

504



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

FROM: Riverside County Information Technology (RCIT)

SUBMITTAL DATE:
October 29, 2012

SUBJECT: APPROVE AGREEMENTS FOR REDUNDANT INTERNET SERVICES WITH TW TELECOM HOLDINGS, INC. AND CENTURYLINK QCC

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and execute the agreements with TW Telecom Holdings, Inc. and CentryLink QCC (Amendment No. 3), in the annual aggregate amount of \$166,000, for five (5) years, renewable in one-year increments; in accordance with ordinance 459.4; and
2. Authorize the Purchasing Agent, to move the funds among the two awarded vendors and to sign purchase orders, 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 and approve annual increases not to exceed the CPI rates, and;
3. Direct the Clerk of the Board to return two (2) original signed copies to RCIT.

[Signature]
 Kevin Crawford
 Chief Information Officer 300912

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 166,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2012-13

SOURCE OF FUNDS: RCIT Departmental Budget	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: **APPROVE**

BY: *[Signature]*
Serena Chow

County Executive Office Signature

Dept't Recomm.: Consent Policy

Per Exec. Ofc.: Consent Policy

FORM APPROVED COUNTY COUNSEL
 BY: *[Signature]* DATE: *[Signature]*
 Assistant Director

Departmental Concurrence

Prev. Agn. Ref.: 3.34 on 6/17/08; 3.45 on 8/10/04 | **District:** ALL | **Agenda Number:**

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

3.42

Riverside County Information Technology

October 2, 2012

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SUBJECT: APPROVE AGREEMENTS FOR REDUNDANT INTERNET SERVICES WITH TW TELECOM HOLDINGS, INC. AND CENTURYLINK QCC

BACKGROUND:

The County of Riverside requires a renewal and expansion of their Internet access services for the various departments and organizations. Internet services provide connection to the World Wide WEB allowing County Departments to access resources and services outside of its internal network. Additionally, connection to the Internet allows constituent's to access County resources and services.

The recommended solution from TW Telecom Holdings, Inc. and CenturyLink QCC provides two active internet access connections, and will provide uninterrupted failover should the County lose either one of the two connections at the following locations: 4080 Lemon St. and 7195 Alessandro Boulevard. The reason this award requires two separate/unrelated vendors is to ensure total system redundancy. In the event that either vendor experiences a total and catastrophic system failure which would render them completely non-operational, the network will route all traffic bound to the Internet through the currently operational vendor, thus maintaining full operation to County departments and agencies. The Internet connection at 7195 Alessandro Blvd (CenturyLink) is being upgraded to match the bandwidth of the link at 4080 Lemon St (TW Telecom) as part of this submittal. By doing this, there should be no degradation of service in the event that either providers system was to fail.

Price Reasonableness:

Purchasing released a Request for Proposal ITARC118 and mailed the RFP to eleven (11) vendors and advertised on the Internet. Purchasing received three responsive/responsible proposals with bid ranges from \$12,775 to \$18,176 in monthly recurring charges (MRC), additional taxes and fees will apply to the monthly billing. The proposals were reviewed by an evaluation team consisting of personnel from Purchasing and RCIT and scored based on the bidder's overall responsiveness and general understanding of the RFP Requirements, experience and ability, overall cost to the County, technical capability, project methodology, and clarification/exceptions or deviations.

The evaluation team recommends that the award be given to TW Telecom Holdings, Inc. and CenturyLink QCC as the lowest cost and most responsive/responsible vendors, submitting total annual cost of \$166,000 which includes estimated applicable taxes and fees, for redundant internet access. CenturyLink QCC is amending its existing contract through Amendment No. 3 for this renewal.

REVIEW/APPROVAL: Purchasing and County Counsel concur with this request.

**AMENDMENT TO
CENTURYLINK LOYAL ADVANTAGE™ AGREEMENT**

THIS AMENDMENT NO. THREE (this "Amendment") by and between **Qwest Communications Company, LLC d/b/a CenturyLink QCC** ("CenturyLink") and **County of Riverside** ("Customer"), hereby amends the CenturyLink Loyal Advantage Agreement or Qwest Loyal Advantage Agreement, as applicable, Content ID: 255805, 277208 and 378936, as may have been previously amended (the "Agreement"). Except as set forth in this Amendment, capitalized terms will have the definitions assigned to them in the Agreement. All references to "Qwest Loyal Advantage" or "QLA" are hereby replaced with "CenturyLink Loyal Advantage."

CenturyLink and Customer wish to amend the Agreement as follows:

1. Term. By checking one of the boxes below, Customer indicates that it is increasing the length of its existing Term. Customer understands and agrees that it may not decrease the length of its existing Term.

- No Changes.** Customer's existing Initial Term, will remain in effect.
- New Initial Term.** The parties agree to start a new Initial Term that begins on the Amendment Effective Date. Customer's new Term is five (5) years (Contract Code: 600055).
- Extension of the Initial Term.** The parties agree to extend the existing Initial Term, which will retain the Agreement's existing Effective Date. Customer's new Term is Select Term in Drop-down.

2. Addition of Services. Customer is adding a new Service to the Agreement. If this Section 2 is not checked, Customer's existing Services as set forth in the Agreement will remain in effect. Customer's new Services are added as follows:

The attached contract documents(s) associated with the addition of Services(s) may include, but is not limited to the following: Service Exhibit(s), Pricing Attachment(s), and Service Attachments, which are added to, and constitute a part of, the Agreement and the existing Services. The definition of Services in the Agreement will include the Services in the contract documents attached to this Amendment.

3. Modifications. To the extent that the following provisions are not already in the Agreement or in a previous amendment, they are added through this Amendment. The Agreement is amended as follows:

(a) Pricing. Previously approved pricing still applies with the exception to the rates herein this Amendment that are based on a new five (5) year term commitment

(b) Domestic CenturyLink IQ Networking Service Exhibit. The Services and rates set forth in the table below are being added to Section 1.1 of the Domestic CenturyLink IQ Networking Service Exhibit Pricing Attachment.

Tiered Gigabit Ethernet (1000 Mbps) Internet Port Other Access	Install NRC	Net Rate MRC
500 Mbps	\$4,000.00	\$3,150.00

(c) Local Access Service Exhibit. The Services and rates set forth in the pricing table below are being added as Section 2.2 to the Local Access Service Exhibit Pricing Attachment.

NPA/NXX or CLLI	Loop Tracking ID	Service Address	Type of Local Access	Minimum Service Term in months (per Service)	Circuit Speed	Local Access Net Rate MRC	Install NRC
951341	120604617900		Leased ELA Native	60	GigE-500 Mbps	\$1,325.00	\$500.00

(d) DDOS Mitigation Service Exhibit. The Services and rates set forth in the table below are being added to the existing table in Section 1.1 of the DDOS Mitigation Service Exhibit Pricing Attachment.

CenturyLink Proactive Shared DDoS Mitigation - Based on CenturyLink IQ™ Networking Internet Port Access Speed	CenturyLink IQ™ Networking Internet Port Maximum Bandwidth	MRC
400MB-1000MB Ethernet	400-1000 Mbps	\$2,100.00

(e) DDOS Mitigation Service Exhibit. The Services and rates set forth in the table below are being added to the existing table in Section 1.2 of the DDOS Mitigation Service Exhibit Pricing Attachment.

CenturyLink Reactive Shared DDoS Mitigation - Based on CenturyLink IQ™ Networking Internet Port Access Speed	CenturyLink IQ™ Networking Internet Port Maximum Bandwidth	MRC
400MB-1000MB Ethernet	400-1000 Mbps	\$1,750.00

**AMENDMENT TO
CENTURYLINK LOYAL ADVANTAGE™ AGREEMENT**

4. Pricing. Any new rates applicable to Customer's existing Services will become effective at CenturyLink's earliest opportunity, but in no event later than the second full billing cycle following the Amendment Effective Date. CenturyLink reserves the right to modify rates after the conclusion of each Service's minimum service period upon not less than 30 days' prior written notice to Customer; provided that CenturyLink may reduce the foregoing notice period or modify rates or discounts prior to the conclusion of the minimum service period, as necessary, if such modification is based upon Regulatory Activity. CenturyLink also reserves the right to modify rates when the Agreement renews to the rates that are in effect at that time. If Regulatory Activity causes an increase in the rates for Customer's ordered Services that materially and adversely affects Customer, then Customer may terminate the affected Service upon 30 days prior written notice to CenturyLink without liability for Cancellation Charges for the affected Service, provided, however that Customer: (a) provides such notice within 30 days after the increase occurs; and (b) provides CenturyLink 30 days to cure such increase. If Customer does not provide CenturyLink such notice during the time permitted in this Section, Customer will have waived its right to terminate the affected Service under this Section.

5. Miscellaneous. This Amendment will be effective as of the date it is executed by CenturyLink after the Customer's signature (the "Amendment Effective Date") and will become part of the Agreement. All other terms and conditions in the Agreement shall remain in full force and effect and be binding upon the parties. This Amendment and the Agreement set forth the entire understanding between the parties as to the subject matter herein, and in the event there are any inconsistencies between the two documents, the terms of this Amendment will control. Using CenturyLink's electronic signature process for the Agreement is acceptable.

The undersigned parties have read and agree to the terms and conditions set forth in this Amendment.

CUSTOMER: COUNTY OF RIVERSIDE

**QWEST COMMUNICATIONS COMPANY, LLC D/B/A
CENTURYLINK QCC**

Authorized Signature

Name Typed or Printed

Title

Date

Authorized Signature

Name Typed or Printed

Title

Date

Customer's address for notices:
Customer's facsimile number:
Person designated for notices:

FORM APPROVED COUNTY COUNSEL

BY: Neal R. Kipnis
NEAL R. KIPNIS

03/31/12
DATE

Customer Information and Contract Specifications

Customer Name: COUNTY OF RIVERSIDE

Contract Status:

- Standard Terms and Conditions on File as of 6/26/2008, attached hereto and incorporated herein as Exhibit A

Description	ID
Existing Circuit ID	55/KFFN/102132/TWCS

Service Order

This Service Order is entered into by **tw telecom holdings inc.** on behalf of itself and its wholly owned operating subsidiaries (collectively "TWTC") and COUNTY OF RIVERSIDE ("Customer"). It is effective upon execution by both Parties ("Effective Date").

Service Address	Description	Order Type	Term (Months)	Qty	Unit MRC	Unit NRC	Total MRC	Total NRC
4080 Lemon ST, Riverside, CA 92501-3609	Internet Access - 500 Mbps	Renewal	60	1	\$4,140.00	\$0.00	\$4,140.00	\$0.00
	- Service Level = 24x7x4							
	- Primary DNS (up to 10)							
	- Secondary DNS (up to 50)							
	Internet Transport - Ethernet 1Gbps			1	\$560.00	\$0.00	\$560.00	\$0.00
	DDoS Mitigation Service			1	\$400.00	\$0.00	\$400.00	\$0.00
	Subtotal						\$5,100.00	\$0.00
	Totals						\$5,100.00	\$0.00

Additional charges may be assessed if Customer causes a delay in installation or if wiring is required between the service address and the network demarcation point.

Contract Provisions

The Services ordered herein are governed by this Service Order and the Standard Terms and Conditions executed by Customer, as referenced above.

Internet

Usage: Customer shall not transmit or store material in violation of any Federal or state laws or regulations, including, but not limited to, obscenity, indecency, defamation or infringement of trademark or copyright. Customer agrees to adhere to TWTC's IP policies at <http://www.twtelecom.com/support-information/customer-resources/product-resources/ip-addressing-policy/> and <http://www.twtelecom.com/support-information/customer-resources/product-resources/peering-policy/> and TWTC's Acceptable Use Policy ("AUP") at <http://www.twtelecom.com/support-information/legal-information/acceptable-use-policy/>, which may be modified from time to time.

Equipment Recovery

Upon termination of a Service for any reason, TWTC or its representative will contact Customer to schedule a mutually acceptable time and date for TWTC's retrieval of TWTC Equipment located on Customer's premises. Alternatively, TWTC may request that Customer package TWTC's Equipment and return it, at TWTC's cost, to a location identified by TWTC. If Customer does not provide TWTC with access to its premises to allow TWTC to recover the TWTC Equipment within

thirty (30) days following TWTC's contact, or if Customer does not ship the TWTC Equipment back to TWTC within the thirty (30) days, then TWTC may charge Customer for the replacement cost of the TWTC Equipment.

DDoS Special Provisions

If Customer upgrades its Internet Access, charges for DDoS Mitigation Service will be automatically upgraded and charged at the then current book rate for the new Internet Access unless otherwise indicated.

DDoS monitoring and mitigation will only be available for the IP address(es) associated with the contracted DDOS service and TWTC shall not be responsible for monitoring any other IP address(es) owned or used by Customer.

Service Limitations: Action taken to mitigate a DoS or DDoS attack may impact Customer's ability to use TWTC's Services. TWTC may identify attack traffic from time to time, but TWTC shall not block any traffic unless and until such blocking is authorized by Customer.

Signature Block

tw telecom holdings inc.	Customer: COUNTY OF RIVERSIDE
Signature:	Signature:
Name: Dan Cross	Name:
Title: General Manager / Vice President	Title:
Date:	Date:
Sales Person: Dale Nieman / Monica Parker	

Customer and the individual signing above represent that such individual has the authority to bind Customer to this Agreement.

FORM APPROVED COUNTY COUNSEL
 BY: Neal R. Kipnis DATE: 12/30/12

TIME WARNER TELECOM

CONNECTING YOUR BUSINESS TO MORE BUSINESS™

Contract Classification
NEW

Master Services Agreement on File Date of Original on File: _____

TWTC Standard Terms and Conditions on File Date of Original on File: _____

Internet Service Order Form

This Service Order is entered into by Time Warner Telecom Holdings Inc. (to become tw telecom holdings inc.) by and through its wholly owned subsidiaries that are certified to provide the services being ordered hereunder (collectively "TWTC" or "the Company") and ("Customer"). It is effective upon execution by both Parties ("Effective Date"). The Internet services described herein are governed by TWTC's Standard Terms and Conditions or Master Service Agreement executed by Customer. This Agreement incorporates by reference the attached Service Level Agreement for Internet Services.

Customer and the Individual signing below represent that such Individual has the authority to bind Customer to this Agreement.

Customer Name: COUNTY OF RIVERSIDE	Billing Address: PO BOX 1605
Service Address: 4080 Lemon Street, Riverside, CA 92501-3649	RIVERSIDE, CA 92502
TERM: 36 Months	Account # 265879

Grand Total (Detailed Price Description Below)	Monthly Recurring Charges "MRC"	\$11,112.00	Non-Recurring Charges "NRC"	\$1,000.00
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Time Warner Telecom Holdings Inc.
 Signature: _____
 Print Name: Dan Cross
 Title: VP & General Manager
 Date: 6/26/08
 Sales Person: Jeffrey Simonton

Customer: COUNTY OF RIVERSIDE
 Signature: _____
 Print Name: Roy Wilson
 Title: Chairman, Board of Supervisors
 Date: June 17, 2008
 ATTEST: NANCY ROMERO, Clerk of the Board
 by: _____ Deputy

INTERNET SERVICES: Dedicated Internet Access (DIA), Ethernet Internet Service (EIS), Managed Security Services (MSS), DDoS, and Shared Web Hosting (SWH)	Unit Price	Quantity	Monthly Total	Unit Install	Total Install
Internet Transport					
Ethernet_1Gbps	\$ 387.00	1	\$ 387.00	\$ -	0.00
Internet Access					
500 Mbps	\$ 10,725.00	1	\$ 10,725.00	\$ 1,000.00	\$ 1,000.00
DNS					
Primary DNS (11+)					
Secondary DNS (51+)					

DATA SERVICES TOTAL		\$11,112.00		\$1,000.00
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TOTAL MONTHLY RECURRING AND NON-RECURRING CHARGES		\$11,112.00		\$1,000.00
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Internet Services

Usage: Customer shall not transmit or store material in violation of any Federal or state laws or regulations, including, but not limited to, obscenity, indecency, defamation or infringement of trademark or copyright. Customer has read and agrees to adhere to TWTC's IP policy at <http://info.twtelecom.net/info.php?id=26> and Acceptable Use Policy ("AUP") at <http://info.twtelecom.net/info.php?id=2>, which may be modified from time to time.

- Included Services for Internet Service:
- >Primary DNS (for up to 10 domains)
 - >Secondary DNS (for up to 50 domains)
 - >IP address space with proper justification (if over 2 usable requested, must submit IP justification form located at <http://info.twtelecom.net/info.php?id=14>)
 - >BGP provided upon request (must submit BGP request form located at <http://info.twtelecom.net/info.php?id=13>)
 - >Customer premise router and CSU/DSU (CPE) available through TWTC for an additional charge
 - >24 x 7 Internet trouble shooting of Internet Service (excludes CPE)
 - >Usenet NNRP/NNTP access and/or feeds (on request)
 - >Backup MX (mail exchange) record (on request)

TIME WARNER TELECOM STANDARD TERMS AND CONDITIONS

This Agreement is by and between Time Warner Telecom of California, L.P. ("TWTC") and COUNTY OF RIVERSIDE ("Customer"), and is effective as of the date signed by TWTC, below.

1. Attachments and Service Orders: The Service Order(s) and other attachments attached hereto and incorporated by reference detail the price, location and other information about the service(s) to be provided by TWTC to Customer ("Services"), and are incorporated herein by reference.

2. Authorized Use: Customer may use Services only for authorized and lawful purposes. TWTC offers all services subject to availability; provided, however, if a Service Order has been accepted by TWTC, TWTC will provide Services for the term of such Service Order. TWTC has the right to limit the manner in which any portion of its network and facilities ("Network") is used to protect the technical integrity of the Network. TWTC does not undertake to transmit messages, but offers the use of its Service when available. TWTC is not liable or responsible for content, errors in transmission or failure to establish connections.

3. Cancellation, Modification or Expedition of Orders Cancellation, Modification and Expedite Charges referenced hereunder are posted to the TWTC Website (www.twtelecom.com) and are subject to modification from time to time by TWTC effective upon posting to the TWTC Website. (a) Customer may request to cancel any Service Order(s) if the request is received in writing by TWTC prior to the due date. Each such request shall result in the assessment by TWTC of a Cancellation Charge (a Service Order can only be cancelled one time; the execution of a new Service Order restarts the cancellation process). If the request to cancel is received at any time after installation has begun, Customer must pay full termination liability as set forth in section 15 below. (b) Customer may request the modification of any Service Order(s). Such requests must be made in writing. Each such request shall result in the assessment by TWTC of a Service Order Modification Charge. If TWTC receives a written modification request for delay of installation less than 3 days prior to the due date, Customer must pay, in addition to the Service Order Modification Charge, all recurring charges for the shorter of one billing month or the period from the original due date to the requested installation date. TWTC reserves the right to limit the number of requests to delay the due date. (c) At TWTC's discretion, TWTC may accommodate Customer requests for an expedited due date. If an expedited due date is accepted by TWTC, Customer shall pay an Expedite Charge.

The Service Order Modification Charge shall be waived in those cases where the Expedite Charge is applicable. (d) In addition to any charges imposed under clauses (a), (b) or (c) above, TWTC reserves the right to assess Customer any third party charges incurred by TWTC to fulfill any request to cancel, modify, or expedite the Service Order(s).

The Board of Supervisors and the Riverside County Purchasing Agent are the only authorized representatives of Customer who may at any time, by written order, make alterations within the general scope of this contract, in the definition of services to be performed, and the time (i.e. hours of the day, days of the week, etc.) and place of performance thereof.

4. Equipment, Installation and Interconnection: Other than the facilities, termination equipment or other devices provided by Customer, and unless otherwise provided elsewhere in this Agreement or any attachments hereto, TWTC will pay for, provide, install, maintain, operate, control and own any equipment, cable or facilities connected to the Network ("System Equipment"), which equipment at all times remains TWTC's personal property, regardless of where located or attached. TWTC may change, replace or remove the System Equipment, regardless of where located, so long as the basic technical parameters of the Service are not altered, and this Agreement constitutes Customer's consent to such change, replacement or removal. Customer may not rearrange or move or disconnect the System Equipment, and is responsible for any damage to or loss of System Equipment caused by Customer's negligence or willful misconduct or that of its end users. TWTC has no obligation to install, maintain or repair any equipment owned or provided by Customer, except as may be specifically provided herein. If Customer's or end user's equipment is incompatible with Service, Customer is responsible for any special interface equipment or facilities necessary to ensure compatibility. If, in responding to a Customer-initiated service call, TWTC reasonably determines that the cause of such service call is a failure, malfunction or inadequacy of Customer-provided equipment or software, Customer will pay TWTC for such service call at TWTC's then prevailing rates.

5. Access: TWTC requires a Customer contact who can be reached 7x24. TWTC may require access to Customer's premises to install and maintain the Service and System Equipment necessary for the provision of Service. Customer must provide, or cause its end users to provide, at

no cost to TWTC, reasonable access, space, power and environmental conditioning as applicable to the particular installation, and must use, and cause its end users to use, commercially reasonable efforts to obtain any necessary consents or rights of way from third parties.

6. Installation: Upon completing installation, TWTC will notify Customer that Service has been installed, tested by TWTC and is available for Customer's use ("Service Date"). Unless Customer notifies TWTC by fax or in writing by close of business on the Service Date that Service is not operational, the term of the Service Order will begin and billing will commence. If Customer so notifies TWTC, TWTC will work to correct any compliance issues. If TWTC does not find a defect in service, TWTC will notify Customer, and the Service Date will remain unchanged.

7. Charges, Billing, Taxes and Payment: (a) Provision of Service is subject to TWTC's approval of Customer's credit standing. TWTC may require a deposit prior to the provision of Service or as a condition to the continued provision of Service, if Customer's credit standing or payment record so indicates.

(b) Billing for Services begins on the Service Date and will not be delayed due to Customer premises equipment or Customer's readiness to accept or use Service. TWTC bills in advance for Service, except for usage-based charges. Any installation charges or other non-recurring charges, which are non-refundable, will appear on the first monthly invoice.

(c) Taxes, as defined below, are not included in TWTC's charges, and TWTC will bill each Tax to Customer and, whenever reasonably possible, bill each Tax as a separate item on the invoice. Customer must pay the billed amount of Tax to TWTC by the Due Date of the invoice, as defined below. For purposes of this Agreement, "Tax" and "Taxes" means any federal, state or local excise, gross receipts, value added, sales, use or other similar tax, fee, tax-like fee or surcharge of whatever nature and however designated imposed, or sought to be imposed, on or with respect to Services purchased by Customer under this Agreement or for TWTC's use of public streets or rights of way, which TWTC is required or permitted by law or a tariff to collect from Customer; *provided, however*, that the term "Tax" or "Taxes" will not include any tax on TWTC's corporate existence, status, or income.

Notwithstanding anything in this Agreement to the contrary, Customer will be liable for and TWTC may collect Taxes which were assessed by or paid to an

appropriate taxing authority within the statute of limitations period but not included on an invoice within the period allowable under applicable federal or state law or regulation. If Customer fails to pay any Taxes properly billed, then, as between the TWTC and Customer, Customer will be solely responsible for payment of the Taxes, penalty and interest.

If either party is audited by a taxing authority or other governmental authority, the other party agrees to reasonably cooperate with the party being audited in order to respond to any audit inquiries in a proper and timely manner so that the audit and/or any resulting controversy may be resolved expeditiously.

To the extent a Service purchased hereunder is claimed to be for resale and thus subject to tax exemption, Customer will furnish TWTC a proper resale tax exemption certificate as authorized or required by statute or regulation of the jurisdiction providing said resale tax exemption. No tax exemption shall be available to Customer for any period prior to the date that the Customer provides TWTC with a valid tax exemption certificate.

(d) Traditionally, all amounts billed are due by the next billing date ("Due Date"), and any payment or portion thereof not made by the Due Date is subject to a late charge of 1% per month on the unpaid amount. In this case, however, TWTC will waive this late payment charge, conditioned upon Customer's good faith efforts to implement electronic payment functionality by the end of the 6th month following the Service Date. In the event Customer has not implemented electronic payment functionality at that time, the parties will enter into good faith negotiations regarding TWTC's 1% per month late payment charge.

(e) Upon notice to Customer, TWTC may change rates offered pursuant to special arrangement or individual case basis pricing if the provision of service at such rate(s) becomes economically infeasible.

8. Claims and Disputes: If Customer disputes any charges billed hereunder, Customer must submit a documented claim regarding the disputed amount within 120 days of receipt of the bill on which the disputed charges appear. All claims regarding disputed charges not submitted to TWTC within such time are deemed waived. Withheld disputed amounts determined in favor of TWTC and paid disputed amounts determined in favor of Customer will bear interest at the lesser of 1% per month or the maximum rate allowed by law from the date payment was due or made, as

applicable, to the date payment was made or refunded, as applicable.

9. Service Level Guarantee and Credits: TWTC will issue credit allowances for service outages as set forth below upon Customer's written request, which credit will appear on the next invoice following processing. A service outage begins when Customer reports the outage to the appropriate TWTC number(s) to open a trouble ticket, and ends when the affected circuit is fully operational, as evidenced by the closing of the trouble ticket. No credits will be given for outages that are (a) caused by Customer or an end user; (b) due to failure of power or equipment provided by Customer or 3rd parties; (c) during any period in which TWTC is not given access to the Service premises; (d) part of a planned outage for maintenance; or (e) due to a force majeure event. Services provisioned entirely on TWTC's Network will be credited at 1/1440 of the monthly recurring charges per 30 minute outage up to and including a 24-hour period, or if an outage is greater than 24 hours, at 1/144 of the monthly recurring charges per 3 hour outage. If 2 or more trouble tickets have been opened for a particular Service in a 30-day period, and the cause of outage is determined to be in TWTC's Network or System Equipment, such Service will be deemed a Chronic Trouble Service. If a 3rd trouble ticket is opened on a Chronic Trouble Service within 30 days of the 2nd trouble ticket, Customer may disconnect the affected Service without incurring Termination Liability.

10. Governmental Authorization, Regulatory Changes: This Agreement is subject to all applicable federal, state and local laws, rules and regulations, and each party must comply with all applicable federal, state and local laws, rules, regulations and orders in performing its obligations hereunder. To the extent any provision of this Agreement conflicts with any such applicable law, rule or regulation, such law, rule or regulation will supersede the conflicting provision. TWTC may discontinue, limit or impose additional requirements to the provision of Service, upon 15 days written notice, as required to meet regulatory requirements or when such requirements have a material, adverse impact on the economic feasibility of TWTC providing Service, as determined in TWTC's reasonable business judgment.

TWTC shall make available, upon written request by any duly authorized Federal, State or Riverside County agency ("Agency") legally authorized to make such a request, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the

costs of the services provided by TWTC. All such books and records shall be maintained by TWTC for at least five years from the termination of this Agreement and be available for audit by Agency, if they are legally authorized to perform such an audit. TWTC to provide Agency with reports and information relative to this Agreement and in accordance with terms set forth herein, as requested by Agency.

11. Indemnification: Each party ("Indemnitor") must indemnify, defend and hold harmless the other party ("Indemnitee") from all losses or damages arising from or related to personal injury or property damage caused by the negligence or willful misconduct of Indemnitor, and from and against claims brought by third parties which Indemnitee is required to pay or to assume to the full extent that such have resulted from, without limitation, Indemnitor's gross negligence, strict liability in tort, or willful misconduct. Customer must indemnify, defend and hold harmless TWTC from all losses or damages arising from Customer's violation of any 3rd party intellectual property right and all claims of any kind by Customer's end users in connection with any Service provided hereunder.

12. Limitation of Liability: Neither party is liable for any indirect, incidental, consequential, special or punitive damages (including without limitation, lost profits or revenue) arising out of or related to the provision of Services hereunder, including any claims made by or through third parties. TWTC's liability to Customer for breach may not exceed one month's calculation of monthly charges for the applicable Services. TWTC has no liability whatsoever for the content of information passing through its Network.

13. Term: This Agreement is effective for a period of 36 months and commences upon installation of Service under the first Service Order accepted hereunder. Thereafter, this Agreement automatically renews for successive 1-year terms unless terminated by either party upon at least 30 days written notice prior to the end of the renewal term. TWTC reserves the right to increase pricing after the initial term. Upon expiration of this Agreement, Services not previously terminated by Customer will remain in effect for the term specified in the applicable Service Order for each affected Service, and the terms and conditions of this Agreement will continue to apply to such Services. Upon termination of this Agreement, all rights of Customer to order new Services cease and TWTC has no further obligations to furnish new Services to Customer.

14. Termination by TWTC: (a) TWTC may terminate this Agreement or any Service Order hereunder or suspend Services, with prior written notice, upon: (i) Customer's failure to pay any amounts as provided herein; (ii) Customer's breach of any provision of this Agreement or any law, rule or regulation governing the Services; (iii) any insolvency, bankruptcy assignment for the benefit of creditors, appointment of trustee or receiver or similar event with respect to Customer; or (iv) any governmental prohibition or required alteration of the Services. (b) TWTC may terminate or suspend Services without notice if: (i) necessary to protect TWTC's Network; (ii) TWTC has reasonable evidence of Customer's fraudulent or illegal use of Services; or (iii) required by legal or regulatory authority. Any termination shall not relieve Customer of any liability incurred prior to such termination, or for payment of unaffected Services. All terms and conditions of this Agreement shall continue to apply to any Services not so terminated, regardless of the termination of this Agreement. If the Service provided under any Service Order hereunder has been terminated by TWTC in accordance with this section, and Customer wants to restore such Service, Customer first must pay all past due charges, a non-recurring charge, reconnection charge and a deposit equal to 2 months' recurring charges. All requests for disconnection will be processed by TWTC in 30 days or less. Customer must pay for Services until such disconnection actually occurs.

15. Termination Liability: If, prior to the end of the term, TWTC terminates this Agreement or any Service Order(s) hereunder under section 14, above, or if Customer terminates this Agreement or any Service Order(s) hereunder for any reason other than TWTC's material breach of this Agreement that remains uncured after written notice and a reasonable cure period, Customer must pay immediately to TWTC all monthly recurring charges associated with the terminated Service(s) for the balance of the term in such Service Order(s).

16. Assignment: Neither party may assign this Agreement without the prior written consent of the other party, not to be unreasonably conditioned, withheld or delayed, except that TWTC may assign its rights and/or obligations hereunder (a) to any parent, affiliate or subsidiary of TWTC, (b) pursuant to any merger, acquisition, reorganization, sale or transfer of all or substantially all its assets, or (c) for purposes of financing.

17. Entire Agreement: This Agreement, together with the Service Order(s), any attachments and all

applicable tariffs incorporated herein by this reference, sets forth the entire agreement of the parties with respect to the subject matter hereof, and supersedes any prior agreements, promises, representations, understandings and negotiations between the parties. In the event of a conflict, the Service Order shall prevail over this Time Warner Telecom Standard Terms and Conditions Agreement and any applicable tariff shall prevail over both. Any modifications, amendments, supplements to or waivers of this Agreement must be in writing and executed by authorized representatives of both parties.

18. Force Majeure: Neither party is liable for any failure of performance if such failure is due to any cause or causes beyond such party's reasonable control, including without limitation, acts of God, fire, explosion, vandalism, acts of terrorism, cable cut, adverse weather conditions, governmental action, labor difficulties and supplier failures. Either party's invocation of this clause shall not relieve Customer of its obligation to pay for any Services actually provided up to Customer's demarcation point. In the event such failure continues for 10 days, the other party may terminate the affected portion of the Services, upon no less than 30 days prior written notice.

19. Governing Law: This Agreement is governed by and subject to the laws of the State of California, excluding its principles of conflicts of law.

20. Headings: The headings herein are for convenience only and are not intended to have any substantive significance in interpreting this Agreement.

21. Relationship of Parties: The parties are independent contractors, and nothing herein creates or implies an agency relationship or a joint venture or partnership between the parties.

22. Intentionally Left Blank

23. Litigation: If either party commences litigation under this Agreement, the prevailing party is entitled to reimbursement of its costs and attorneys' fees from the other party.

24. Non-Exclusivity: This Agreement is non-exclusive. Nothing herein prevents either party from entering into similar arrangements with other entities.

25. Notices: Whenever written notice is required to be provided by this Agreement, TWTC must

provide such notice to Customer's billing address, and Customer must provide such notice to TWTC at 3281 Guasti, Ontario CA 91761, Attn: General Manager. A notice is deemed given when delivered.

Time Warner Telecom Holdings, Inc.

Signature: 

26. No Waiver: Either party's failure to enforce any provision or term of this Agreement shall not be construed as a future or continuing waiver of such provision or term of this Agreement.

Name (printed): DAN CROSS

27. Public Releases, Use of Name: Neither party may issue a news release, public announcement, advertisement or other form of publicity concerning the existence of the Agreement or the Services provided hereunder without the prior written consent of the other party. Customer may not use TWTC's name, logo or service mark in marketing services to end users.

Title: VP/GM


Date: 6/26/08

Sales Person.: Jeffrey Simonton

Customer and the individual signing below represent that such individual has the authority to bind Customer to this Agreement.

28. Representations and Warranties: Each party represents and warrants that it is fully authorized to enter into this Agreement. TWTC represents and warrants to Customer that any Services provided hereunder will be performed in a professional manner by qualified and trained personnel. UNLESS SPECIFICALLY STATED HEREIN OR IN ANY SERVICE ORDER, TWTC MAKES NO WARRANTIES, REPRESENTATIONS OR AGREEMENTS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Customer: COUNTY OF RIVERSIDE

Signature: 

Name (printed): ROY WILSON

Title: CHAIRMAN, BOARD OF SUPERVISORS

29. Severability: If any provision hereunder is declared or held invalid, illegal or unenforceable, this Agreement will be revised only to the extent necessary to make such provision(s) legal and enforceable, or if impossible, the unaffected portions of this Agreement shall remain in full force and effect so long as the Agreement remains consistent with the parties' original intent.

Date: June 17, 2008

ATTEST:
NANCY ROMERO, Clerk
By: 
DEPUTY

30. Survival: The terms and conditions of this Agreement will survive the expiration or other termination of this Agreement to the fullest extent necessary for their enforcement and for the realization of the benefit thereof by the party in whose favor they operate.

FORM APPROVED COUNTY COUNSEL
BY:  DATE 6/18/08
NEAL R. KIPNIS