

Council Meeting of
April 19, 2011

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Communications & Information Technology – Authorize termination of current contract and approve new contracts to provide internet line capacity to City Hall and Torrance Airport.

Expenditure: \$113,493.24 for a 3-year period (May 2011 to April 2014)

RECOMMENDATION

Recommendation of the Information Technology Director that City Council:

- 1) Authorize the termination of contract with Time Warner Cable of Cerritos, CA (#C2009-041) to provide internet line capacity at City Hall and Torrance Airport. City Hall internet circuit monthly cost is \$2,900 and Airport internet circuit monthly cost is \$252.59;
- 2) Approve a three-year contract with Time Warner Cable of Cerritos, CA to increase City Hall internet circuit capacity from 30 mbps to 45 mbps at a monthly cost of \$2,900; and
- 3) Approve a three-year contract with Time Warner Cable of Cerritos, CA to continue providing Airport internet circuit capacity at 2 mbps at a monthly cost of \$252.59.

Funding

Funding is available in the CIT Department Operating Budget.

BACKGROUND

The internet has become an integral resource to complete City business in a timely manner. City employees use the internet to obtain information and access business applications. AT&T's telephone infrastructure and Time Warner's cable infrastructure provide the City's internet access. Two service providers are needed to meet City requirements of having separate physical networks for internet service

redundancy. A \$10 per month per user charge covers the cost of circuits, spam filtering, email anti-virus protection, security encryption, and other supporting software and services. An increase in the number of internet users and an ever-growing number of internet applications continually pushes the City's boundaries of internet circuit capacity and performance.

The City started with a 1.5 megabits per second (mbps) internet circuit in 1995. On May 7th, 2009, Council approved contract #C2009-041 with Time Warner Cable for 36 months of 10 mbps internet circuit capacity to City Hall and 2 mbps internet circuit capacity to Zamperini Airport for the City's new Alternate Emergency Operations Center (AEOC).

Initially in 2009, the two dedicated 10 mbps internet access circuits from AT&T and Time Warner Cable increased available internet bandwidth and provided improved service. In 2010, the Communications and Information Technology department (CIT) received complaints about declining internet speed and slow response times. We found that an increase in the number of users, an increase in online training video usage, an increase in the number and variety of internet applications used, and an increase in internet use for research, accounted for the overall increased internet usage and decline in performance.

After Council approved the internet service increase from 10 mbps to 30 mbps on August 3rd, 2010, the City experienced a noticeable increase in internet speed. CIT has received numerous comments from City employees that their job productivity has increased due to the improvement in internet performance.

In addition to the Time Warner Cable internet circuit, the City also leases an AT&T 10 mbps internet circuit. The proposed contract amendment with Time Warner Cable will increase internet circuit capacity from 30 mbps to 45 mbps, bringing the City's total internet circuit capacity to 55 mbps with an additional 2mb capacity at the Airport for emergencies.

ANALYSIS

Time Warner Cable is now offering a 3-year contract at the existing monthly rate of \$2,900.00 with increased internet circuit capacity of 45 mbps. It is advantageous for the City to contract with Time Warner for three years at existing rates while increasing capacity to accommodate continued increases in internet services to both employees and citizens.

Recently, Council was presented with several new applications for Torrance Transit's Google Transit, Library email notifications, and Library card online applications. New internet applications coming in the near future include online

oversized vehicle permits, online property information (digitized permits), Library Smartphone access, Library historical newspaper digitization, Library wireless printing, Public Works work management field access, and Torrance Employee Network (TEN) website access from home for field employees. Each of these services requires additional internet bandwidth to deliver a growing volume of web content.

To simplify contract administration and allow for individual circuit capacity planning at City Hall and the Airport, CIT is requesting that contract #C2009-041 be terminated effective April 30, 2011, and replaced with two new separate contracts:

- Effective May 1st, 2011, at City Hall, 45 mbps internet circuit capacity for three years at \$2,900.00 per month.
- Effective May 1st, 2011, at Zamperini Airport, 2 mbps for three years at \$252.59 per month.

Respectfully submitted,



RICHARD SHIGAKI
Information Technology Director

CONCUR:



LeRoy J. Jackson
City Manager

Attachments:

- A. Time Warner Cable City Hall Service Order Agreement
- B. Time Warner Cable Zamperini Service Order Agreement
- C. Council Item 8B dtd 8-3-10
- D. Signed copy of Contract #C2009-041 dtd 8-26-10
- E. Draft Contract Termination letter dtd 4/19/11



Account Executive: Maria Rice
 Phone: (562) 677-0302
 Cell Phone: (310) 877-4579
 Fax: (704) 697-4805
 Email: maria.rice@twcable.com

Business Name	City of Torrance	Customer Type:
Federal Tax ID	Tax Exempt Status	Tax Exempt Certificate #
Billing Address	Account Number	
3031 Torrance Blvd Torrance CA 90503		
Billing Contact	Billing Contact Phone	Billing Contact Email Address
Bob Virag	(310) 618-2880	
Authorized Contact	Authorized Contact Phone	Authorized Contact Email Address
Ryan Lee	(310) 781-7508	rlee@torranceca.gov
Technical Contact	Technical Contact Phone	Technical Contact Email Address
Eric NGO	(310) 618-2531	

Dedicated Internet, Metro Ethernet, and Private Line Service Order Information For				
Site Name	Address Location	Location Type	Bandwidth	Customer Requested Due Date
	3031 Torrance Blvd Torrance, CA 90503			

Monthly Recurring Charge At 3031 Torrance Blvd Torrance CA 90503				
Description	Quantity	Sales Price	Monthly Recurring Total	Contract Term
BCF Fiber I-Net	1	\$2,900.00	\$2,900.00	36 Months
*Total			\$2,900.00	
*Prices do not include taxes and fees.				



Special Terms

The services, products, prices and terms identified on this Service Order constitute Time Warner Cable's offer to provide such services on such terms. Until Customer has accepted this offer by signing as appropriate below, Time Warner Cable reserves the right to rescind this offer at any time, at its sole discretion.

The Agreement shall be renewable for successive terms unless at least thirty (30) days prior to the expiration of the then-current term, either party notifies the other party of such party's intent not to renew this Agreement. Agreement term and corresponding monthly billing will commence on actual service installation date. Agreement locks in rate for the Time Warner Cable Business Class services for term of contract. Cable television and Work-at-home services are subject to annual price change.

45Mbps Dedicated Internet Access. City Hall Torrance, Calif.

Electronic Signature Disclosure

Authorized Signature for Time Warner Cable

Authorized Signature for Customer

By: _____
Name: _____
Title: _____

CITY OF TORRANCE
A Municipal Corporation

Frank Scotto
Mayor

Date: _____

Date: _____

ATTEST:

APPROVED AS TO FORM:

JOHN L. FELLOWS III

Sue Herbers, City Clerk

By: _____



Service Agreement

This Time Warner Cable Business Class Service Agreement ("**Service Agreement**") in addition to the Time Warner Cable Business Class Terms and Conditions ("**Terms and Conditions**") and any Time Warner Cable Business Class Service Orders (each, a "**Service Order**"), constitute the **Master Agreement** by and between customer identified below ("**Customer**") and Time Warner Cable ("**TWC**" or "**Operator**") and is effective as of the date last signed below.

Time Warner Cable Information				
Time Warner Cable Inc.				
Street: 17777 Center Court Drive, N. Suite 800		Contact: Maria Rice		
City: Cerritos		Telephone: (562) 677-0302		
State: Ca.		Facsimile: (704) 697-4805		
Zip Code: 90703				
Customer Information				
Customer Name (Exact Legal Name): City of Torrance			Federal ID No:	
Billing Address: 3031 Torrance Blvd	Suite:	City: Torrance	State: CA	Zip Code: 90503
Billing Contact Name: Bob Virag	Phone: (310) 618-2880		E-mail:	
Authorized Contact Name: Ryan Lee	Phone: (310) 781-7508		E-mail: rlee@torranceca.gov	
Agreement				

THIS SERVICE AGREEMENT HEREBY INCORPORATES BY REFERENCE THE TERMS AND CONDITIONS (AVAILABLE AT WWW.TWCBC.COM/LEGAL), A COPY OF WHICH WILL BE PROVIDED TO CUSTOMER UPON REQUEST. BY EXECUTING THIS SERVICE AGREEMENT BELOW, CUSTOMER ACKNOWLEDGES THAT: (1) CUSTOMER ACCEPTS AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS, INCLUDING SECTION 21 THEREOF, WHICH PROVIDES THAT THE PARTIES DESIRE TO RESOLVE DISPUTES RELATING TO THE TIME WARNER CABLE BUSINESS CLASS SERVICES AGREEMENT THROUGH ARBITRATION; AND (2) BY AGREEING TO ARBITRATION, CUSTOMER IS GIVING UP VARIOUS RIGHTS, INCLUDING THE RIGHT TO TRIAL BY JURY.



Service Agreement

By signing and accepting below you are acknowledging that you have read and agree to the terms and conditions outlined in this document.

Electronic Signature Disclosure

Authorized Signature for Time Warner Cable

Authorized Signature for Customer

By: _____
Name: _____
Title: _____

CITY OF TORRANCE
A Municipal Corporation

Frank Scotto
Mayor

Date: _____

Date: _____

ATTEST:

APPROVED AS TO FORM:

JOHN L. FELLOWS III

Sue Herbers, City Clerk

By: _____

Time Warner Cable Business Class Ethernet Service Level Agreement

This document contains the TWC Service Level Agreement (“SLA”) for network performance and operational measurements relating to Business Class Ethernet Services. All capitalized terms used but not defined herein shall have the meanings given to them in the Business Class Services Agreement (the “Agreement”).

I. Priority Classification

TWC will classify Service disruptions as set forth below:

Priority	Criteria
Priority 1	a. Total loss of Service b. Service degradation to the point where Customer is unable to use the Service and is prepared to release it for immediate testing.
Priority 2	Degraded Service where Customer is able to use the Service and is not prepared to release it for immediate testing.
Priority 3	a. A service problem that does not impact the Service. b. A single non-circuit specific quality of Service inquiry.

* Customer must open a trouble ticket with TWC to report an outage or service problem and to establish initial outage time

II. Network Availability

A “Hard Outage” is defined as a service disruption or degradation that interferes with the ability of a TWC network hub to (i) transmit and receive network traffic on a Customer’s dedicated access port; and (ii) exchange network traffic with another TWC network hub. Hard Outages exclude planned outages, routine maintenance, or service problems resulting at least in part from acts or omissions of Customer, Customer equipment failures, or a Force Majeure Event.

Network Availability is calculated as the total number of minutes the circuit is up (other than a Priority 1 outage) in a calendar month for a specific Customer connection, divided by the total number of minutes in a calendar month.

Commitment:

Under this SLA, TWC commits to a monthly average Network Availability of 99.95%.

The following table contains examples of the percentage of Network Availability translated into minutes of up time and downtime for the 99.95% service commitment:

Percentage by Days per Month	Total Minutes/ Month	Minutes Up	Minutes Down
99.95% for 31 Days	44,640	44,617	23
99.95% for 30 Days	43,200	43,178	22
99.95% for 29 Days	41,760	41,739	21
99.95% for 28 Days	40,320	40,299	21

Credit:

In the event that Network Availability fails to meet the foregoing guarantee for any particular monthly period, then upon Customer's compliance with Section VI of this SLA, Customer will receive a credit equal to 30% of the applicable monthly Service Charges, to be applied as a credit or set-off against any amounts otherwise due by Customer to TWC

III. Mean Time To Restore ("MTTR")

The Mean Time To Restore ("MTTR") measurement for a Service is the cumulative length of time it takes to restore service to a Priority 1 Hard Outages for a specific connection in a calendar month divided by the corresponding number of trouble tickets for Priority 1 Hard Outages opened during the calendar month for that connection. MTTR per calendar month is calculated for as follows:

Mean Time To Restore (Hours) =

$$\frac{\text{Cumulative length of response time to Priority 1 Hard Outage(s) per connection}}{\text{Total number of Priority 1 Hard Outage trouble tickets per connection}}$$

Credit:

In the event that MTTR for Priority 1 Hard Outage averages greater than 3:59:59 hours, then upon Customer's compliance with Section VI of this SLA, Customer will receive (i) a credit equal to 4% of the applicable monthly Service Charges when MTTR averages between 4:00:00 hours and 7:59:59 hours, or (ii) a credit equal to 10% of the monthly Service Charges when MTTR is greater than or equal to 8:00:00 hours, to be applied as a credit or set-off against any amounts otherwise due by Customer to TWC.

IV. Throughput Speed

Throughput speed may be impacted by packet size. Business Class Ethernet has been tested using a mix of data packet sizes consistent with normal business applications and has been able to produce throughput speeds averaging the customers contracted service speed.

V. Network Maintenance

Customer understands that from time to time, TWC will perform network maintenance for backbone improvements and preventive maintenance. TWC will use reasonable efforts to provide notice via email of all routine maintenance to the Customer's designated point of contact. This notification will inform the Customer of the exact time, duration and reason for the network maintenance. For urgent maintenance, TWC shall notify the Customer as soon as is commercially practical under the circumstances, including after the maintenance is performed. In no event shall any routine or urgent network maintenance be calculated against the foregoing SLA measurements.

VI. SLA Remedies

To receive any SLA credits, Customer must notify TWC of the Service outage using the TWC trouble ticketing system, followed by a written credit request submitted to Customer's TWC billing contact within five (5) business days of opening the applicable trouble ticket. The following information must be included in the written credit request:

Notification Information
Trouble Ticket Number
Severity of the Trouble Ticket
Time that the trouble ticket was opened
Time that trouble ticket was resolved
Circuit ID and Port

Failure to comply with the foregoing credit request procedures will result in forfeiture of such credit for the applicable trouble ticket. Notwithstanding anything to the contrary in this SLA or the Agreement, (i) the credits described herein shall constitute Customer's sole and exclusive remedy with respect to TWC's failure to meet any service level commitments, Network Availability or MTTR obligations; and (ii) in no event shall credits awarded for any month of Service exceed 30% of the applicable monthly Service

Charges owed to TWC for such month of Service. Customer shall not be eligible for credits exceeding four (4) months of Customer's applicable monthly Service Charges during any calendar year.

Any SLA credits shall be calculated based on a percentage of the Service Charges for the circuit (for Ethernet Private Line) or site (for Ethernet Virtual Private Line), as applicable, which was affected by the Hard Outage.



Account Executive: Maria Rice
 Phone: (562) 677-0302
 Cell Phone: (310) 877-4579
 Fax: (704) 697-4805
 Email: maria.rice@twcable.com

Business Name	City of Torrance	Customer Type:
Federal Tax ID	Tax Exempt Status	Tax Exempt Certificate #
Billing Address	Account Number	
3031 Torrance Blvd Torrance CA 90503		
Billing Contact	Billing Contact Phone	Billing Contact Email Address
Bob Virag	(310) 618-2880	
Authorized Contact	Authorized Contact Phone	Authorized Contact Email Address
Ryan Lee	(310) 781-7508	rlee@torranceca.gov
Technical Contact	Technical Contact Phone	Technical Contact Email Address
Eric NGO	(310) 618-2531	

Internet and Video Order Information For 3301 Airport Dr Torrance CA 90505	
Service Type	Customer Requested Due Date
High Speed Internet (HSD)	
IPs (Internet Addresses)	
E-Mail	

Monthly Recurring Charge At 3301 Airport Dr Torrance CA 90505				
Description	Quantity	Sales Price	Monthly Recurring Total	Contract Term
BCI 13 Static IP	1	\$0.00	\$0.00	36 Months
BCI 5 Standard Email Accounts	1	\$0.00	\$0.00	36 Months
BCI Ultra 2M x 2M	1	\$252.59	\$252.59	36 Months
*Total			\$ 252.59	
*Prices do not include taxes and fees.				



One Time Charge At 3301 Airport Dr Torrance CA 90505

Description	Quantity	Sales Price	Total
BCI Internet Install	1	\$0.00	\$0.00
Total			\$ 0.00

*Prices do not include taxes and fees.



Special Terms

The services, products, prices and terms identified on this Service Order constitute Time Warner Cable's offer to provide such services on such terms. Until Customer has accepted this offer by signing as appropriate below, Time Warner Cable reserves the right to rescind this offer at any time, at its sole discretion.

The Agreement shall be renewable for successive terms unless at least thirty (30) days prior to the expiration of the then-current term, either party notifies the other party of such party's intent not to renew this Agreement. Agreement term and corresponding monthly billing will commence on actual service installation date. Agreement locks in rate for the Time Warner Cable Business Class services for term of contract. Cable television and Work-at-home services are subject to annual price change.

Torrance Airport - Services

- 2mb x 2mb service agreement
- 13 Static IP's
- 5 Email Accounts
- 1 Modem
- (Listed as Government - VIP account)

Electronic Signature Disclosure

Authorized Signature for Time Warner Cable

By: _____
 Name: _____
 Title: _____

Date: _____

Authorized Signature for Customer

CITY OF TORRANCE
A Municipal Corporation

 Frank Scotto
 Mayor

Date: _____

ATTEST:

 Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III

By: _____



Service Agreement

This Time Warner Cable Business Class Service Agreement ("**Service Agreement**") in addition to the Time Warner Cable Business Class Terms and Conditions ("**Terms and Conditions**") and any Time Warner Cable Business Class Service Orders (each, a "**Service Order**"), constitute the **Master Agreement** by and between customer identified below ("**Customer**") and Time Warner Cable ("**TWC**" or "**Operator**") and is effective as of the date last signed below.

Time Warner Cable Information

Time Warner Cable Inc.

Street: 17777 Center Court Drive, N. Suite 800

Contact: Maria Rice

City: Cerritos

Telephone: (562) 677-0302

State: Ca.

Facsimile: (704) 697-4805

Zip Code: 90703

Customer Information

Customer Name (Exact Legal Name):

City of Torrance

Federal ID No:

Billing Address:

3031 Torrance Blvd

Suite:

City:

Torrance

State:

CA

Zip Code:

90503

Billing Contact Name:

Bob Virag

Phone:

(310) 618-2880

E-mail:

Authorized Contact Name:

Ryan Lee

Phone:

(310) 781-7508

E-mail:

rlee@torranceca.gov

Agreement

THIS SERVICE AGREEMENT HEREBY INCORPORATES BY REFERENCE THE TERMS AND CONDITIONS (AVAILABLE AT WWW.TWCBC.COM/LEGAL), A COPY OF WHICH WILL BE PROVIDED TO CUSTOMER UPON REQUEST. BY EXECUTING THIS SERVICE AGREEMENT BELOW, CUSTOMER ACKNOWLEDGES THAT: (1) CUSTOMER ACCEPTS AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS, INCLUDING SECTION 21 THEREOF, WHICH PROVIDES THAT THE PARTIES DESIRE TO RESOLVE DISPUTES RELATING TO THE TIME WARNER CABLE BUSINESS CLASS SERVICES AGREEMENT THROUGH ARBITRATION; AND (2) BY AGREEING TO ARBITRATION, CUSTOMER IS GIVING UP VARIOUS RIGHTS, INCLUDING THE RIGHT TO TRIAL BY JURY.



Service Agreement

By signing and accepting below you are acknowledging that you have read and agree to the terms and conditions outlined in this document.

Electronic Signature Disclosure

Authorized Signature for Time Warner Cable

Authorized Signature for Customer

By: _____
Name: _____
Title: _____

CITY OF TORRANCE
A Municipal Corporation

Frank Scotto
Mayor

Date: _____

Date: _____

ATTEST:

APPROVED AS TO FORM:

JOHN L. FELLOWS III

Sue Herbers, City Clerk

By: _____

Council Meeting of
August 3, 2010

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

**SUBJECT: Communications and Information Technology – Approve a contract amendment to increase Internet line capacity from 10 MB to 30 MB for a one year term.
Additional Expenditure: \$18,000.00**

RECOMMENDATION

Recommendation of the Communications and Information Technology Director that City Council authorize an amendment to Dedicated Access Service Agreement #C2009-041 with Time Warner Cable, Chatsworth, CA, for the increase of internet circuit capacity from 10 MB to 30 MB for a one year term at an additional cost of \$18,000.00 per year.

Funding

Funding is available in the CIT Department Operating Budget.

BACKGROUND

The internet has become an integral resource to do City business and to obtain information and access to business applications. AT&T's telephone infrastructure and Time Warner's cable infrastructure provide the City's internet access.

The City started with a 1.5 megabits per second (mbps) internet circuit in 1995. Today, two 10 mbps circuits serve the City. A \$10 per month per user charge covers the cost of both circuits, spam filtering, email anti-virus protection, security encryption, and other supporting software and services. An increase in the number of internet users and an ever-growing number of internet application usages continually pushes the boundaries of internet circuit capacity and performance.

The City currently leases an AT&T 10 mbps internet circuit and a Time Warner 10 mbps circuit. Both circuits are hosted at City Hall, support City-wide internet operations, and are strategically configured as redundant pathways in the event of an outage. The Time Warner circuit was leased on February, 2009 when Council approved contract #C2009-041 with Time Warner Cable. The cost of the 10 mbps Time Warner circuit is \$1,400 per month for 36 months. In addition, a second 2 mbps internet circuit was approved for the City's new Alternate Emergency Operations Center (AEOC) at Zamperini

Airport at a cost of \$252.59 per month for 36 months. The amendment will not change the existing AEOC service.

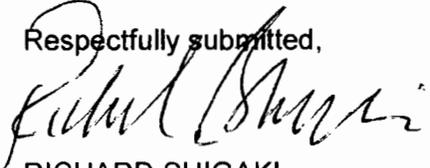
ANALYSIS

Initially, the two dedicated 10 mbps internet access circuits increased available internet bandwidth and provided improved service. During this last year, CIT has received complaints about declining internet speed and slow response times. We found that an increase in the number of users, an increase in online training video usage, an increase in the number and variety of internet applications used, and an increase in internet use for research, accounts for the overall increased internet usage and decline in performance.

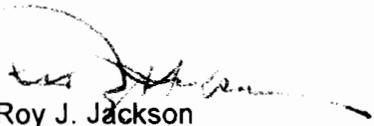
The proposed contract amendment with Time Warner Cable will increase internet circuit capacity from 10 mbps to 30 mbps, bringing the City's total to 40 mbps.

Funding is provided by an increase in the number of Internet users and a decrease in the AT&T Internet Circuit Charges.

The current Time Warner Cable agreement #C2009-041 provides 10MB of Internet line capacity at \$1,400.00 per month for a 36 month term ending in April, 2012. The new agreement will increase Internet line capacity to 30MB at a cost of \$2,900.00 per month for a 12 month term ending in July, 2011. The 20MB increase in Internet line capacity will cost an additional \$1,500.00 per month or \$18,000.00 annually.

Respectfully submitted,

RICHARD SHIGAKI
Information Technology Director

CONCUR:


LeRoy J. Jackson
City Manager

Attachments:

- A) Time Warner Cable Service Order Agreement
- B) Agenda item 8B, dated February 24, 2009
- C) Signed copy of Agreement #C2009-041, dated May 9, 2009

Service Order Agreement

Attachment A

Service Order Agreement			
Contact Information			
Time Warner Cable LLC ("TWC")		The City of Torrance	
NOTICE ADDRESS:	17777 Center Court Drive, 8 th Floor Cerritos, CA 90703	NOTICE ADDRESS:	3031 Torrance Blvd. Torrance, CA 90501
CONTACT:	Charles McLaurin	CONTACT:	Ryan Lee
PHONE:	562-677-0290	PHONE:	310-781-7508
EMAIL:	Charles.mclaurin@twcable.com	EMAIL:	rlee@torrnet.com
PAYMENT ADDRESS:	PO Box 60074 City of Industry, CA 91716-0074	BILLING ADDRESS:	3031 Torrance Blvd. Torrance, CA 90501

Billing Information And Service Commitment Period	
TWC Access ID:	
Customer PON:	
TSP:	30MB Dedicated Internet Access
Service Term Length:	12 months
Total Service Order Monthly Recurring Charge:	\$2900
Total Service Order Non-Recurring Charge:	\$0.00

Location A		Z Location	
Site ID:	City Hall	Site ID:	N/A
CLLI Code:		CLLI Code:	
Address:	3031 Torrance Blvd Torrance, CA 90501	Address:	
Site Contact:	Ryan Lee	Site Contact:	
Site Phone:	310-781-7508	Site Phone:	
Building Manager		Building Manager	
Contact:		Contact:	
Building Manager Phone:		Building Manager Phone:	
Point of Demarcation:		Point of Demarcation:	

Qty	Service	Facility	Protected (Yes/No)	Monthly Recurring Charge	Non-Recurring Charge
1	30Mb DIA			\$2900	\$0.00
Total =				\$2900	\$0.00

Comments:

Customer Requested Firm Order Commitment (FOC) Date Open

TWC SPIN Number:

Customer approves and accepts this Service Order Agreement which is an Amendment to the Dedicated Access Service Agreement between The City of Torrance ("Customer") and TWC dated as of May 7 2009. This Amendment upgrades the 10MB service at the MRC of \$1400 to a 30MB service at the MRC of \$2900 for the term of 12 months from the date of the upgrade. Customer agrees to be bound by the terms and conditions of the original Dedicated Access Service Agreement.. The Requested FOC date is subject to TWC's internal provisioning, and an actual FOC Date will be issued to Customer.

Time Warner Cable LLC:

Signature

The City of Torrance:

Signature

Print Name

Print Name

Title

Title

Date

Date

Attachment B

Council Meeting of
February 24, 2009

Honorable Mayor and Members
Of the City Council
City Hall
Torrance, California

Members of the Council:

**SUBJECT: Communications & Information Technology –Authorize an agreement to purchase dedicated Internet access.
Expenditure: \$59,493.00**

RECOMMENDATION

Recommendation of the Information Technology Director that City Council authorize an agreement with Time Warner Cable to purchase dedicated Internet access circuits for the City Hall and Zamperini Airport facilities for a term of three years in the amount of \$59,493.

Funding

Funding is available in the CIT Department Operating Budget and Telecommunications Program funds. There are additional funds available due to terminating the current AT&T line.

BACKGROUND

The City leases both a 10-megabit per second (Mbps) Asynchronous Transfer Mode (ATM) and a 1.544 Mbps T-1 Internet circuit from AT&T. Both circuits are hosted at City Hall, support City-wide Internet operations, and act as redundant pathways in the event of an outage. The General Aviation Center was designated to house the City's new Alternate Emergency Operations Center (AEOC). The AEOC was designed to be equipped with a "stand-alone" Internet access capability separate from the City Hall circuits.

ANALYSIS

The proposed purchase would include the purchase of two separate Internet circuits. The first would replace the 1.544 Mbps T-1 Internet circuit at City Hall with a 10 Mbps fiber optic circuit. The second would establish a new 2 Mbps coaxial Internet circuit for the AEOC.

Replacing the City Hall circuit would increase available Internet bandwidth and improve service reliability. When paired with the existing ATM circuit, total bandwidth is significantly increased to support increased demand and permit data traffic prioritization. The proposed Time Warner Cable (TWC) product operates on a physically separate infrastructure than AT&T, creating greater service and pathway diversity in the event of a service provider failure or cable cut.

Both proposed Internet circuits are symmetrical (i.e., upstream equals downstream speed) and permit the high volume download and upload of email, web pages, etc. At City Hall, circuit symmetry is important to support citizen access to the City's website and staff browsing/email access to the Internet. In an emergency, circuit symmetry at the AEOC makes it possible to partially reconstitute City web services via the stand-alone system.

After surveying alternative Internet service providers, staff determined that only TWC owned and operated their own high-volume Internet access infrastructure separate from AT&T and provides the engineering and technical service necessary to support the City's critical Internet requirements. As a result, staff determined that TWC was the sole provider capable of providing the needed circuits. The Torrance Municipal Code Section 22.3.17 creates a purchasing exception for sole-source purchases. The municipal code states:

SECTION 22.3.17. EXCEPTION; SOLE-SOURCE PURCHASES.

b) For purposes of this Section, "sole-source purchases" means those purchases where it would be undesirable or impossible for the City to advertise for bids for particular work or for patented items, or experimental or unique services or products, or where competitive purchases would be unavailable or would not prove advantageous for the City. No sole-source purchases may be made where to do so would show favoritism, improvidence, extravagance, fraud or corruption, or result in the waste of public funds, but may be used only to obtain the best economic result for the public.

The proposed agreements, one for City Hall and another for the AEOC, are for a term of three years totaling \$59,493. The annual costs are \$16,800 and \$3,031, respectively. Termination of the existing 1.544 Mbps T-1 Internet circuit at City Hall prior to its anniversary would not incur any penalties with proper advance notice.

Respectfully submitted,



RICHARD SHIGAKI
Information Technology Director

CONCUR:



LeRoy J. Jackson
City Manager

Attachments:

- A) Torrance City Hall DAS Agreement
- B) Torrance Airport Coaxial Agreement

Dedicated Access Service Agreement

This Dedicated Access Service Agreement (the "Agreement") is entered into as of this 07 day of January, 2009 (the "Effective Date"), by and between City of Torrance City Hall, with offices located at 3031 Torrance Blvd., Torrance, CA 90501 ("Customer") and the Los Angeles division of Time Warner Cable, with offices located at 9260 Topanga Canyon Blvd., Chatsworth, CA 91311 ("TWC"). In consideration of the mutual promises and agreements made herein and intending to be legally bound, the parties agree as follows:

1. **SERVICE.** Subject to the terms and conditions of this Agreement, TWC shall provide Customer with a dedicated "Dedicated Access" service connection between Customer's facility and TWC's (or a TWC affiliate's) facility as further described on Exhibit A attached hereto (the "Service"). TWC shall use commercially reasonable efforts to provide the Service 7 days a week, 24 hours a day, excluding scheduled maintenance, required repair and events beyond TWC's reasonable control. TWC's provision of the Service is subject to availability.

2. **INSTALLATION.** Customer shall obtain and maintain throughout the Term (as defined in Section 5 below) such consents (including without limitation landlord and land owner consents) as are necessary to timely permit, and shall timely permit, TWC personnel to install, deliver, operate and maintain the Service and Equipment as contemplated herein at Customer's facilities. Customer shall permit TWC to access the Customer facilities at any time as needed to install, configure, upgrade, maintain or remove the Equipment and other service components collocated at Customer's facilities. Customer shall make and maintain throughout the Term all site preparations necessary to permit the installation, maintenance, and operation of the Service and any Equipment (as defined below) as specified by TWC. Provided that Customer properly performs all necessary site preparation and provides TWC with all required consents, TWC shall use commercially reasonable efforts to install the Service in accordance with a mutually agreed upon schedule. TWC shall provide Customer with a completion notice ("Completion Notice") upon completion of the installation of the Service. Interconnection of the Service and Equipment with Customer's equipment will be performed by Customer.

3. **SUPPORT & MAINTENANCE.** TWC shall use commercially reasonable efforts to maintain the TWC provided and installed cabling, routers and other TWC-installed equipment, if any, (collectively, the "Equipment") used by TWC to provide the Service. TWC shall provide a telephone number and email address for inquiries and remote problem support for the Service. All such Customer support shall be provided to Customer's help desk personnel only. Customer is responsible for interfacing with its employees and end users. In no event shall TWC be responsible for providing such support for any network, equipment or software not provided and installed by TWC under this Agreement or for issues or problems beyond its direct control. Customer agrees to provide routine operational Service support for Equipment and service components collocated at Customer's facility, including without limitation by performing reboots, as requested by TWC.

4. **CUSTOMER OBLIGATIONS.** Customer's use of the Service (including all content transmitted via the Service) shall comply with all applicable laws and regulations, the terms of this Agreement, and any Terms of Use (which are incorporated herein by this reference). "Terms of Use" means all Service policies, including without limitation acceptable use policies, and other terms and conditions established by TWC and available on the TWC web site, [www.accesstimewarner.com], as may be modified from time to time by TWC. Customer agrees not to resell or make any use of the Service other than for Customer's internal business purposes. [Customer agrees to use the Service solely for data services. Customer shall maintain the Equipment free and clear of all liens and encumbrances and shall be responsible for loss or damage to the Equipment while at Customer's facilities. As between the parties, Customer is solely responsible for (a) all use (whether or not authorized) of the Service, which use shall be deemed Customer's use for purposes of this Agreement; and (b) all content that is stored or transmitted via the Service. Customer shall not upload, post, transmit or otherwise make available on or via the Service any material (including any message or series of messages) that violates or infringes in any way upon the rights of others, that is unlawful, threatening, abusive, obstructive, harassing, libelous, invasive of privacy or publicity rights, that in the circumstances would be obscene or indecent, that constitutes hate speech, that is otherwise offensive or objectionable, or that encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law or regulation. TWC may remove, or demand the removal of, content that in its judgment violates these standards. Customer agrees to conform its equipment and software to TWC's then-current network specifications and system requirements for the Service.

5. **TERM.** The Agreement shall be in effect for the Initial Term of Service set forth on Exhibit A, and unless terminated earlier in accordance with this Agreement, shall thereafter automatically renew on an annual basis unless either party notifies the other party at least thirty (30) days prior to the expiration of the then-current term of such party's intent not to renew (the Initial Term and any renewal term collectively referred to as the "Term").

6. **PAYMENT.** Customer agrees to pay TWC the one-time Service installation fee and monthly recurring Service fees (collectively the "Service Charges") set forth on Exhibit A in accordance with the following payment terms: Service Charges will be billed to Customer monthly in accordance with TWC's regular billing schedule and are payable within thirty (30) days after the date of invoice. Customer shall be responsible for all use, sales and other taxes and governmental charges applicable to the Service (which taxes and charges are not included in the Service Charges), except for taxes payable on TWC's net income. TWC shall have the right to increase Service Charges after the Initial Term upon thirty (30) days advance written notice to Customer. TWC may

TWC PROPRIETARY & CONFIDENTIAL

COPY

ise

C 2 0 0 9 = 0 4 7

21

charge a late fee for all overdue amounts. The late fee will be the lesser of 1½% or the highest rate chargeable by law. Customer shall also be responsible for all costs of collection (including reasonable attorneys' fees) to collect overdue amounts. In addition to the foregoing, and all other available remedies, TWC may discontinue Customer's access to the Service in whole or in part, until such overdue amounts, together with interest, are paid. TWC may require a security deposit, letter of credit, advance payment for Service or other reasonable assurances of payment from Customer.

7. PROPRIETARY RIGHTS AND CONFIDENTIALITY. (a) TWC's Proprietary Rights. All materials, including, but not limited to, any Equipment (including related firmware), software, data or information developed or provided by TWC, any identifiers or passwords used to access the Service or otherwise provided by TWC, and any know-how, methodologies or processes including, but not limited to, all copyrights, trademarks, patents, trade secrets, any other proprietary rights inherent therein and appurtenant thereto, used by TWC to provide the Service (collectively "TWC Materials") shall remain the sole and exclusive property of TWC or its suppliers. Customer shall acquire no interest in the TWC Materials by virtue of the payments provided for herein. Customer may use the TWC Materials solely for Customer's use of the Service. Customer may not reproduce, modify or distribute the TWC Materials, or use them for the benefit of any third party. All rights in the TWC Materials not expressly granted to Customer are reserved to TWC. Customer will not open, alter, misuse, tamper with or remove the Equipment as and where installed by TWC, and will not remove any markings or labels from the Equipment indicating TWC (or its suppliers) ownership or serial numbers. (b) Confidentiality. Customer agrees to maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted herein, the TWC Materials and any other information and materials provided by TWC in connection with this Agreement that are identified or marked as confidential or are otherwise reasonably understood to be confidential. (c) Software. If software is provided to Customer hereunder, TWC grants Customer a limited, non-exclusive and non-transferable license to use such software, in object code form only, solely for the purpose of using the Service for Customer's internal business purposes during the Term.

8. MONITORING AND MODIFICATIONS. TWC shall have the right, but not the obligation, to monitor traffic and content on its network, in its sole discretion, including through the use of automatic content filters (including without limitation spam, virus, and adult language sniffers and filters). TWC shall have the right, but not the obligation, to upgrade, modify and enhance the Equipment (including related firmware) and the Service and take any action that TWC deems appropriate to protect the Service and its facilities. TWC also shall have the right to add to, modify or delete any provision of the Terms of Use or any Service descriptions. TWC will notify Customer of any material adverse change in the Terms of Use or Service descriptions by posting notice of such change on the TWC web site or by email. Customer's continued use of the Service after such notice shall constitute Customer's acceptance of such change.

9. TERMINATION. Either party may terminate this Agreement upon thirty (30) days written notice of the other party's material breach, provided that such material breach is not cured within such thirty (30) day period. In addition, in the event that Customer fails to comply with any applicable laws or regulations, the terms of this Agreement, or the Terms of Use, TWC may suspend or discontinue Customer's Service in whole or in part without advance notice. In the event of a suspension, TWC may require a reconnect charge to restart the suspended Service. Upon the termination or expiration of this Agreement: (a) TWC's obligations hereunder shall cease; (b) Customer promptly shall pay all amounts due and owing to TWC for Service delivered prior to the date of termination or expiration and any applicable deinstallation fee, if any; (c) Customer promptly shall cease all use of any software provided by TWC hereunder, and shall return such software to TWC; and (d) Customer shall return to TWC or permit TWC to remove, in TWC's sole discretion, the Equipment in the same condition as when received, ordinary wear and tear excepted. Customer shall be responsible for reimbursing TWC for the repair or replacement, at TWC's discretion, of any Equipment not returned in accordance with this section. In addition, notwithstanding anything to the contrary herein, upon early termination of this Agreement by Customer, Customer shall promptly pay TWC a termination fee equal to the Service Charges that would have been due for the remainder of the Initial Term or the then-current renewal term, as applicable, and any unpaid portion of the Installation Fee set forth on Exhibit A. The foregoing shall be in addition to any other rights and remedies that TWC may have under this Agreement or at law or equity relating to Customer's material breach.

10. INDEMNIFICATION. Customer agrees to defend, indemnify and hold harmless TWC, its affiliates, its service providers and suppliers and their respective officers, directors, employees and agents, from and against all claims, liabilities, damages and expenses, including attorneys' and other professionals' fees, arising out of or relating to (i) the use of the Service, including but not limited to a breach of Section 4 herein; or (ii) personal injury or property damage caused by the negligence or willful misconduct of Customer or its employees or agents.

11. DISCLAIMER OF WARRANTY. CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE AND THE INTERNET AND ACCESSES THE SAME AT ITS OWN RISK. TWC EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE OR THE INTERNET OR ACTIONS TAKEN ON THE INTERNET AND TWC EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH CONTENT OR ACTIONS. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE SERVICE AND RELATED EQUIPMENT AND/OR OTHER MATERIALS USED IN CONNECTION WITH THE SERVICE, IF ANY, ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NONINFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY,

TWC PROPRIETARY & CONFIDENTIAL

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

12. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL TWC BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF WHETHER TWC HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE AGGREGATE LIABILITY OF TWC TO CUSTOMER FOR ANY REASON AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT (INCLUDING NEGLIGENCE) AND STRICT PRODUCT LIABILITY) SHALL BE LIMITED TO THE FEES PAID BY CUSTOMER UNDER THIS AGREEMENT IN THE SIX (6) MONTHS PRECEDING THE DATE THE CLAIM ARISES. IN NO EVENT SHALL TWC'S AFFILIATES, THIRD PARTY SERVICE PROVIDERS OR SUPPLIERS HAVE ANY LIABILITY TO CUSTOMER HEREUNDER.

13. **NOTIFICATIONS.** Customer's privacy interests, including Customer's ability to limit disclosure of certain information to third parties, are addressed by, among other laws, the Federal Cable Communications Act (the "Cable Act") and the Electronic Communications Privacy Act. Personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in the Subscriber Privacy Notice provided by TWC in writing, which is incorporated herein by reference. Customer acknowledges receipt of the Subscriber Privacy Notice. In addition to the foregoing, Customer hereby acknowledges and agrees that TWC may disclose Customer's and its employees' personally identifiable information as required by law or regulation or by the American Registry for Internet Numbers ("ARIN") or any similar agency. In addition to actions and disclosures specifically authorized by law or statute or authorized elsewhere in this Agreement, TWC shall have the right (except where prohibited by law notwithstanding Customer's consent), but not the obligation, to disclose any information to protect its rights, property and/or operations, or where circumstances suggest that individual or public safety is in peril. Customer hereby consents to such actions or disclosures.

14. **FORCE MAJEURE.** TWC shall have no liability to Customer hereunder due to circumstances beyond its control, including, but not limited to, acts of God, terrorism, flood, fiber cuts, acts or omissions of other carriers, natural disaster, regulation or governmental acts, fire, civil disturbance, strike, weather, any unauthorized access to or destruction or modification of the Service, in whole or in part, any failure of heat, air conditioning, or power supply, or act or failure to act of Customer or any third party using the Service.

15. **REGULATORY AND LEGAL CHANGES; TARIFFS.** In the event of any change in applicable law, regulation, decision, rule or order, including without limitation any increase in universal service fees or other government imposed charges, that increases the costs or other terms of delivery of Service to Customer, Customer acknowledges and agrees that TWC may pass through to Customer any such increased costs. Further, in the event that TWC is required to file tariffs with the appropriate regulatory agency or otherwise publish rates in accordance with regulatory agency rules or policies respecting the delivery of the Service or any portion thereof, then the terms set forth in the applicable tariff or published rates shall govern TWC's delivery of, and Customer's consumption or use of, the Service. In addition, if TWC determines that offering or providing the Service, or any part thereof, has become impracticable for legal or regulatory reasons or circumstances, then TWC may terminate this Agreement as to any or all of the Service without liability by giving Customer thirty (30) days prior written notice (or such shorter notice as is required by law or regulation) of such determination.

16. **ENTIRE AGREEMENT.** This Agreement, including without limitation all exhibits that are attached hereto and incorporated herein by this reference, sets forth the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous written or oral agreements or representations between the parties with respect hereto. In the event that TWC permits a Customer to use its own standard purchase order form to order the Service, the parties hereby acknowledge and agree that the terms and conditions hereof shall prevail notwithstanding any variance with the terms and conditions of any purchase order submitted by Customer, and any different or additional terms contained in such purchase order shall have no force or effect.

TWC PROPRIETARY & CONFIDENTIAL

MISCELLANEOUS. This Agreement shall be governed and construed in accordance with the laws of the State of California, excluding its conflicts of law principles. In the event that any portion of this Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties set forth herein, and the remainder of this Agreement shall remain in full force and effect. No waiver of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. Customer may not assign this Agreement without the prior written consent of TWC, and any assignment in violation of this Section shall be null and void. TWC may assign its rights and obligations under this Agreement, including without limitation, in whole or in part, to any Time Warner Cable Inc. affiliated party without the prior written approval of or notice to Customer. Customer shall make no press release, public announcement or other public statements regarding this Agreement without TWC's prior written consent. All claims under this Agreement must be initiated not later than two years after the claim arose. There are no third party beneficiaries to this Agreement. Customer understands and agrees that, regardless of any such assignment, the rights and obligations of TWC herein may accrue to, or be fulfilled by, any TWC affiliate, including without limitation Road Runner HoldCo LLC, as well as by TWC and/or its subcontractors. The parties to this Agreement are independent contractors. Any notice under this Agreement shall be given in writing and shall be deemed to have been given when actually received by the other party. Notices shall be delivered to Customer and TWC at the respective addresses set forth above, or to such other address as is provided by one party to the other in writing. The provisions of Sections 6, 7, 9, 10, 11, 12 and 17 shall survive the termination or expiration of this Agreement. No modification of any provision of this Agreement shall be valid unless set forth in a written instrument signed by both parties. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Notwithstanding anything herein to the contrary, any party to this Agreement (and each employee, representative, or other agent of such party) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transaction and all materials of any kind (including opinions and other tax analyses) that are provided to the party relating to such tax treatment and tax structure.

CUSTOMER:

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

TWC: David Montieth
 By: _____
 Name: **David Montieth**
 Title: **Regional Vice President**
 Date: 5/7/09

CITY OF TORRANCE, a Municipal Corporation

Frank Scotto
 Frank Scotto, Mayor

ATTEST:

Sue Herbers
 Sue Herbers
 City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
 City Attorney
 By: John L. Fellows III

TWC PROPRIETARY & CONFIDENTIAL

J

Exhibit A**Service**

Subject to the terms and conditions of this Agreement, TWC shall provide Customer with a dedicated circuit connection between Customer's data network located at **3031 Torrance Blvd., Torrance, CA 90501** and the TWC facility located at **9260 Topanga Canyon Blvd., Chatsworth, CA 91311**. The Service shall have the following capacity: **10Mx10M Fiber Internet with 13 Static IP's**. Customer must purchase any additional capacity separately.

Prices

Installation Fee: **\$0.00**

Monthly Recurring Fee: **\$1,400.00**

Initial Term of Service

For a period of **36 months** from the date of TWC's Completion Notice.

TWC PROPRIETARY & CONFIDENTIAL

WMC - 68947/0012 - 253816 v8

Dedicated Fiber Service Level Agreement

SLA – Latency

- Metro
 - Gold 40 ms
- Intra-Regional
 - Gold 50 ms
- Inter-Regional
 - Gold 60 ms

SLA - Availability

- Metro
 - Gold 99.97%
- Intra-Regional
 - Gold 99.97%
- Inter-Regional
 - Gold 99.97%

SLA Comparison
Local, Regional & Cross-country
Gold Level

LOCAL

(13 min per month)
40 ms Latency
0.1% Packet Loss

REGIONAL

99.97% Availability
50 ms Latency
0.15% packet loss

INTER-REGIONAL

99.97% Availability
60 ms Latency
0.2% Packet loss

TWC PROPRIETARY & CONFIDENTIAL

Time Warner Cable Business Class Services Agreement

Confirmation of Service Order

Account Executive: Valerie Jordan
 Office Phone: 818/407-4469
 Cell Phone: 818/612-1852
 Fax: 818/302-1437

24 Hour Technical Support: 1-866-772-4948

This Time Warner Cable Business Class Services Agreement is made by and between [TWC Communications, LLC or Time Warner Cable Information Services (California), LLC] and (Division Commercial Video & HSD Entity/Entities) collectively d/b/a Time Warner Cable ("TWC") and the customer identified below ("Customer"):

Service Location

Company: City of Torrance Airport
 Contact: Ernest Gallo
 Phone: (310) 618-2885
 Address: 3301 Airport Dr.
 City: Torrance, CA 90501
 Office: (310) 618-2885
 Cell:

Authorized Contact Person(s)

Primary: Ernest Gallo

Fax: (310) 618-5879

E-Mail Address:

EGallo@TORRNET.COM

Service Package	Monthly Fee*	Installation Fee*
2Mx2M 13 Static IP 5 Email Accounts 1 Router 1 Remote Access Account Platinum Level Service	\$252.59* per month for 36 months	\$ 0.00

The term of this Agreement is for 36 months from installation date and is the Customer's minimum committed period for the services as listed on this confirmation of service order, commencing on the date of installation of each service. In the event the sub should cancel service prior to full term of contract, sub is required to pay the cost of construction to Time Warner plus early termination fees set forth and stated in this contract (section 11).

THIS TIME WARNER CABLE BUSINESS CLASS SERVICES AGREEMENT IS SUBJECT TO THE TIME WARNER CABLE BUSINESS CLASS SERVICES AGREEMENT TERMS, A COPY OF WHICH WILL BE PROVIDED TO CUSTOMER UPON REQUEST. SUCH TERMS AND CONDITIONS ARE INCORPORATED HEREIN BY THE REFERENCE. BY EXECUTING THIS TIME WARNER CABLE BUSINESS CLASS SERVICES ACCEPTS AND AGREES TO BE BOUND BY ALL SUCH TERMS AND CONDITIONS, INCLUDING RELATING TO THE TIME WARNER BUSINESS CLASS SERVICE AGREEMENT THROUGH ARBITRATION; AND (2) BY AGREEING TO ARBITRATION, CUSTOMER IS GIVING UP VARIOUS RIGHTS, INCLUDING THE RIGHT TO TRIAL BY JURY.

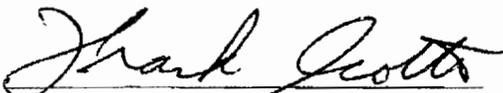
CUSTOMER

Dated: May 1, 2009

S.S.# or Tax I.D.#: 95-6000803

CITY OF TORRANCE

a Municipal Corporation


 Frank Scotto, Mayor

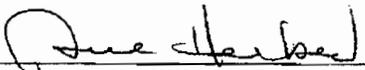
COPY

lsc

C20091041



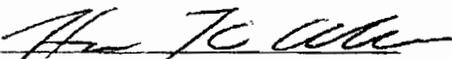
ATTEST:



Sue Herbers
City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: 

***Fees specified in the Agreement do not include applicable taxes and franchise fees, which will be added to Customer's bill in accordance with statutes and regulations governing provision of the Service.**

¹Persistent IP is an extended lease and is subject to change if renumbering within the network occurs. Notification will occur prior to changes.

Time Warner Cable Business Class 866 772-4948



Time Warner Cable Business Class Services Agreement

Terms and Conditions

1.0 AGREEMENT. The Time Warner Cable Business Class Services Agreement executed by the parties and these Terms and Conditions, including all documents incorporated herein by reference (collectively referred to as the "Agreement") set forth the entire agreement between the Customer and Time Warner Cable ("TWC") and together with Customer, (the "Parties" or each individually a "Party") for the delivery and use of and payment for the services ("Services") identified on an Order(s) (as defined in Section 2.2 below) and further described on the applicable attachments to this Agreement (including Attachment A (National Teleworker Service and Branch Office Connectivity Service), Attachment B (Cable TV Service), Attachment C (Business Class Phone Service), and Attachment D (Metro Ethernet Solutions/Dedicated Access Service)).

2.0 SERVICES AND ORDERS.

2.1 Subject to the terms and conditions of this Agreement (including, without limitation, Customer's compliance with its obligations set forth in Section 5), TWC shall provide Customer with the Services, pursuant to and in conformance with any Order accepted in accordance with Section 2.2 below during the Term (as defined in Section 6 below). Customer understands and agrees that certain Services may not be available in all TWC service areas and that TWC, upon entering into an Order with Customer may, at its own discretion, utilize one or more of its affiliates or another party or parties to deliver the applicable Service. Unless otherwise set forth on an applicable Attachment, TWC shall use commercially reasonable efforts to provide each Service identified in an Order seven (7) days a week, twenty four (24) hours a day, excluding scheduled maintenance, required repair and events beyond TWC's reasonable control.

2.2 Customer shall request Services hereunder by issuing to TWC one or more proposed service and/or work order(s) (each an "Order") pursuant to this Agreement (in the form provided or approved by TWC) or via a mutually agreed electronic order entry system. Upon TWC's acceptance of a proposed service and/or work order(s), such proposed service and/or work order(s), shall be deemed an "Order" hereunder and shall be deemed incorporated into this Agreement. A proposed service and/or work order shall be deemed accepted upon the earlier of (a) TWC's acceptance of such proposed service and/or work order in writing; or (b) TWC's commencement of delivery of the Service(s) set forth in such proposed service and/or work order.

3.0 SERVICE & EQUIPMENT INSTALLATION. Customer shall obtain and maintain, or ensure that each Customer employee or branch office to whom the Service will be provided, or who shall use the Service, as applicable (each an "End User"), shall obtain and maintain, throughout the Term such consents (including without limitation landlord and land owner consents) as are necessary to timely permit, and shall timely permit, TWC personnel to install, deliver, operate and maintain the Service and TWC Equipment (as defined in Section 4 below) as contemplated herein at Customer's and any Customer End User's facilities. Customer shall permit TWC reasonable access to the Customer and any End User facilities at any time as needed to install, configure, upgrade, maintain or remove the TWC Equipment and other Service components collocated at Customer's or an End User's facilities. Customer shall make and maintain throughout the Term all reasonable site preparations necessary to permit the installation, maintenance and operation of the Service and any TWC Equipment as specified by TWC and that is required to provide the Services hereunder. In addition, Customer will provide TWC with floor space, rack space, other space and clean power as is reasonably necessary for the installation and operation of TWC Equipment at the Customer locations identified in an Order, for the term of the applicable Order. Customer shall not charge TWC, and shall ensure that TWC does not incur, any fees or expenses whatsoever in connection with Customer's provision of space, power, or access as described herein, or otherwise in connection with Customer's performance of its obligations pursuant to this Section 3; and any such fees or expenses charged by a Customer End User shall be borne solely by Customer. Provided that Customer properly performs all necessary site preparation and provides TWC with all required consents, TWC shall use commercially reasonable efforts to install the Service in accordance with the requested Service start date indicated on an Order. TWC shall provide Customer with a completion notice ("Completion Notice") upon completion of the installation of a Service. In the event that TWC is unable to install the Service in accordance with the agreed upon schedule as a result of (i) Customer's (or its End User's) failure to deliver any required materials, support or information to TWC; or (ii) TWC not being able to obtain access to equipment or software at the installation location as necessary for installation of the Service, then Customer shall pay TWC the standard installation fee as identified on the applicable Attachment hereto for any installation trip made by TWC and an additional installation fee for each subsequent trip necessitated to perform the Service installation. Interconnection of the Service and TWC Equipment with Customer's or an End User's, as applicable, equipment will be performed by Customer unless otherwise agreed in writing between the Parties.

4.0 SUPPORT & MAINTENANCE. TWC shall use commercially reasonable efforts to maintain the TWC-provided and installed equipment, including as applicable, any cabling, cable modems, related splitters, routers or other items, (collectively, the "TWC Equipment") on TWC's side of the demarcation points used by TWC to provide the Service. Notwithstanding any contrary provision set forth in this Agreement, equipment, and services on Customer's side of the demarcation points, as well as any other Customer-provided equipment, are the responsibility of Customer. TWC shall provide a telephone number and email address for inquiries and remote problem support for the Service. All such Customer support shall be provided only to Customer's designated personnel, as mutually agreed upon by TWC and Customer. Customer is responsible for all communications and interfaces with its End Users. In no event shall TWC be responsible for providing support for any network, equipment or software not provided and installed by TWC under this Agreement or for issues or problems beyond its control. Notwithstanding anything to the contrary in the foregoing, TWC shall use commercially reasonable efforts to restore any cable cuts on the TWC network and shall keep Customer reasonably advised of such restoration progress. Customer agrees to

provide routine operational Service support for TWC Equipment and Service components collocated at Customer's or an End User's facility, including without limitation by performing reboots, as requested by TWC.

5.0 CUSTOMER OBLIGATIONS.

5.1 Customer's use of the Service (including all content transmitted via the Service) shall comply with all applicable laws and regulations and the terms of this Agreement. Customer agrees not to resell or redistribute (whether for a fee or otherwise) the Service, or any portion thereof, or make any use of the Service other than for Customer's internal business purposes, unless otherwise agreed in writing by TWC. Customer shall ensure that its End Users' use of the Service, if any, shall comply with all applicable laws and regulations and any applicable Terms of Use (which are incorporated herein by this reference). "Terms of Use" means all applicable Service policies, including without limitation acceptable use policies, and other terms and conditions established by TWC and may be modified from time to time by TWC, at its sole discretion. TWC may audit Customer's use of the Service remotely or otherwise, to ensure Customer's compliance with this Agreement.

5.2 Customer shall ensure that all TWC Equipment at Customer's and Customer's End Users' facilities remains free and clear of all liens and encumbrances and Customer shall be responsible for loss or damage to the TWC Equipment while at Customer's or an End User's facilities. As between the Parties, Customer is solely responsible for (a) all use (whether or not authorized) of the Service by Customer, an End User or any unauthorized person or entity, which use shall be deemed Customer's use for purposes of this Agreement; (b) all content that is viewed, stored or transmitted via the Service, as applicable; and (c) all third party charges incurred for merchandise and services accessed via the Service, if any. Customer agrees to conform its equipment and software, and to ensure that each End User conforms its equipment and software, to the technical specifications for the Service provided by TWC from time to time.

6.0 **TERM.** The Agreement shall commence on the date of full execution by the Parties (the "Effective Date") and shall remain in effect for an initial term of one (1, 2 or 3) years (the "Initial Term"). Unless terminated earlier in accordance with the provisions stated herein, upon the expiration of the Initial Term this Agreement shall automatically renew on an annual basis, unless either Party notifies the other Party at least ninety (90) days prior to the expiration of the then-current Term of such Party's intent not to renew (the Initial Term and any renewal term collectively referred to as the "Term"). If an Order Term (as set forth in an applicable Order) extends beyond the expiration of the Term, then this Agreement and the respective Order(s) will continue in effect until the expiration or termination of the applicable Order Term, but only as to the applicable Order(s), and subject to the termination rights of TWC and Customer under this Agreement.

7.0 **PAYMENT.** For each Service, Customer agrees to pay TWC the non-recurring Service installation fees and monthly recurring Service fees (collectively the "Service Charges") set forth on the applicable Order in accordance with the following payment terms: Service Charges will be billed to Customer on a monthly basis, in accordance with TWC's regular billing schedule, and are payable within thirty (30) days after the date appearing on the invoice. TWC shall have the right to increase Service Charges for each Service after the initial Order Term for such Service upon thirty (30) days advance written notice to Customer. TWC may charge a late fee for any amounts which are not paid when due. The late fee will be the lesser of one and one-half percent (1.5%) per month or the highest rate chargeable by law. Customer shall also be responsible for all costs of collection (including reasonable attorneys' fees) to collect overdue amounts.

8.0 **TAXES.** Customer shall pay all federal, state, and local taxes, fees, charges, surcharges or similar exactions imposed on the Services and/or products that are the subject of this Agreement including but not limited to state and local sales and use taxes, telecommunications taxes, federal and state universal service fund fees and/or state and local regulatory fees to the extent applicable. Further, TWC shall have the right to recover from Customer the amount of any state or local fees or taxes arising as a result of this Agreement, which are imposed on TWC or TWC's services, or measured on TWC's receipts. Such fees or taxes shall be invoiced to Customer in the form of a surcharge included on Customer's invoice. TWC shall be responsible for and shall pay all taxes measured by TWC's net income. To the extent that a dispute arises as to which Party is liable for fees or taxes under this Agreement, Customer shall bear the burden of proof in showing that the fee or tax is imposed upon TWC's net income. This burden may be satisfied by Customer producing written documentation from the jurisdiction imposing the fee or tax indicating that the fee or tax is based on TWC's net income. Customer shall be responsible for providing TWC any and all documentation substantiating a claim for exemption from taxes or fees prior to the date that Services are first provided under this Agreement. To the extent such documentation is held invalid for any reason, Customer agrees to reimburse TWC for any tax or fee liability including without limitation related interest and penalties arising from such invalid documentation.

8.1 Customer acknowledges that currently, and from time to time, there is uncertainty about the regulatory classification of some of the Services TWC provides and, consequently, uncertainty about what fees, taxes and surcharges are due from TWC and/or its customers. Customer agrees that TWC has the right to determine, in its sole discretion, what fees, taxes and surcharges are due and to collect and remit them to the relevant governmental authorities, and/or to pay and pass them through to me. Customer hereby waives any claims it may have regarding TWC's collection or remittance of such fees, taxes and surcharges. Customer understands that it may obtain a list of the fees, taxes and surcharges that TWC currently collects or passes through by writing to TWC at the following address and requesting same: Time Warner Cable, 7800 Crescent Executive Drive, Charlotte, North Carolina, 28217; Attention: Subscriber Tax Inquiries.

9.0 **PROPRIETARY RIGHTS AND CONFIDENTIALITY.** (a) TWC's Proprietary Rights. All materials including, but not limited to, any TWC Equipment (including related firmware), software, data and information provided by TWC, any identifiers or passwords used to access the Service or otherwise provided by TWC, and any know-how, methodologies or processes including, but not limited to, all copyrights, trademarks, patents, trade secrets, any other proprietary rights inherent therein and appurtenant thereto, used by TWC to provide the Service (collectively "TWC Materials") shall remain the sole and exclusive property of TWC or its suppliers. Customer shall acquire no interest in the TWC Materials by virtue of the payments provided for herein. Customer may use the TWC Materials solely for Customer's use of the Service. Customer may not disassemble, decompile, reverse engineer, reproduce, modify or distribute the TWC Materials, in whole or in part, or use them for the benefit of any third party. All rights in the TWC Materials not expressly granted to Customer herein are reserved to TWC. Customer

shall not open, alter, misuse, tamper with or remove the TWC Equipment as and where installed by TWC, and shall not remove any markings or labels from the TWC Equipment indicating TWC (or its suppliers) ownership or serial numbers. (b) Confidentiality. Customer agrees to maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted herein, the TWC Materials and any other information and materials provided by TWC in connection with this Agreement, including but not limited to the content of this Agreement, that are identified or marked as confidential or are otherwise reasonably understood to be confidential. (c) Software. If software is provided to Customer hereunder, TWC grants Customer a limited, non-exclusive and non-transferable license to use such software, in object code form only, solely for the purpose of using the Service for Customer's internal business purposes during the Term.

10.0 MONITORING, EQUIPMENT UPGRADES AND MODIFICATIONS. TWC shall have the right, but not the obligation, to upgrade, modify and enhance the TWC Equipment (including related firmware) and the Service and take any action that TWC deems appropriate to protect the Service and its facilities. TWC also shall have the right to add to, modify or delete any provision of this Agreement (including the Terms of Use). TWC will notify Customer of any material adverse change in this Agreement (including the Terms of Use) or Service descriptions by posting notice of such change on the TWC web site or by email, or, if applicable, in the appropriate TWC tariff. In any event, if TWC modifies this Agreement (including the Terms of Use) and such modification has a material adverse impact on Customer's ability to use the Service, Customer may, within the thirty (30) day period following the date of such modification, terminate without penalty the Order relating to the affected Service.

11.0 TERMINATION. Either Party may terminate an applicable Order (a) upon thirty (30) days written notice of the other Party's material breach, provided that such material breach is not cured within such thirty (30) day period, or (b) immediately, in the event that the other Party liquidates, is adjudicated as bankrupt, makes an assignment for the benefit of creditors, invokes any provision of law for general relief from its debtors, initiates any proceeding seeking general protection from its creditors, is removed or delisted from a trading exchange or its long term debt is downgraded more than two levels from its rating as of the Effective Date. In addition, in the event that Customer fails to comply with any applicable laws or regulations, the terms of this Agreement or the Terms of Use, TWC may upon thirty (30) days written notice suspend or discontinue any applicable Service in whole or in part without further notice, provided that such failure is not cured within such thirty (30) day period. In addition, TWC may immediately suspend Customer's or its End User's use of the Service if such use is determined by TWC, at its sole discretion, to be resulting in a material degradation of the TWC network, until such time as such degradation has been remedied. TWC will use commercially reasonable efforts to assist Customer in remedying such degradation. In the event of a suspension, TWC may require the payment of reconnect or other charges before restarting the suspended Service. Upon the termination or expiration of this Agreement and the Order(s) hereunder: (i) TWC's obligations hereunder shall cease; (ii) Customer promptly shall pay all amounts due and owing to TWC for Service delivered prior to the date of termination or expiration and any applicable deinstallation fees identified in Order(s), if any; (iii) Customer promptly shall cease all use of any software provided by TWC hereunder, and shall return such software to TWC; and (iv) Customer shall return to TWC or permit TWC to remove, in TWC's discretion, the TWC Equipment in the same condition as when received, ordinary wear and tear excepted. Customer shall be responsible for reimbursing TWC for the reasonable and documented costs of the repair or replacement, at TWC's discretion, of any TWC Equipment not returned in accordance with this Section 11. In addition, notwithstanding anything to the contrary herein, upon early termination of an Order by Customer for any reason other than as set forth in Section 11(a) or 11(b) above or by TWC for any reason set forth in Section 11(a) or 11(b) above, Customer shall, at TWC's discretion, (1) promptly pay TWC a termination fee equal to the Service Charges that would have been due for the remainder of the Initial Term or the then-current renewal term or (2) reimburse TWC for all volume, term or other discounts and credits provided in anticipation of full performance of Customer's obligations, as applicable, and any unpaid portion of the installation fee set forth in the applicable Order(s). The foregoing shall be in addition to any other rights and remedies that TWC may have under this Agreement or at law or equity relating to Customer's material breach.

12.0 INDEMNIFICATION. Customer agrees to defend, indemnify and hold harmless TWC, its affiliates, its service providers and suppliers and their respective officers, directors, employees and agents, from and against third party claims, liabilities, damages and expenses, including reasonable attorneys' and other professionals' fees, arising out of or relating to (a) the use of the Service, including but not limited to a breach of Section 5 herein; or (b) personal injury or property damage caused by the negligence or willful misconduct of Customer or its employees or agents.

13.0 DISCLAIMER OF WARRANTY. CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE AND USES THE SAME AT ITS OWN RISK. TWC EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE AND TWC EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH CONTENT. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE SERVICE, TWC EQUIPMENT AND TWC MATERIALS ARE PROVIDED "AS IS," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY TWC, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY. TWC DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, WILL BE UNINTERRUPTED, SECURE, ERROR FREE, WITHOUT DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATE OR INFORMATION OR THAT ANY MINIMUM TRANSMISSION SPEED IS GUARANTEED AT ANY TIME, EXCEPT AS SET FORTH IN THIS AGREEMENT. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER THE SERVICE MAY NOT BE SECURE. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY DATA, MATERIAL OR TRAFFIC OF ANY KIND WHATSOEVER CARRIED, UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S OR AN END USER'S COMPUTER SYSTEM OR EQUIPMENT (INCLUDING NETWORK EQUIPMENT) OR LOSS OF SUCH DATA, MATERIAL OR TRAFFIC DURING, OR THAT RESULTS FROM, CUSTOMER'S OR ITS END USERS USE OF THE SERVICE INCLUDING, BUT NOT LIMITED TO CUSTOMER'S OR END USER'S SENDING OR RECEIVING, OR UPLOADING OR DOWNLOADING, OR ATTEMPTS TO DO SAME, OF SUCH

DATA, MATERIAL OR TRAFFIC. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TWC'S THIRD PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CUSTOMER UNDER THIS AGREEMENT AND TWC DOES NOT MAKE ANY WARRANTIES ON BEHALF OF SUCH SERVICE PROVIDERS UNDER THIS AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY OR QUIET ENJOYMENT.

14.0 LIMITATION OF LIABILITY. IN NO EVENT SHALL TWC BE LIABLE TO CUSTOMER, AN END USER OR ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF WHETHER TWC HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TWC'S AGGREGATE LIABILITY FOR ANY REASON AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT (INCLUDING NEGLIGENCE) AND STRICT PRODUCT LIABILITY) SHALL BE LIMITED TO THE FEES PAID OR OWED BY CUSTOMER UNDER THE ORDER THAT IS THE SUBJECT MATTER OF THE CLAIM IN THE SIX (6) MONTHS PRECEDING THE DATE THE CLAIM ARISES. IN NO EVENT SHALL TWC'S AFFILIATES, THIRD PARTY SERVICE PROVIDERS OR SUPPLIERS HAVE ANY LIABILITY TO CUSTOMER HEREUNDER.

15.0 DISCLOSURE OF CUSTOMER INFORMATION. Customer's privacy interests, including Customer's ability to limit disclosure of certain information to third parties, may be addressed by, among other laws, the Federal Telecommunications Act (the "Telecommunications Act"), the Federal Cable Communications Act (the "Cable Act"), the Electronic Communications Privacy Act, and, to the extent applicable, state laws and regulations. Customer proprietary network information and personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in the Subscriber Privacy Notice provided by TWC in writing, and, if applicable, in TWC's tariff, which are incorporated herein by reference. Customer acknowledges receipt of the Subscriber Privacy Notice. In addition to the foregoing, Customer hereby acknowledges and agrees that TWC may disclose Customer's and its employees' personally identifiable information as required by law or regulation, or the American Registry for Internet Numbers ("ARIN") or any similar agency, or in accordance with TWC's Subscriber Privacy Notice or, if applicable, tariff. In addition, TWC shall have the right (except where prohibited by law notwithstanding Customer's consent), but not the obligation, to disclose any information to protect its rights, property and/or operations, or where circumstances suggest that individual or public safety is in peril.

16.0 FORCE MAJEURE. Notwithstanding anything to the contrary contained herein, a Party shall have no liability to the other hereunder due to circumstances beyond its control, including, but not limited to, acts of God, terrorism, flood, fiber cuts, natural disaster, regulation or governmental acts, fire, civil disturbance, weather, or any unauthorized access to or destruction or modification of the Service, in whole or in part (each a "Force Majeure Event"). Notwithstanding anything to the contrary herein, Customer may terminate the affected Order(s) in its entirety and without penalty if a Force Majeure Event continues for more than ten (10) consecutive days and prevents TWC from delivering the Service subject to such Order(s).

17.0 REGULATORY AND LEGAL CHANGES, POLE ATTACHMENT AND CONDUIT CHARGES, TARIFFS. In the event of any change in applicable law, regulation, decision, rule or order, including without limitation any new application of or increase in universal service fees or other government- or quasi-government-imposed charges that increases the costs or other terms of TWC's delivery of Service to Customer, or, in the event of any increase in pole attachment or conduit charges applicable to any facilities used by TWC in providing the Service, Customer acknowledges and agrees that TWC may pass through to Customer any such increased fees or costs, but only to the extent of the actual increase, provided TWC notifies Customer at least thirty (30) days in advance of the increase. In such case, and if such increase materially increases the fees or charges due by Customer hereunder for the applicable Service, Customer may, within thirty (30) days after notification of such increase, terminate the affected Service without incurring termination liability, provided Customer notifies TWC at least fifteen (15) days in advance of Customer's requested termination date. Further, in the event that TWC is required to file tariffs or rate schedules with a regulatory agency or otherwise publish its rates in accordance with regulatory agency rules or policies respecting the delivery of the Service or any portion thereof, and TWC is required under applicable law to apply those rates to Customer's purchase of Service under this Agreement, then the terms set forth in the applicable tariff or rate schedule shall govern TWC's delivery of, and Customer's use or consumption of the Service. Upon thirty (30) days written notice to TWC Customer may terminate without liability any Order affected by such tariff if such tariff, or any subsequent revision to such tariff, materially increases the fees due by Customer thereunder. In addition, if TWC determines that offering or providing the Service, or any part thereof, has become impracticable for legal or regulatory reasons or circumstances, then TWC may terminate this Agreement as to any or all of the Service and may terminate any affected Orders, without liability by giving Customer thirty (30) days prior written notice or any such notice as is required by law or regulation applicable to such determination.

17.1 This Agreement, its Attachments and the Order(s) are subject to all applicable federal, state or local laws and regulations in effect in the relevant jurisdiction(s) in which TWC provides the Services. If any provision of this Agreement, its Attachments, or the Order(s) contravene or are in conflict with any such law or regulation, then the terms of such law or regulation shall take priority over the relevant provision of this Agreement, its Attachments, and/or the Order(s). If the relevant law or regulation applies to some but not all of the Service(s) being provided hereunder, then such law or regulation will take priority over the relevant provision of this Agreement, its Attachments, and the Order(s) only for purposes of those Service(s) to which the law or regulation applies. Except as explicitly stated in this Agreement, nothing contained in this Agreement shall constitute a waiver by TWC of any rights under applicable laws or regulations pertaining to the installation, operation, maintenance or removal of the Services, facilities or equipment.

18.0 ENTIRE AGREEMENT. This Agreement, including without limitation all Attachments that are attached hereto and incorporated herein by this reference, sets forth the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous written or oral agreements or representations between the Parties with respect hereto.

19.0 ORDER OF PRECEDENCE. Each Service shall be provisioned pursuant to the terms and conditions of this Agreement. In the event that TWC permits a Customer to use its own standard purchase order form to order the Service, the

Parties hereby acknowledge and agree that the terms and conditions hereof shall prevail notwithstanding any variance with the terms and conditions of any purchase order submitted by Customer, and any different or additional terms contained in such purchase order shall have no force or effect. To the extent that the terms of any Attachment or Order are inconsistent with the terms of this Agreement, the terms of this Agreement shall control.

20.0 COMPLIANCE WITH LAWS. As between the Parties, TWC will obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to TWC's operation and provision of the Services as contemplated herein, and Customer will obtain and maintain at its own expense all license, approvals and regulatory authority required by law with respect to Customer's use of the Services as contemplated herein. Unless specified otherwise in this Agreement, each Party will give all notices, pay all fees and comply with all laws, ordinances, rules and regulations relating to its performance obligations specified herein.

21.0 ARBITRATION. EXCEPT FOR CLAIMS FOR INJUNCTIVE RELIEF, AS DESCRIBED BELOW, ANY PAST, PRESENT, OR FUTURE CONTROVERSY OR CLAIM ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE RESOLVED BY BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS COMMERCIAL ARBITRATION RULES, INCLUDING, IF APPLICABLE, THE SUPPLEMENTARY PROCEDURES FOR THE RESOLUTION OF CONSUMER RELATED DISPUTES. CONSOLIDATED OR CLASS ACTION ARBITRATIONS SHALL NOT BE PERMITTED. THE ARBITRATOR OF ANY DISPUTE OR CLAIM BROUGHT UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT HAVE THE POWER TO AWARD INJUNCTIVE RELIEF; INJUNCTIVE RELIEF MAY BE SOUGHT SOLELY IN AN APPROPRIATE COURT OF LAW. NO CLAIM SUBJECT TO ARBITRATION UNDER THIS AGREEMENT MAY BE COMBINED WITH A CLAIM SUBJECT TO RESOLUTION BEFORE A COURT OF LAW. THE ARBITRABILITY OF DISPUTES SHALL BE DETERMINED BY THE ARBITRATOR. JUDGMENT UPON AN AWARD MAY BE ENTERED IN ANY COURT HAVING COMPETENT JURISDICTION. IF ANY PORTION OF THIS SECTION IS HELD TO BE UNENFORCEABLE, THE REMAINDER SHALL CONTINUE TO BE ENFORCEABLE

22.0 MISCELLANEOUS. This Agreement shall be governed and construed in accordance with the laws of the State of New York, excluding its conflicts of law principles (other than Section S-1401 of the New York General Obligations Law). In the event that any portion of this Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties set forth herein and the remainder of this Agreement shall remain in full force and effect. No waiver of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. Customer may not assign this Agreement without the prior written consent of TWC, and any assignment in violation of this Section shall be null and void. TWC may assign its rights and obligations under this Agreement including, without limitation, in whole or in part, to any affiliate without the prior written approval of or notice to Customer. Customer understands and agrees that, regardless of any such assignment, the rights and obligations of TWC herein may accrue to, or be fulfilled by, any affiliate, as well as by TWC and/or its subcontractors. Customer may not issue a press release, public announcement or other public statements regarding this Agreement without TWC's prior written consent. Excluding any third party claims, claims under this Agreement must be initiated not later than two (2) years after the claim arose. There are no third party beneficiaries to this Agreement. The Parties to this Agreement are independent contractors. Any notice under this Agreement shall be given in writing and shall be deemed to have been given when actually received by the other Party. Notices shall be delivered to Customer and TWC at the respective addresses set forth above, or to such other address as is provided by one Party to the other in writing. The provisions of sections 7, 8, 9, 11, 12, 13, 14, 15, 21 and 22 shall survive the termination or expiration of this Agreement. No modification of any provision of this Agreement shall be valid unless set forth in a written instrument signed by both Parties. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

Attachment ANational Teleworker Service and Branch Office Connectivity Service**Service Descriptions:**

National Teleworker Service ("NTW Service"): If Customer selects to receive the NTW Service, TWC shall provide connectivity to a single personal computer ("PC") via a cable modem at the residential location of the limited number of Customer employees set forth on an accepted Order to connect such employees' PCs to the Customer's data network. Subject to Customer's payment of the Service Charges assessed hereunder, each PC connection may be used by one Customer employee at a time solely for Customer's internal business purposes.

Branch Office Connectivity Service ("BOC Service"): If Customer selects to receive the BOC Service, TWC shall provide connectivity from the number of Customer branch offices set forth in an accepted Order to the Customer's data network. Subject to Customer's payment of the Service Charges assessed hereunder, Customer shall be permitted to connect any number of computers within Customer's identified branch offices to the Service, provided that use does not exceed the standard bandwidth provided by TWC.

Customer's use of the NTW Service and/or the BOC Service is subject to the following additional terms and conditions:

TWC shall allow Customer employees to use (however in no event shall TWC be responsible for) a Virtual Private Network (VPN) and to allow the VPN to pass through the cable modem of any NTW Service or BOC Service, as applicable, provided that TWC shall have the right to disconnect (or demand the immediate disconnection of) any such service that degrades the TWC Service for other subscribers on the TWC network.

Customer shall not upload, post, transmit or otherwise make available on or via the NTW Service or BOC Service any material (including any message or series of messages) that violates or infringes in any way upon the rights of others, that is unlawful, threatening, abusive, obstructive, harassing, libelous, invasive of privacy or publicity rights, that in the circumstances would be obscene or indecent, that constitutes hate speech, that is otherwise offensive or objectionable, or that encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law. TWC may remove content that in its judgment violates these standards.

TWC shall have the right, but not the obligation, to (a) monitor traffic and content on its network, in its sole discretion, including through the use of automatic content filters (including without limitation spam, virus, and adult language sniffers and filters); and (b) monitor Customer's bandwidth utilization and to limit excessive use of bandwidth (as determined by TWC) as TWC deems appropriate to efficiently manage its network.

In the event that any TWC audit reveals that Customer's usage of the NTW Service or BOC Service exceeds Customer's rights hereunder, Customer shall pay TWC an amount equal to one and a half times the Service Charges that would have been due for such excessive usage as liquidated damages and not as a penalty. In addition, Customer shall either discontinue any excess usage or thereafter continue to pay the applicable Service Charges for such additional usage. In addition, TWC shall have the right, but not the obligation, to (i) review content in public areas of the NTW Service or BOC Service, including chat rooms, bulletin boards and forums, in order to determine compliance with this Agreement and any rules now or hereafter established by TWC; and (ii) remove (or demand the removal of) any such content that TWC determines to be unacceptable or to violate the terms of this Agreement, any bandwidth utilization limitations or other Terms of Use.

Attachment B
Cable TV Service

Service Description:

Cable TV Service: If Customer selects to receive the Cable TV Service, TWC shall provide Basic and Standard Cable services, on ___ outlet(s). Customer understands and agrees that premium program services, such as HBO, Cinemax, Showtime, and The Movie Channel, may not be received or shown on any television receivers located in any public areas, such as lounges, dayrooms, visiting areas or other common areas used by groups or the general public, nor shall Customer authorize or approve of any copying, taping or duplicating thereof.

Customer's use of the Cable TV Service is subject to the following additional terms and conditions:

In the event that changes in technology require the use of specialized equipment to continue to receive Cable TV Services provided by this Agreement, TWC agrees to provide such equipment and Customer agrees to pay for such equipment at the same rate charged by TWC to commercial customers in the municipality in which Customer's property receiving the Cable TV Service is located.

In the event that any TWC audit reveals that Customer's usage of the Cable TV Service exceeds Customer's rights hereunder, Customer shall pay TWC an amount equal to one and a half times the Service Charges that would have been due for such excessive usage as liquidated damages and not as a penalty. In addition, Customer shall either discontinue any excess usage or thereafter continue to pay the applicable Service Charges for such additional usage.

The monthly service charges set forth in an Order for Cable TV Service do not include applicable taxes, regulatory fees, franchise fees and public access fees. Notwithstanding anything to the contrary in this Agreement, the monthly service charges for the Cable TV Service are subject to change in accordance with commercial Cable TV rate increases applied to commercial customers.



Attachment DMetro Ethernet Solutions/Dedicated Access Service**Services Description:**

Metro Ethernet Solutions/ Dedicated Access Service: If Customer selects to receive the metro ethernet solutions/dedicated access service ("Metro Ethernet Solutions Service"), TWC shall provide Customer with a dedicated circuit connection between Customer's data network identified on an Order and the TWC facility identified on an Order.

Customer's use of the Metro Ethernet Solutions Service is subject to the following additional terms and conditions:

TWC's provision of the Metro Ethernet Solutions Service is subject to availability.

The Metro Ethernet Solutions Service shall be limited to the capacity set forth on an Order, and Customer must purchase any additional capacity separately.

Customer agrees to use the Metro Ethernet Solutions Service solely for transmitting data in IP form.

Customer shall not upload, post, transmit or otherwise make available on or via the Metro Ethernet Solutions Service any material (including any message or series of messages) that violates or infringes in any way upon the rights of others, that is unlawful, threatening, abusive, obstructive, harassing, libelous, invasive of privacy or publicity rights, that in the circumstances would be obscene or indecent, that constitutes hate speech, that is otherwise offensive or objectionable, or that encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law. TWC may remove or demand the removal of, content that in its judgment violates these standards.

TWC shall have the right, but not the obligation, to monitor traffic and content on its network, in its sole discretion, including through the use of automatic content filters (including without limitation spam, virus, and adult language sniffers and filters).

In the event that any TWC audit reveals that Customer's usage of the Metro Ethernet Solutions Service exceeds Customer's rights hereunder, Customer shall pay TWC an amount equal to one and a half times the Service Charges that would have been due for such excessive usage as liquidated damages and not as a penalty. In addition, Customer shall either discontinue any excess usage or thereafter continue to pay the applicable Service Charges for such additional usage. In addition, TWC shall have the right, but not the obligation, to (i) review content in public areas of the Metro Ethernet Solutions Service, including chat rooms, bulletin boards and forums, in order to determine compliance with this Agreement and any rules now or hereafter established by TWC; and (ii) remove (or demand the removal of) any such content that TWC determines to be unacceptable or to violate the terms of this Agreement, any bandwidth utilization limitations or other Terms of Use.

Service Order Agreement
Contact Information

Time Warner Cable LLC ("TWC")		The City of Torrance	
NOTICE ADDRESS:	17777 Center Court Drive, 8 th Floor Cerritos, CA 90703	NOTICE ADDRESS:	3031 Torrance Blvd. Torrance, CA 90501
CONTACT:	Charles McLaurin	CONTACT:	Ryan Lee
PHONE:	562-677-0290	PHONE:	310-781-7508
EMAIL:	Charles.mclaurin@twcable.com	EMAIL:	rlee@torrnet.com
PAYMENT ADDRESS:	PO Box 60074 City of Industry, CA 91716-0074	BILLING ADDRESS:	3031 Torrance Blvd. Torrance, CA 90501

Billing Information And Service Commitment Period

TWC Access ID:	
Customer PON:	
TSP:	30MB Dedicated Internet Access
Service Term Length:	12 months
Total Service Order Monthly Recurring Charge:	\$2900
Total Service Order Non-Recurring Charge:	\$0.00

Location A		Z Location	
Site ID:	City Hall	Site ID:	N/A
CLLI Code:		CLLI Code:	
Address:	3031 Torrance Blvd Torrance, CA 90501	Address:	
Site Contact:	Ryan Lee	Site Contact:	
Site Phone:	310-781-7508	Site Phone:	
Building Manager		Building Manager	
Contact:		Contact:	
Building Manager Phone:		Building Manager	
		Phone:	
Point of Demarcation:		Point of	
		Demarcation:	

Qty	Service	Facility	Protected (Yes/No)	Monthly Recurring Charge	Non-Recurring Charge
1	30Mb DIA			\$2900	\$0.00
Total =				\$2900	\$0.00

Comments:

C2009-041

COPY
1st

Service Order Agreement ^{nt}

Customer Requested Firm Order Commitment (FOC) Date: Open
TWC SPIN Number:

Customer approves and accepts this Service Order Agreement which is an Amendment to the Dedicated Access Service Agreement between The City of Torrance ("Customer") and TWC dated as of May 7 2009. This Amendment upgrades the 10MB service at the MRC of \$1400 to a 30MB service at the MRC of \$2900 for the term of 12 months from the date of the upgrade. Customer agrees to be bound by the terms and conditions of the original Dedicated Access Service Agreement.. The Requested FOC date is subject to TWC's internal provisioning, and an actual FOC Date will be issued to Customer.

Time Warner Cable LLC:

Signature



Print Name

David Montanari

Title

Rep TWC

Date

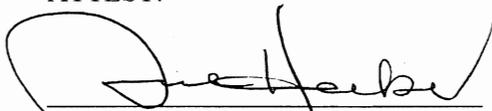
8/26/2009

CITY OF TORRANCE

FRANK SCOTTO

City Mayor

ATTEST:



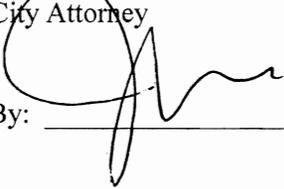
SUE HERBERS

City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III

City Attorney

By: 

Dedicated Access Service Agreement

This Dedicated Access Service Agreement (the "Agreement") is entered into as of this 07 day of January, 2009 (the "Effective Date"), by and between City of Torrance City Hall, with offices located at 3031 Torrance Blvd., Torrance, CA 90501 ("Customer") and the Los Angeles division of Time Warner Cable, with offices located at 9260 Topanga Canyon Blvd., Chatsworth, CA 91311 ("TWC"). In consideration of the mutual promises and agreements made herein and intending to be legally bound, the parties agree as follows:

1. **SERVICE.** Subject to the terms and conditions of this Agreement, TWC shall provide Customer with a dedicated "Dedicated Access" service connection between Customer's facility and TWC's (or a TWC affiliate's) facility as further described on Exhibit A attached hereto (the "Service"). TWC shall use commercially reasonable efforts to provide the Service 7 days a week, 24 hours a day, excluding scheduled maintenance, required repair and events beyond TWC's reasonable control. TWC's provision of the Service is subject to availability.

2. **INSTALLATION.** Customer shall obtain and maintain throughout the Term (as defined in Section 5 below) such consents (including without limitation landlord and land owner consents) as are necessary to timely permit, and shall timely permit, TWC personnel to install, deliver, operate and maintain the Service and Equipment as contemplated herein at Customer's facilities. Customer shall permit TWC to access the Customer facilities at any time as needed to install, configure, upgrade, maintain or remove the Equipment and other service components collocated at Customer's facilities. Customer shall make and maintain throughout the Term all site preparations necessary to permit the installation, maintenance, and operation of the Service and any Equipment (as defined below) as specified by TWC. Provided that Customer properly performs all necessary site preparation and provides TWC with all required consents, TWC shall use commercially reasonable efforts to install the Service in accordance with a mutually agreed upon schedule. TWC shall provide Customer with a completion notice ("Completion Notice") upon completion of the installation of the Service. Interconnection of the Service and Equipment with Customer's equipment will be performed by Customer.

3. **SUPPORT & MAINTENANCE.** TWC shall use commercially reasonable efforts to maintain the TWC provided and installed cabling, routers and other TWC-installed equipment, if any, (collectively, the "Equipment") used by TWC to provide the Service. TWC shall provide a telephone number and email address for inquiries and remote problem support for the Service. All such Customer support shall be provided to Customer's help desk personnel only. Customer is responsible for interfacing with its employees and end users. In no event shall TWC be responsible for providing such support for any network, equipment or software not provided and installed by TWC under this Agreement or for issues or problems beyond its direct control. Customer agrees to provide routine operational Service support for Equipment and service components collocated at Customer's facility, including without limitation by performing reboots, as requested by TWC.

4. **CUSTOMER OBLIGATIONS.** Customer's use of the Service (including all content transmitted via the Service) shall comply with all applicable laws and regulations, the terms of this Agreement, and any Terms of Use (which are incorporated herein by this reference). "Terms of Use" means all Service policies, including without limitation acceptable use policies, and other terms and conditions established by TWC and available on the TWC web site, [www.accesstimewarner.com], as may be modified from time to time by TWC. Customer agrees not to resell or make any use of the Service other than for Customer's internal business purposes. [Customer agrees to use the Service solely for data services. Customer shall maintain the Equipment free and clear of all liens and encumbrances and shall be responsible for loss or damage to the Equipment while at Customer's facilities. As between the parties, Customer is solely responsible for (a) all use (whether or not authorized) of the Service, which use shall be deemed Customer's use for purposes of this Agreement; and (b) all content that is stored or transmitted via the Service. Customer shall not upload, post, transmit or otherwise make available on or via the Service any material (including any message or series of messages) that violates or infringes in any way upon the rights of others, that is unlawful, threatening, abusive, obstructive, harassing, libelous, invasive of privacy or publicity rights, that in the circumstances would be obscene or indecent, that constitutes hate speech, that is otherwise offensive or objectionable, or that encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law or regulation. TWC may remove, or demand the removal of, content that in its judgment violates these standards. Customer agrees to conform its equipment and software to TWC's then-current network specifications and system requirements for the Service.

5. **TERM.** The Agreement shall be in effect for the Initial Term of Service set forth on Exhibit A, and unless terminated earlier in accordance with this Agreement, shall thereafter automatically renew on an annual basis unless either party notifies the other party at least thirty (30) days prior to the expiration of the then-current term of such party's intent not to renew (the Initial Term and any renewal term collectively referred to as the "Term").

6. **PAYMENT.** Customer agrees to pay TWC the one-time Service installation fee and monthly recurring Service fees (collectively the "Service Charges") set forth on Exhibit A in accordance with the following payment terms: Service Charges will be billed to Customer monthly in accordance with TWC's regular billing schedule and are payable within thirty (30) days after the date of invoice. Customer shall be responsible for all use, sales and other taxes and governmental charges applicable to the Service (which taxes and charges are not included in the Service Charges), except for taxes payable on TWC's net income. TWC shall have the right to increase Service Charges after the Initial Term upon thirty (30) days advance written notice to Customer. TWC may

TWC PROPRIETARY & CONFIDENTIAL

COPY

1st

C2009-049

J

charge a late fee for all overdue amounts. The late fee will be the lesser of 1½% or the highest rate chargeable by law. Customer shall also be responsible for all costs of collection (including reasonable attorneys' fees) to collect overdue amounts. In addition to the foregoing, and all other available remedies, TWC may discontinue Customer's access to the Service in whole or in part, until such overdue amounts, together with interest, are paid. TWC may require a security deposit, letter of credit, advance payment for Service or other reasonable assurances of payment from Customer.

7. PROPRIETARY RIGHTS AND CONFIDENTIALITY. (a) TWC's Proprietary Rights. All materials, including, but not limited to, any Equipment (including related firmware), software, data or information developed or provided by TWC, any identifiers or passwords used to access the Service or otherwise provided by TWC, and any know-how, methodologies or processes including, but not limited to, all copyrights, trademarks, patents, trade secrets, any other proprietary rights inherent therein and appurtenant thereto, used by TWC to provide the Service (collectively "TWC Materials") shall remain the sole and exclusive property of TWC or its suppliers. Customer shall acquire no interest in the TWC Materials by virtue of the payments provided for herein. Customer may use the TWC Materials solely for Customer's use of the Service. Customer may not reproduce, modify or distribute the TWC Materials, or use them for the benefit of any third party. All rights in the TWC Materials not expressly granted to Customer are reserved to TWC. Customer will not open, alter, misuse, tamper with or remove the Equipment as and where installed by TWC, and will not remove any markings or labels from the Equipment indicating TWC (or its suppliers) ownership or serial numbers. (b) Confidentiality. Customer agrees to maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted herein, the TWC Materials and any other information and materials provided by TWC in connection with this Agreement that are identified or marked as confidential or are otherwise reasonably understood to be confidential. (c) Software. If software is provided to Customer hereunder, TWC grants Customer a limited, non-exclusive and non-transferable license to use such software, in object code form only, solely for the purpose of using the Service for Customer's internal business purposes during the Term.

8. MONITORING AND MODIFICATIONS. TWC shall have the right, but not the obligation, to monitor traffic and content on its network, in its sole discretion, including through the use of automatic content filters (including without limitation spam, virus, and adult language sniffers and filters). TWC shall have the right, but not the obligation, to upgrade, modify and enhance the Equipment (including related firmware) and the Service and take any action that TWC deems appropriate to protect the Service and its facilities. TWC also shall have the right to add to, modify or delete any provision of the Terms of Use or any Service descriptions. TWC will notify Customer of any material adverse change in the Terms of Use or Service descriptions by posting notice of such change on the TWC web site or by email. Customer's continued use of the Service after such notice shall constitute Customer's acceptance of such change.

9. TERMINATION. Either party may terminate this Agreement upon thirty (30) days written notice of the other party's material breach, provided that such material breach is not cured within such thirty (30) day period. In addition, in the event that Customer fails to comply with any applicable laws or regulations, the terms of this Agreement, or the Terms of Use, TWC may suspend or discontinue Customer's Service in whole or in part without advance notice. In the event of a suspension, TWC may require a reconnect charge to restart the suspended Service. Upon the termination or expiration of this Agreement: (a) TWC's obligations hereunder shall cease; (b) Customer promptly shall pay all amounts due and owing to TWC for Service delivered prior to the date of termination or expiration and any applicable deinstallation fee, if any; (c) Customer promptly shall cease all use of any software provided by TWC hereunder, and shall return such software to TWC; and (d) Customer shall return to TWC or permit TWC to remove, in TWC's sole discretion, the Equipment in the same condition as when received, ordinary wear and tear excepted. Customer shall be responsible for reimbursing TWC for the repair or replacement, at TWC's discretion, of any Equipment not returned in accordance with this section. In addition, notwithstanding anything to the contrary herein, upon early termination of this Agreement by Customer, Customer shall promptly pay TWC a termination fee equal to the Service Charges that would have been due for the remainder of the Initial Term or the then-current renewal term, as applicable, and any unpaid portion of the Installation Fee set forth on Exhibit A. The foregoing shall be in addition to any other rights and remedies that TWC may have under this Agreement or at law or equity relating to Customer's material breach.

10. INDEMNIFICATION. Customer agrees to defend, indemnify and hold harmless TWC, its affiliates, its service providers and suppliers and their respective officers, directors, employees and agents, from and against all claims, liabilities, damages and expenses, including attorneys' and other professionals' fees, arising out of or relating to (i) the use of the Service, including but not limited to a breach of Section 4 herein; or (ii) personal injury or property damage caused by the negligence or willful misconduct of Customer or its employees or agents.

11. DISCLAIMER OF WARRANTY. CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE AND THE INTERNET AND ACCESSES THE SAME AT ITS OWN RISK. TWC EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE OR THE INTERNET OR ACTIONS TAKEN ON THE INTERNET AND TWC EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH CONTENT OR ACTIONS. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE SERVICE AND RELATED EQUIPMENT AND/OR OTHER MATERIALS USED IN CONNECTION WITH THE SERVICE, IF ANY, ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NONINFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY,

TWC PROPRIETARY & CONFIDENTIAL

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

12. LIMITATION OF LIABILITY. IN NO EVENT SHALL TWC BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF WHETHER TWC HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE AGGREGATE LIABILITY OF TWC TO CUSTOMER FOR ANY REASON AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT (INCLUDING NEGLIGENCE) AND STRICT PRODUCT LIABILITY) SHALL BE LIMITED TO THE FEES PAID BY CUSTOMER UNDER THIS AGREEMENT IN THE SIX (6) MONTHS PRECEDING THE DATE THE CLAIM ARISES. IN NO EVENT SHALL TWC'S AFFILIATES, THIRD PARTY SERVICE PROVIDERS OR SUPPLIERS HAVE ANY LIABILITY TO CUSTOMER HEREUNDER.

13. NOTIFICATIONS. Customer's privacy interests, including Customer's ability to limit disclosure of certain information to third parties, are addressed by, among other laws, the Federal Cable Communications Act (the "Cable Act") and the Electronic Communications Privacy Act. Personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in the Subscriber Privacy Notice provided by TWC in writing, which is incorporated herein by reference. Customer acknowledges receipt of the Subscriber Privacy Notice. In addition to the foregoing, Customer hereby acknowledges and agrees that TWC may disclose Customer's and its employees' personally identifiable information as required by law or regulation or by the American Registry for Internet Numbers ("ARIN") or any similar agency. In addition to actions and disclosures specifically authorized by law or statute or authorized elsewhere in this Agreement, TWC shall have the right (except where prohibited by law notwithstanding Customer's consent), but not the obligation, to disclose any information to protect its rights, property and/or operations, or where circumstances suggest that individual or public safety is in peril. Customer hereby consents to such actions or disclosures.

14. FORCE MAJEURE. TWC shall have no liability to Customer hereunder due to circumstances beyond its control, including, but not limited to, acts of God, terrorism, flood, fiber cuts, acts or omissions of other carriers, natural disaster, regulation or governmental acts, fire, civil disturbance, strike, weather, any unauthorized access to or destruction or modification of the Service, in whole or in part, any failure of heat, air conditioning, or power supply, or act or failure to act of Customer or any third party using the Service.

15. REGULATORY AND LEGAL CHANGES; TARIFFS. In the event of any change in applicable law, regulation, decision, rule or order, including without limitation any increase in universal service fees or other government imposed charges, that increases the costs or other terms of delivery of Service to Customer, Customer acknowledges and agrees that TWC may pass through to Customer any such increased costs. Further, in the event that TWC is required to file tariffs with the appropriate regulatory agency or otherwise publish rates in accordance with regulatory agency rules or policies respecting the delivery of the Service or any portion thereof, then the terms set forth in the applicable tariff or published rates shall govern TWC's delivery of, and Customer's consumption or use of, the Service. In addition, if TWC determines that offering or providing the Service, or any part thereof, has become impracticable for legal or regulatory reasons or circumstances, then TWC may terminate this Agreement as to any or all of the Service without liability by giving Customer thirty (30) days prior written notice (or such shorter notice as is required by law or regulation) of such determination.

16. ENTIRE AGREEMENT. This Agreement, including without limitation all exhibits that are attached hereto and incorporated herein by this reference, sets forth the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous written or oral agreements or representations between the parties with respect hereto. In the event that TWC permits a Customer to use its own standard purchase order form to order the Service, the parties hereby acknowledge and agree that the terms and conditions hereof shall prevail notwithstanding any variance with the terms and conditions of any purchase order submitted by Customer, and any different or additional terms contained in such purchase order shall have no force or effect.

TWC PROPRIETARY & CONFIDENTIAL

MISCELLANEOUS. This Agreement shall be governed and construed in accordance with the laws of the State of California, excluding its conflicts of law principles. In the event that any portion of this Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties set forth herein, and the remainder of this Agreement shall remain in full force and effect. No waiver of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. Customer may not assign this Agreement without the prior written consent of TWC, and any assignment in violation of this Section shall be null and void. TWC may assign its rights and obligations under this Agreement, including without limitation, in whole or in part, to any Time Warner Cable Inc. affiliated party without the prior written approval of or notice to Customer. Customer shall make no press release, public announcement or other public statements regarding this Agreement without TWC's prior written consent. All claims under this Agreement must be initiated not later than two years after the claim arose. There are no third party beneficiaries to this Agreement. Customer understands and agrees that, regardless of any such assignment, the rights and obligations of TWC herein may accrue to, or be fulfilled by, any TWC affiliate, including without limitation Road Runner HoldCo LLC, as well as by TWC and/or its subcontractors. The parties to this Agreement are independent contractors. Any notice under this Agreement shall be given in writing and shall be deemed to have been given when actually received by the other party. Notices shall be delivered to Customer and TWC at the respective addresses set forth above, or to such other address as is provided by one party to the other in writing. The provisions of Sections 6, 7, 9, 10, 11, 12 and 17 shall survive the termination or expiration of this Agreement. No modification of any provision of this Agreement shall be valid unless set forth in a written instrument signed by both parties. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Notwithstanding anything herein to the contrary, any party to this Agreement (and each employee, representative, or other agent of such party) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transaction and all materials of any kind (including opinions and other tax analyses) that are provided to the party relating to such tax treatment and tax structure.

CUSTOMER:

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

TWC: David Montierth
 By: _____
 Name: **David Montierth**
 Title: **Regional Vice President**
 Date: 5/7/09

CITY OF TORRANCE, a Municipal Corporation

Frank Scott
 Frank Scott, Mayor

ATTEST:

Sue Herbers
 Sue Herbers
 City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
 City Attorney

By: John L. Fellows III

[Handwritten mark]

Exhibit A**Service**

Subject to the terms and conditions of this Agreement, TWC shall provide Customer with a dedicated circuit connection between Customer's data network located at 3031 Torrance Blvd., Torrance, CA 90501 and the TWC facility located at 9260 Topanga Canyon Blvd., Chatsworth, CA 91311. The Service shall have the following capacity: 10Mx10M Fiber Internet with 13 Static IP's. Customer must purchase any additional capacity separately.

Prices

Installation Fee: \$0.00

Monthly Recurring Fee: \$1,400.00

Initial Term of Service

For a period of 36 months from the date of TWC's Completion Notice.

Dedicated Fiber Service Level Agreement

SLA – Latency

- Metro
 - Gold 40 ms
- Intra-Regional
 - Gold 50 ms
- Inter-Regional
 - Gold 60 ms

SLA - Availability

- Metro
 - Gold 99.97%
- Intra-Regional
 - Gold 99.97%
- Inter-Regional
 - Gold 99.97%

SLA Comparison
Local, Regional & Cross-country
Gold Level

LOCAL

(13 min per month)
40 ms Latency
0.1% Packet Loss

REGIONAL

99.97% Availability
50 ms Latency
0.15% packet loss

INTER-REGIONAL

99.97% Availability
60 ms Latency
0.2% Packet loss

Time Warner Cable Business Class Services Agreement

Confirmation of Service Order

Account Executive: Valerie Jordan
 Office Phone: 818/407-4469
 Cell Phone: 818/612-1852
 Fax: 818/302-1437

24 Hour Technical Support: 1-866-772-4948

This Time Warner Cable Business Class Services Agreement is made by and between [TWC Communications, LLC or Time Warner Cable Information Services (California), LLC] and (Division Commercial Video & HSD Entity/Entities) collectively d/b/a Time Warner Cable ("TWC") and the customer identified below ("Customer"):

Service Location

Company: City of Torrance Airport
 Contact: Ernest Gallo
 Phone: (310) 618-2885
 Address: 3301 Airport Dr.
 City: Torrance, CA 90501
 Office: (310) 618-2885
 Cell:

Authorized Contact Person(s)

Primary: Ernest Gallo
 Fax: (310) 618-5879
 E-Mail Address:
 EGallo@TORRNET.COM

Service Package	Monthly Fee*	Installation Fee*
2Mx2M 13 Static IP 5 Email Accounts 1 Router 1 Remote Access Account Platinum Level Service	<u>\$252.59*</u> per month for 36 months	\$ 0.00

C20091041

The term of this Agreement is for 36 months from installation date and is the Customer's minimum committed period for the services as listed on this confirmation of service order, commencing on the date of installation of each service. In the event the sub should cancel service prior to full term of contract, sub is required to pay the cost of construction to Time Warner plus early termination fees set forth and stated in this contract (section 11).

THIS TIME WARNER CABLE BUSINESS CLASS SERVICES AGREEMENT IS SUBJECT TO THE TIME WARNER CABLE BUSINESS CLASS SERVICES AGREEMENT TERMS, A COPY OF WHICH WILL BE PROVIDED TO CUSTOMER UPON REQUEST. SUCH TERMS AND CONDITIONS ARE INCORPORATED HEREIN BY THE REFERENCE. BY EXECUTING THIS TIME WARNER CABLE BUSINESS CLASS SERVICES AGREEMENT, CUSTOMER ACCEPTS AND AGREES TO BE BOUND BY ALL SUCH TERMS AND CONDITIONS, INCLUDING RELATING TO THE TIME WARNER BUSINESS CLASS SERVICE AGREEMENT THROUGH ARBITRATION; AND (2) BY AGREEING TO ARBITRATION, CUSTOMER IS GIVING UP VARIOUS RIGHTS, INCLUDING THE RIGHT TO TRIAL BY JURY.

CUSTOMER

Dated: May 1, 2009

S.S.# or Tax I.D.#: 95-6000803

CITY OF TORRANCE
 a Municipal Corporation

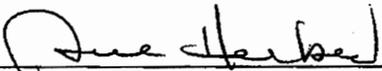

 Frank Scotto, Mayor

COPY

1x

J

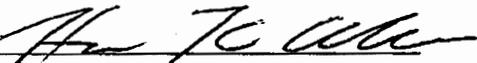
ATTEST:



Sue Herbers
City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: 

***Fees specified in the Agreement do not include applicable taxes and franchise fees, which will be added to Customer's bill in accordance with statutes and regulations governing provision of the Service.**

¹**Persistent IP is an extended lease and is subject to change if renumbering within the network occurs. Notification will occur prior to changes.**

Time Warner Cable Business Class 866 772-4948



Time Warner Cable Business Class Services Agreement

Terms and Conditions

1.0 AGREEMENT. The Time Warner Cable Business Class Services Agreement executed by the parties and these Terms and Conditions, including all documents incorporated herein by reference (collectively referred to as the "Agreement") set forth the entire agreement between the Customer and Time Warner Cable ("TWC") and together with Customer, (the "Parties" or each individually a "Party") for the delivery and use of and payment for the services ("Services") identified on an Order(s) (as defined in Section 2.2 below) and further described on the applicable attachments to this Agreement (including Attachment A (National Teleworker Service and Branch Office Connectivity Service), Attachment B (Cable TV Service), Attachment C (Business Class Phone Service), and Attachment D (Metro Ethernet Solutions/Dedicated Access Service)).

2.0 SERVICES AND ORDERS.

2.1 Subject to the terms and conditions of this Agreement (including, without limitation, Customer's compliance with its obligations set forth in Section 5), TWC shall provide Customer with the Services, pursuant to and in conformance with any Order accepted in accordance with Section 2.2 below during the Term (as defined in Section 6 below). Customer understands and agrees that certain Services may not be available in all TWC service areas and that TWC, upon entering into an Order with Customer may, at its own discretion, utilize one or more of its affiliates or another party or parties to deliver the applicable Service. Unless otherwise set forth on an applicable Attachment, TWC shall use commercially reasonable efforts to provide each Service identified in an Order seven (7) days a week, twenty four (24) hours a day, excluding scheduled maintenance, required repair and events beyond TWC's reasonable control.

2.2 Customer shall request Services hereunder by issuing to TWC one or more proposed service and/or work order(s) (each an "Order") pursuant to this Agreement (in the form provided or approved by TWC) or via a mutually agreed electronic order entry system. Upon TWC's acceptance of a proposed service and/or work order(s), such proposed service and/or work order(s), shall be deemed an "Order" hereunder and shall be deemed incorporated into this Agreement. A proposed service and/or work order shall be deemed accepted upon the earlier of (a) TWC's acceptance of such proposed service and/or work order in writing; or (b) TWC's commencement of delivery of the Service(s) set forth in such proposed service and/or work order.

3.0 SERVICE & EQUIPMENT INSTALLATION. Customer shall obtain and maintain, or ensure that each Customer employee or branch office to whom the Service will be provided, or who shall use the Service, as applicable (each an "End User"), shall obtain and maintain, throughout the Term such consents (including without limitation landlord and land owner consents) as are necessary to timely permit, and shall timely permit, TWC personnel to install, deliver, operate and maintain the Service and TWC Equipment (as defined in Section 4 below) as contemplated herein at Customer's and any Customer End User's facilities. Customer shall permit TWC reasonable access to the Customer and any End User facilities at any time as needed to install, configure, upgrade, maintain or remove the TWC Equipment and other Service components collocated at Customer's or an End User's facilities. Customer shall make and maintain throughout the Term all reasonable site preparations necessary to permit the installation, maintenance and operation of the Service and any TWC Equipment as specified by TWC and that is required to provide the Services hereunder. In addition, Customer will provide TWC with floor space, rack space, other space and clean power as is reasonably necessary for the installation and operation of TWC Equipment at the Customer locations identified in an Order, for the term of the applicable Order. Customer shall not charge TWC, and shall ensure that TWC does not incur, any fees or expenses whatsoever in connection with Customer's provision of space, power, or access as described herein, or otherwise in connection with Customer's performance of its obligations pursuant to this Section 3; and any such fees or expenses charged by a Customer End User shall be borne solely by Customer. Provided that Customer properly performs all necessary site preparation and provides TWC with all required consents, TWC shall use commercially reasonable efforts to install the Service in accordance with the requested Service start date indicated on an Order. TWC shall provide Customer with a completion notice ("Completion Notice") upon completion of the installation of a Service. In the event that TWC is unable to install the Service in accordance with the agreed upon schedule as a result of (i) Customer's (or its End User's) failure to deliver any required materials, support or information to TWC; or (ii) TWC not being able to obtain access to equipment or software at the installation location as necessary for installation of the Service, then Customer shall pay TWC the standard installation fee as identified on the applicable Attachment hereto for any installation trip made by TWC and an additional installation fee for each subsequent trip necessitated to perform the Service installation. Interconnection of the Service and TWC Equipment with Customer's or an End User's, as applicable, equipment will be performed by Customer unless otherwise agreed in writing between the Parties.

4.0 SUPPORT & MAINTENANCE. TWC shall use commercially reasonable efforts to maintain the TWC-provided and installed equipment, including as applicable, any cabling, cable modems, related splitters, routers or other items, (collectively, the "TWC Equipment") on TWC's side of the demarcation points used by TWC to provide the Service. Notwithstanding any contrary provision set forth in this Agreement, equipment and services on Customer's side of the demarcation points, as well as any other Customer-provided equipment, are the responsibility of Customer. TWC shall provide a telephone number and email address for inquiries and remote problem support for the Service. All such Customer support shall be provided only to Customer's designated personnel, as mutually agreed upon by TWC and Customer. Customer is responsible for all communications and interfaces with its End Users. In no event shall TWC be responsible for providing support for any network, equipment or software not provided and installed by TWC under this Agreement or for issues or problems beyond its control. Notwithstanding anything to the contrary in the foregoing, TWC shall use commercially reasonable efforts to restore any cable cuts on the TWC network and shall keep Customer reasonably advised of such restoration progress. Customer agrees to

provide routine operational Service support for TWC Equipment and Service components collocated at Customer's or an End User's facility, including without limitation by performing reboots, as requested by TWC.

5.0 CUSTOMER OBLIGATIONS.

5.1 Customer's use of the Service (including all content transmitted via the Service) shall comply with all applicable laws and regulations and the terms of this Agreement. Customer agrees not to resell or redistribute (whether for a fee or otherwise) the Service, or any portion thereof, or make any use of the Service other than for Customer's internal business purposes, unless otherwise agreed in writing by TWC. Customer shall ensure that its End Users' use of the Service, if any, shall comply with all applicable laws and regulations and any applicable Terms of Use (which are incorporated herein by this reference). "Terms of Use" means all applicable Service policies, including without limitation acceptable use policies, and other terms and conditions established by TWC and may be modified from time to time by TWC, at its sole discretion. TWC may audit Customer's use of the Service remotely or otherwise, to ensure Customer's compliance with this Agreement.

5.2 Customer shall ensure that all TWC Equipment at Customer's and Customer's End Users' facilities remains free and clear of all liens and encumbrances and Customer shall be responsible for loss or damage to the TWC Equipment while at Customer's or an End User's facilities. As between the Parties, Customer is solely responsible for (a) all use (whether or not authorized) of the Service by Customer, an End User or any unauthorized person or entity, which use shall be deemed Customer's use for purposes of this Agreement; (b) all content that is viewed, stored or transmitted via the Service, as applicable; and (c) all third party charges incurred for merchandise and services accessed via the Service, if any. Customer agrees to conform its equipment and software, and to ensure that each End User conforms its equipment and software, to the technical specifications for the Service provided by TWC from time to time.

6.0 **TERM.** The Agreement shall commence on the date of full execution by the Parties (the "Effective Date") and shall remain in effect for an initial term of one (1, 2 or 3) years (the "Initial Term"). Unless terminated earlier in accordance with the provisions stated herein, upon the expiration of the Initial Term this Agreement shall automatically renew on an annual basis, unless either Party notifies the other Party at least ninety (90) days prior to the expiration of the then-current Term of such Party's intent not to renew (the Initial Term and any renewal term collectively referred to as the "Term"). If an Order Term (as set forth in an applicable Order) extends beyond the expiration of the Term, then this Agreement and the respective Order(s) will continue in effect until the expiration or termination of the applicable Order Term, but only as to the applicable Order(s), and subject to the termination rights of TWC and Customer under this Agreement.

7.0 **PAYMENT.** For each Service, Customer agrees to pay TWC the non-recurring Service installation fees and monthly recurring Service fees (collectively the "Service Charges") set forth on the applicable Order in accordance with the following payment terms: Service Charges will be billed to Customer on a monthly basis, in accordance with TWC's regular billing schedule, and are payable within thirty (30) days after the date appearing on the invoice. TWC shall have the right to increase Service Charges for each Service after the initial Order Term for such Service upon thirty (30) days advance written notice to Customer. TWC may charge a late fee for any amounts which are not paid when due. The late fee will be the lesser of one and one-half percent (1.5%) per month or the highest rate chargeable by law. Customer shall also be responsible for all costs of collection (including reasonable attorneys' fees) to collect overdue amounts.

8.0 **TAXES.** Customer shall pay all federal, state, and local taxes, fees, charges, surcharges or similar exactions imposed on the Services and/or products that are the subject of this Agreement including but not limited to state and local sales and use taxes, telecommunications taxes, federal and state universal service fund fees and/or state and local regulatory fees to the extent applicable. Further, TWC shall have the right to recover from Customer the amount of any state or local fees or taxes arising as a result of this Agreement, which are imposed on TWC or TWC's services, or measured on TWC's receipts. Such fees or taxes shall be invoiced to Customer in the form of a surcharge included on Customer's invoice. TWC shall be responsible for and shall pay all taxes measured by TWC's net income. To the extent that a dispute arises as to which Party is liable for fees or taxes under this Agreement, Customer shall bear the burden of proof in showing that the fee or tax is imposed upon TWC's net income. This burden may be satisfied by Customer producing written documentation from the jurisdiction imposing the fee or tax indicating that the fee or tax is based on TWC's net income. Customer shall be responsible for providing TWC any and all documentation substantiating a claim for exemption from taxes or fees prior to the date that Services are first provided under this Agreement. To the extent such documentation is held invalid for any reason, Customer agrees to reimburse TWC for any tax or fee liability including without limitation related interest and penalties arising from such invalid documentation.

8.1 Customer acknowledges that currently, and from time to time, there is uncertainty about the regulatory classification of some of the Services TWC provides and, consequently, uncertainty about what fees, taxes and surcharges are due from TWC and/or its customers. Customer agrees that TWC has the right to determine, in its sole discretion, what fees, taxes and surcharges are due and to collect and remit them to the relevant governmental authorities, and/or to pay and pass them through to me. Customer hereby waives any claims it may have regarding TWC's collection or remittance of such fees, taxes and surcharges. Customer understand that it may obtain a list of the fees, taxes and surcharges that TWC currently collects or passes through by writing to TWC at the following address and requesting same: Time Warner Cable, 7800 Crescent Executive Drive, Charlotte, North Carolina, 28217; Attention: Subscriber Tax Inquiries.

9.0 **PROPRIETARY RIGHTS AND CONFIDENTIALITY.** (a) TWC's Proprietary Rights. All materials including, but not limited to, any TWC Equipment (including related firmware), software, data and information provided by TWC, any identifiers or passwords used to access the Service or otherwise provided by TWC, and any know-how, methodologies or processes including, but not limited to, all copyrights, trademarks, patents, trade secrets, any other proprietary rights inherent therein and appurtenant thereto, used by TWC to provide the Service (collectively "TWC Materials") shall remain the sole and exclusive property of TWC or its suppliers. Customer shall acquire no interest in the TWC Materials by virtue of the payments provided for herein. Customer may use the TWC Materials solely for Customer's use of the Service. Customer may not disassemble, decompile, reverse engineer, reproduce, modify or distribute the TWC Materials, in whole or in part, or use them for the benefit of any third party. All rights in the TWC Materials not expressly granted to Customer herein are reserved to TWC. Customer

shall not open, alter, misuse, tamper with or remove the TWC Equipment as and where installed by TWC, and shall not remove any markings or labels from the TWC Equipment indicating TWC (or its suppliers) ownership or serial numbers. (b) Confidentiality. Customer agrees to maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted herein, the TWC Materials and any other information and materials provided by TWC in connection with this Agreement, including but not limited to the content of this Agreement, that are identified or marked as confidential or are otherwise reasonably understood to be confidential. (c) Software. If software is provided to Customer hereunder, TWC grants Customer a limited, non-exclusive and non-transferable license to use such software, in object code form only, solely for the purpose of using the Service for Customer's internal business purposes during the Term.

10.0 MONITORING, EQUIPMENT UPGRADES AND MODIFICATIONS. TWC shall have the right, but not the obligation, to upgrade, modify and enhance the TWC Equipment (including related firmware) and the Service and take any action that TWC deems appropriate to protect the Service and its facilities. TWC also shall have the right to add to, modify or delete any provision of this Agreement (including the Terms of Use). TWC will notify Customer of any material adverse change in this Agreement (including the Terms of Use) or Service descriptions by posting notice of such change on the TWC web site or by email, or, if applicable, in the appropriate TWC tariff. In any event, if TWC modifies this Agreement (including the Terms of Use) and such modification has a material adverse impact on Customer's ability to use the Service, Customer may, within the thirty (30) day period following the date of such modification, terminate without penalty the Order relating to the affected Service.

11.0 TERMINATION. Either Party may terminate an applicable Order (a) upon thirty (30) days written notice of the other Party's material breach, provided that such material breach is not cured within such thirty (30) day period, or (b) immediately, in the event that the other Party liquidates, is adjudicated as bankrupt, makes an assignment for the benefit of creditors, invokes any provision of law for general relief from its debtors, initiates any proceeding seeking general protection from its creditors, is removed or delisted from a trading exchange or its long term debt is downgraded more than two levels from its rating as of the Effective Date. In addition, in the event that Customer fails to comply with any applicable laws or regulations, the terms of this Agreement or the Terms of Use, TWC may upon thirty (30) days written notice suspend or discontinue any applicable Service in whole or in part without further notice, provided that such failure is not cured within such thirty (30) day period. In addition, TWC may immediately suspend Customer's or its End User's use of the Service if such use is determined by TWC, at its sole discretion, to be resulting in a material degradation of the TWC network, until such time as such degradation has been remedied. TWC will use commercially reasonable efforts to assist Customer in remedying such degradation. In the event of a suspension, TWC may require the payment of reconnect or other charges before restarting the suspended Service. Upon the termination or expiration of this Agreement and the Order(s) hereunder: (i) TWC's obligations hereunder shall cease; (ii) Customer promptly shall pay all amounts due and owing to TWC for Service delivered prior to the date of termination or expiration and any applicable deinstallation fees identified in Order(s), if any; (iii) Customer promptly shall cease all use of any software provided by TWC hereunder, and shall return such software to TWC; and (iv) Customer shall return to TWC or permit TWC to remove, in TWC's discretion, the TWC Equipment in the same condition as when received, ordinary wear and tear excepted. Customer shall be responsible for reimbursing TWC for the reasonable and documented costs of the repair or replacement, at TWC's discretion, of any TWC Equipment not returned in accordance with this Section 11. In addition, notwithstanding anything to the contrary herein, upon early termination of an Order by Customer for any reason other than as set forth in Section 11(a) or 11(b) above or by TWC for any reason set forth in Section 11(a) or 11(b) above, Customer shall, at TWC's discretion, (1) promptly pay TWC a termination fee equal to the Service Charges that would have been due for the remainder of the Initial Term or the then-current renewal term or (2) reimburse TWC for all volume, term or other discounts and credits provided in anticipation of full performance of Customer's obligations, as applicable, and any unpaid portion of the installation fee set forth in the applicable Order(s). The foregoing shall be in addition to any other rights and remedies that TWC may have under this Agreement or at law or equity relating to Customer's material breach.

12.0 INDEMNIFICATION. Customer agrees to defend, indemnify and hold harmless TWC, its affiliates, its service providers and suppliers and their respective officers, directors, employees and agents, from and against third party claims, liabilities, damages and expenses, including reasonable attorneys' and other professionals' fees, arising out of or relating to (a) the use of the Service, including but not limited to a breach of Section 5 herein; or (b) personal injury or property damage caused by the negligence or willful misconduct of Customer or its employees or agents.

13.0 DISCLAIMER OF WARRANTY. CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE AND USES THE SAME AT ITS OWN RISK. TWC EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE AND TWC EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH CONTENT. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE SERVICE, TWC EQUIPMENT AND TWC MATERIALS ARE PROVIDED "AS IS," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY TWC, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY. TWC DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, WILL BE UNINTERRUPTED, SECURE, ERROR FREE, WITHOUT DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATE OR INFORMATION OR THAT ANY MINIMUM TRANSMISSION SPEED IS GUARANTEED AT ANY TIME, EXCEPT AS SET FORTH IN THIS AGREEMENT. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER THE SERVICE MAY NOT BE SECURE. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY DATA, MATERIAL OR TRAFFIC OF ANY KIND WHATSOEVER CARRIED, UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S OR AN END USER'S COMPUTER SYSTEM OR EQUIPMENT (INCLUDING NETWORK EQUIPMENT) OR LOSS OF SUCH DATA, MATERIAL OR TRAFFIC DURING, OR THAT RESULTS FROM, CUSTOMER'S OR ITS END USERS USE OF THE SERVICE INCLUDING, BUT NOT LIMITED TO CUSTOMER'S OR END USER'S SENDING OR RECEIVING, OR UPLOADING OR DOWNLOADING, OR ATTEMPTS TO DO SAME, OF SUCH



DATA, MATERIAL OR TRAFFIC. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TWC'S THIRD PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CUSTOMER UNDER THIS AGREEMENT AND TWC DOES NOT MAKE ANY WARRANTIES ON BEHALF OF SUCH SERVICE PROVIDERS UNDER THIS AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY OR QUIET ENJOYMENT.

14.0 LIMITATION OF LIABILITY. IN NO EVENT SHALL TWC BE LIABLE TO CUSTOMER, AN END USER OR ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF WHETHER TWC HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TWC'S AGGREGATE LIABILITY FOR ANY REASON AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT (INCLUDING NEGLIGENCE) AND STRICT PRODUCT LIABILITY) SHALL BE LIMITED TO THE FEES PAID OR OWED BY CUSTOMER UNDER THE ORDER THAT IS THE SUBJECT MATTER OF THE CLAIM IN THE SIX (6) MONTHS PRECEDING THE DATE THE CLAIM ARISES. IN NO EVENT SHALL TWC'S AFFILIATES, THIRD PARTY SERVICE PROVIDERS OR SUPPLIERS HAVE ANY LIABILITY TO CUSTOMER HEREUNDER.

15.0 DISCLOSURE OF CUSTOMER INFORMATION. Customer's privacy interests, including Customer's ability to limit disclosure of certain information to third parties, may be addressed by, among other laws, the Federal Telecommunications Act (the "Telecommunications Act"), the Federal Cable Communications Act (the "Cable Act"), the Electronic Communications Privacy Act, and, to the extent applicable, state laws and regulations. Customer proprietary network information and personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in the Subscriber Privacy Notice provided by TWC in writing, and, if applicable, in TWC's tariff, which are incorporated herein by reference. Customer acknowledges receipt of the Subscriber Privacy Notice. In addition to the foregoing, Customer hereby acknowledges and agrees that TWC may disclose Customer's and its employees' personally identifiable information as required by law or regulation, or the American Registry for Internet Numbers ("ARIN") or any similar agency, or in accordance with TWC's Subscriber Privacy Notice or, if applicable, tariff. In addition, TWC shall have the right (except where prohibited by law notwithstanding Customer's consent), but not the obligation, to disclose any information to protect its rights, property and/or operations, or where circumstances suggest that individual or public safety is in peril.

16.0 FORCE MAJEURE. Notwithstanding anything to the contrary contained herein, a Party shall have no liability to the other hereunder due to circumstances beyond its control, including, but not limited to, acts of God, terrorism, flood, fiber cuts, natural disaster, regulation or governmental acts, fire, civil disturbance, weather, or any unauthorized access to or destruction or modification of the Service, in whole or in part (each a "Force Majeure Event"). Notwithstanding anything to the contrary herein, Customer may terminate the affected Order(s) in its entirety and without penalty if a Force Majeure Event continues for more than ten (10) consecutive days and prevents TWC from delivering the Service subject to such Order(s).

17.0 REGULATORY AND LEGAL CHANGES, POLE ATTACHMENT AND CONDUIT CHARGES, TARIFFS. In the event of any change in applicable law, regulation, decision, rule or order, including without limitation any new application of or increase in universal service fees or other government- or quasi-government-imposed charges that increases the costs or other terms of TWC's delivery of Service to Customer, or, in the event of any increase in pole attachment or conduit charges applicable to any facilities used by TWC in providing the Service, Customer acknowledges and agrees that TWC may pass through to Customer any such increased fees or costs, but only to the extent of the actual increase, provided TWC notifies Customer at least thirty (30) days in advance of the increase. In such case, and if such increase materially increases the fees or charges due by Customer hereunder for the applicable Service, Customer may, within thirty (30) days after notification of such increase, terminate the affected Service without incurring termination liability, provided Customer notifies TWC at least fifteen (15) days in advance of Customer's requested termination date. Further, in the event that TWC is required to file tariffs or rate schedules with a regulatory agency or otherwise publish its rates in accordance with regulatory agency rules or policies respecting the delivery of the Service or any portion thereof, and TWC is required under applicable law to apply those rates to Customer's purchase of Service under this Agreement, then the terms set forth in the applicable tariff or rate schedule shall govern TWC's delivery of, and Customer's use or consumption of, the Service. Upon thirty (30) days written notice to TWC Customer may terminate without liability any Order affected by such tariff if such tariff, or any subsequent revision to such tariff, materially increases the fees due by Customer thereunder. In addition, if TWC determines that offering or providing the Service, or any part thereof, has become impracticable for legal or regulatory reasons or circumstances, then TWC may terminate this Agreement as to any or all of the Service and may terminate any affected Orders, without liability by giving Customer thirty (30) days prior written notice or any such notice as is required by law or regulation applicable to such determination.

17.1 This Agreement, its Attachments and the Order(s) are subject to all applicable federal, state or local laws and regulations in effect in the relevant jurisdiction(s) in which TWC provides the Services. If any provision of this Agreement, its Attachments, or the Order(s) contravene or are in conflict with any such law or regulation, then the terms of such law or regulation shall take priority over the relevant provision of this Agreement, its Attachments, and/or the Order(s). If the relevant law or regulation applies to some but not all of the Service(s) being provided hereunder, then such law or regulation will take priority over the relevant provision of this Agreement, its Attachments, and the Order(s) only for purposes of those Service(s) to which the law or regulation applies. Except as explicitly stated in this Agreement, nothing contained in this Agreement shall constitute a waiver by TWC of any rights under applicable laws or regulations pertaining to the installation, operation, maintenance or removal of the Services, facilities or equipment.

18.0 ENTIRE AGREEMENT. This Agreement, including without limitation all Attachments that are attached hereto and incorporated herein by this reference, sets forth the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous written or oral agreements or representations between the Parties with respect hereto.

19.0 ORDER OF PRECEDENCE. Each Service shall be provisioned pursuant to the terms and conditions of this Agreement. In the event that TWC permits a Customer to use its own standard purchase order form to order the Service, the

Parties hereby acknowledge and agree that the terms and conditions hereof shall prevail notwithstanding any variance with the terms and conditions of any purchase order submitted by Customer, and any different or additional terms contained in such purchase order shall have no force or effect. To the extent that the terms of any Attachment or Order are inconsistent with the terms of this Agreement, the terms of this Agreement shall control.

20.0 COMPLIANCE WITH LAWS. As between the Parties, TWC will obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to TWC's operation and provision of the Services as contemplated herein, and Customer will obtain and maintain at its own expense all license, approvals and regulatory authority required by law with respect to Customer's use of the Services as contemplated herein. Unless specified otherwise in this Agreement, each Party will give all notices, pay all fees and comply with all laws, ordinances, rules and regulations relating to its performance obligations specified herein.

21.0 ARBITRATION. EXCEPT FOR CLAIMS FOR INJUNCTIVE RELIEF, AS DESCRIBED BELOW, ANY PAST, PRESENT, OR FUTURE CONTROVERSY OR CLAIM ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE RESOLVED BY BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS COMMERCIAL ARBITRATION RULES, INCLUDING, IF APPLICABLE, THE SUPPLEMENTARY PROCEDURES FOR THE RESOLUTION OF CONSUMER RELATED DISPUTES. CONSOLIDATED OR CLASS ACTION ARBITRATIONS SHALL NOT BE PERMITTED. THE ARBITRATOR OF ANY DISPUTE OR CLAIM BROUGHT UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT HAVE THE POWER TO AWARD INJUNCTIVE RELIEF; INJUNCTIVE RELIEF MAY BE SOUGHT SOLELY IN AN APPROPRIATE COURT OF LAW. NO CLAIM SUBJECT TO ARBITRATION UNDER THIS AGREEMENT MAY BE COMBINED WITH A CLAIM SUBJECT TO RESOLUTION BEFORE A COURT OF LAW. THE ARBITRABILITY OF DISPUTES SHALL BE DETERMINED BY THE ARBITRATOR. JUDGMENT UPON AN AWARD MAY BE ENTERED IN ANY COURT HAVING COMPETENT JURISDICTION. IF ANY PORTION OF THIS SECTION IS HELD TO BE UNENFORCEABLE, THE REMAINDER SHALL CONTINUE TO BE ENFORCEABLE

22.0 MISCELLANEOUS. This Agreement shall be governed and construed in accordance with the laws of the State of New York, excluding its conflicts of law principles (other than Section S-1401 of the New York General Obligations Law). In the event that any portion of this Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties set forth herein and the remainder of this Agreement shall remain in full force and effect. No waiver of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. Customer may not assign this Agreement without the prior written consent of TWC, and any assignment in violation of this Section shall be null and void. TWC may assign its rights and obligations under this Agreement including, without limitation, in whole or in part, to any affiliate without the prior written approval of or notice to Customer. Customer understands and agrees that, regardless of any such assignment, the rights and obligations of TWC herein may accrue to, or be fulfilled by, any affiliate, as well as by TWC and/or its subcontractors. Customer may not issue a press release, public announcement or other public statements regarding this Agreement without TWC's prior written consent. Excluding any third party claims, claims under this Agreement must be initiated not later than two (2) years after the claim arose. There are no third party beneficiaries to this Agreement. The Parties to this Agreement are independent contractors. Any notice under this Agreement shall be given in writing and shall be deemed to have been given when actually received by the other Party. Notices shall be delivered to Customer and TWC at the respective addresses set forth above, or to such other address as is provided by one Party to the other in writing. The provisions of sections 7, 8, 9, 11, 12, 13, 14, 15, 21 and 22 shall survive the termination or expiration of this Agreement. No modification of any provision of this Agreement shall be valid unless set forth in a written instrument signed by both Parties. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

Attachment ANational Teleworker Service and Branch Office Connectivity Service**Service Descriptions:**

National Teleworker Service ("NTW Service"): If Customer selects to receive the NTW Service, TWC shall provide connectivity to a single personal computer ("PC") via a cable modem at the residential location of the limited number of Customer employees set forth on an accepted Order to connect such employees' PCs to the Customer's data network. Subject to Customer's payment of the Service Charges assessed hereunder, each PC connection may be used by one Customer employee at a time solely for Customer's internal business purposes.

Branch Office Connectivity Service ("BOC Service"): If Customer selects to receive the BOC Service, TWC shall provide connectivity from the number of Customer branch offices set forth in an accepted Order to the Customer's data network. Subject to Customer's payment of the Service Charges assessed hereunder, Customer shall be permitted to connect any number of computers within Customer's identified branch offices to the Service, provided that use does not exceed the standard bandwidth provided by TWC.

Customer's use of the NTW Service and/or the BOC Service is subject to the following additional terms and conditions:

TWC shall allow Customer employees to use (however in no event shall TWC be responsible for) a Virtual Private Network (VPN) and to allow the VPN to pass through the cable modem of any NTW Service or BOC Service, as applicable, provided that TWC shall have the right to disconnect (or demand the immediate disconnection of) any such service that degrades the TWC Service for other subscribers on the TWC network.

Customer shall not upload, post, transmit or otherwise make available on or via the NTW Service or BOC Service any material (including any message or series of messages) that violates or infringes in any way upon the rights of others, that is unlawful, threatening, abusive, obstructive, harassing, libelous, invasive of privacy or publicity rights, that in the circumstances would be obscene or indecent, that constitutes hate speech, that is otherwise offensive or objectionable, or that encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law. TWC may remove content that in its judgment violates these standards.

TWC shall have the right, but not the obligation, to (a) monitor traffic and content on its network, in its sole discretion, including through the use of automatic content filters (including without limitation spam, virus, and adult language sniffers and filters); and (b) monitor Customer's bandwidth utilization and to limit excessive use of bandwidth (as determined by TWC) as TWC deems appropriate to efficiently manage its network.

In the event that any TWC audit reveals that Customer's usage of the NTW Service or BOC Service exceeds Customer's rights hereunder, Customer shall pay TWC an amount equal to one and a half times the Service Charges that would have been due for such excessive usage as liquidated damages and not as a penalty. In addition, Customer shall either discontinue any excess usage or thereafter continue to pay the applicable Service Charges for such additional usage. In addition, TWC shall have the right, but not the obligation, to (i) review content in public areas of the NTW Service or BOC Service, including chat rooms, bulletin boards and forums, in order to determine compliance with this Agreement and any rules now or hereafter established by TWC; and (ii) remove (or demand the removal of) any such content that TWC determines to be unacceptable or to violate the terms of this Agreement, any bandwidth utilization limitations or other Terms of Use.



Attachment B
Cable TV Service

Service Description:

Cable TV Service: If Customer selects to receive the Cable TV Service, TWC shall provide Basic and Standard Cable services, on ___ outlet(s). Customer understands and agrees that premium program services, such as HBO, Cinemax, Showtime, and The Movie Channel, may not be received or shown on any television receivers located in any public areas, such as lounges, dayrooms, visiting areas or other common areas used by groups or the general public, nor shall Customer authorize or approve of any copying, taping or duplicating thereof.

Customer's use of the Cable TV Service is subject to the following additional terms and conditions:

In the event that changes in technology require the use of specialized equipment to continue to receive Cable TV Services provided by this Agreement, TWC agrees to provide such equipment and Customer agrees to pay for such equipment at the same rate charged by TWC to commercial customers in the municipality in which Customer's property receiving the Cable TV Service is located.

In the event that any TWC audit reveals that Customer's usage of the Cable TV Service exceeds Customer's rights hereunder, Customer shall pay TWC an amount equal to one and a half times the Service Charges that would have been due for such excessive usage as liquidated damages and not as a penalty. In addition, Customer shall either discontinue any excess usage or thereafter continue to pay the applicable Service Charges for such additional usage.

The monthly service charges set forth in an Order for Cable TV Service do not include applicable taxes, regulatory fees, franchise fees and public access fees. Notwithstanding anything to the contrary in this Agreement, the monthly service charges for the Cable TV Service are subject to change in accordance with commercial Cable TV rate increases applied to commercial customers.



Attachment DMetro Ethernet Solutions/Dedicated Access Service**Services Description:**

Metro Ethernet Solutions/ Dedicated Access Service: If Customer selects to receive the metro ethernet solutions/dedicated access service ("Metro Ethernet Solutions Service"), TWC shall provide Customer with a dedicated circuit connection between Customer's data network identified on an Order and the TWC facility identified on an Order.

Customer's use of the Metro Ethernet Solutions Service is subject to the following additional terms and conditions:

TWC's provision of the Metro Ethernet Solutions Service is subject to availability.

The Metro Ethernet Solutions Service shall be limited to the capacity set forth on an Order, and Customer must purchase any additional capacity separately.

Customer agrees to use the Metro Ethernet Solutions Service solely for transmitting data in IP form.

Customer shall not upload, post, transmit or otherwise make available on or via the Metro Ethernet Solutions Service any material (including any message or series of messages) that violates or infringes in any way upon the rights of others, that is unlawful, threatening, abusive, obstructive, harassing, libelous, invasive of privacy or publicity rights, that in the circumstances would be obscene or indecent, that constitutes hate speech, that is otherwise offensive or objectionable, or that encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law. TWC may remove or demand the removal of, content that in its judgment violates these standards.

TWC shall have the right, but not the obligation, to monitor traffic and content on its network, in its sole discretion, including through the use of automatic content filters (including without limitation spam, virus, and adult language sniffers and filters).

In the event that any TWC audit reveals that Customer's usage of the Metro Ethernet Solutions Service exceeds Customer's rights hereunder, Customer shall pay TWC an amount equal to one and a half times the Service Charges that would have been due for such excessive usage as liquidated damages and not as a penalty. In addition, Customer shall either discontinue any excess usage or thereafter continue to pay the applicable Service Charges for such additional usage. In addition, TWC shall have the right, but not the obligation, to (i) review content in public areas of the Metro Ethernet Solutions Service, including chat rooms, bulletin boards and forums, in order to determine compliance with this Agreement and any rules now or hereafter established by TWC; and (ii) remove (or demand the removal of) any such content that TWC determines to be unacceptable or to violate the terms of this Agreement, any bandwidth utilization limitations or other Terms of Use.

DRAFT

April 19, 2011

Time Warner Cable Business Class Services
Maria Rice, Senior Account Executive
Government and Education
17777 Center Court Drive N., Suite 800
Cerritos, Ca. 90703

RE: Cancellation of City of Torrance Service Order Agreement Dated 8-26-2010

Pursuant to Paragraph 5 of the City of Torrance Service Order Agreement dated August 26, 2010, the City of Torrance is terminating the existing contract for 30 mbps service to Torrance City Hall and the existing contract for 2 mbps service to Zamperini Airport effective 4-30-2011, or immediately following the installation of the new 45 mbps service at City Hall. As you may know, the City of Torrance requested a new separate Service Order Agreement for Zamperini Airport in order to simplify contract administration and allow for individual circuit capacity planning at City Hall and the Airport.

Very truly yours,

Frank Scotto
Mayor