall have the right to increase Service Charges after the Initial Term upon thirty (30) days advance written notice to Customer. TWC may charge a late fee for all overdue amounts, unless Customer submits written documentation to evidence that they are exempt from such late fee. The late fee will be the lesser of 1½% or the highest rate chargeable by law. Customer shall also be responsible for all costs of collection (including reasonable attorneys' fees) to collect overdue amounts. In addition to the foregoing, and all other available remedies, TWC may discontinue Customer's access to the Service in whole or in part, until such overdue amounts, together with interest, are paid. TWC may require a security deposit, letter of credit, advance payment for Service or other reasonable assurances of payment from Customer.

7. **PROPRIETARY RIGHTS AND CONFIDENTIALITY.** (a) TWC's Proprietary Rights. All materials, including, but not limited to, any Equipment (including related firmware), software, data or information developed or provided by TWC, any identifiers or passwords used to access the Service or otherwise provided by TWC, and any know-how, methodologies or processes including, but not limited to, all copyrights, trademarks, patents, trade secrets, any other proprietary rights inherent therein and appurtenant thereto, used by TWC to provide the Service (collectively "TWC Materials") shall remain the sole and exclusive property of TWC or its suppliers. Customer shall acquire no interest in the TWC Materials by virtue of the payments provided for herein. Customer may use the TWC Materials solely for Customer's use of the Service. Customer may not reproduce, modify or distribute the TWC Materials, or use them for the benefit of any third party. All rights in the TWC Materials not expressly granted to Customer are reserved to TWC. Customer will not open, alter, misuse, tamper with or remove the Equipment as and where installed by TWC, and will not remove any markings or labels from the Equipment indicating TWC (or its suppliers) ownership or serial numbers. (b) Confidentiality. Customer agrees to maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted herein, the TWC Materials and any other information and materials provided by TWC in connection with this Agreement that are identified or marked as confidential or are otherwise reasonably understood to be confidential. (c) Software. If software is provided to Customer hereunder, TWC grants Customer a limited, non-exclusive and non-transferable license to use such software, in object code form only, solely for the purpose of using the Service for Customer's internal business purposes during the Term.
8. **MONITORING AND MODIFICATIONS.** TWC shall have the right, but not the obligation, to monitor traffic and content on its network, in its sole discretion, including through the use of automatic content filters (including without limitation spam, virus, and adult language sniffers and filters). TWC shall have the right, but not the obligation, to upgrade, modify and enhance the Equipment (including related firmware) and the Service and take any action that TWC deems appropriate to protect the Service and its facilities. TWC also shall have the right to add to, modify or delete any provision of the Terms of Use or any Service descriptions. TWC will notify Customer of any material adverse change in the Terms of Use or Service descriptions by posting notice of such change on the TWC web site or by email. Customer's continued use of the Service after such notice shall constitute Customer's acceptance of such change.
9. **TERMINATION.** Either party may terminate this Agreement upon thirty (30) days written notice of the other party's material breach, provided that such material breach is not cured within such thirty (30) day period. In addition, in the event that Customer fails to comply with any applicable laws or regulations, the terms of this Agreement, or the Terms of Use, TWC may suspend or discontinue Customer's Service in whole or in part without advance notice. In the event of a suspension, TWC may require a reconnect charge to restart the suspended Service. Upon the termination or expiration of this Agreement: (a) TWC's obligations hereunder shall cease; (b) Customer promptly shall pay all amounts due and owing to TWC for Service delivered prior to the date of termination or expiration and any applicable deinstallation fee, if any; (c) Customer promptly shall cease all use of any software provided by TWC hereunder, and shall return such software to TWC; and (d) Customer shall return to TWC or permit TWC to remove, in TWC's sole discretion, the Equipment in the same condition as when received, ordinary wear and tear excepted. Customer shall be responsible for reimbursing TWC for the repair or replacement, at TWC's discretion, of any Equipment not returned in accordance with this section. In addition, notwithstanding anything to the contrary herein, upon early termination of this Agreement by Customer, Customer shall promptly pay TWC a termination fee equal to the Service Charges that would have been due for the remainder of the Initial Term or the then-current renewal term, as applicable, and any unpaid portion of the Installation Fee set forth on Exhibit A. The foregoing shall be in addition to any other rights and remedies that TWC may have under this Agreement or at law or equity relating to Customer's material breach.
10. **INDEMNIFICATION.**
- a) Customer agrees to defend, indemnify and hold harmless TWC, its affiliates, its service providers and suppliers and their respective officers, directors, employees and agents, from and against all claims, liabilities, damages and expenses, including attorneys' and other professionals' fees, arising out of or relating to (i) the use of the Service, including but not limited to a breach of Section 4 herein; or (ii) personal injury or property damage caused by the negligence or willful misconduct of Customer or its employees or agents.
 - b) TWC will defend, indemnify and hold harmless Customer, its affiliates, its service providers and suppliers and their respective officers, directors, employees and agents, from and against all third party claims, liabilities, damages and expenses, including attorneys' and other professionals' fees, arising out of or relating to personal injury or property damage caused by the negligence or willful misconduct of TWC or its employees or agents.
 - c) The above indemnification obligations shall survive the expiration or termination of this Agreement for a period of one (1) year. The indemnifying party shall keep the indemnified party informed of, and shall consult with the indemnified party in connection with, the progress of any investigation, defense or settlement. The indemnifying party shall not have any right to, and shall not without the indemnified party's prior written consent (which consent will be in the indemnified party's sole and absolute discretion), settle or compromise any claim if such settlement or compromise would (i) require any admission or acknowledgment of wrongdoing or culpability by the applicable indemnified party, or (ii) provide for any non-monetary relief to any person or entity to be performed by the indemnified party.
11. **DISCLAIMER OF WARRANTY.** CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE AND THE INTERNET AND ACCESSES THE SAME AT ITS OWN RISK. TWC EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE OR THE INTERNET OR ACTIONS TAKEN ON THE INTERNET AND TWC EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH CONTENT OR ACTIONS. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE SERVICE AND RELATED EQUIPMENT AND/OR OTHER MATERIALS USED IN CONNECTION WITH THE SERVICE, IF ANY, ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NONINFRINGEMENT,

SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY TWC, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY. TWC DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, WILL PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, WILL BE UNINTERRUPTED, SECURE OR ERROR FREE OR THAT ANY MINIMUM TRANSMISSION SPEED IS GUARANTEED AT ANY TIME. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER THE INTERNET MAY NOT BE SECURE. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY MATERIAL AND/OR DATA UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE UPLOADING, DOWNLOADING OR OTHER TRANSMISSION OF SUCH MATERIALS AND/OR DATA. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TWC'S THIRD PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CUSTOMER UNDER THIS AGREEMENT, AND TWC DOES NOT MAKE ANY WARRANTIES ON BEHALF OF SUCH SERVICE PROVIDERS UNDER THIS AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY OR QUIET ENJOYMENT.

12. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL TWC BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF WHETHER TWC HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE AGGREGATE LIABILITY OF TWC TO CUSTOMER FOR ANY REASON AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT (INCLUDING NEGLIGENCE) AND STRICT PRODUCT LIABILITY) SHALL BE LIMITED TO THE FEES PAID BY CUSTOMER UNDER THIS AGREEMENT IN THE SIX (6) MONTHS PRECEDING THE DATE THE CLAIM ARISES. IN NO EVENT SHALL TWC'S AFFILIATES, THIRD PARTY SERVICE PROVIDERS OR SUPPLIERS HAVE ANY LIABILITY TO CUSTOMER HEREUNDER.
13. **NOTIFICATIONS.** Customer's privacy interests, including Customer's ability to limit disclosure of certain information to third parties, are addressed by, among other laws, the Federal Cable Communications Act (the "Cable Act") and the Electronic Communications Privacy Act. Personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in the Subscriber Privacy Notice provided by TWC in writing, which is incorporated herein by reference. Customer acknowledges receipt of the Subscriber Privacy Notice. In addition to the foregoing, Customer hereby acknowledges and agrees that TWC may disclose Customer's and its employees' personally identifiable information as required by law or regulation or by the American Registry for Internet Numbers ("ARIN") or any similar agency. In addition to actions and disclosures specifically authorized by law or statute or authorized elsewhere in this Agreement, TWC shall have the right (except where prohibited by law notwithstanding Customer's consent), but not the obligation, to disclose any information to protect its rights, property and/or operations, or where circumstances suggest that individual or public safety is in peril. Customer hereby consents to such actions or disclosures.
14. **FORCE MAJEURE.** TWC shall have no liability to Customer hereunder due to circumstances beyond its control, including, but not limited to, acts of God, terrorism, flood, fiber cuts, acts or omissions of other carriers, natural disaster, regulation or governmental acts, fire, civil disturbance, strike, weather, any unauthorized access to or destruction or modification of the Service, in whole or in part, any failure of heat, air conditioning, or power supply, or act or failure to act of Customer or any third party using the Service.
15. **REGULATORY AND LEGAL CHANGES; TARIFFS.** In the event of any change in applicable law, regulation, decision, rule or order, including without limitation any increase in universal service fees or other government imposed charges, that increases the costs or other terms of delivery of Service to Customer, Customer acknowledges and agrees that TWC may pass through to Customer any such increased costs. Further, in the event that TWC is required to file tariffs with the appropriate regulatory agency or otherwise publish rates in accordance with regulatory agency rules or policies respecting the delivery of the Service or any portion thereof, then the terms set forth in the applicable tariff or published rates shall govern TWC's delivery of, and Customer's consumption or use of, the Service. In addition, if TWC determines that offering or providing the Service, or any part thereof, has become impracticable for legal or regulatory reasons or circumstances, then TWC may terminate this Agreement as to any or all of the Service without liability by giving Customer thirty (30) days prior written notice (or such shorter notice as is required by law or regulation) of such determination.
16. **ENTIRE AGREEMENT.** This Agreement, including without limitation all exhibits that are attached hereto and incorporated herein by this reference, sets forth the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous written or oral agreements or representations between the parties with respect hereto. In the event that TWC permits a Customer to use its own standard purchase order form to order the Service, the parties hereby acknowledge and agree that the terms and conditions hereof shall prevail notwithstanding any variance with the terms and conditions of any purchase order submitted by Customer, and any different or additional terms contained in such purchase order shall have no force or effect.
17. **MISCELLANEOUS.** This Agreement shall be governed and construed in accordance with the laws of the State of California, excluding its conflicts of law principles. In the event that any portion of this Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties set forth herein, and the remainder of this Agreement shall remain in full force and effect. No waiver of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. Customer may not assign this Agreement without the prior written consent of TWC, and any assignment in violation of this Section shall be null and void. TWC may assign its rights and obligations under this Agreement, including without limitation, in whole or in part, to any Time Warner Cable Inc. affiliated party without the prior written approval of or notice to Customer; Notwithstanding the foregoing, TWC shall give Customer written notice of any such assignment within 30 days of the effective date of such assignment. Customer shall make no press release, public

announcement or other public statements regarding this Agreement without TWC's prior written consent. All claims under this Agreement must be initiated not later than two years after the claim arose. There are no third party beneficiaries to this Agreement. Customer understands and agrees that, regardless of any such assignment, the rights and obligations of TWC herein may accrue to, or be fulfilled by, any TWC affiliate, including without limitation Road Runner HoldCo LLC, as well as by TWC and/or its subcontractors. The parties to this Agreement are independent contractors. Any notice under this Agreement shall be given in writing and shall be deemed to have been given when actually received by the other party. Notices shall be delivered to Customer and TWC at the respective addresses set forth above, or to such other address as is provided by one party to the other in writing. The provisions of Sections 6, 7, 9, 10, 11, 12 and 17 shall survive the termination or expiration of this Agreement. No modification of any provision of this Agreement shall be valid unless set forth in a written instrument signed by both parties. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Notwithstanding anything herein to the contrary, any party to this Agreement (and each employee, representative, or other agent of such party) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transaction and all materials of any kind (including opinions and other tax analyses) that are provided to the party relating to such tax treatment and tax structure.

- 18. **SERVICE LEVEL AGREEMENT.** The Service Level Agreement (SLA) that defines the performance criteria and performance objectives to which Time Warner Cable and Road Runner Business Class will be held accountable for the Dedicated Access service is set forth in Addendum 1.

CUSTOMER:

By: _____
Name: _____
Title: _____
Date: _____

TWC:

By: David Montieth
Name: David Montieth
Title: President of Commercial Services
Date: 8/22/09

FORM APPROVED COUNTY COUNSEL
BY: Neal R. Kipnis
NEAL R. KIPNIS DATE

Exhibit A

Service

Subject to the terms and conditions of this Agreement, TWC shall provide Customer with a dedicated circuit connection between Customer's data network from Site A to Site B (see below). The Service shall have the following capacity: 100Mbps P2P

- A) FROM: 2224 Gateway Drive, Riverside, CA 92507 (County Facility Riverside Assessor)
B) TO: 4080 Lemon Street, Basement, Riverside, CA 92501 (Riverside County Administration Center)

Additional capacity (Mbps) and/or static IPs are extra.

Prices

Installation Fee: \$1500.00 one time fee (NRC)

Monthly Recurring Fee: \$3090.00/month (MRC)

Initial Term of Service

For a period of 5 years (60 months) from the date of TWC's Completion Notice.

Addendum 1

Service Level Agreement

NETWORK LATENCY

Latency is the time delay experienced between a local computer/device generating a Layer 3 ICMP 64 byte ping message and receiving a response from the targeted remote computer/device. It is normally expressed in milliseconds (thousandths of a second). Latency is measured on a local-metro-divisional basis and regional basis.

No SLA is offered for IP packets traversing the public Internet. (Defined as the RRCS Headend router interface connecting to the Tier 1 provider, ADTN or Level3, and beyond). For Internet Access, the TW Cable/Road Runner network is an extension of the public Internet.

RRCS will measure latency using a standard 64 byte ping from one network device to a second network device in a round trip fashion. The ping test shall be conducted every 5 minutes for 24 hours for an entire month to constitute the measurement period.

A month is defined as 30 days times 24 hours for a total of 720 hours. Pinging every five minutes produces 12 pings per hour, 288 pings per day and 8,640 pings per month.

Latency will be measured as an average measurement over the month, beginning on the first of each month, to determine the performance of the network based upon the Latency Report issued by the BOSS Team. The SLA will be determined to be non-compliant if there is a period of four (4) consecutive hours or more in a 24 hour period (day) with BOSS measurements exceeding 60ms on average to qualify for non-standard performance. The customer must open a trouble ticket with the CSC in order to qualify for the credits issued for a non-compliant SLA performance.

DIVISION NETWORK LATENCY

Division Network Latency is defined as the end-to-end roundtrip period between the customer demarcation point (media converter) connected to the fiber optic local loop to the serving Distribution Hub and either the Tier 1 provider port on the Internet facing router in the Head End or the customer demarcation point (media converter) connected to the fiber optic local loop to the serving Distribution Hub at the other end of the Private Line circuit within the Division.

INTRA-REGIONAL NETWORK LATENCY

Intra-Regional Network Latency is defined as the end-to-end roundtrip period between the customer demarcation point (media converter) attached to the fiber optic local loop terminating in the local serving Distribution Hub to the Divisional Head End and across the Regional Ring to the destination Head End in the destination Division to the Distribution Hub serving the fiber optic local loop connecting to the customer demarcation point (media converter).

INTER-REGIONAL NETWORK LATENCY

Inter-Regional Network Latency is defined as the end-to-end roundtrip period between the customer demarcation point (media converter) attached to the fiber optic local loop terminating in the local serving Distribution Hub to the Divisional Head End and across the Inter-Regional Ring to the destination Head End in the destination Division to the Distribution Hub serving the fiber optic local loop connecting to the customer demarcation point (media converter). Inter-Regional services are not available for this product release.

END-TO-END NETWORK AVAILABILITY

End-to-End Network Availability is defined as the total number of minutes in a billing month during which a Road Runner Commercial Services Ethernet service is available to exchange data between the two Customer end points, or a Customer end point and the router connecting Road Runner Commercial Services to the Tier 1 provider, divided by the total number of minutes in a billing month expressed as a percentage. A billing month has 43,200 minutes.

End-to-End Network Availability is calculated as the total number of minutes during a calendar month when a specific customer connection and local access arrangements are available to exchange data between two or more customer end points with the same type of service, divided by the total number of minutes for that month.

End-to-End Network Availability covering Type 1 (On-Net) access is 99.95% that translates to 21.6 minutes per month of down time outside the maintenance window(s) for Layer 2 Ethernet transport services.

The calculation of End-to-End Network Availability commences after the Customer opens a Trouble Ticket with Road Runner Commercial Services CSC and is based on the availability of the service during the service monthly billing period in which the Customer opens the Trouble Ticket. Network outages do not include periods of service degradation, such as slow data transmission. Network availability is calculated on reported outages outside the maintenance window(s).

Availability will be measured as an average measurement over the month, beginning on the first of each month, to determine the performance of the network based upon the Availability Report issued by the BOSS Team. The SLA will be determined to be non-compliant if there is a period of four (4) consecutive hours or more in a 24 hour period (day) with BOSS measurements exceeding 99.95% Availability on average to qualify for non-standard performance. The customer must open a trouble ticket with the CSC in order to qualify for the credits issued for a non-compliant SLA performance.

PACKET LOSS

Packet loss describes an error condition in which data packets appear to be transmitted correctly at one end of a connection, but never arrive at the other.

Packet Loss is the average ratio of total packets that are sent to those that are received. Ratios are based on packets that are transmitted from a network origination point and received at a network destination point.

Packet Loss will be measured as an average measurement over the month, beginning on the first of each month, to determine the performance of the network based upon the Packet Loss Report issued by the BOSS Team. The SLA will be determined to be non-compliant if there is a period of four (4) consecutive hours or more in a 24 hour period (day) with BOSS measurements exceeding 0.1% Packet Loss on average between Time

Warner Hubs to qualify for non-standard performance. The customer must open a trouble ticket with the CSC in order to qualify for the credits issued for a non-compliant SLA performance.

OUTAGE CREDITS

In the event that the customer experiences an outage of service and remote diagnosis through the company's Customer Support Center (CSC) have proved unsuccessful, the company will provide onsite response within 4 hours. The 4 hour window begins when remote diagnostics have been unsuccessful. In the event that the outage is found to be the company's responsibility, excluding the instance of force majeure as expressed in section 14 in this agreement, and the service is not restored within the 4 hour windows stated above the customer would be entitled to a week's credit of the monthly fee up to a maximum of 4 week's credit for a consecutive outage lasting up to 24 hours or more.