

0150-09917-0000

**TRANSMITTAL**

TO  
The Council

DATE  
FEB 22 2013

COUNCIL FILE NO.

FROM  
The Mayor

COUNCIL DISTRICT

**Proposed Contract with Time Warner Cable Pacific West, LLC  
for Fiber Optic Digital Transmission and Other Telecommunications Services**

Transmitted for your consideration.  
See the City Administrative Officer report attached.

  
MAYOR

MAS:MAF:11130020c

**Report From**  
**OFFICE OF THE CITY ADMINISTRATIVE OFFICER**  
**Analysis of Proposed Contract**  
(\$25,000 or Greater and Longer than Three Months)

To: The Mayor	Date: 02/21/13	C.D. No. All	CAO File No.: 0150-09917-0000
Contracting Department/Bureau: Information Technology Agency (ITA)		Contact: Laura Ito, 213.978.3322	
Reference: Request from the Mayor for report dated January 30, 2013			
Purpose of Contract: Fiber optic digital transmission and other telecommunications services for the Los Angeles Public Library			
Type of Contract: ( x ) New contract ( ) Amendment		Contract Term Dates: July 1, 2013 through June 30, 2018 (five years)	
Contract/Amendment Amount: \$2,500,000			
Proposed amount \$2,500,000 + Prior award(s) N/A = Total \$2,500,000			
Source of funds: General Funds budgeted within ITA's Communication Services account			
Contractor: Time Warner Cable Pacific West, LLC doing business as Time Warner Cable			
Address: 550 North Continental Boulevard, El Segundo, CA 90245			
	Yes	No	N/A*
1. Council has approved the purpose	x		
2. Appropriated funds are available	x		
3. Charter Section 1022 findings completed	x		
4. Proposals have been requested	x		
5. Risk Management review completed	x		
6. Standard Provisions for City Contracts included			x
7. Workforce that resides in the City: 6%			
8. Contractor has complied with:			
	Yes	No	N/A*
a. Equal Employmt. Oppty./Affirm. Action	x		
b. Good Faith Effort Outreach**			x
c. Equal Benefits Ordinance	x		
d. Contractor Responsibility Ordinance	x		
e. Slavery Disclosure Ordinance	x		
f. Bidder Certification CEC Form 50	x		
*N/A = not applicable ** Contracts over \$100,000			

**COMMENTS**

The Information Technology Agency (ITA) requests authority to execute a contract with Time Warner Cable Pacific West, LLC (TWC) for fiber optic digital transmission services and telecommunications services for the Los Angeles Public Library (Library) (Contract). Through this Contract the City will purchase the use of fiber lines to the Central Library and 72 branch libraries, which will allow for the continued availability of internet access for Library patrons at the public computer terminals. Additionally, the proposed Contract will provide telephone service for the Playa Vista Library.

TWC was selected as a result of a Request for Proposals (RFP) which was released on December 1, 2012. ITA received seven proposals in response to the RFP. The RFP evaluation committee recommended the Contract be awarded to TWC after a review of the proposals based on the following criteria: price, experience of the proposer, availability of services, understanding of the City's needs, and financial stability of the proposer. TWC is currently providing these services to the City under Contract C-113083, which was also awarded as a result of a competitive RFP process. Contract C-113083 is effective for a five year term which expires June 30, 2013. The proposed Contract would be for a five-year term effective July 1, 2013 through June 30, 2018.

Under the proposed Contract, the monthly cost for the fiber service at the Central Library will be \$1,000, and the monthly cost at each of the 72 branch libraries will be \$568.20, for a total monthly cost of \$41,910.40 for Library fiber services. Including taxes, the total annual Library fiber service cost is estimated at \$558,653. This cost is \$418,843 less than the cost of services through the existing Contract C-113083, which is \$977,496 annually for the same services. The annual estimated cost of

 MAF	 Assistant CAO	 City Administrative Officer
Analyst	11130020c	



telephone services at the Playa Vista Library (\$11,603) with tax (\$107) brings the total estimated annual proposed Contract obligation to \$570,363.

The Library can take advantage of the Federal Communications Commission's Schools and Libraries Universal Service Support Mechanism, known as the "E-rate" program. The E-rate program is administered by the Universal Service Administrative Company, and provides schools and libraries discounts of up to 90 percent on telecommunications services. In 2012-13, the City is recovering 90 percent of the Library's fiber and telephone services costs through the E-rate program, and ITA also anticipates reimbursement of 90 percent in 2013-14. Therefore, of the anticipated \$570,363 annual Contract obligation, it is estimated that the City will only incur costs of \$57,036 and will receive E-rate discounts totaling \$513,327. However, ITA is requesting total Contract compensation not to exceed \$2.5 million for the proposed five-year term of the Contract, which will allow the City to pay for these services in the event only minimal E-rate reimbursement is received.

ITA is required to submit an E-rate application to the USAC no later than March 14, 2013 in order to request E-rate reimbursement for 2013-14. The Department must provide proof of an executed, competitively bid contract with the application. Therefore, ITA is requesting approval of the Contract as soon as possible in order to allow for Contract execution prior to the March 14, 2013 application deadline. As previously stated, fiber service for all of the City's libraries and telephone service for Playa Vista Library are included in the proposed Contract. Telephone service at all of the remaining libraries are included within the City's existing contracts with AT&T (C-112988) and Verizon (C-118657). ITA will also seek E-rate reimbursement for these costs as appropriate.

Funding for this Contract is included annually within ITA's Communication Services Account. Charter Section 1022 does not apply as there is no defined labor component to the proposed Contract. TWC has complied with all applicable City contracting requirements. The Business Inclusion Program requirement was waived by the ITA General Manager because there are no opportunities for sub-contracting. The City Attorney has determined that the standard provisions for City personal services contracts are not required for this Contract due to the nature of the telecommunications service being procured. In accordance with Los Angeles Administrative Code Section 10.5(a), Council approval of the proposed Contract is required because the Contract exceeds three years in term.

## **RECOMMENDATION**

That the Council approve and authorize the General Manager of the Information Technology Agency to execute a contract with Time Warner Cable Pacific West, LLC, doing business as Time Warner Cable, for fiber optic digital transmission services and telecommunications services for a term of five years and compensation not to exceed \$2.5 million, subject to the approval of the City Attorney.

## **FISCAL IMPACT STATEMENT**

The proposed Contract with Time Warner Cable Pacific West, LLC will provide fiber optic digital transmission services and telecommunications services for the Los Angeles Public Library. The projected cost for these services is \$570,363; however, ITA can seek reimbursement for up to 90 percent of this amount through the Universal Service Administrative Company's "E-rate" program, reducing the estimated annual expenditure to \$57,036 per year, or a total of \$285,180 for the five-year term of the proposed Contract. Funding for this expense will be considered as part of the 2013-14 Budget. Therefore, the recommendation of this report complies with the City's Financial Policies.

# City of Los Angeles

California

STEVE RENEKER  
GENERAL MANAGER  
CHIEF TECHNOLOGY OFFICER

MARK P. WOLF  
Executive Officer

ASSISTANT GENERAL MANAGERS  
Ted M. Ross  
Greg Steinmehl, Interim



ANTONIO R. VILLARAIGOSA  
MAYOR

## INFORMATION TECHNOLOGY AGENCY

ROOM 1400, CITY HALL EAST  
200 NORTH MAIN STREET  
LOS ANGELES, CA 90012  
(213) 978-3311  
FAX (213) 978-3310

ita.lacity.org

January 28, 2013

REF: ASB-029-13

Honorable Antonio R. Villaraigosa  
Mayor, City of Los Angeles  
Room 303, City Hall  
Los Angeles, CA 90012

Attention: Mandy Morales, Legislative Coordinator

Subject: **REQUEST FOR PERSONAL SERVICES CONTRACT - E-RATE ELIGIBLE FIBER OPTIC DIGITAL TRANSMISSION SERVICES AT THE CENTRAL LIBRARY AND 72 BRANCH LIBRARIES, AND TELEPHONE SERVICE FOR PLAYA VISTA LIBRARY**

Dear Mayor Villaraigosa:

In accordance with Executive Directive No. 3, attached for your review and approval is a personal services contract for E-Rate eligible fiber optic digital transmission services at the Central Library, 72 branch libraries, and telephone service for Playa Vista Library for the Los Angeles Public Library.

### Background

The Federal Communications Commission (FCC) implements a federal universal service program through the Schools and Libraries Program of the Universal Service Fund to make discounts available to ensure affordable access to telecommunications and information services to eligible schools and libraries. The Universal Service Administrative Company (USAC) works with the service providers to make sure these discounts (E-Rates) are passed on to program participants.

On November 30, 2012, the Information Technology Agency (ITA) posted an "E-Rate" application on the USAC Schools and Libraries Division website as required by the policies and procedures approved by the program overseers. As required by the program's competitive bidding process, proposals were solicited from service providers interested in providing E-Rate-eligible fiber optic digital transmission services as well as telephone service for Playa Vista branch library. The ITA posted the RFP opportunity on the City's Los Angeles Business Assistance Virtual Network (LABAVN) website on December 1, 2012.

2013 JAN 31 AM 10:49  
CITY ADMINISTRATIVE OFFICE



Honorable Antonio R. Villaraigosa

January 28, 2013

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Since this contract is with a public utility/telecommunications provider, and there is no labor component within this contract, the CAO responded that the Charter Section 1022 determination process was not applicable.

The Business Inclusion Program requirement was waived by the ITA General Manager since there are no opportunities for sub-contractors for this contract.

Seven proposals were received on January 3, 2013. All seven proposals were deemed responsive to the RFP submittal requirements. The evaluation committee, comprised of representatives from ITA, reviewed and evaluated all seven proposals. The responses were rated based on the following factors:

- Cost of the eligible goods and services
- Prior experience
- Availability
- Understanding of City needs
- Financial Stability

As a result of the evaluation, the committee recommended that a contract be awarded to Time Warner Cable Pacific West, LLC dba Time Warner Cable (TWC).

The term of this contract will be for five (5) years, commencing July 1, 2013 and ending June 30, 2018.

A fully executed contract with the selected vendor is required before ITA can file the E-Rate funding request. This year, the filing window opened on December 12, 2012 and it will close March 14, 2013. Due to this timeline, as specified by the USAC, it is requested that this ED3 review and approval process be expedited.

The draft contract has been submitted to the City Attorney and will be reviewed as to form.

Since the City Attorney has stated that the contract resulting from this RFP may be treated as a utility contract, the Standard Provisions for City Contracts does not need to be included as an exhibit to the contract.

The Affirmative Action, Non-discrimination/Equal Employment Practices, Equal Benefits, Slavery Disclosure affidavits have been verified. The Office of Contract Compliance had stated that the First Source Hiring Ordinance does not apply to the E-Rate contract as this is viewed as a purchase of product as opposed to a service contract.

The Contractor Responsibility Questionnaire was filed on January 22, 2013; verification by the Authorized DAA Representative in Public Works is pending.



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The Bidder Certification CEC form 50 and the Bidder Contributions CEC form 55 have been completed by the vendor.

Vendor's General Liability Acord certificate is good thru January 1, 2014 (CA No. 38204). The Vendor's Workers Compensation liability certificate is pending.

The headquarters address and workforce information is as follows:

550 N. Continental Blvd.  
El Segundo, CA 90245

6.26% of the workforce resides in the City.

A valid Business Tax Registration Certificate is pending.

### **Fiscal Impact**

The City's obligation for the duration of this Contract shall not exceed \$2,500,000.00 (Two million five hundred thousand dollars).

Discounts for applicants range from 20% - 90% of the cost of eligible services. For FY 2011-12, the City received approximately \$879,784.42 in E-Rate reimbursement for the cost of this telecommunications service thru Contract C-113083 awarded to TWC in 2008. It is estimated that a reimbursement of \$879,784.42 (90% of Library's FY 2012-13 TWC service costs) could be expected as USAC approved the City's E-Rate funding request for FY 2012-13 for this service. It is also anticipated that reimbursement will remain at 90% percentage for the application to be submitted for FY 2013-14. Per FCC rules, the applicant must sign a contract with the service provider before submitting a complete E-Rate application. The City will lose 100% of the refund, approximately \$502,787.52 (based on 2013-14 calculation), if a contract is not established by March 14, 2013. The refund is reduced this year because the overall contract price is greatly reduced.

Although the actual cost to the City is expected to decrease from approximately \$98,000 to approximately \$56,000 annually because of the anticipated E-Rate reimbursement rate projection of 90%, the contract ceiling of \$2,500,000.00 is needed as the City would be required to pay this amount without the e-rate reimbursement program.

This funding is included in the Communications Services Account (9350) of the Information Technology Agency's 2012-13 budget.

### **Recommendation**

That the General Manager of the Information Technology Agency or his designee be authorized to execute a contract with Time Warner Cable LLC to meet the E-Rate requirements.

Honorable Antonio R. Villaraigosa

January 28, 2013

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Please contact Laura Ito, Director of Finance and Administration at (213) 978-3322 with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steve Reneker", followed by a long horizontal line extending to the right.

Steve Reneker  
General Manager

Attachment

ec: Melissa Fleming, CAO  
Anne Wu, ITA  
Joe Quan, ITA  
Irene Mayeda, ITA

**CONTRACT**  
**between**  
**CITY OF LOS ANGELES**  
**and**  
**TIME WARNER CABLE PACIFIC WEST LLC**  
**d/b/a TIME WARNER CABLE**

THIS Contract is made and entered into by and between the City of Los Angeles, a municipal corporation (hereinafter referred to as "City"), and Time Warner Cable Pacific West LLC d/b/a Time Warner Cable (hereinafter referred to as TWC), providing the products and services, with reference to the following:

**WITNESSETH:**

WHEREAS, the Information Technology Agency ("ITA") has the responsibility and authority to provide communications services to all of the offices and non-proprietary departments of the City of Los Angeles; and

WHEREAS, the City desires to establish a Contract with TWC, whereby TWC agrees to provide fiber optic digital transmission services (collectively, the "Services") for the Los Angeles Public Library and branch libraries, and telephone service to Playa Vista Branch Library for the purpose of applying for E-Rate funding for Library Departments of the City of Los Angeles; and

WHEREAS, the City has received and considered the proposal submitted by TWC in response to the City's Request For Proposals dated November 30, 2012 for Los Angeles Public Library's E-Rate Eligible Fiber Optic Digital Transmission Services and Telephone Service ; and

WHEREAS, it is deemed that the service of TWC is both necessary and in the best interests of the City of Los Angeles; and

NOW, THEREFORE, in consideration of the above premises, and of the covenants and agreements hereafter set forth, the parties hereby covenant and agree as follows:



**I. TERM OF CONTRACT**

The term of this Contract shall be as set out in Exhibit A, commencing July 1, 2013 and continue in effect for five (5) years (the "Term").

**II. STATEMENT OF WORK**

Contractor hereby agrees to perform the Services requested by the City described in Exhibit A.

**III. COMPENSATION AND METHOD OF PAYMENT**

The total expenditures for this Contract shall not exceed \$2,500,000.00 (Two Million Five Hundred Thousand and No/100 Dollars) during the term of this Contract.

Any increases to these compensation limits or the addition of other City branch libraries will be approved by written amendments initiated by the Information Technology Department (ITA). The City shall not order Services under this Contract such that the cumulative billing for such will exceed the cumulative compensation limit unless there is a fully executed amendment to this Contract increasing such compensation limit.

TWC further understands and agrees that execution of this Contract does not guarantee that any or all funds will be expended.

**A. Compensation**

The City shall receive the pricing as outlined in Exhibit A throughout the Term of this Contract. TWC is willing to extend these discounted rates to the Library Department's branch libraries.

**B. Invoices**

The Schools and Libraries Program of the Universal Service Fund, commonly known as "E-Rate," is administered by the Universal Service Administrative Company (USAC) under the direction of the Federal Communications Commission (FCC), and provides discounts to assist schools and libraries in the United States to obtain affordable telecommunications services. To participate in the Schools and Libraries Program, TWC must obtain a Service Provider Identification Number (SPIN) from USAC. TWC must provide the City with invoicing method #2, by filling Service Provider Invoice (SPI) with USAC and only bill the City for the non-discounted amount using the following address:

City of Los Angeles – ITA  
Finance and Administrative Services  
200 N. Main Street, Room 1400  
Los Angeles, CA 90012

#### IV. CONTRACT REPRESENTATIVES

The following representative individuals and addresses shall serve as the place to which notices and other correspondence between the parties shall be sent. The City and TWC shall notify, in writing, the other party of any changes in the information.

A. Contractor Representative

The Contractor hereby appoints the following person to represent the Contractor with respect to all matters pertaining to this Contract. Said representative shall be responsible for submitting all of the respective forms and statements as required by this Contract:

Name: Valerie Jordan  
Title: Regional Government & Education Sales Manager  
Address: 17777 Center Court Drive North, Suite 800  
Cerritos, CA 90703  
Telephone: 818-407-4469  
E-Mail: Valerie.jordan@twcable.com

B. City's Representative

The City hereby appoints the following person, or her designated representative, to represent the City in all matters pertaining to this Contract:

Name: Laura Ito  
Title: Director of Finance and Administration  
Address: 200 North Main Street, 1400  
Los Angeles, CA 90012  
Telephone: (213) 978-3322  
Fax: (213) 978-3310  
E-mail: laura.ito@lacity.org

C. City's Project Manager

The City hereby appoints the following person to act as the Project Manager:

Name: Anne Wu



Title: Director of Communication Services  
Address: 200 N. Main Street, 13<sup>th</sup> Floor  
Los Angeles, CA 90012  
Telephone: (213) 978-0088  
E-Mail: anne.wu@lacity.org

Formal notices, demands and communications shall be given to the City's Representative with copies to the City's Project Manager.

Formal notices to TWC shall be sent to Time Warner Cable, Attn: Valerie Jordan, 17777 Center Court Drive North, Suite 800, Cerritos, CA 90703, Email valerie.jordan@twcable.com.

Formal notices, demands and communications required hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated five business days after mailing.

#### **V. CONTRACT AUDITS AND RECORDS**

The City or its delegates will have access to monthly service bills via the standard billing statements as well as via access to an online portal.

#### **VI. CONTRACTOR PERFORMANCE EVALUATION**

At the end of this Contract, the City will conduct an evaluation of the TWC's performance. The City may also conduct evaluations of TWC's performance during the term of the Contract. As required by Section 10.39.2 of the Los Angeles Administrative Code, evaluations will be based on a number of criteria, including the quality of the work product or Services performed, the timeliness of performance, financial issues, and the expertise of personnel that TWC assigns to the Contract. A contractor who receives a "Marginal" or "Unsatisfactory" rating will be provided with a copy of the final City Evaluation and allowed 30 calendar days to respond. The City will use the final City evaluation, and any response from TWC, to evaluate proposals and to conduct reference checks when awarding other personal services contracts.

#### **VII. INSURANCE**

During the term of this Contract, TWC shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by TWC, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Exhibit B), covering its operations hereunder.

#### **VIII. TERMINATION**

The City shall have the right to request termination of services to one or more service location after the first twelve (12) months of service to such service location upon thirty (30) day advance written notice to TWC.

**IX. CONTRACT MODIFICATIONS, CHANGES OR AMENDMENTS**

This Contract which consists of six (6) pages plus specific documents cited herein constitutes the entire Contract between the City and TWC and may be amended only by further written agreement.

The following appendices are hereby incorporated into and made a part of this Contract where referred to as though set forth at length.

Exhibit A: Pricing Schedule

Exhibit B: Required Insurance and Minimum Limits

Exhibit C: Fiber Optic Digital Transmission Service Agreement

Without limiting the foregoing, in the event of any conflict between the terms of this Contract and that certain Fiber Optic Digital Transmission Service Agreement attached hereto as Exhibit C, the terms of Exhibit C shall control.



IN WITNESS THEREOF, the parties hereto have caused this instrument to be signed by their duly authorized officers.

APPROVED AS TO FORM:  
Carmen A. Trutanich, City Attorney

CITY OF LOS ANGELES

By: \_\_\_\_\_  
Laurel L. Lightner  
Assistant City Attorney

\_\_\_\_\_  
Laura Ito  
Director of Finance and Administration  
Information Technology Agency

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST: June Lagmay, City Clerk

[company name]

By \_\_\_\_\_

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

CONTRACT NO. \_\_\_\_\_

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**Exhibit A**

**E-rate Library Fiber Service Pricing Schedule**

<b>Branch Number</b>	<b>Library Service Location</b>	<b>Service Capacity</b>	<b>Installation Fees</b>	<b>Monthly Service Charges</b>
#C	<u>Central Library</u> 630 W. Fifth Street, Los Angeles, CA 90071	1 Gbps fiber	\$ -	\$ 1,000.00
#01	<u>Benjamin Franklin</u> 2200 E. First St., Los Angeles, CA 90033	20 Mbps Fiber	\$ -	\$ 568.20
#02	<u>Lincoln Heights</u> 2530 Workman Street, Los Angeles, CA 90031	20 Mbps Fiber	\$ -	\$ 568.20
#03	<u>Pio Pico Koreatown</u> 694 S. Oxford Ave., Los Angeles, CA 90005	20 Mbps Fiber	\$ -	\$ 568.20
#04	<u>Vernon</u> 4504 S. Central Ave., Los Angeles, CA 90011	20 Mbps Fiber	\$ -	\$ 568.20
#05	<u>Arroyo Seco Regional</u> 6145 N. Figueroa, Los Angeles, CA 90042	20 Mbps Fiber	\$ -	\$ 568.20
#06	<u>Exposition Park</u> 3900 S. Western Ave., Los Angeles, CA 90062	20 Mbps Fiber	\$ -	\$ 568.20
#07	<u>Junipero Serra</u> 4607 S. Main St., Los Angeles, CA 90037	20 Mbps Fiber	\$ -	\$ 568.20
#08	<u>Echo Park</u> 1410 W. Temple St., Los Angeles, CA 90026	20 Mbps Fiber	\$ -	\$ 568.20
#09	<u>San Pedro Regional</u> 931 S. Gaffey St., San Pedro, CA 90731	20 Mbps Fiber	\$ -	\$ 568.20
#10	<u>Wilmington</u> 1300 N. Avalon Blvd., Wilmington, CA 90744	20 Mbps Fiber	\$ -	\$ 568.20
#11	<u>Frances Howard Goldwyn – Hollywood Regional</u> 1623 N. Ivar Avenue, Hollywood, CA 90028	20 Mbps Fiber	\$ -	\$ 568.20
#12	<u>John C. Fremont</u> 6121 Melrose Ave., Los Angeles, CA 90038	20 Mbps Fiber	\$ -	\$ 568.20
#13	<u>Westchester – Loyola Village</u> 7114 W. Manchester Ave., Los Angeles, CA 90045	20 Mbps Fiber	\$ -	\$ 568.20
#14	<u>Vermont Square</u> 1201 W. 48th. St., Los Angeles, CA 90037	20 Mbps Fiber	\$ -	\$ 568.20
#15	<u>Palisades</u> 861 Alma Real Dr., Pacific Palisades, CA 90272	20 Mbps Fiber	\$ -	\$ 568.20
#16	<u>Donald Bruce Kaufman Brentwood</u> 11820 W. San Vicente Blvd., Los Angeles, CA 90049	20 Mbps Fiber	\$ -	\$ 568.20
#17	<u>Jefferson</u> 2211 W. Jefferson Blvd., Los Angeles, CA 90018	20 Mbps Fiber	\$ -	\$ 568.20
#18	<u>Malabar</u> 2801 Wabash Ave., Los Angeles, CA 90033	20Mbps Fiber	\$ -	\$ 568.20
#19	<u>Robert Louis Stevenson</u> 803 Spence St., Los Angeles, CA 90023	20 Mbps Fiber	\$ -	\$ 568.20
#20	<u>Cahuenga</u> 4591 Santa Monica Blvd., Los Angeles, CA 90029	20 Mbps Fiber	\$ -	\$ 568.20
#21	<u>El Sereno</u> 5226 Huntington Drive, S., Los Angeles, CA 90032	20 Mbps Fiber	\$ -	\$ 568.20
#22	<u>Palms-Rancho Park</u> 2920 Overland Ave., Los Angeles, CA 90064	20 Mbps Fiber	\$ -	\$ 568.20
#23	<u>Van Nuys</u> 6250 Sylmar Ave. (Mall), Van Nuys, CA 91401	20 Mbps Fiber	\$ -	\$ 568.20
#24	<u>Canoga Park</u> 20939 Sherman Way, Canoga Park, CA 91303	20 Mbps Fiber	\$ -	\$ 568.20



Branch Number	Library Service Location	Service Capacity	Installation Fees	Monthly Service Charges
#25	<u>Studio City</u> 12511 Moorpark St., Studio City, CA 91604	20 Mbps Fiber	\$ -	\$ 568.20
#26	<u>Angeles Mesa</u> 2700 W. 52nd. St., Los Angeles, CA 90043	20 Mbps Fiber	\$ -	\$ 568.20
#27	<u>West Los Angeles Regional</u> 11360 Santa Monica Blvd., Los Angeles, CA 90025	20 Mbps Fiber	\$ -	\$ 568.20
#28	<u>Cypress Park</u> 1150 Cypress Ave., Los Angeles, CA 90065	20 Mbps Fiber	\$ -	\$ 568.20
#29	<u>Wilshire</u> 149 N. St. Andrews Pl., Los Angeles, CA 90004	20 Mbps Fiber	\$ -	\$ 568.20
#30	<u>Ascot</u> 120 W. Florence Ave., Los Angeles, CA 90003	20 Mbps Fiber	\$ -	\$ 568.20
#31	<u>Will &amp; Ariel Durant</u> 7140 W. Sunset Blvd., Los Angeles, CA 90046	20 Mbps Fiber	\$ -	\$ 568.20
#32	<u>Eagle Rock</u> 5027 Caspar Ave., Los Angeles, CA 90041	20 Mbps Fiber	\$ -	\$ 568.20
#33	<u>Hyde Park - Miriam Matthews</u> 2205 Florence Ave., Los Angeles, CA 90043	20 Mbps Fiber	\$ -	\$ 568.20
#34	<u>John Muir</u> 1005 W. 64th. Street, Los Angeles, CA 90044	20 Mbps Fiber	\$ -	\$ 568.20
#35	<u>Sunland Tujunga</u> 7771 Foothill Blvd., Tujunga, CA 91042	20 Mbps Fiber	\$ -	\$ 568.20
#36	<u>Los Feliz</u> 1874 Hillhurst Ave., Los Angeles, CA 90027	20 Mbps Fiber	\$ -	\$ 568.20
#37	<u>North Hollywood - Amelia Earhart Regional</u> 5211 Tujunga Ave., North Hollywood, CA 91601	20 Mbps Fiber	\$ -	\$ 568.20
#38	<u>Mar Vista</u> 12006 Venice Blvd., Los Angeles, CA 90066	20 Mbps Fiber	\$ -	\$ 568.20
#39	<u>Panorama City</u> 14345 Roscoe Blvd., Panorama City, CA 91402	20 Mbps Fiber	\$ -	\$ 568.20
#40	<u>Venice</u> 501 S. Venice Blvd., Venice, CA 90291	20 Mbps Fiber	\$ -	\$ 568.20
#41	<u>Washington Irving</u> 4117 W. Washington Blvd., Los Angeles, CA 90018	20 Mbps Fiber	\$ -	\$ 568.20
#42	<u>Robertson</u> 1719 S. Robertson Blvd., Los Angeles, CA 90035	20 Mbps Fiber	\$ -	\$ 568.20
#43	<u>Alma Reaves Woods Watts</u> 10205 Compton Ave., Los Angeles, CA 90002	20 Mbps Fiber	\$ -	\$ 568.20
#44	<u>Atwater Village</u> 3379 Glendale Blvd., Los Angeles, CA 90039	20 Mbps Fiber	\$ -	\$ 568.20
#45	<u>Mark Twain</u> 9621 S. Figueroa St., Los Angeles, CA 90003	20 Mbps Fiber	\$ -	\$ 568.20
#46	<u>Baldwin Hills</u> 2906 S. La Brea, Los Angeles, CA 90016	20 Mbps Fiber	\$ -	\$ 568.20
#47	<u>Encino-Tarzana</u> 18231 Ventura Blvd., Tarzana, CA 91356	20 Mbps Fiber	\$ -	\$ 568.20
#48	<u>Felipe de Neve</u> 2820 W. 6th. St., Los Angeles, CA 90057	20 Mbps Fiber	\$ -	\$ 568.20
#49	<u>Memorial</u> 4625 W. Olympic Blvd, Los Angeles, CA 90019	20 Mbps Fiber	\$ -	\$ 568.20
#50	<u>West Valley Regional</u> 19036 Vanowen St., Reseda, CA 91335	20 Mbps Fiber	\$ -	\$ 568.20
#51	<u>Sherman Oaks</u> 14245 Moorpark St., Sherman Oaks, CA 91423	20 Mbps Fiber	\$ -	\$ 568.20

Branch Number	Library Service Location	Service Capacity	Installation Fees	Monthly Service Charges
#52	<u>Sun Valley</u> 7935 Vineland Ave., Sun Valley, CA 91352	20 Mbps Fiber	\$ -	\$ 568.20
#53	<u>Pacoima</u> 13605 Van Nuys Blvd., Pacoima, CA 91331	20 Mbps Fiber	\$ -	\$ 568.20
#54	<u>Sylmar</u> 14561 Polk St., Sylmar, CA 91342	20 Mbps Fiber	\$ -	\$ 568.20
#55	<u>Playa Vista</u> 6400 Playa Vista Dr., Los Angeles, CA 90094	20 Mbps Fiber	\$ -	\$ 568.20
#56	<u>Granada Hills</u> 10640 Petit Ave., Granada Hills, CA 91344	20 Mbps Fiber	\$ -	\$ 568.20
#57	<u>Valley Plaza</u> 12311 Vanowen St., North Hollywood, CA 91605	20 Mbps Fiber	\$ -	\$ 568.20
#58	<u>Woodland Hills</u> 22200 Ventura Blvd., Woodland Hills, CA 91364	20 Mbps Fiber	\$ -	\$ 568.20
#59	<u>Northridge</u> 9051 Darby Ave., Northridge, CA 91325	20 Mbps Fiber	\$ -	\$ 568.20
#60	<u>Chatsworth</u> 21052 Devonshire St., Chatsworth, CA 91311	20 Mbps Fiber	\$ -	\$ 568.20
#61	<u>Fairfax</u> 161 S. Gardner St., Los Angeles, CA 90036	20 Mbps Fiber	\$ -	\$ 568.20
#62	<u>Lake View Terrace</u> 12002 Osborne St., Lake View Terrace, CA 91342	20 Mbps Fiber	\$ -	\$ 568.20
#63	<u>Chinatown</u> 639 N. Hill St., Los Angeles, CA 90012	20 Mbps Fiber	\$ -	\$ 568.20
#64	<u>Little Tokyo</u> 203 S. Los Angeles St., Los Angeles, CA 90012	20 Mbps Fiber	\$ -	\$ 568.20
#65	<u>Platt</u> 23600 Victory Blvd., Woodland Hills, CA 91367	20 Mbps Fiber	\$ -	\$ 568.20
#66	<u>Mid Valley</u> 16244 Nordhoff St., North Hills, CA 91343	20 Mbps Fiber	\$ -	\$ 568.20
#67	<u>Porter Ranch</u> 11371 Tampa Ave., Porter Ranch, CA 91326	20 Mbps Fiber	\$ -	\$ 568.20
#68	<u>Harbor-Gateway</u> 24000 S. Western Avenue, Harbor City, CA 90700	20 Mbps Fiber	\$ -	\$ 568.20
#69	<u>Edendale</u> 2011 W. Sunset Blvd., Los Angeles, CA 90026	20 Mbps Fiber	\$ -	\$ 568.20
#70	<u>Pico Union</u> 1030 S. Alvarado St., Los Angeles, CA 90006	20 Mbps fiber	\$ -	\$ 568.20
#71	<u>Westwood</u> 1246 Glendon Ave., Westwood, CA 90024	20 Mbps fiber	\$ -	\$ 568.20
#72	<u>Silver Lake</u> 2411 Glendale Blvd., Los Angeles, CA 90039	20 Mbps fiber	\$ -	\$ 568.20
	<b>TOTAL</b>		\$ -	\$ 41,910.40

**Optional services will be billed as follows**

Central Library 1.2 Gbps \$1200      All Branch Libraries 25Mbps \$644  
Central Library 1.4 Gbps \$1400      All Branch Libraries 30Mbps \$688  
Central Library 1.6 Gbps \$1600      All Branch Libraries 35Mbps \$732  
Central Library 1.8 Gbps \$1800      All Branch Libraries 40Mbps \$789.40  
Central Library 2.0 Gbps \$2200  
Central Library 2.2 Gbps \$2550  
Central Library 2.4 Gbps \$2700  
Central Library 2.6 Gbps \$2900  
Central Library 2.8 Gbps \$3000  
Central Library 3.0 Gbps \$3200



E-rate Playa Vista Phone Service  
6400 Playa Vista Drive

Telephone Number	Voice Mail Installation Cost	Voice Mail MRC	Unlimited Calling Nationwide MRC*	Unlimited Calling Statewide MRC*
310 437-6719	None	None	\$43.95	\$29.95
310 437-6765	None	None	\$43.95	\$29.95
310 437-6766	None	None	\$43.95	\$29.95
310 437-6767	None	None	\$43.95	\$29.95
310 437-6768	None	None	\$43.95	\$29.95
310 437-6769	None	None	\$43.95	\$29.95
310 437-6770	None	None	\$43.95	\$29.95
310 437-6771	None	None	\$43.95	\$29.95
310 437-6680	None	None	\$43.95	\$29.95
310 437-6681	None	None	\$43.95	\$29.95
310 437-6682	None	None	\$43.95	\$29.95
310 437-6683	None	None	\$43.95	\$29.95
310 437-6684	None	None	\$43.95	\$29.95
310 437-6685	None	None	\$43.95	\$29.95
310 437-6686	None	None	\$43.95	\$29.95
310 437-6687	None	None	\$43.95	\$29.95
310 437-6688	None	None	\$43.95	\$29.95
310 437-6689	None	None	\$43.95	\$29.95
310 437-6690	None	None	\$43.95	\$29.95
310 437-6781	None	None	\$43.95	\$29.95
310 496-3925	None	None	\$43.95	\$29.95
310 496-3926	None	None	\$43.95	\$29.95

\*Including all telephone features.

### Required Insurance and Minimum Limits

Name: Time Warner Cable

Date: 10/02/2012

Agreement/Reference: RFP- LAPL's E-rate Eligible Fiber Optic Digital Transmission Service at 72 Branch Libraries & Telephone Service at Playa Vista Library

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

**Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)**

	WC	<i>Statutory</i>
	EL	\$1,000,000

Waiver of Subrogation in favor of City
                         
  Longshore & Harbor Workers  
 Jones Act

**General Liability** \$1,000,000

Products/Completed Operations
                         
  Sexual Misconduct  
 Fire Legal Liability  
 \_\_\_\_\_

\_\_\_\_ **Automobile Liability** (for any and all vehicles used for this contract, other than commuting to/from work) \_\_\_\_\_

\_\_\_\_ **Professional Liability** (Errors and Omissions) \_\_\_\_\_

Discovery Period 12 Months After Completion of Work or Date of Termination

\_\_\_\_ **Property Insurance** (to cover replacement cost of building - as determined by insurance company)

<input type="checkbox"/> All Risk Coverage	<input type="checkbox"/> Boiler and Machinery
<input type="checkbox"/> Flood _____	<input type="checkbox"/> Builder's Risk
<input type="checkbox"/> Earthquake _____	<input type="checkbox"/> _____

\_\_\_\_ **Pollution Liability**  \_\_\_\_\_

\_\_\_\_ **Surety Bonds - Performance and Payment (Labor and Materials) Bonds** 100% of the contract price

\_\_\_\_ **Crime Insurance** \_\_\_\_\_

**Other:** Sent to Irene Mayeda @ ITA

1)If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled "Request for Waiver of Workers' Compensation Insurance Requirement" located at: <http://cao.lacity.org/risk/InsuranceForms.htm>

2)In the absence of imposed auto liability requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California

## **Fiber Optic Digital Transmission Service Agreement**

This Fiber Optic Digital Transmission Service Agreement (the "Agreement") is entered into as of this \_\_\_ day of \_\_\_\_\_, 2013, by and between **City of Los Angeles Public Library System acting through Information Technology Agency (ITA)**, with offices located at 200 N Main Street, Room 1400, Los Angeles, CA 90012 ("City"), and **Time Warner Cable Pacific West LLC d/b/a Time Warner Cable**, with offices located at 17777 Center Court Drive North, Suite 800, Cerritos, CA 90703 ("TWC").

### **RECITALS**

A. TWC and City are entering into a Fiber Optic Digital Transmission Service Agreement for the Library locations listed in **Exhibit A** (each a "Service Location") pursuant to which TWC shall provide Library with Fiber Optic Digital Transmission Service connections between Library's facilities and TWC's (or a TWC affiliate's) facility (the "Services").

B. "E-Rate", the Schools and Libraries Program of the Universal Service Fund, is administered by the Universal Service Administrative Company (USAC) to make discounts available to eligible schools and libraries for telecommunications services. This project and funding source enables Libraries to replace their existing T-1 connections with fiber optic services as part of a district-wide broadband upgrade.

C. ITA will be responsible for paying monthly recurring charges for the Services, but will not be a user of the Services.

D. Library is the sole beneficiary and user of the Services outlined in the Fiber Optic Digital Transmission Service Agreement with TWC.

E. TWC and City desire to enter into this Agreement to set forth the terms and conditions upon which ITA shall make payments for the monthly recurring charges to TWC.

### **AGREEMENT**

NOW, THEREFORE, TWC and City, in consideration of the mutual promises and agreements made herein and intending to be legally bound, do agree as follows:

1. **TERM.** The Agreement shall commence July 1, 2013 and continue in effect for five (5) years (the "Term"). This Agreement shall continue until the term expires or until terminated as provided in other sections of this Agreement. This Agreement shall be subject to termination by City if E-Rate is not funded for these services in the ensuing fiscal year, commencing July 1, 2013. City acknowledges that TWC will not begin construction, installation of any equipment, or otherwise incur costs unless and until City receives E-Rate funding and notifies TWC thereof.

2. **COVERED SERVICES.** TWC shall provide multi-point to multi-point E-LAN Fiber Optic Digital Transmission Services, as defined in the Metro Ethernet Forum Specifications MEF-6, 9, and 10, between demarcation points that shall be clearly identified for each circuit requested in **Exhibit A**. Circuit routing and demarcation will be mutually agreed upon by the Parties, however, at the minimum, each circuit shall be terminated at the MPOE of the locations designated in **Exhibit A**. TWC guarantees the bandwidth capacity that is outlined in **Exhibit A** for each Service Location. TWC shall use commercially reasonable efforts to provide the Services outlined in **Exhibit A** 7 days a week, 24 hours a day, excluding scheduled maintenance, required repair and events beyond TWC's reasonable control. Each Fiber Optic Digital Transmission Service shall, at the minimum, comply with 99.999% Network Availability, average round-trip transmissions of 30 Milliseconds or less between TWC endpoints for Latency, and less than 0.5% Packet-loss during any calendar month. City is solely responsible for all use of the Services and all content that is stored or transmitted via the Services. Upon the termination of this Agreement, TWC's obligations to provide the Services shall cease and TWC may remove its equipment. City shall be responsible for reimbursing TWC for the repair or replacement of any TWC equipment not returned in good order, normal wear and tear excepted. In the event of a service outage as reported to TWC's Business Class Customer Support, TWC will respond with technical support and an on-site technician, if remote support is unable to resolve the outage and only during normal business hours Monday through Friday, to resolve the problem and restore Services within 4 hours of Customer reporting such outage.

3. **PAYMENT.** City, through ITA, shall pay TWC the monthly recurring charges ("Service Charges") for each Service Location in accordance with the following payment terms: Service Charges will be billed to City, care of ITA (see **Exhibit A** for billing address), monthly in accordance with TWC's regular billing schedule and are payable within thirty (30) days after the date of invoice. City shall be responsible for all use, sales and other taxes and governmental charges applicable to the Services (which taxes and charges are not included in the Service Charges), except for taxes payable on TWC's net income. Service Charges for all Service Locations shall remain constant for the Term. City shall be in default for failure to cure overdue payments within thirty (30) days after notice of default from TWC. City acknowledges that if, after the thirty (30) day notice of default period, they have not cured the default, or have not initiated corrective action, TWC may discontinue Library's access to the Services in whole or in part, until such overdue amounts are paid.

**4. PROPRIETARY RIGHTS AND CONFIDENTIALITY.** (a) TWC's Proprietary Rights. All materials including, but not limited to, any TWC-installed equipment (including related firmware), software, data or information developed or provided by TWC, any identifiers or passwords used to access the Services 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 Services (collectively "TWC Materials") shall remain the sole and exclusive property of TWC or its suppliers. City shall acquire no interest in the TWC Materials by virtue of the payments provided for herein. City 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 City are reserved to TWC. City will not open, alter, misuse, tamper with or remove the TWC-installed equipment as and where installed by TWC, and will not remove any markings or labels from the TWC-installed equipment indicating TWC (or its suppliers) ownership or serial numbers. (b) Confidentiality. City agrees to maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted herein or as otherwise required by law, 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; provided, however, that the foregoing restriction shall not apply to confidential information that is disclosed pursuant to a Court order or as required by an agency of the federal or applicable state government under applicable laws and regulations so long as Customer has notified TWC of such disclosure in writing not less than ten (10) business days in advance of any disclosure or planned disclosure.

**5. TERMINATION.** City shall have the right to request termination of Services to one or more Service Locations after the first twelve (12) months of service to such Service Location upon thirty (30) days advance written notice to TWC. 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 City fails to cure any breach of payment obligations related to Services provided to certain Service Locations, then TWC may terminate this Agreement with respect to such Service Locations. In the event of a suspension due to City's failure to timely pay amounts due, TWC may require a reconnect charge to restart the suspended Services, which reconnect charge shall be paid by City. Upon the termination or expiration of this Agreement: (a) TWC's obligations hereunder shall cease; and (b) City promptly shall pay all amounts due and owing to TWC for Services delivered prior to the date of termination or expiration. In addition, notwithstanding anything to the contrary herein, upon early termination (prior to twelve (12) months of service) of this Agreement with respect to a Service Location, except for termination due to a TWC material breach, City shall promptly pay TWC a termination fee equal to the Service Charges that would have been due for the remainder of the first twelve (12) months of Services. The foregoing shall be in addition to any other rights and remedies that TWC or City may have under this Agreement or at law or equity relating to TWC's or City's material breach.

**6. INDEMNIFICATION.** TWC will defend and indemnify City or any of their boards, officers, agents, employees, and successors in interest against any third party claims, suits, actions or proceedings including, without limitation, reasonable attorneys' fees and the cost of litigation ("Claims") arising out of personal injury, death or damage to Library property to the extent proximately caused by negligent acts, errors or omissions or willful misconduct of TWC's employees or agents or subcontractors of any tier in performing any service installation, repair, modification or expansion activities under this Agreement. This indemnity does not extend to any portion of the injury, death or damage caused by the active negligence of City. The provisions of this paragraph survive the expiration or termination of this Agreement for a period of five (5) years. Notwithstanding the foregoing, in the cases where City is found actively negligent, City shall not be entitled to indemnification from TWC for any Claims to the extent that such Claim is recovered through City's insurance.

**7. DISCLAIMER OF WARRANTY.** CITY ACKNOWLEDGES THAT EACH SERVICE LOCATION ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICES 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 SERVICES 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 SERVICES AND RELATED EQUIPMENT AND/OR OTHER MATERIALS USED IN CONNECTION WITH THE SERVICES, IF ANY, ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NONINFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY TWC, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY. EXCEPT AS EXPRESSLY SET FORTH HEREIN, TWC DOES NOT REPRESENT OR WARRANT THAT THE SERVICES WILL MEET CITY'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, CITY ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER THE INTERNET MAY NOT BE SECURE. CITY FURTHER ACKNOWLEDGES AND AGREES THAT ANY MATERIAL AND/OR DATA UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CITY'S OWN DISCRETION AND RISK AND THAT TWC WILL



NOT BE RESPONSIBLE FOR ANY DAMAGE TO CITY'S COMPUTER SYSTEM OR FOR LOSS OF DATA THAT RESULTS FROM THE UPLOADING, DOWNLOADING OR OTHER TRANSMISSION OF SUCH MATERIALS AND/OR DATA. IN ADDITION, CITY ACKNOWLEDGES AND AGREES THAT TWC'S THIRD PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CITY 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.

**8. LIMITATION OF LIABILITY.** EXCEPT FOR TWC'S OBLIGATIONS TO INDEMNIFY CITY FOR THIRD PARTY BODILY INJURY, PERSONAL INJURY OR PROPERTY DAMAGE DURING ALL INSTALLATION REPAIR, MODIFICATION AND EXPANSION ACTIVITIES AS NOTED IN SECTION 6 OF THIS AGREEMENT, TWC SHALL NOT BE LIABLE 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. EXCEPT FOR TWC'S OBLIGATIONS TO INDEMNIFY THE CITY, THE AGGREGATE LIABILITY OF TWC 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 ITA UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING THE DATE THE CLAIM ARISES. IN NO EVENT SHALL TWC'S AFFILIATES, THIRD PARTY SERVICE PROVIDERS OR SUPPLIERS HAVE ANY LIABILITY TO CITY HEREUNDER.

**9. FORCE MAJEURE.** TWC shall have no liability to City 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 City or any third party using the Services.

**10. 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 Services to Service Locations, ITA acknowledges and agrees that TWC may pass through to ITA 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 Services or any portion thereof, then the terms set forth in the applicable tariff or published rates shall govern TWC's delivery of, and each Service Location's consumption or use of, the Services. In addition, if TWC determines that offering or providing the Services, 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 Services without liability by giving City six (6) months' prior written notice of such determination, unless a shorter period of time is required to allow TWC to comply with any applicable law or regulation.

**11. ENTIRE AGREEMENT.** This Agreement, including without limitation all exhibits and addenda 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 City to use its own standard purchase order form to initiate payment for the Services, 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 City, and any different or additional terms contained in such purchase order shall have no force or effect.

**12. 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. City 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 affiliated party without the prior written approval of or notice to City. ITA shall make no press release or public announcement intended for widespread dissemination regarding this Agreement without TWC's prior consent, which consent shall not be unreasonably withheld. There are no third party beneficiaries to this Agreement. City understands and agrees that, regardless of any such assignment, the rights and obligations of TWC herein may accrue to, or be fulfilled by, TWC, any TWC affiliate 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 City and TWC at the following respective addresses:

Exhibit C

TWC:  
Valerie Jordan  
Regional Government & Education Sales Manager  
17777 Center Court Drive North, Suite 800  
Cerritos, CA 90703  
Telephone: 818-407-4469  
E-Mail: valerie.jordan@twcable.com

City:  
Laura Ito  
Director of Finance and Administration  
200 North Main Street, 1400  
Los Angeles, CA 90012  
Telephone: (213) 978-3322  
Fax: (213) 978-3310  
E-mail: laura.ito@lacity.org

with a copy to:  
Anne Wu  
Director of Communication Services  
200 N. Main Street, 13<sup>th</sup> Floor  
Los Angeles, CA 90012  
Telephone: (213) 978-0088  
E-Mail: anne.wu@lacity.org

Either party may change its address for notice purposes by provided such alternate address to the other party in writing. The provisions of Sections 3, 4, 5, 6, 7, 8 and 12 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.

**CITY OF LOS ANGELES:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**TWC:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
City Attorney  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ATTESTED:**

By: \_\_\_\_\_  
City Clerk  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_