

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

170



FROM: Riverside County Information Technology (RCIT)

SUBMITTAL DATE:
June 2, 2014

SUBJECT: Approval of a one-year service agreement with TW Telecom for data circuits, 2nd District; [\$141,876 total], 100% RCIT Operating Budget

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and execute the service agreement with TW Telecom for an amount of \$141,876 for data circuits, and
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, to extend the agreement month to month, 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 CPI rates.

BACKGROUND:

Summary

This request is to acquire two 10-Gigabit per second (Gbps) broadband data circuits from TW Telecom to connect the Riverside County Innovation Center (RCIC) to the County Administrative Center (CAC), and the Riverside County Collaboration Center (RC3) to the CAC.

(continued on page 2)

Kevin K Crawford
Kevin K Crawford
Chief Information Officer

FOR APPROVAL BY COUNTY COUNSEL
BY: *Neal R. Kipnis* DATE: 05/14
NEAL R. KIPNIS
Departmental Concurrence

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 11,823	\$ 130,053	\$ 141,876	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: RCIT Operating Budget	Budget Adjustment: No
	For Fiscal Year: 13/14-14/15

C.E.O. RECOMMENDATION: APPROVE
BY: *Jennifer L. Sargent*
County Executive Office Signature Jennifer L. Sargent

MINUTES OF THE BOARD OF SUPERVISORS

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: | District: | Agenda Number:

3-53

BACKGROUND:

Summary (continued)

The two broadband data circuits will provide the required interim connectivity necessary to operate the data centers within RC3 and RCIC. A long term connectivity solution is currently under negotiations with the City of Riverside Public Utilities for the lease of dark fiber. Collaborating with the City of Riverside will provide for long term services at a cost far below commercial rates. At this time it is anticipated that the city dark fiber services can be delivered within a year.

The Mission Grove Data Center is currently being relocated to the RCIC facility and the RC3 Data Center is being prepared to receive the county's primary computing equipment. Both facilities require connectivity to the County's Network (CoRNet) and each other. Upon implementation of the city dark fiber solution the contract with TW Telecom will be terminated

Impact on Citizens and Businesses

The installation of broadband data circuits within these locations facilitates the activation of two primary computing environments for the county.

SUPPLEMENTAL:

Additional Fiscal Information

RCIT's operational budget includes the cost of connectivity for these sites. The monthly service costs for TW Telecom for the three county locations is \$11,823. Upon the implementation of the city services the monthly costs will be approximately \$2,000 to \$4,000. RCIT is finalizing negotiations with the City of Riverside.

Contract History and Price Reasonableness

A Request for Quote/TARC-266 was issued and the responses ranged from \$11,823 to \$17,935 monthly with TW Telecom being the lowest responsible responsive bidder. The selected solution is the most cost effective option that meets the county's business needs for the interim solution until the city services are implemented.

Customer Information and Contract Specifications

Customer Name: County of Riverside

Contract Status:

- Standard Terms and Conditions executed by the Parties contemporaneously with this Service Order.

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
1960 Chicago AVE, Riverside, CA 92507-2207 4080 Lemon ST, Riverside, CA 92501-3609	Transport - Wavelength - (Metro 10 Gbps) - Interface Protection = None - Network Protection = Linear - Unprotected Subtotal	New	12	1	\$4,990.00	\$0.00	\$4,990.00	\$0.00
3450 14th ST, Riverside, CA 92501-3862 4080 Lemon ST, Riverside, CA 92501-3609	Transport - Wavelength - (Metro 10 Gbps) - Interface Protection = None - Network Protection = Linear - Unprotected Subtotal	New	60	1	\$4,990.00	\$0.00	\$4,990.00	\$0.00
	Totals						\$9,980.00	\$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 tw telecom Standard Terms and Conditions executed by TWTC and Customer.

Invoices

Single prices shown above for bundled Services, or for Services provided at multiple locations, will be allocated among the individual services for the purpose of applying Taxes and regulatory fees and also may be divided on the Customer's invoice by location served.

Activation Support

If requested by Customer, TWTC may assist Customer with activating and/or configuring equipment on Customer's side of the Demarcation Point ("Activation Support"). Customer must compensate TWTC for such Activation Support at TWTC's then prevailing Time and Materials rates posted at www.twtelecom.com.



Regulatory and Tax Jurisdiction of Data and Transport Services

The regulatory jurisdiction and the application of certain taxes and surcharges depend on whether the Services provided are interstate or intrastate. For purposes of the Services ordered herein:

- a) **For Carrier and Internet Service Provider Customers:** The Services will be treated as interstate unless otherwise demonstrated by Customer to TWTC's sole satisfaction. The application of Taxes, including without limitation Universal Service Fund surcharges, will be subject to Customer's timely submitted annual USF Exemption Certificate, if any.
- b) **For End User Customers:** "End User Intra-State Services" shall mean all point to point and multi point Services with service addresses that are all at an end user location within the same state. TWTC will treat End User Intra-State Services as intrastate for regulatory purposes and the application of Taxes. Customer confirms, evidenced by executing this Service Order, that all End User Intra-State Services carry less than 10% interstate traffic. Customer must promptly advise TWTC in writing if any End User Intra-State Services are used for a greater proportion of interstate traffic so that TWTC can properly address the application of Taxes.

Additional Provisions

Renewal Terms

After the expiration of the twelve-month Service Term set forth above, Customer may opt to renew this Service Order for two additional one-year periods upon thirty days written notice to TWTC prior to the end of the then-current Service Term.

Escalation

For purposes of clarification, pursuant to the Standard Terms and Conditions, as part of TWTC's standard procedures, Customer must open a trouble ticket for Service impacting issues. If an outage occurs and continues for more than six (6) hours, TWTC personnel will work closely with Customer personnel to communicate and troubleshoot jointly as needed. The event is escalated internally so that upper management is aware of the situation and working toward swift resolution and full restoration of service.

Expedited Due Date

For the Services ordered herein, TWTC agrees to provide Customer an expedited due date at no additional charge.

Signature Block

tw telecom holdings inc.	Customer: County of Riverside
Signature:	Signature:
Name: -Dan Gross Will Frederickson	Name: Jeff Stone
Title: -Vice President RVP	Title: Chairman of the Board of Supervisors
Date: 6/5/14	Date:
Sales Person: 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: 6/5/14

**CERTIFICATION OF EXEMPTION FROM THE
TAX ON INTERNET ACCESS
ACKNOWLEDGEMENT FORM**

Pursuant to the Internet Tax Freedom Act (47 U.S.C. 151), as amended by the Internet Tax Nondiscrimination Act ("ITNA"), no State or political subdivision* may impose any of the following taxes (as defined below) on Internet access during the period beginning November 1, 2003, and ending November 1, 2014. The term tax on Internet access means a tax on Internet access, regardless of whether such tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used to describe the tax. The term tax on Internet access does not include a tax measured by net income, capital stock, net worth, or property value. **The ITNA amended the Internet Tax Freedom Act to provide that, effective November 1, 2005, the term "Internet Access Service" does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.**

* The states of North Dakota, New Mexico, Ohio, South Dakota, Texas and Wisconsin currently tax Internet access pursuant to the grandfather provision of the Internet Tax Freedom Act and will continue to do so.

As such, the undersigned hereby certifies that one of the two sets of criteria below is met:

- 1) * The undersigned is "a provider of Internet access" in accordance with the ITNA, and;
 - * The undersigned is purchasing telecommunications services from **tw telecom solely** for the purposes of providing Internet access, and;
 - * The undersigned is purchasing telecommunications services that are exempt from all taxes pursuant to and described in the ITNA.

OR

- 2) * The undersigned is purchasing telecommunications services from **tw telecom solely** for the purposes of receiving Internet access from an ISP other than **tw telecom**.
 - * The undersigned is purchasing telecommunications services that are exempt from all taxes pursuant to and described in the ITNA.

Customer shall indemnify and hold harmless **tw telecom** against any liabilities, damages, loss, cost or expense, including additional taxes, interest, penalties and attorney's fees arising out of: (i) an investigation by a taxing authority challenging Customer's status, as claimed above; (ii) a determination by any taxing authority that the tax moratorium described above does not apply to the telecommunications services as provided to customer.

If the event described in either (i) or (ii) above occurs, Customer will be liable for and **tw telecom** 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 four (4) years after the tax otherwise was owed or due. If Customer fails to pay any taxes properly billed, then, as between **tw telecom** and Customer, the Customer will be solely responsible for payment of the taxes, penalty and interest.

TO BE VALID, THE CERTIFICATE MUST BE SIGNED UNDER PENALTIES FOR FRAUDULENT USE AND DATED. THIS EXEMPTION CERTIFICATE WILL BE EFFECTIVE THE LATER OF THE DATE SIGNED OR NOVEMBER 1ST 2005.

ORGANIZATION NAME: COUNTY OF RIVERSIDE
ADDRESS: 4080 Lemon Street; Riverside, CA 92501-3609
CUSTOMER NUMBER: 317461
FEDERAL TAX I.D.#: _____

Standard Terms and Conditions

These Standard Terms and Conditions (“Agreement”) are entered into by **tw telecom holdings inc.**, a Delaware corporation, on behalf of itself and its wholly owned and state certified operating subsidiaries, (collectively “TWTC”) and **County of Riverside**, a California governmental entity (“Customer”) and are effective upon execution by both Parties. Customer and TWTC may be referred to individually as a “Party” or collectively as the “Parties”. TWTC is responsible for the performance of its operating subsidiaries under this Agreement.

1. Intentionally Left Blank.

2. Term of Standard Terms and Conditions: The term of these Standard Terms and Conditions will commence upon signature by both Parties and will continue to govern Service Order No. 470501 entered into by the Parties contemporaneously with this Agreement (the “Service Order”) for a period of twelve months (the “Service Term”) until the Agreement is terminated in accordance with Sections 12 or 13 herein, or is otherwise superseded by a subsequent written agreement between the Parties. The executed Service Order together with this Agreement form the final written agreement between the Parties, and can only be amended or modified in a written document executed by both Parties. After the expiration of the 12-month Service Term set forth above, Customer may opt to renew Service Order for two additional one-year periods upon thirty days written notice to TWTC prior to the end of the Service Term.

3. Cancellation, Modification or Expedition of Orders: “Cancellation”, “Modification” and “Expedite Charges” referenced hereunder are attached hereto as Exhibit A and incorporated by this reference.

(a) Cancellation. If Customer cancels a Service Order before TWTC has completed installation of the Service, Customer must reimburse TWTC for its Actual Costs but termination liability under Section 14 will not apply. If Customer cancels a Service Order(s) after the Service has been installed, the termination liability set forth in Section 14 will apply. All requests by Customer to cancel a pending Service Order(s) are effective only if provided in writing. As used in this Agreement, the term “Actual Costs” means the reasonable time and materials actually incurred and documented by TWTC in engineering and installing a service cancelled by Customer.

(b) Modification. Customer may request in writing the modification of any Service Order(s). Such request shall result in a Modification Charge. If TWTC receives a written modification request for delay of installation less than 3 days prior to the planned installation date, Customer must pay, in addition to the Modification Charge, the monthly recurring charge (“MRC”) applicable to the delayed Service 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 planned installation date.

(c) Expedite. Customer may request an expedited installation date. If TWTC accepts the expedited installation date, Customer must pay an Expedite Charge.

(d) Third Party Charges. In addition to the charges set forth in (a), (b) and (c) above, TWTC may bill Customer for third party charges it incurs in order to complete Customer’s request to cancel, modify, or expedite the Service Order.

(e) Authorized Representatives. 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. TWTC Network, Access and Interconnection:

(a) Responsibilities. TWTC will own and control the telecommunications equipment, cable and facilities installed and operated by TWTC for provision of the Services to Customer (“TWTC Network”). The TWTC Network will remain TWTC’s personal property regardless of where located or attached. TWTC has the right to upgrade, replace or remove the TWTC Network in whole or in part, regardless of where located, so long as the Services continue to perform and the basic technical parameters of the Services are not altered. TWTC has the right to limit the manner in which any portion of the TWTC Network is used to protect its technical integrity. Customer may not alter, move or disconnect any parts of the

TWTC Network and is responsible for any damage to, or loss of, the TWTC Network caused by Customer's (or its end users') breach of this provision, negligence or willful misconduct. TWTC has no obligation to install, maintain or repair any equipment owned or provided by Customer, unless otherwise agreed to in a writing executed by the Parties. If Customer's equipment is incompatible with the Service, Customer is responsible for any special interface equipment or facilities necessary to achieve compatibility.

(b) Access. Customer must provide TWTC with access to its premises to install and maintain Services and TWTC's Network. Customer must provide, at its expense, the following (collectively "Premise Requirements"): (i) appropriate space, power and environmental conditioning; and (ii) reasonable access rights and/or rights of way from third parties, as may be required for the installation and maintenance of the TWTC Network at and into Customer's premises. Customer must pay a Modification Charge if Customer does not provide the Premise Requirements prior to the scheduled installation date. In addition to the Modification Charge, TWTC may charge Customer for the reasonable time and materials incurred and documented by TWTC that are incurred because of Customer's failure to timely provide the Premise Requirements plus any third party charges assessed against TWTC. Customer must provide TWTC with a contact and/or help desk number that can be reached 24 hours per day/7 days per week.

(c) Demarcation Point, Inside Wiring and Activation Support. TWTC shall be responsible for provisioning Service up to the Demarcation Point and Customer is responsible for providing and maintaining any necessary wiring and facilities on Customer's side of the Demarcation Point. "Demarcation Point" means the TWTC-designated physical interface between TWTC's Network and Customer's equipment, which point shall be either (i) in the case of a Service terminating at a TWTC owned or controlled premises, TWTC's designated distribution panel or network interface device located within such TWTC premises or (ii) in the case of a Service terminating at Customer's premises, the distribution panel or network interface device located at the common telecommunications ("telco") demarcation at the Customer or end-user premises (e.g., entry point for telco facilities, telco closet or common telco room). If requested by Customer, TWTC may install, coordinate or otherwise arrange for installing or obtaining from third parties, facilities on Customer's side of the Demarcation Point ("Inside Wiring") and/or assist Customer with activating and/or configuring equipment on Customer's side of the Demarcation Point ("Activation Support"). Customer agrees to pay Time and Materials rates posted at www.twtelecom.com for any Inside Wiring and Activation Support performed by TWTC personnel and agrees that TWTC may bill Customer for any third party charges it incurs to provide Inside Wiring.

(d) Letter of Authorization / Carrier Facility Assignment. If Customer intends to connect the Services to facilities that neither it nor TWTC owns, it must provide TWTC with and maintain (for the Service Term) a current letter of authorization and carrier facility assignment, as applicable.

5. Installation and Maintenance:

(a) Installation. TWTC will notify Customer when the Service has been successfully installed and is available for Customer's use ("Service Date"). Unless Customer notifies TWTC by the close of business on the Service Date that the Service is not operational, the Service Term will commence. If Customer so notifies TWTC, the Service Date will not occur and the Service Term will not commence until the Service is operating properly. The Service Date will not be delayed or postponed due to problems with Customer's equipment or Customer's lack of readiness to accept or use Service.

(b) Maintenance:

(i) Scheduled Maintenance. TWTC will monitor TWTC's Network 24 hours per day, 7 days per week. Scheduled Maintenance will be performed between the hours of midnight and 6:00 a.m. (local time where the maintenance is being performed) unless another time is agreed to by the Parties for the particular circumstance. TWTC will endeavor to provide Customer with at least five business days' notice before performing Scheduled Maintenance unless a shorter notice period is required under the circumstances.

(ii) Emergency Maintenance. If TWTC has to perform maintenance outside of the Scheduled Maintenance window set forth in Section 5(b)(i) above, then TWTC will provide as much prior notice to Customer as is practicable under the circumstances.

6. Charges, Billing, Taxes and Payment:

(a) Services are billed on a monthly basis commencing with the Service Date. Services are invoiced in advance, but usage charges are invoiced in arrears. Any installation or other non-recurring charges, which are non-refundable, will appear on the first monthly invoice.

(b) TWTC may require a deposit prior to the provision of any new Service. TWTC also may require a deposit as a condition to its obligation to continue to provide Service(s) if Customer has failed to timely pay for Service(s) on two occasions during any six month period.

(c) TWTC will invoice Customer for applicable Taxes (defined below) and, whenever possible, will identify such charges as a separate line item on the invoice. Customer will be liable for Taxes which were assessed by or paid to an appropriate taxing authority within the applicable statute of limitations period. If Customer fails to pay any Taxes properly billed, then as between TWTC and Customer, Customer will be solely responsible for payment of the Taxes, and penalty and interest.

"Tax" or "Taxes" mean 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 purchases by Customer from TWTC for consideration 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" will not include any tax on TWTC's corporate existence, status, income, corporate property or payroll taxes.

If either Party is audited by a taxing or other governmental authority, the other Party agrees to cooperate reasonably by responding to the audit inquiries in a proper, complete and timely manner. TWTC will cooperate, at Customer's expense, with reasonable requests of Customer in connection with any Tax contest or refund claim. The Customer will ensure that no lien is attached to or allowed to remain on any asset of TWTC as a result of any Tax contest. Customer will indemnify and hold TWTC harmless against any liabilities, damages, losses, costs or expenses arising out of such Tax proceedings, including without limitation any additional Taxes, interest, penalties and attorney's fees.

If Customer claims an exemption for any Taxes, Customer must provide TWTC with a proper tax exemption certificate as authorized by the appropriate taxing authority. Customer must pay the applicable Taxes to TWTC until it provides TWTC with a valid tax exemption certificate. If applicable law exempts a Service under this Agreement from a Tax, but does not also provide an exemption procedure, then TWTC will not collect such Tax if Customer provides TWTC with a letter signed by one of its officers: (i) claiming a right to the exemption; (ii) identifying the applicable law that allows such exemption and does not require an exemption certificate; and (iii) agreeing to indemnify and hold TWTC harmless from any tax, interest, penalties, loss, cost or expense asserted against TWTC as a result of its not collecting the Taxes from Customer.

(d) Payment for all undisputed amounts due under this Agreement must be received by TWTC on or before the due date specified on the bill ("Due Date"). Any payment or portion thereof not received by the Due Date is subject to a late charge on the unpaid amount at the lesser of 1.5% per month or the maximum rate permitted by law.

7. Disputes: If Customer disputes any charges, it must log the dispute by completing and submitting a dispute form via TWTC's dispute website located at: <https://billing.twtelecom.com/disputes/>, or by contacting TWTC's dispute telephone line at 1-800-829-0420. All disputes must be submitted to TWTC in the manner specified above within 120 calendar days of the date of the invoice associated with the disputed charges, or the invoice shall be deemed correct and all rights to dispute such charges are waived. Withheld disputed amounts determined in favor of TWTC must be paid by Customer within five (5) business days following written, electronic or telephonic notice of the resolution, and will bear interest at the lesser of 1.5% per month or the maximum rate allowed by law from the Due Date until the date paid.

8. Service Levels / Service Outage Credits:

(a) Service Level Agreement ("SLA"). The SLAs provided by TWTC are set forth at <http://www.twtelecom.com/SLAs>. The SLAs identify the applicable performance metrics and Service Outage credit tables. If a specific SLA is not identified on the website for a particular Service, then credits for Service Outages exceeding thirty (30) minutes will be calculated on a

pro rata basis, i.e. credits will be calculated by multiplying the duration of the Service Outage by the applicable MRC, divided by the monthly period.

(b) Service Outage Definition. A "Service Outage" is defined as either: (a) material non-compliance with a specific performance metric in a service level agreement and such non-compliance is caused by TWTC's Network; or (b) a complete loss of transmission or reception capability for a Service caused by TWTC's Network.

(c) Reporting and Tracking of Service Outages. If there is a Service Outage, Customer must contact TWTC's Customer Network Reliability Center ("CNRC") at 800-829-0420 and TWTC will open a trouble ticket and provide Customer with a trouble ticket number for tracking purposes.

(d) Duration of Service Outage and Application of Credits. For the purpose of calculating applicable credits, a Service Outage begins when Customer reports the Service Outage to TWTC's CNRC, and ends when the Service is restored. Service Outages do not include outages and failures caused by the equipment, acts or omissions of Customer, third parties, Force Majeure events, or outages occurring during scheduled or emergency maintenance. The duration of a Service Outage does not include any time during which TWTC is not allowed access to the premises necessary to restore the Service. Credits for Service Outages are only issued if requested by Customer, and such requests must be submitted to TWTC within 120 days from the date Service is restored.

(e) Chronic Trouble Services. If two Service Outages have occurred on a particular Service during a 30-day period, and a third Service Outage occurs within thirty days following the second Service Outage, Customer may terminate the applicable Service without early termination liability provided that Customer supplies TWTC with a written termination notice no later than thirty days following the third Service Outage.

(f) Remedies. Notwithstanding anything to the contrary in this Agreement, the remedies set forth in the service level agreement and in Sections 8(a) and 8(e) of this Agreement constitute Customer's sole and exclusive remedy for Service Outages.

(g) Service Outages Not Caused by TWTC's Network. If TWTC responds to a service call initiated by Customer, and TWTC reasonably determines that the cause of the problem is: (i) not due to TWTC's Network; or (ii) on Customer's side of the Demarcation Point, Customer must compensate TWTC for the service call at TWTC's then prevailing Time and Materials rates posted at www.twtelecom.com.

9. Governmental Regulation - Changes:

(a) This Agreement is subject to all applicable federal, state and local laws, rules and regulations, and each Party must comply with them in performing its obligations hereunder. To the extent any provision herein conflicts with any applicable law, rule or regulation, such law, rule or regulation will supersede the conflicting provision.

(b) TWTC may discontinue or impose additional requirements to the provision of Service, upon 15 days written notice, if necessary to meet regulatory requirements or if such requirements have a material, adverse impact on the economic feasibility of TWTC providing the Service. Customer is not responsible for the termination liability set forth in Section 14 below if TWTC discontinues the Service under this subsection.

(c) 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 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 a 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.

10. 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.

11. Limitation of Liability: Except for the Parties' respective obligations set forth in Section 14 herein, neither Party is liable to the other for indirect, consequential, special, incidental, or punitive damages of any kind or nature whatsoever (including without limitation lost profits, lost revenues, lost savings, lost opportunity or harm to business), whether or not foreseeable, whether or not the Party had or should have had any knowledge, actual or constructive, that such damages might be incurred, and regardless of the form of action, nature of the claim asserted or the frustration of either Party's purpose. Indirect damages include, but are not limited to, damages of the kinds specified in the preceding sentence that are incurred by a third party and are asserted against a Party (including attorneys' fees and expenses). TWTC's liability to Customer for direct damages may not exceed one month's calculation of the applicable MRCs regardless of the form of action, nature of the claim asserted or the frustration of either Party's purpose. TWTC has no liability for the content of information that Customer passes through TWTC's Network, Customer's transmission errors, or any failure to establish connections outside of the TWTC Network.

12. Termination by TWTC:

(a) Termination With Notice. TWTC may disconnect all Service(s) associated with a delinquent account upon ten (10) days written notice for Customer's failure to pay amounts due under this Agreement which remain uncured at the end of the notice period; or upon thirty (30) days written notice for: (i) Customer's breach of a non-economic, material provision of this Agreement or any law, rule or regulation governing the Services which remains uncured at the end of the notice period; (ii) Customer's insolvency, bankruptcy, assignment for benefit of creditors, appointment of trustee or receiver; and/or (iii) any governmental prohibition or required alteration of the Services.

(b) Termination or Suspension Without Notice. TWTC may terminate or suspend Services without notice if: (i) necessary to protect TWTC's Network; (ii) TWTC has reasonable evidence of Customer's illegal, improper or unauthorized use of Services; or (iii) required by legal or regulatory authority. Notwithstanding the foregoing, regarding subsections 12(b)(i) and (iii), TWTC will use commercially reasonable efforts to notify Customer prior to any such termination or suspension, and will notify Customer of any such termination or suspension as soon as reasonably practicable under the circumstances.

(c) Post Termination. Any termination or disconnection shall not relieve Customer of any liability incurred prior to such termination or disconnection, or for payment of unaffected Services. TWTC retains the right to pursue all available legal remedies if it terminates this Agreement or disconnects Services in accordance with this Section. All terms and conditions of this Agreement shall continue to apply to any Services not so terminated, regardless of the termination of this Agreement. All requests for disconnection will be processed by TWTC in thirty (30) days or less. Customer must pay for Services until such disconnection actually occurs.

13. Termination by Customer: Customer may terminate this Agreement and/or any Service Order hereunder upon thirty (30) days prior written notice, without incurring termination liability, for TWTC's (i) breach of any material provision of this Agreement, or any law, rule or regulation that affects Customer's use of Service(s), which remains uncured at the end of the notice period and/or (ii) insolvency, bankruptcy, assignment for the benefit of creditors, appointment of trustee or receiver or similar event.

(a) Termination for Non-Appropriation of Funds. TWTC acknowledges that funding to pay for Services ordered under this Agreement is subject to annual appropriations by the appropriate governing body, and in the event adequate sums are not appropriated in any fiscal year to fund Customer's use of telecommunications services, Customer may terminate this Agreement upon no less than 45 days prior written notice. Such termination will not affect Customer's obligations with respect to payment for Services during any prior period. If Customer exercises this termination right, it may not during the unexpired original term of the Services obtain like services from another provider; and if funds are re-appropriated for a later fiscal year during the unexpired Service term, Customer will notify TWTC and reinstate this Agreement.

14. Termination Liability: If TWTC terminates this Agreement or any Service Order(s) pursuant to Section 12 above (other than subsections a(iii) and/or b(iii)), or if Customer terminates this Agreement or any Service Order(s) for any

reason other than pursuant to Section 13 above, all MRCs associated with the terminated Service(s) for the balance of the applicable Service Term shall become immediately due and payable.

15. 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: (1) TWTC may assign its rights and/or obligations hereunder (a) to its parent, affiliates or subsidiaries, (b) pursuant to any merger, acquisition, reorganization, sale or transfer of all or substantially all its assets, or (c) for purposes of financing; and (2) Customer may assign its rights and/or obligations hereunder (a) to its parent, affiliates or subsidiaries, or (b) pursuant to any merger, acquisition, reorganization, sale or transfer of all or substantially all its assets, provided that any assignment by Customer pursuant to this exception is subject to the following conditions: (i) the proposed assignee satisfies TWTC's credit and deposit standards; (ii) Customer has fully paid for all Services through the date of assignment; and (iii) the proposed assignee agrees in writing to be bound by all provisions of this Agreement.

16. Entire Agreement: This Agreement, together with the Service Order(s) and applicable tariffs set forth the entire agreement with respect to the Services set forth in Service Order, Document No. 470501, and supersede all prior agreements, promises, representations, and negotiations between the Parties with respect to such Service Order only. If there is a conflict, the Service Order shall prevail over this Agreement and any applicable tariff shall prevail over both. Modifications, amendments, supplements to or waivers of this Agreement must be in writing and executed by both Parties.

17. Force Majeure: Either Party shall be excused from performance if inability to perform is due to a cause or causes beyond such Party's reasonable control, including without limitation, acts of God, fire, explosion, vandalism, acts of terrorism, cable cuts caused by a third party, adverse weather conditions, labor strikes and governmental action ("Force Majeure"). If such inability to perform continues for ten days or longer, the other Party may terminate the affected Services, upon no less than 30 days prior written notice. Customer's invocation of this clause does not relieve Customer of its obligation to pay for Services actually received.

18. Governing Law - Litigation: The interpretation of the rights and duties of the Parties and any claim, controversy or dispute arising under or related to this Agreement shall be governed by and subject to the laws of the State of California excluding its principles of conflicts of law.

19. Headings: Headings herein are for convenience only and are not intended to have substantive significance in interpreting this Agreement.

20. Notices: Any notice required under this Agreement must be in writing and be delivered to the receiving Party at the addresses listed below (i) in person, (ii) by certified mail with return receipt requested, or (iii) by overnight courier. A notice is deemed given (i) when delivered, if personally delivered, (ii) at the time indicated on the return receipt, if delivered by certified mail, or (iii) at the time the party or its representative executes the delivery receipt, if delivered via courier. TWTC must provide such notice to Customer's billing address, and Customer must provide such notice to TWTC at 10475 Park Meadows Drive, Littleton CO 80124, Attn: Deputy General Counsel, ***except that if Customer is disconnecting Services for any reason, it must deliver notice to TWTC either by facsimile to 303-803-9638 or by email to "CustomerCare@twtelecom.com"***. Notice by facsimile or email is deemed given when delivered.

21. 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.

22. Public Releases, Use of Name: Neither Party may issue a news release, public announcement, advertisement or other form of publicity regarding this Agreement nor the Services provided hereunder without the prior written consent of the other Party. Customer may not use TWTC's name, logo or service mark without TWTC's prior written consent. TWTC may use Customer's name and logo in materials presented to analysts and investors.

23. Representations and Warranties: Each Party represents and warrants that it, and the person signing on its behalf, is fully authorized to enter into this Agreement. TWTC represents and warrants that the Services will be performed by qualified and trained personnel. TWTC does not guarantee, represent or warrant that the Service(s) will be without interruption. UNLESS SPECIFICALLY STATED HEREIN OR IN ANY SERVICE ORDER, TWTC MAKES NO OTHER

REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, AND DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR OR ORDINARY PURPOSE.

24. 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.

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


26. Relationship of Parties; No Third Party Beneficiaries: The Parties are independent contractors, and nothing herein creates or implies an agency, joint venture or partnership relationship between the Parties. This Agreement shall bind and inure to the benefit of TWTC, Customer, and permitted successors and assigns. The Parties do not intend to create any rights for the benefit of any third parties.

27. Confidentiality: Intentionally Left Blank.

Signature Block

tw telecom holdings inc.	County of Riverside
Signature: 	Signature:
Name: Will Fredericksen	Name: Jeff Stone
Title: RVP	Title: Chairman of the Board of Supervisors
Date: 6/5/14	Date:
Sales Person:	

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

FORM APPROVED COUNTY COUNSEL
 BY:  DATE

Miscellaneous Charges – Exhibit A



New Circuit / Service Installation:

CHARGE TYPE	DESCRIPTION	CHARGE
Cancellation of Service	Customer's cancellation of Service prior to the Service Date	<ul style="list-style-type: none"> \$100.00 per circuit plus, for Off-net circuits, an additional Off-net cancellation charge will apply as set forth in the chart below.
Modification of Service Order	Customer's request to modify a Service Order prior to installation (as an example, requesting to delay an installation date)	<ul style="list-style-type: none"> \$100.00 per Service Order being modified. An Off-net cancellation charge will also apply if Customer requests to delay installation of an Off-net circuit by more than 30 days.
Expedited Installation of Service	Customer requests that TWTC install Service sooner than the installation date quoted by TWTC to Customer	<p>All voice, data, Internet, and transport Services provisioned at a service location utilizing DS1 circuit(s) or below:</p> <ul style="list-style-type: none"> \$500 per On-net \$1000 per Off-net circuit <p>All voice, data, Internet, and transport Services that are provisioned at a service location utilizing DS3 circuits(s) or utilizing Ethernet circuits:</p> <ul style="list-style-type: none"> \$1,250 per On-net circuit \$2,500 per Off-net circuit <p>All voice, data, Internet, and transport Services that are provisioned at a service location utilizing OC-n circuits, and Off-net Ethernet Services for bandwidth capacity greater than 45Mb, will be evaluated on an individual case basis.</p>

In addition to the above, TWTC may charge Customer for the reasonable time and materials incurred and documented by TWTC in engineering and installing the Service that Customer has cancelled or modified, and also for any additional third-party charges assessed against TWTC as a result of the cancellation or modification.

Off-Net Cancellation Charges*:

**Applied per Off-net circuit in addition to the cancellation charges listed above. The Off-net Cancellation charge is assessed per circuit according to the chart below based on: (1) circuit type; (2) location where the circuit is provisioned; and (3) whether the cancellation occurs before or after TWTC has confirmed its acceptance of the Service Order to Customer ("FOC") to Customer.*

STATE	DS1 CIRCUIT OR BELOW; CANCELLED PRE-FOC	DS1 CIRCUIT OR BELOW; CANCELLED POST-FOC	DS3 CIRCUIT OR ABOVE; CANCELLED PRE-FOC	DS3 CIRCUIT OR ABOVE; CANCELLED POST-FOC
Alabama	\$ 110	\$ 960	\$ 160	\$ 1,400
Arizona	\$ 150	\$ 300	\$ 220	\$ 440
Arkansas	\$ 130	\$ 300	\$ 190	\$ 440
California	\$ 130	\$ 1,070	\$ 190	\$ 1,560
Colorado	\$ 130	\$ 570	\$ 190	\$ 830
Connecticut	\$ 110	\$ 960	\$ 160	\$ 1,400
District of Columbia	\$ 110	\$ 1,500	\$ 160	\$ 2,190
Florida	\$ 130	\$ 420	\$ 190	\$ 610
Georgia	\$ 150	\$ 500	\$ 220	\$ 730
Hawaii	\$ 110	\$ 960	\$ 160	\$ 1,400
Idaho	\$ 150	\$ 280	\$ 220	\$ 410
Illinois	\$ 110	\$ 690	\$ 160	\$ 1,010
Indiana	\$ 110	\$ 660	\$ 160	\$ 960
Iowa	\$ 110	\$ 960	\$ 160	\$ 1,400
Kansas	\$ 110	\$ 960	\$ 160	\$ 1,400
Kentucky	\$ 120	\$ 470	\$ 180	\$ 690
Louisiana	\$ 140	\$ 560	\$ 200	\$ 820
Maryland	\$ 75	\$ 1,280	\$ 110	\$ 1,870
Massachusetts	\$ 110	\$ 960	\$ 160	\$ 1,400
Michigan	\$ 110	\$ 960	\$ 160	\$ 1,400
Minnesota	\$ 140	\$ 250	\$ 200	\$ 370
Mississippi	\$ 100	\$ 960	\$ 150	\$ 1,400
Missouri	\$ 110	\$ 960	\$ 160	\$ 1,400
Nebraska	\$ 110	\$ 960	\$ 160	\$ 1,400
Nevada	\$ 110	\$ 610	\$ 160	\$ 890
New Jersey	\$ 110	\$ 960	\$ 160	\$ 1,400
New Mexico	\$ 140	\$ 680	\$ 200	\$ 990
New York	\$ 110	\$ 960	\$ 160	\$ 1,400
North Carolina	\$ 120	\$ 430	\$ 180	\$ 630
Ohio	\$ 60	\$ 1,050	\$ 90	\$ 1,530
Oklahoma	\$ 110	\$ 960	\$ 160	\$ 1,400
Oregon	\$ 170	\$ 690	\$ 250	\$ 1,010
Pennsylvania	\$ 110	\$ 960	\$ 160	\$ 1,400
South Carolina	\$ 160	\$ 290	\$ 230	\$ 420
Tennessee	\$ 150	\$ 480	\$ 220	\$ 700
Texas	\$ 110	\$ 1,030	\$ 160	\$ 1,500
Utah	\$ 110	\$ 960	\$ 160	\$ 1,400
Virginia	\$ 110	\$ 1,500	\$ 160	\$ 2,190
Washington	\$ 110	\$ 680	\$ 160	\$ 990
Wisconsin	\$ 110	\$ 810	\$ 160	\$ 1,180

Existing Circuits / Services:

CHARGE TYPE	DESCRIPTION	CHARGE
Feature/Facility Change Charge	Request for a feature to an existing Service to be added, changed, or deleted. Note: Changes to 911 addressing, calling name, and/or directory listing records are subject to Feature/Facility Change Charges, and are not Records Order Changes.	\$50.00 per order. *Some limitations may exist as to how many changes and what type of changes may be made per Service Order type.
Records Order Change	Request for a change that impacts only the records of a Customer's Service and not any physical change to the Services.	\$20 per order
Long Distance Changes	800 numbers and Account Codes	See FCC Interstate Price List #4 for all Miscellaneous LD Change Charges
PIC Change	Request to change or freeze an Interexchange carrier	\$5 per order
Expedited Change to an existing Service	Change requested sooner than the interval quoted by TWTC to Customer	Feature/Facility, Records Order, or PIC Change \$100 per order, if available

For Off-net Services, TWTC also may charge Customer for any third-party charges assessed against TWTC as a result of the above changes requested by Customer.

Customer's request may be subject to time and material charges in accordance with TWTC's Time and Materials Charges policy set forth at www.twtelecom.com.

If Customer requests a change that requires installation of a New Circuit / Service, then the New Circuit / Service Installation section above will apply.



RIVERSIDE COUNTY INFORMATION TECHNOLOGY PROCUREMENT FORM
To be completed for all departmental purchases of IT systems, services or renewals

10028577
Tracking Number for
Internal Use Only

REQUESTED PURCHASE:	TWO (2) 10-GIGABIT ETHERNET CIRCUITS		
DEPARTMENT/AGENCY:	RCIT		
CONTACT NAME/PHONE:	JOHN PANTOJA 951-955-7704		
PURCHASE REQUEST:	<input checked="" type="checkbox"/> NEW EQUIPMENT/SERVICES	<input type="checkbox"/> UPGRADE	<input type="checkbox"/> REPLACEMENT
PURCHASE TYPE:	<input type="checkbox"/> PROFESSIONAL SERVICES	<input type="checkbox"/> SOFTWARE	<input checked="" type="checkbox"/> HARDWARE <input type="checkbox"/> RENEWAL
DESCRIBE REQUESTED PURCHASE	Provide additional bandwidth between major communications locations: <ul style="list-style-type: none"> • One (1) 10 Gigabit Ethernet Circuit (RC3 to CAC) • One (1) 10 Gigabit Ethernet Circuit (RCIC to CAC) 		
BUSINESS NEEDS ADDRESSED	<p>The Mission Grove Data Center is currently being relocated to the RCIC facility. Because of this, additional bandwidth is required between RCIC and CAC to accommodate that system:</p> <ul style="list-style-type: none"> • Presently the Mission Grove Data Center utilizes "two" 1-Gbps circuits that both terminate at CAC • When the Mission Grove Data Center is relocated to RCIC, the same amount of bandwidth will be required • It is more cost effective to acquire "one" 10-Gbps ckt over the existing "two" 1-Gbps circuits <p>The RC3 Data Center will begin receiving equipment shortly and when it does, it will need connectivity to Cornet:</p> <ul style="list-style-type: none"> • The second 10-Gbps circuit is to provide that connectivity between RC3 and CAC • Significant bandwidth will be required between these two locations <p>Both of these circuits will provide the required services between these three facilities until the contract with Riverside Public Utilities is completed and services are delivered and connected to our DWDM equipment. It is our understanding that this process will take at least 6 months to complete.</p>		
ARE THERE ANY OTHER COUNTY SYSTEMS THAT PROVIDE THE SAME FUNCTIONALITY?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> UNKNOWN		
BUSINESS CRITICALITY	BUSINESS IMPACT (SELECT ALL THAT APPLY)		
<input checked="" type="checkbox"/> Run the business	<input checked="" type="checkbox"/> Support current operations		
<input checked="" type="checkbox"/> Grow the business	<input type="checkbox"/> Reduce Expenses		
<input checked="" type="checkbox"/> Transform the business	<input type="checkbox"/> Improve Customer Service		
	<input checked="" type="checkbox"/> Improve Operational Efficiencies		
BUSINESS RISKS	Financial: Essential to supporting the County's Consolidation effort Operational: Without this bandwidth increase, there will be significant delays in data transfers Customer: Operating expenses would increase if delay in data transfers occurs		
ALTERNATIVE SOLUTIONS	1. [Solution] None-Additional bandwidth is required and can only be accomplished via these Telco circuits 2. [Solution] 3. [Solution]		
TRANSACTION	<input type="checkbox"/> Cash Purchase <input checked="" type="checkbox"/> Lease Purchase Lease Years: <u>1</u>		



RIVERSIDE COUNTY INFORMATION TECHNOLOGY PROCUREMENT FORM
 To be completed for all departmental purchases of IT systems, services or renewals

Tracking Number for
Internal Use Only

PURCHASE COSTS Hardware: \$ Software: \$ Labor: \$ TOTAL COST: \$142,000.00 ANNUALLY	COST BENEFIT ANALYSIS			
		ALTERNATIVE STATUS QUO	ALTERNATIVE	ALTERNATIVE
	Current Annual Cost			
	Ongoing Annual Cost			
	Annual Cost Savings			
	Net Annual Savings			
	Project Implementation Cost			
	Project Payback Period? yrs			
Department Head Signature:		Date:		

RCIT RECOMMENDATION – for purchases and renewals under \$100,000

Recommended: Yes No (Non-recommended requests submit to TSOC)

By: *John Mulla, ADD* Date: *6/2/14*

Chief Information Officer Signature: *[Signature]* Date: *2 Jun 14*

RCIT explanation for non-recommended requests:

ISO RECOMMENDATION: Security review for all purchases

Recommended: Yes No (In no, provide explanation below)

CISO Signature: _____ Date: _____

TSOC RECOMMENDATION: for purchases and renewals over \$100,000 and RCIT non-recommended purchases or renewals

Recommended: Yes No (In no, provide explanation below)

TSOC Chair Signature: *[Signature]* Date: *4 Jun 14*

TSOC explanation for denied requests: