



**ORIGINAL**

Contract Number  
24-343

SAP Number  
\_\_\_\_\_

**Real Estate Services Department**

<b>Department Contract Representative</b>	<u>Terry W. Thompson, Director</u>
<b>Telephone Number</b>	<u>(909) 387-5000</u>
<b>Contractor</b>	<u>E.D.I. Media, Inc.</u>
<b>Contractor Representative</b>	<u>Slina Su</u>
<b>Telephone Number</b>	<u>(562) 547-3700</u>
<b>Contract Term</b>	<u>5 years from commencement date</u>
<b>Original Contract Amount</b>	<u>\$129,992</u>
<b>Amendment Amount</b>	<u>\$0</u>
<b>Total Contract Amount</b>	<u>\$129,992</u>
<b>Cost Center</b>	<u>6315001000</u>
<b>GRC/PROJ/JOB No.</b>	<u>40308525</u>
<b>Internal Order No.</b>	_____

**Briefly describe the general nature of the contract:** This is a five-year License Agreement with E.D.I. Media, Inc., for the use of approximately 40,000 square feet of unimproved land at Chino Airport, commencing on the latest to occur of: (i) May 1, 2024; (ii) the date R&R Properties I, LLC vacates a certain portion of its premises, comprising approximately 40,000 square feet, under Lease No. CNO-165 necessary to form a portion of the premises for this License; and (iii) the date LICENSEE receives required approvals from all governmental authorities, including permits, for its use of the premises, provided that if the commencement date does not occur by May 1, 2025, the last date by which all contingencies shall occur may be extended to be no later than November 1, 2025 if the County's Director of the Department of Airports is satisfied that good faith efforts have been and continues to be reasonably pursued by the respective parties to meet the above stated contingencies, for the total revenue amount of \$129,992. The License shall be null and void and without legal effect if the Commencement Date does not occur by May 1, 2025, or November 1, 2025 if the occurrence of all contingencies is extended.

**FOR COUNTY USE ONLY**

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► <u>SEE SIGNATURE PAGE</u> John Tubbs II, Deputy County Counsel	► _____	► <u>Lyle Ballard</u> Lyle Ballard, Real Property Manager, RESD
Date _____	Date _____	Date <u>4/10/24</u>

**SAN BERNARDINO COUNTY**

**LICENSE AGREEMENT**

**LICENSEE:** E.D.I. Media, Inc.  
1773 W San Bernardino  
Rd Bldg. C31 – C34  
West Covina, CA 91790

**COUNTY:** SAN BERNARDINO COUNTY  
Real Estate Services Department  
385 North Arrowhead Avenue, Third Floor  
San Bernardino, CA 92415-0180

**PREMISES:** Approximately 40,000 square feet of ground area within  
Assessor's Parcel Numbers 1055-211-03 (portion), 1055-221-01  
(portion) and 1055-221-03 (Exhibits "A" & "B")  
Chino Airport  
San Bernardino County  
7000 Merrill Avenue  
Chino, CA 91710

**TERM OF LICENSE:** Five (5) years with one (1) five-year option

**COMMENCEMENT DATE OF LICENSE:** The latest to occur of: (i) May 1, 2024, (ii) the date that R&R Properties I, LLC vacates that certain portion of its premises, comprising approximately 40,000 square feet, under Lease No. CNO-165 necessary to form a portion of the Premises for this License, and (iii) the date LICENSEE receives required approvals from all governmental authorities, including permits, for its use of the Premises, provided that if the Commencement Date does not occur by May 1, 2025, the COUNTY's Director of the Department of Airports (Airports Director) shall have the authority to extend the last date by which all contingencies shall occur to be no later than November 1, 2025 if the Airports Director is satisfied that good faith efforts have been and continues to be reasonably pursued by the respective party to meet all said contingencies.

**CONTRACT NO. 23-253**

**REV. 11/28/2012**

**TYPED:**

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## LICENSE AGREEMENT

This license agreement is made and entered into by and between San Bernardino County, a body politic and corporate, hereinafter designated as "COUNTY" and E.D.I Media, Inc., hereinafter called "LICENSEE".

### WITNESSETH

WHEREAS the LICENSEE intends to construct, operate, repair and maintain a cellular telecommunications site located on a portion of COUNTY-owned Assessor's Parcel No 1055-211-03 (portion), 1055-221-01 (portion) and 1055-221-03 commonly known as the Chino Airport with an address of 7000 Merrill Avenue, Chino, CA ("Property") and;

WHEREAS COUNTY and LICENSEE now desire to enter into this License for the use of a portion of said Property comprising approximately 40,000 square feet of unimproved land, as more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Licensed Space"); and,

NOW, THEREFORE, in consideration of mutual covenants and conditions set forth herein, the COUNTY does hereby grant to LICENSEE a non-exclusive, revocable license for the License Space.

### COVENANTS AND AGREEMENTS:

1. **USE:** The COUNTY grants this License for the Licensed Space to LICENSEE for the purpose of constructing, operating, repairing, and maintaining a cellular telecommunication site and associated equipment (collectively, the "Telecommunications Facility") as more particularly described as Exhibit "B" attached herein. This License and the rights herein granted to LICENSEE shall be subject to the paramount legal rights of the COUNTY including, but not limited to, the right to cross over and/or occupy the Licensed Space with any and all equipment necessary in the preservation of COUNTY's property without liability for any damages to Telecommunications Facility. COUNTY shall give reasonable advance notice either verbally or in writing of its intent to enter and cross the Licensed Space.
2. **TERM:** The term of said license shall be five (5) years duration commencing on the latest to occur of: (i) May 1, 2024; (ii) the date R&R Properties I, LLC vacates that certain portion of its premises, comprising approximately 40,000 square feet, under Lease No. CNO-165 necessary to form a portion of the Premises for this License, and (iii) the date LICENSEE receives required approvals from all governmental authorities, including permits, for its use of the Premises, provided that if the Commencement Date does not occur by May 1, 2025, the County's Director of the Department of Airports (Airports Director) shall have the authority to extend the last date by which all contingencies shall occur to be no later than November 1, 2025 if the Airports Director is satisfied that good faith efforts have been and continues to be reasonably pursued by the respective party to meet all said contingencies. The License shall be null and void and without legal effect if the Commencement Date does not occur by May 1, 2025, or November 1, 2025, if the occurrence of all contingencies is extended in accordance with this Paragraph 2.
3. **OPTION TO EXTEND TERM:** COUNTY gives LICENSEE the option to extend the term of the license on the same provisions and conditions, except for the annual fee for one (1) five (5) year period ("extended term") following expiration of the initial term, provided that at the time

of exercise of the applicable option, LICENSEE is not in default with respect to any of the terms, covenants or conditions to be observed or performed by LICENSEE hereunder, by LICENSEE giving written notice of exercise of the option to COUNTY at least one (1) year, but not more than eighteen (18) months, prior to the expiration of the preceding term. Said options shall be deemed to be independent and consecutive, with LICENSEE's right to exercise the second of said options terminating upon LICENSEE's failure to exercise the first option. The annual fee for each extended term shall be reestablished in accordance with **Paragraph 5, FEE ADJUSTMENTS**. If, however, at the time of exercise of the applicable option, LICENSEE is in default with respect to any of the terms, covenants, or conditions to be observed or performed by LICENSEE under this License, the exercise of the option shall be invalid and of no legal force and effect. Further, if LICENSEE is in default on the date an extended term is to commence, the exercise of the option shall be invalid and of no legal force and effect, the extended term will not commence, and this License will expire at the end of the then existing term. Upon valid exercise of the option, the COUNTY will prepare an amendment to this License confirming the extended term and the adjusted monthly License Fee for execution by LICENSEE and the COUNTY's Board of Supervisors. Failure of the LICENSEE to execute the amendment within thirty (30) days of receipt by LICENSEE shall be deemed a default under this License and COUNTY shall have the rights and remedies available to COUNTY under this License or at law.

4. **LICENSE FEES:**

A. LICENSEE shall pay to COUNTY monthly license fee payments in advance commencing on the commencement day and on the first day of each month thereafter in the amount of Two Thousand Dollars (\$2,000.00) ("License Fee") subject to annual adjustment as provided in **Paragraph 5, LICENSE FEE ADJUSTMENTS** (prorated for any partial month).

B. If any License Fee is not paid when due and payable, LICENSEE shall pay to COUNTY a late payment charge equal to ten percent (10%) of the amount delinquent for each month or portion thereof that the payment remains delinquent commencing from the date the payment was due until such time as the overdue payment is made. The parties agree that this late charge represents a fair and reasonable estimate of the costs that COUNTY will incur by reason of late payment by LICENSEE. Acceptance of any late charge shall not constitute a waiver of LICENSEE's default with respect to the overdue amount or prevent COUNTY from exercising any of the other rights and remedies available to COUNTY. All late payments shall be made with certified funds and shall be credited in the following order: 1.) to late payment charges, then 2.) to the balance of the accrued License Fee. If a late payment charge becomes payable for any three 3.) installments of License Fee within any twelve (12) month period, the License Fee will automatically become payable quarterly in advance.

C. If required by COUNTY, LICENSEE agrees to register under the guidelines of the COUNTY's E-pro program prior to execution of this License by the COUNTY.

5. **LICENSE FEE ADJUSTMENTS:** The initial License Fee for the first 12 months of the Initial Term shall be Two Thousand Dollars (\$2,000.00) per month. Thereafter, the monthly License Fee shall be subject to an annual increase but not decrease on each one-year anniversary date and each anniversary date thereafter during the Initial Term and any extended term at the rate of four percent (4%) per year.

6. **ACCEPTANCE OF LICENSED SPACE:** Upon the acceptance of the use of the Licensed Space by LICENSEE, the same shall conclusively be deemed to be fit and proper for

the purposes for which the same is hereby licensed and to be used. The Licensed Space is provided to LICENSEE in its AS-IS condition without any obligations, representations, or warranties by COUNTY as to its condition or suitability for LICENSEE's intended use. LICENSEE acknowledges, accepts, and understands that the Licensed Space is within the boundaries of an airport which could result in severe losses to LICENSEE's Telecommunication Facility (including the equipment and personnel of the LICENSEE). COUNTY shall not be liable for any injury or damage to the person or property of LICENSEE's employees, contractors, invitees, customers, or any other person in or about the Licensed Space or the Property from any other cause whatsoever, whether said injury or damage results from conditions arising in, on, or about the Licensed Space or in, on, or about the Property. COUNTY shall not be liable for any injury or damages arising from any act or omission of any other licensee, tenant, or occupant at the Property or from COUNTY's failure to enforce the provisions of any other license, lease, or occupancy agreement at the Property. In no event shall COUNTY be liable for any injury to LICENSEE's business or any loss of income or profit therefrom, or for any consequential damages sustained by LICENSEE.

7. **ASSIGNMENT & SUBLICENSE:**

A. LICENSEE shall not voluntarily or by operation of law, assign LICENSEE's interest in this License, in the Licensed Space or in any options contained in this License, nor sublicense, all or any part of the Licensed Space, nor allow any other person or entity to use all or any part of the Licensed Space, without first obtaining COUNTY's written consent. LICENSEE shall not encumber LICENSEE's interest in this License or the Licensed Space. Any assignment, sublicense or encumbrance without COUNTY's consent shall be voidable and, at COUNTY's election, shall constitute a default under this License. COUNTY's consent to any assignment, sublicense or encumbrance shall not constitute a waiver of COUNTY's right to require consent to any subsequent assignment or sublicense. For the purposes of this paragraph, the following events shall be deemed to be an assignment requiring COUNTY's prior written consent:

1. If LICENSEE is a partnership, a withdrawal or change, voluntary, involuntary, or by operation of law, of any partner, or the dissolution of the partnership, will be deemed a voluntary assignment.

2. If LICENSEE consists of more than one person, a purported assignment, voluntary, involuntary, or by operation of law, from one person to any other will be deemed a voluntary assignment.

3. If LICENSEE is a corporation, any dissolution, merger, consolidation, or other reorganization of LICENSEE, or the sale or other transfer of a controlling percentage of the capital stock of LICENSEE, or the sale of more than fifty percent (50%) of the value of the assets of LICENSEE, will be deemed a voluntary assignment. The phrase "controlling percentage" means the ownership of and the right to vote stock possessing more than fifty percent (50%) of the total combined voting power of all classes of LICENSEE's capital stock issued, outstanding, and entitled to vote for the election of directors. This paragraph will not apply to corporations the stock of which is traded through an exchange or over the counter.

4. If LICENSEE is a limited liability company, any change in membership or designation of the primary contact person shall be deemed a voluntary assignment.

5. The transfer, on a cumulative basis, of twenty-five percent (25%) or more of the voting control of LICENSEE shall constitute an assignment requiring COUNTY's consent; and (2) the involvement of LICENSEE or LICENSEE's assets in any transaction, or series of transactions (whether by way of merger, sale, acquisition, financing, transfer, or otherwise) which results or which will result in a reduction of a LICENSEE's Net Worth, (as hereinafter defined), by an amount equal to or greater than twenty-five percent (25%) of LICENSEE's Net Worth as of the commencement of the Initial Term, or as of the date of the most recent assignment to which COUNTY has consented, or which exists immediately prior to said transaction or transactions, shall be considered an assignment of this License by LICENSEE and requiring COUNTY's consent. For the purposes of this License, the term "Net Worth" shall be the Net Worth of LICENSEE established under generally accepted accounting principles consistently applied.

B. Terms and Conditions Applicable To Assignment and Sublicensing. The following provisions shall apply to any sublicense or assignment pursuant to this License:

1. Irrespective of COUNTY's consent, any assignment or sublicense shall not: (i) be effective without the express written assumption by such assignee or sublicensee of all of LICENSEE's obligations under this License; (ii) release LICENSEE of any of its obligations hereunder; nor (iii) alter the primary liability of LICENSEE for the payment of the monthly License Fee and other sums due COUNTY pursuant to this License or for the performance of any of LICENSEE's other obligations under this License.

2. Each request for consent to an assignment or sublicense shall be in writing, and shall be accompanied by the following: (i) the current financial statements of the proposed assignee or sublicensee (ii) information related to the responsibility and appropriateness of the proposed assignee or sublicensee; and (iii) information related to the intended use of the Licensed Space by the proposed assignee or sublicensee LICENSEE agrees to pay all costs incurred by COUNTY in reviewing LICENSEE's request and to provide COUNTY with such other and/or additional information and/or documentation as COUNTY may reasonably require in connection with LICENSEE's request.

3. As a further condition to COUNTY giving its consent to any assignment or sublicense, COUNTY may at its sole discretion require that fifty percent (50%) of all fees or other sums received by LICENSEE from its sublicensees in excess of the monthly License Fee payable by LICENSEE to COUNTY under this License shall be paid to COUNTY, and if the LICENSEE sublets only a portion of the Licensed Space, that the foregoing adjustment shall be applicable only to the portion of the Licensed Space utilized by sublicensees.

4. LICENSEE agrees to execute an amendment confirming the adjustment to the monthly License Fee to include the additional fees set forth in Paragraph 7.B.3 as part of COUNTY's consent to any assignment or sublicense.

C. Assignment of Fees. LICENSEE irrevocably assigns to COUNTY, as security for LICENSEE's obligations under this License, all fees or other sums due LICENSEE from any assignment or sublicensing of all or a part of the Licensed Space pursuant to this License, and COUNTY, as assignee and as attorney-in-fact for LICENSEE, may collect such fee or other sums and apply it toward LICENSEE's obligations under this License, except that until the occurrence of a default by LICENSEE, LICENSEE shall have the right to collect such fee or other sum.

8. **LICENSEE'S ACCESS TO LICENSED SPACE:**

A. COUNTY, or a duly authorized representative of the COUNTY, reserves the right to enter upon the Licensed Space upon prior reasonable notice (or no notice in the event of an emergency) either verbal or written at any reasonable time for the purpose of inspecting the Licensed Space for conformance to license provisions and COUNTY shall not be liable for damages to LICENSEE's Telecommunications Facility as a result thereof. Failure of the COUNTY to provide notice of entry shall not be deemed a default under this License.

B. COUNTY's activities at the Property shall take precedence at all times, and when any work or activity must be performed to carry out the functions and purposes of the COUNTY, LICENSEE must allow same to be done on the Licensed Space without interference. COUNTY shall give LICENSEE reasonable notice of impending activities at the Property that affects the Licensed Space whenever possible but failure of the COUNTY to provide such notice shall not be deemed a default under this License.

9. **ACCESS ROAD, MAINTENANCE & UTILITIES**

A. LICENSEE shall have the right to access the Licensed Space by way of an unpaved access road on the Property as shown on Exhibit B. The access road is provided to LICENSEE in its AS-IS condition without any obligations, representations, or warranties by COUNTY as to its condition or suitability for LICENSEE's intended use. The LICENSEE acknowledges and accepts that such access road is unpaved, and LICENSEE assumes any, and all risks of any injury or damage to persons or property as a result of the access road being unpaved.

B. The construction, operation, repair, and maintenance of the LICENSEE's Telecommunications Facility shall be the responsibility of the LICENSEE, at its sole cost, and regular inspections are required to ensure that LICENSEE's Telecommunication Facility is maintained in a good operating order and in a safe condition and in compliance with all applicable laws. Any damage to COUNTY's Property, including COUNTY's improvements or third-party improvements at the Property caused by LICENSEE shall be the responsibility of LICENSEE. If LICENSEE's Telecommunications Facility causes a hazard at the Property, the LICENSEE will be required to immediately eliminate the hazard. If LICENSEE fails to immediately eliminate a hazard, COUNTY may perform the obligation and has the right to be reimbursed for the sum it actually expends (including charges for COUNTY's equipment and personnel) in the performance of LICENSEE's obligations.

C. COUNTY shall have no obligation to provide any utilities to the Licensed Space or the Telecommunications Facility. Any utilities required by LICENSEE shall be provided by and paid for by LICENSEE, at its sole cost, provided that any utilities installations at the Licensed Space require COUNTY's prior written consent.

10. **HAZARDOUS MATERIALS:**

A. Definition. For purposes of this License, the term "Hazardous Substance" means any (a) substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq. ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. ("RCRA"); Toxic Substances

Control Act, 15 U.S.C. Sections 2601 et seq.; the Clean Water Act, 33 U.S.C. Sections 1251 et seq.; the California Hazardous Waste Control Act, Health and Safety Code Sections 25100 et seq.; the California Hazardous Substance Account Act, Health and Safety Code Sections 25330 et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Sections 25249.5 et seq.; California Health and Safety Code Sections 25280 et seq. (Underground Storage of Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Sections 25170.1 et seq.; California Health and Safety Code Sections 25501 et seq. (Hazardous Materials Response Plans and Inventory); or the California Porter-Cologne Water Quality Control Act, Water Code Sections 1300 et seq., all as amended, (the above-cited California state statutes are hereinafter collectively referred to as "the State Toxic Substances Laws") or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court, (c) petroleum or crude oil other than petroleum and petroleum products contained within regularly operated motor vehicles, and (d) asbestos.

B. In connection with the license of the Licensed Space by LICENSEE, (a) LICENSEE agrees and acknowledges that it has had an opportunity to investigate the Licensed Space and their environs for the presence of any hazardous substance; (b) any and all reports, studies, analyses, estimates, maps, drawings, materials, etc. delivered by COUNTY to LICENSEE preceding execution of this License are delivered to LICENSEE as an accommodation and not with the intent that such items be relied upon by LICENSEE, except to the extent that LICENSEE has independently confirmed the validity of such items; and (c) LICENSEE's decision to enter into this License is based upon the investigation, study and analysis of the Licensed Space and their environs made by LICENSEE or its agents and/or independent contractors, and not upon oral or written statements or representations of COUNTY. It is expressly understood by LICENSEE and COUNTY that all statements and representations made by COUNTY which are not included in this License (a) are intended by COUNTY to be made as an accommodation to LICENSEE in LICENSEE's investigation and not in lieu of LICENSEE's investigation; and (b) are not to be relied and acted upon by LICENSEE.

C. LICENSEE shall not permit, authorize, or suffer at any time herein relevant the presence, use, manufacture, handling, generation, storage, treatment, discharge, release, burial or disposal on, under or about the Licensed Space or the Property of any hazardous substance, or the transportation to or from the Licensed Space or the Property of any hazardous substance provided; however, that LICENSEE shall be permitted to use backup batteries and diesel fuel at the Licensed Space or the Property, as is legally permitted and required in connection with the Telecommunications Facility.

D. LICENSEE agrees, in addition to those obligations imposed upon it pursuant to **Paragraph 16, HOLD HARMLESS**, herein, to indemnify, defend with counsel reasonably approved by COUNTY, protect and herein hold harmless COUNTY, its directors, officers, employees, agents, assigns, and any successor or successors to COUNTY's interest in the Licensed Space or the Property as it relates to Hazardous Substances as defined in **subparagraph 10A**. from and against all claims, actual damages (including but not limited to special and consequential damages), punitive damages, injuries, costs, response costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings,

interest, fines, charges, penalties and expenses of any kind whatsoever paid, incurred or suffered by, or asserted against, the Licensed Space or the Property by the LICENSEE or any of its agreements, warranties or representations set forth in this License, or (b) any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan concerning any hazardous substance on, under or about the Licensed Space or the Property caused by LICENSEE's use of the Licensed Space or the Property, regardless of whether undertaken due to governmental action. To the fullest extent permitted by law, the foregoing indemnification shall apply regardless of the fault, active or passive negligence, or breach of warranty or contract of LICENSEE.

E. Without limiting the generality of this indemnity, this indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607(e) and California Health and Safety Code Section 25364 to insure, protect, hold harmless and indemnify COUNTY for any liability arising out of LICENSEE's use of the Licensed Space or the Property pursuant to such sections.

11. **RELOCATION:** COUNTY, at its sole discretion, shall determine and may from time to time change the routes of surface ingress and egress to the Licensed Space, but agrees to locate such routes, having in mind the reasonable requirements of COUNTY with respect to the COUNTY's operations at the Property. COUNTY also reserves the right to further develop or improve the Property as it sees fit, regardless of the desires or views of the LICENSEE and without interference or hindrance. COUNTY, at COUNTY's sole expense, on at least ninety (90) days prior written notice, may require LICENSEE to move from the Licensed Space to other space of comparable size at the Property in order to facilitate the development or operation of the Property or for any other reason, provided however, that LICENSEE shall not be required to relocate until all required governmental approvals, licenses and permits for the Telecommunications Facility at the proposed relocation space is obtained by LICENSEE. In the event of any such relocation, COUNTY will pay all reasonable relocation expenses, including the cost to prepare the grounds of the proposed relocation space to substantially the same condition as existed for the grounds at the Licensed Space as of the commencement of the Initial Term of this License, provided that any removal of the Existing Telecommunications Facility and its reconstruction at the proposed relocation space shall be the responsibility of LICENSEE's at LICENSEE's sole cost. In the event of relocation, this License and each and all of the terms, covenants and conditions contained herein shall remain in full force and effect and shall be deemed applicable to such relocated space. As an alternative to such relocation, LICENSEE shall have the right to terminate this License if LICENSEE so desires by providing notice to COUNTY within thirty (30) days after receipt of COUNTY's relocation notice.

12. **IMPROVEMENTS:**

A. Subject to COUNTY's prior written consent, the LICENSEE shall have the right to construct and install the proposed Telecommunications Facility as shown on Exhibit B to facilitate the joint use and co-location of third-party cellular telecommunications equipment at the Telecommunications Facility. LICENSEE shall construct the Telecommunications Facility in a good and workmanlike manner and in compliance with all applicable laws. The License Fee shall be payable as of the commencement of the Initial Term irrespective of whether the Telecommunication Facility is constructed by LICENSEE and also payable during any period of construction. In the event LICENSEE contracts for the construction of any portion of the improvements set forth in Exhibit "B", LICENSEE shall comply with the applicable provisions of the California Public Contract Code 22000 through 22045 regarding bidding procedures and Labor Code Section 1720.2 and 1770 et seq. regarding general prevailing wages as set forth in

Exhibit "E" Prevailing Wage. LICENSEE shall indemnify and hold harmless COUNTY and its officers, employees, and agents from any claims, actions, losses, damages and/or liability arising out of the obligations set forth in this subparagraph. The LICENSEE's indemnity obligations shall survive the expiration or earlier termination of the License and shall not be limited by the existence or availability of insurance.

B. Subject to COUNTY's prior written consent as set forth in Paragraph 7 and the other provisions of said paragraph, including (without limitation) Paragraph 7.B.3, the LICENSEE shall permit the joint use and co-location of third-party cellular telecommunications equipment at the Telecommunications Facility. The LICENSEE shall not unreasonably refuse to permit the joint use and co-location of third-party cellular telecommunications equipment at the Telecommunications Facility, provided that the operator(s) of such cellular telecommunications equipment agree to use the Telecommunications Facility on commercially reasonable terms and conditions and such joint use and co-location is technically and structurally feasibility.

C. Upon the faithful performance of each and all of the terms, covenants and conditions of the License during the term, the LICENSEE shall have the right to remove the Telecommunications Facility at the expiration of this License, including any extended term, or any earlier termination of the License. LICENSEE shall remove its Telecommunication Facility on or before the expiration or earlier termination of the License, provided that if LICENSEE requires additional time for removal, LICENSEE may request additional time from COUNTY not to exceed sixty (60) days after the expiration of the of this License for removal, which COUNTY may grant or not grant at its sole discretion. If COUNTY grants such extension request, LICENSEE shall pay the License Fee at the holdover rate pursuant to Paragraph 14 for the extended removal period. Upon the termination or earlier expiration of the License, if the LICENSEE does not remove the Telecommunication Facility, COUNTY may remove the Telecommunications Facility at LICENSEE's expense without liability of COUNTY for loss thereof and COUNTY shall be reimbursed by LICENSEE for such removal costs upon demand, or COUNTY may elect to retake possession of the Licensed Space together with the Telecommunications Facility, which shall thereupon become the property of the COUNTY without compensation to LICENSEE.

D. LICENSEE agrees that it will, upon the termination of this License, return the Licensed Space in a good condition and repair as the Licensed Space now is or shall hereafter be put; reasonable wear and tear expected.

13. **DEFAULT AND RIGHT TO TERMINATE:**

A. If there should be any default in payment by LICENSEE of the License Fee provided herein, or in the compliance with Paragraph 15 relating to licenses and certifications or Paragraphs 17 and 18 relating to insurance requirements, COUNTY may give LICENSEE written notice of such default. This License will not be terminated if within ten (10) days after receipt of such written notice the LICENSEE shall cure the default.

B. If LICENSEE should fail to perform, keep, or observe any of the terms, conditions or covenants as set forth in this License, other than as provided in Paragraph 13.A. hereinabove, COUNTY may give LICENSEE written notice of such default, in which case:

1. This License will not be terminated if within thirty (30) days after receipt of such written notice, the LICENSEE shall cure the default.

2. If such default should continue for thirty (30) days after receipt of written notice of default, COUNTY may at its option elect to terminate this License. Such election to terminate shall not be construed as a waiver of any claim the COUNTY may have against LICENSEE.

3. If, however, the nature of the default is such that longer than thirty (30) days is required to cure such default, provided that LICENSEE shall have commenced to cure such default within thirty (30) days after receipt of such notice and shall continuously and diligently proceed in good faith to cure such default, then the cure period shall be extended for such length of time as is reasonably necessary to complete such cure.

C. If, however, in the sole discretion of COUNTY, the default represents a hazard or emergency, LICENSEE shall immediately cure its default. If LICENSEE fails to immediately cure such default, COUNTY may perform the obligations and have the right to be reimbursed for the sum it actually expends (including charges for COUNTY's equipment and personnel) to cure LICENSEE's default.

D. Upon any termination of this License, LICENSEE covenants and agrees to surrender and to forfeit this License and deliver up the Licensed Space peaceably and in as good a condition as existed as of the initial commencement of this License to the COUNTY immediately as provided in the notice of termination and repair any damages to the Licensed Space caused by LICENSEE. If LICENSEE shall remain on the Licensed Space after any termination of this License, LICENSEE shall be deemed guilty of an unlawful detainer of the Licensed Space and shall be subject to eviction and removal, forcibly or otherwise, at any time thereafter, with or without process of law. In the event LICENSEE fails to remove personal property, machinery, or fixtures, if any, belonging to it from the Licensed Space immediately upon any termination of this License for default, COUNTY may remove such personal property and place the same in storage at the expense of LICENSEE and without liability of COUNTY for loss thereof. LICENSEE agrees to pay COUNTY within thirty (30) days of COUNTY's demand all expenses incurred in such removal, including court costs and reasonable attorney's fees and storage charges and/or COUNTY may without notice sell all or any part of said personal property at public or private sale for such prices as COUNTY may obtain, and apply the proceeds of such sale upon any amounts due under this License from LICENSEE and to any expense incidental to the removal and sale of said personal property, with the surplus, if any, being refunded to LICENSEE.

E. The receipt by the COUNTY of any License Fees or of any other sum of money paid by LICENSEE after any default, the termination and forfeiture of this License for any reason, or after the giving by COUNTY of any notice to effect such termination, shall not waive the default, reinstate, continue or extend the term of this LICENSE, or destroy, or in any manner impair the efficacy of any such notice of termination as may have been given hereunder by COUNTY to the LICENSEE prior to the receipt of any such sum of money or other consideration, unless so agreed to be in writing and signed by COUNTY. Any act of the COUNTY or its agents or employees during the term of this License shall not be deemed to be an acceptance or a surrender of said Licensed Space, excepting an agreement in writing signed by the COUNTY agreeing to accept such surrender.

14. **HOLDING OVER:** If the LICENSEE remains in the Licensed Space after the expiration of the term or after any earlier termination of this License, and if said hold over is with the express written consent of the COUNTY, then LICENSEE shall be deemed to be using the Licensed Space on a month-to-month basis subject to all the provisions of this License, and the

License Fee payable during such period of holding over shall be one hundred fifty percent (150%) of the License Fee paid during month immediately preceding the expiration or earlier termination of this License. For purposes of illustration only, if the License Fee is One Thousand and 00/100 Dollars (\$1,000.00) at the expiration of the term or earlier termination of this License the License Fee for holding over will be One Thousand Five Hundred and 00/100 Dollars (\$1,500.00).

15. **LICENSES AND CERTIFICATIONS:** LICENSEE agrees that it will acquire and maintain those certifications, licenses, approvals, easements, and permits required by any Federal, State or local jurisdiction or authority for carrying out the purpose of this License and construction, operations, and maintenance of the Telecommunications Facility. Failure to comply with this provision will constitute a default and right to terminate by COUNTY under **Paragraph 13, DEFAULT AND RIGHT TO TERMINATE**, of this License.

16. **INDEMNIFICATION:**

The LICENSEE agrees to indemnify, defend (with counsel approved by COUNTY) and hold harmless the COUNTY, its authorized officers, agents, volunteers and employees, from any and all claims, demands, actions, losses, damages, liability, and/or for any costs or expenses incurred by the COUNTY to the extent arising out of or relating to: (a) any improvements to be or actually constructed by the LICENSEE pursuant to the License; (b) the LICENSEE's acts and omissions; (c) the use of common areas and spaces other than the Licensed Space; and (d) toxic waste and environmental contamination resulting from the LICENSEE's use of the Licensed Space, except where such indemnification is prohibited by law. The LICENSEE's indemnification obligation applies to the COUNTY's "passive" negligence but does not apply to the COUNTY's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782. The LICENSEE's indemnification obligation shall survive the LICENSEE's tenancy. The insurance provisions in **Paragraph 18, INSURANCE REQUIREMENTS** shall not be interpreted in a manner that limits the foregoing indemnification obligation.

The COUNTY agrees to indemnify and hold harmless the LICENSEE, and its officers, employees, agents, and volunteers from any and all damages for injury to persons and damage to property arising out of the sole negligence of the COUNTY, its officers, employees, agents or volunteers in connection with this License.

In the event the COUNTY and/or LICENSEE is found to be comparatively at fault for any claim, action, loss, or damage which results from their respective obligations under the License, the COUNTY and/or LICENSEE shall indemnify the other to the extent of its comparative fault.

Furthermore, if the COUNTY or LICENSEE attempts to seek recovery from the other for Workers' compensation benefits paid to an employee, the COUNTY and LICENSEE agree that any alleged negligence of the employee shall not be construed against the employer of the employee.

17. **INSURANCE SPECIFICATIONS:**

A. COUNTY is a self-insured public entity for purposes of professional liability, general liability, and workers' compensation.

B. The LICENSEE agrees to provide insurance set forth in accordance with the requirements herein. If the LICENSEE uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the LICENSEE agrees to amend, supplement, or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the License hereunder. Without in anyway affecting the indemnity herein provided and in addition thereto, the LICENSEE shall secure and maintain throughout the License term the following types of insurance with limits as shown:

(1) Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with a limit of \$1,000,000 each accident/disease/policy limit covering all persons providing services on behalf of the LICENSEE and all risks to such persons under this License agreement.

If LICENSEE has no employees, it may certify or warrant to the COUNTY that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the COUNTY's Director of Risk Management.

If LICENSEE is a non-profit corporation, organized under California or Federal law, volunteers for LICENSEE are required to be covered by Workers' Compensation insurance.

(2) Commercial/General Liability Insurance – The LICENSEE shall carry Commercial General Liability Insurance covering all operations performed by the LICENSEE providing coverage for bodily injury and property damage with a combined single limit of two million dollars (\$2,000,000), per occurrence. The policy coverage shall include:

- a) Premises operations.
- b) Products and completed operations.
- c) Explosion, collapse, and underground hazards.
- d) Personal and Advertising injury
- e) Contractual liability.
- f) \$4,000,000 general aggregate limit.

(3) Commercial Property Insurance providing all risk coverage for the Licensed Space, building, fixtures, equipment, and all property constituting a part of the Licensed Space. Coverage shall be sufficient to insure One Hundred percent (100%) of the replacement cost.

(4) Commercial Automobile Liability Insurance – Commercial Automobile liability covering all owned, hired, and non-owned automobiles in the amount of four million dollars (\$4,000,000) combined single limit each accident for bodily injury and property damage.

(5) Subcontractor Insurance Requirements – The LICENSEE agrees to require all parties or subcontractors to obtain and maintain substantially the same insurance with substantially the same limits as required of LICENSEE.

18. **INSURANCE REQUIREMENTS:**

A. All policies, except for the Workers' Compensation, shall include the COUNTY and their officers, employees, and volunteers as additional insured as their interest may appear under this License with respect to liabilities arising out of the use under this License hereunder.

B. Waiver of Subrogation Rights – The LICENSEE shall require the carriers of required coverages to waive all rights of subrogation against the COUNTY, their officers, employees, and volunteers.

C. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the COUNTY.

D. Severability of Interests – The LICENSEE agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross-liability exclusions that preclude coverage for suits between the LICENSEE and the COUNTY or between the COUNTY and any other insured or additional insured under the policy.

E. Proof of Coverage – The LICENSEE shall furnish Certificates of Insurance to the San Bernardino Real Estate Services Department (RESA) administering the License evidencing the insurance coverage, including blanket additional insured endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that should any of the above insurance policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provision. LICENSEE shall endeavor to provide thirty (30) days' prior written notice of cancellation to RESA and LICENSEE shall maintain such insurance from the time LICENSEE commences use under the License hereunder until the end of the period of the License.

F. Acceptability of Insurance Carrier – Unless otherwise approved by the COUNTY's Department of Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

G. Insurance Review – Insurance requirements are subject to periodic review by the COUNTY. The COUNTY's Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever the COUNTY's Department of Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the COUNTY. In addition, the COUNTY's Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the COUNTY, inflation, or any other item reasonably related to the COUNTY's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this License. LICENSEE agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of RESA or COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of RESA or the COUNTY.

H. Failure to Procure Insurance. All insurance required must be maintained in force at all times by LICENSEE. Failure to maintain said insurance, due to expiration, cancellation, etc., shall be cause for the COUNTY to give notice to immediately suspend all LICENSEE's business activities on the Licensed Space. Failure to reinstate said insurance within the (10) days of notice to do so shall be cause for termination and for forfeiture of this License.

I. COUNTY shall have no liability for any premiums charged for such coverage(s). The inclusion of COUNTY as additional named insured is not intended to and shall not make a partner or joint venturer with LICENSEE in LICENSEE's operations.

J. The LICENSEE agrees to require all parties or subcontractors, or others it hires or contracts with related to the use of this License to provide substantially the same insurance as required of Licensee and including the COUNTY as an additional insured as their interest may appear under this Agreement. LICENSEE agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided as required herein.

19. **TAXES, ASSESSMENTS AND LICENSES:** LICENSEE shall pay before delinquency any and all property taxes, assessments, fees, or charges, including possessory interest taxes, which may be levied or assessed upon any personal property, improvements or fixtures, if any, installed or belonging to LICENSEE and located within the Licensed Space. LICENSEE shall also pay all license or permit fees necessary or required by law for the conduct of its operation and/or in accordance with Section 107 of the California Revenue and Taxation Code. LICENSEE recognizes and understands that this License may create a possessory interest subject to property taxation and that the LICENSEE may be subject to the payment of property taxes levied on such interest unless the parties otherwise agree in writing prior to the start of construction or installation.

20. **LICENSED SPACE AND SAFETY REQUIREMENTS:** All activities under this License must conform to all applicable rules, regulations, laws, ordinances, codes, statutes, or orders of any governmental authority, Federal, State, or local lawfully exercising authority over LICENSEE's operations at the Licensed Space. In the event that the LICENSEE's use of the Licensed Space conflicts in any way, or is in violation of any of said rules, regulations, ordinances, statutes or orders, the LICENSEE shall initiate the removal or modification of the installation to conform with the applicable regulations within thirty (30) days of receipt of written notice to do so from the COUNTY and shall diligently complete such removal or modification of the installation. COUNTY's determination of conflicting use shall be conclusive.

21. **GENERAL COVENANTS AND AGREEMENTS:**

A. LICENSEE agrees not to use said Licensed Space, or any part thereof, for any purpose which causes injury to any neighboring property, or for any purpose in violation of valid applicable laws or ordinances.

B. No political signs shall be permitted on the Licensed Space.

C. Uses granted to LICENSEE under this License are valid only to the extent of the COUNTY's existing rights in the Licensed Space and may be subject to other existing easements and encumbrances. Rights granted to the LICENSEE under this License are not exclusive.

D. If the LICENSEE should refuse or neglect to comply with the provisions of this License, or the orders of the COUNTY, the COUNTY may have such provisions or orders carried out by others at the expense of the LICENSEE. All the terms, covenants and conditions set forth herein are to be strictly complied with by the LICENSEE. Notwithstanding any other provision of this License, including **Section 13 DEFAULT AND RIGHT TO TERMINATE**, COUNTY may immediately suspend or cancel the License for any failure to comply with the provisions of this **Section 21, GENERAL COVENANTS AND AGREEMENTS**.

E Permits required by applicable agencies for the Telecommunications Facility shall be the responsibility of the LICENSEE and LICENSEE shall at all times during the term of this License hold valid Permits for the Telecommunication Facility from all applicable agencies. **NOTHING CONTAINED IN THIS LICENSE SHALL BE CONSTRUED AS A RELINQUISHMENT OF ANY RIGHTS NOW HELD BY THE COUNTY.**

22. **TERMINATION:**

A. COUNTY may, at its option, terminate this License at any time and for any reason by providing at least one hundred eighty (180) days written notice to LICENSEE. If, after COUNTY has exercised the foregoing termination option, and if LICENSEE requires time beyond the effective termination date to surrender the Licensed Space, LICENSEE may request additional time from COUNTY not to exceed sixty (60) days from the stated effective termination date to vacate the Licensed Space, which COUNTY may grant or not grant at its sole discretion. If COUNTY grants such extension request, LICENSEE shall pay the License Fee at the holdover rate pursuant to Paragraph 14 for the extended surrender period. Any terminations pursuant to this paragraph shall be effective at the end of a calendar month. The Director of the Real Estate Services Department (RESD) shall have the authority, on behalf of the COUNTY, to give LICENSEE notice of any termination pursuant to this paragraph.

B. LICENSEE may terminate this License at any time after ninety (90) days prior written notice to COUNTY, and without further liability other than payment of the License Fee and other obligations accrued as of the effective termination date, if LICENSEE, through no fault of its own, cannot secure or loses any permits necessary to use or operate the Telecommunications Facility on the Licensed Space. Notwithstanding anything to the contrary in this paragraph, any terminations pursuant to this paragraph shall be effective at the end of a calendar month.

23. **INCORPORATION OF PRIOR AGREEMENT:** This License contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this license, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose.

24. **WAIVERS:** No waiver by either party of any provisions of this License shall be deemed to be a waiver of any other provision hereof or of any subsequent default by either party of the same or any other provisions.

25. **AMENDMENTS:** No provision of this License may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successor in interest, expressing by its terms an intention to modify this License.

26. **SUCCESSORS:** This License shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto.

27. **PROVISIONS ARE COVENANTS AND CONDITIONS:** All provisions, whether covenants or conditions, on the part of either party shall be deemed to be both covenants and conditions.

28. **CONSENT:** Unless specifically set forth otherwise in this License, whenever consent or approval of either party is required that party shall not unreasonably withhold such consent or approval.

29. **EXHIBITS:** All exhibits referred to are attached to this License and incorporated by reference.

30. **LAW:** This License shall be construed and interpreted in accordance with the laws of the State of California.

31. **VENUE:** The parties acknowledge and agree that this License was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue for any action or claim brought by any party to this License will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law, statute (including but not limited to Code of Civil Procedure section 394), or rule of court that would allow them to request or demand a change of venue. If any third party brings an action or claim concerning this License, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

32. **CAPTIONS AND COVER PAGE:** The paragraph captions and the cover page of this License shall have no effect on its interpretations.

33. **SEVERANCE:** If any provision of this License is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this License, and all such other provisions shall remain in full force and effect provided, however, that the purpose of the license is not frustrated. It is the intention of the parties hereto that if any provision of this License is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

34. **NOTICES:** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by United States mail, postage prepaid, certified, or registered, return receipt requested. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notices shall be deemed delivered and effective upon the earlier of (i) actual receipt or (ii) the date of delivery or refusal of the addressee to accept delivery if such notice is sent by or United States mail, postage prepaid, certified, or registered, return receipt requested.

COUNTY's address: County of San Bernardino  
Real Estate Services Department  
385 North Arrowhead Avenue  
San Bernardino, CA 92415-0180

LICENSEE's address: E.D.I. Media, Inc  
1773 W San Bernardino  
Rd Bldg. C31 – C34  
West Covina, CA 91790

35. **RECORDATION OF LICENSE:** LICENSEE shall not record this License, or short form memoranda of this License without the prior written consent of COUNTY. If COUNTY consents to the recordation of this License, LICENSEE shall pay all charges incident to such recording.

36. **SURVIVAL:** The obligations of the parties which, by their nature, continue beyond the term of this License, will survive the termination of this License.

37. **ATTORNEYS' FEES AND COSTS:** If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and reasonable attorneys' fees directly arising from any third-party legal action against a party hereto and payable under **Paragraph 16, HOLD HARMLESS.**

38. **FORMER COUNTY OFFICIALS:** LICENSEE agrees to provide or has already provided information on former COUNTY administrative officials (as defined below) who are employed by or represent LICENSEE. The information provided includes a list of former COUNTY administrative officials who terminated COUNTY employment within the last five years and who are now officers, principals, partners, associates, or members of the business. The information should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of your business. For purposes of this provision, "COUNTY administrative official" is defined as a member of the Board of Supervisors or such officer's staff, COUNTY Administrative Officer or member of such officer's staff, COUNTY department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit. (See Exhibit "C", List of Former COUNTY Officials.) For the purposes of this License Agreement only, "former COUNTY administrative officials who are employed by or represent LICENSEE" shall include only those who have been involved in the negotiation of this License Agreement. To the best of its knowledge, LICENSEE is not aware that there are any such former COUNTY administrative officials.

39. **MATERIAL MISREPRESENTATION:** If during the course of the administration of this License, the COUNTY determines that the LICENSEE has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the COUNTY, this License may be immediately terminated at COUNTY'S option. If this license is terminated according to this provision, the COUNTY is entitled to pursue any available legal remedies.

40. **INTERPRETATIONS:** As this License was jointly prepared by both parties, the language in all parts of this License shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

41. **FORCE MAJEURE:** COUNTY shall not be held liable for any delay or failure in performance of any part of this License from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, government regulations, strikes, labor disputes, embargoes, epidemics, war, terrorist acts, riots, insurrections, fire, explosions, earthquakes, nuclear accidents, floods, power blackouts, brownouts, or surges, volcanic action, other major environmental disturbances, unusually severe weather conditions,

inability to secure product or services of other persons or transportation facilities, or acts or omissions of transportation common carriers.

42. **EXECUTIVE ORDER N-6-22 RUSSIA SANCTIONS:**

\*Applicable only to contracts that are state funded\* On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>), as well as any sanctions imposed under state law (<https://www.dgs.ca.gov/OLS/Ukraine-Russia>). The EO directs state agencies and their contractors (including by agreement or receipt of a grant) to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should it be determined that Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. Contractor shall be provided advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the County.

43. **ELECTRONIC SIGNATURES:** This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

44. **PUBLIC RECORDS DISCLOSURE:** All information received by the COUNTY from any source concerning this License, including the License itself, may be treated by the COUNTY as public information subject to disclosure under the provisions of the California Public Records Act, Government Code section 6250 *et seq.* (the "Public Records Act"). LICENSEE understands that although all materials received by the COUNTY in connection with this License are intended for the exclusive use of the COUNTY, they are potentially subject to disclosure under the provisions of the Public Records Act. In the event a request for disclosure of any part or all of any information which a LICENSEE has reasonably requested COUNTY to hold in confidence is made to the COUNTY, the COUNTY shall notify the LICENSEE of the request and shall thereafter disclose the requested information unless the LICENSEE, within five (5) days of receiving notice of the disclosure request, requests nondisclosure, provides COUNTY a legally sound basis for the nondisclosure, and agrees to indemnify, defend, and hold the COUNTY harmless in any/all actions brought to require disclosure. LICENSEE waives any and all claims for damages, lost profits, or other injuries of any and all kinds in the event COUNTY fails to notify LICENSEE of any such disclosure request and/or releases any information concerning the contract received from the LICENSEE or any other source.

45. **CAMPAIGN CONTRIBUTION DISCLOSURE (SB 1439):** LICENSEE has disclosed to the COUNTY using Exhibit "D" - Campaign Contribution Disclosure Senate Bill 1439, whether it has made any campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the earlier of: (1) the date of the submission of Contractor's proposal to the County, or (2) 12 months before the date this Contract was approved by the Board of Supervisors. LICENSEE acknowledges that under

Government Code section 84308, LICENSEE is prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer for 12 months after the County's consideration of the Contract.

In the event of a proposed amendment to this Lease, the LICENSEE will provide the County a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the Board of Supervisors or other County elected officer within the preceding 12 months of the date of the proposed amendment.

Campaign contributions include those made by any agent/person/entity on behalf of the LICENSEE or by a parent, subsidiary, or otherwise related business entity of LICENSEE.

46. **AUTHORIZED SIGNATORS:** Both parties to this License represent that the signators executing this document are fully authorized to enter into this License.

**END OF LICENSE.**

**(THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)**

**SAN BERNARDINO COUNTY**

**E.D.I. Media, Inc.**

By:

*Dawn Rowe*  
Dawn Rowe, Chair  
Board of Supervisors

By:

*Slina Su*  
Slina Su

Date:

APR 23 2024

Date:

April 11 2024

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

By:

(name)

Title:

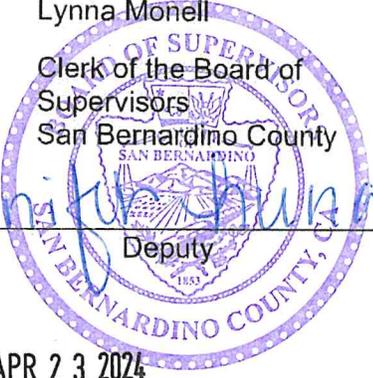
\_\_\_\_\_

Date:

\_\_\_\_\_

Lynna Monell  
Clerk of the Board of Supervisors  
San Bernardino County

By:

*John Tubbs II*  
Deputy  


Date:

APR 23 2024

Approved as to Legal Form:

TOM BUNTON, County Counsel  
San Bernardino County, California

By:

*John Tubbs II*  
John Tubbs II, Deputy County Counsel

Date:

4-10-24

**EXHIBIT A**

An approximately 40,000 square foot portion of unimproved land known as 1055-211-03 (portion), 1055-221-01 (portion) and 1055-221-03 located at 7000 Merrill Avenue, Chino Airport in the City of Chino, as such portion is more specifically depicted in Exhibit B.

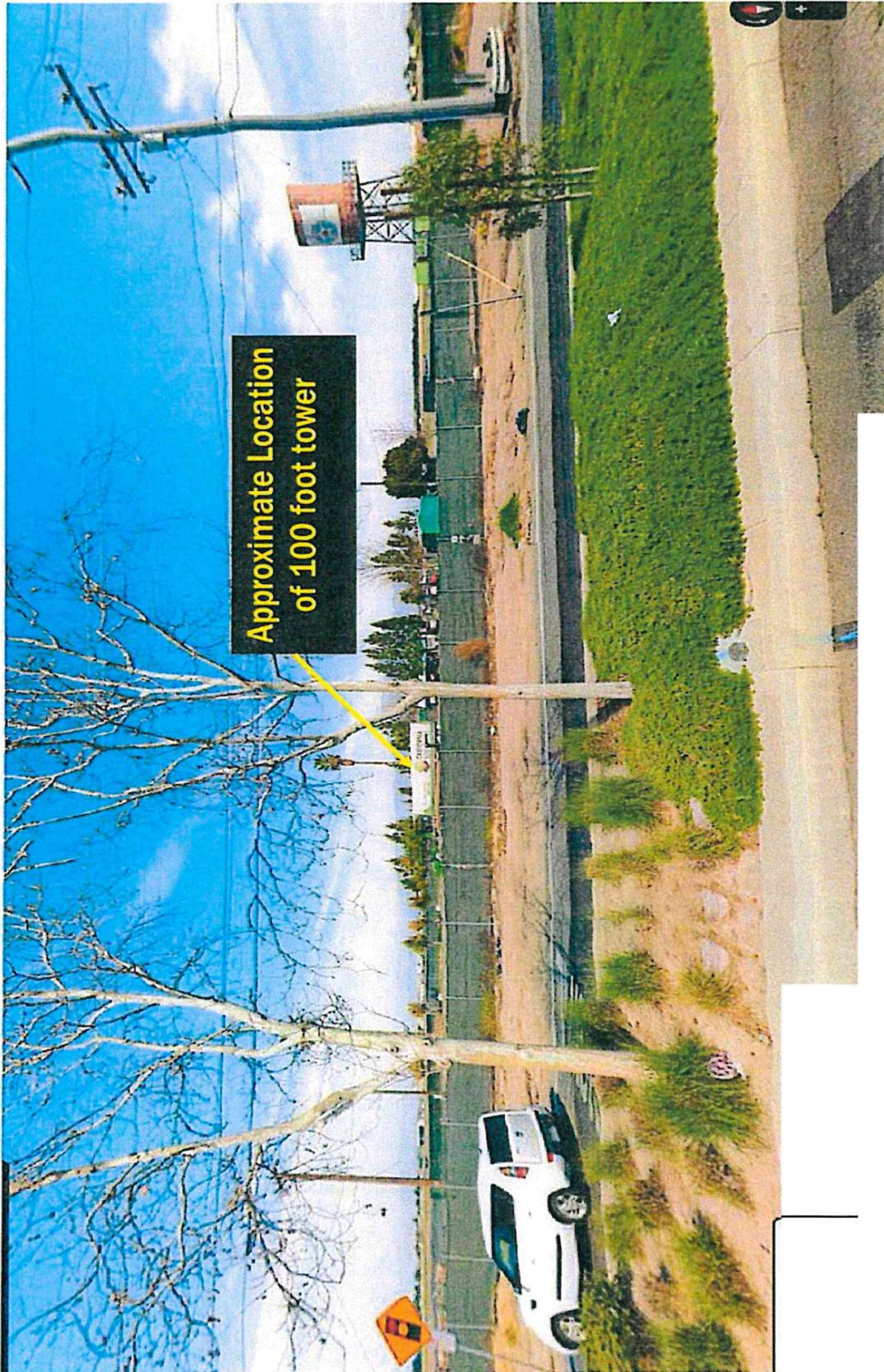


**EXHIBIT B**

Premises Map & Construction Drawings for proposed Telecommunications Facility

**THE FOLLOWING PAGES REPRESENT EXHIBIT "B" FOR THE PURPOSES OF THIS  
LICENSE AGREEMENT.**

Google Image of Approximate Location





**EXHIBIT "C"**

**LIST OF FORMER COUNTY OFFICIALS**

**INSTRUCTIONS:** List the full name of the former COUNTY Administrative Official, the title/description of the Official's last position with the COUNTY, the date the Official terminated COUNTY employment, the Official's current employment and/or representative capacity with the LICENSEE, the date the Official entered LICENSEE's employment and/or representation.

**OFFICIAL'S NAME:**

**REQUIRED INFORMATION**



**EXHIBIT "D"**  
**Campaign Contribution Disclosure**  
**(SB 1439)**

**DEFINITIONS**

Actively supporting the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

**LICENSEE must respond to the questions on the following page. If a question does not apply respond N/A or Not Applicable.**

1. Name of LANDLORD EDI Media, Inc

2. Is the entity listed in Question No. 1 a non-profit organization under Internal Revenue Code section 5011(3)?

Yes  If yes, skip Question Nos.–3 - 4 and go to Question No. 5.

No

3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision: James Su

4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded (“closed corporation”), identify the major shareholder(s): James Su

5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):

Company Name	Relationship

6. Name of agent(s) of LANDLORD:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)
Abernat, Roxben & Boggs	Lowell Homburger	

7. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district:

Company Name	Subcontractor(s):	Principal and/or Agent(s):

8. Name of any known individuals/companies who are not listed in Questions 1-7, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name

9. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors or other County elected officer within the prior 12 months, by any of the individuals or entities listed in Question Nos. 1-8?

No  If **no**, please skip Question No. 10.                      Yes  If **yes**, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer: \_\_\_\_\_

Name of Contributor: \_\_\_\_\_

Date(s) of Contribution(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_

Please add an additional sheet(s) to identify additional Board Members or other County elected officers to whom anyone listed made campaign contributions.

By signing below, LANDLORD certifies that the statements made herein are true and correct. LANDLORD understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while this matter is pending and for 12 months after a final decision is made by the County.

*James Su* \_\_\_\_\_  
Signature

March 18, 2024 \_\_\_\_\_  
Date

Su  
Print Name

EDI Media, Inc by Abernat, Roxben & Boggs  
Print Entity Name, if applicable

**EXHIBIT "E"**  
**PREVAILING WAGE REQUIREMENTS**

**A. All or a portion of the Scope of Work in the Contract requires the payment of prevailing wages and compliance with the following requirements:**

**1. Determination of Prevailing Rates:**

Pursuant to Labor Code sections 1770, et seq., the County has obtained from the Director of the Department of Industrial Relations (DIR) pursuant to the California Labor Code, the general prevailing rates of per diem wages and the prevailing rates for holiday and overtime work in the locality in which the Scope of Work is to be performed. Copies of said rates are on file with the County, will be made available for inspection during regular business hours, may be included elsewhere in the specifications for the Scope of Work, and are also available online at [www.dir.ca.gov](http://www.dir.ca.gov). The wage rate for any classification not listed, but which may be required to execute the Scope of Work, shall be commensurate and in accord with specified rates for similar or comparable classifications for those performing similar or comparable duties. In accordance with Labor Code section 1773.2, the Contractor shall post, at appropriate and conspicuous locations on the job site, a schedule showing all applicable prevailing wage rates and shall comply with the requirements of Labor Code sections 1773, et seq.

**2. Payment of Prevailing Rates**

Each worker of the Contractor, or any subcontractor, engaged in the Scope of Work, shall be paid not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor, and such worker.

**3. Prevailing Rate Penalty**

The Contractor shall, as a penalty, forfeit two hundred dollars (\$200.00) to the County for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of the DIR for such work or craft in which such worker is employed by the Contractor or by any subcontractor in connection with the Scope of Work. Pursuant to California Labor Code section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

**4. Ineligible Contractors:**

Pursuant to the provisions of Labor Code section 1777.1, the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a contractor or subcontractor on a public works project. This list of debarred contractors is available from the DIR website at <http://www.dir.ca.gov/Public-Works/PublicWorks.html>. Any contract entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the County. The Contractor shall be responsible for the payment of wages to workers as a debarred subcontractor who has been allowed to work on the Scope of Work.

**5. Payroll Records:**

a. Pursuant to California Labor Code section 1776, the Contractor, and each subcontractor, shall keep accurate certified payroll records, showing the name, address, social security number, work classification, straight time and overtime

hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by them in connection with the Scope of Work. The payroll records enumerated herein shall be verified by a written declaration made under penalty of perjury that the information contained in the payroll record is true and correct and that the Contractor or subcontractor has complied with the requirements of the California Labor Code sections 1771, 1811, and 1815 for any Scope of Work performed by his or her employees. The payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

- i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request;
  - ii. A certified copy of all payroll records shall be made available for inspection or furnished upon request to the County, the Division of Labor Standards Enforcement of the DIR;
  - iii. A certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the County or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to the County or the Division of Labor Standards Enforcement, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, subcontractor and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor;
  - iv. The Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; and
  - v. Copies provided to the public by the County, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any subcontractor performing a part of the Scope of Work shall not be marked or obliterated. The Contractor shall inform the County of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address.
- b. The Contractor shall have ten (10) days from receipt of the written notice specifying in what respects the Contractor must comply with the above requirements. In the event Contractor does not comply with the requirements of this section within the ten (10) day period, the Contractor shall, as a penalty to the County, forfeit one-hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, such penalty shall be withheld from any portion of the payments then due or to become due to the Contractor.

**6. Limits on Hours of Work:**

Pursuant to California Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code section 1811, the time of service of any worker employed at any time by the Contractor or by a subcontractor, upon the Scope of Work or upon any part of the Scope of Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as provided for under Labor Code section 1815. Notwithstanding the foregoing provisions, work performed by employees of Contractor or any subcontractor, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

**7. Penalty for Excess Hours:**

The Contractor shall pay to the County a penalty of twenty-five dollars (\$25.00) for each worker employed on the Scope of Work by the Contractor or any subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Contractor is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

**8. Senate Bill 854 (Chapter 28, Statutes of 2014) and Senate Bill 96 (Chapter 28, Statutes of 2017) Requirements:**

a. Contractor shall comply with Senate Bill 854 and Senate Bill 96. The requirements include, but are not limited to, the following:

- i. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirement for bid purposes only as allowed under Labor Code section 1771.1(a).
- ii. No contractor or subcontractor may be awarded a contract for public work or perform work on a public works project unless registered with the DIR pursuant to Labor Code section 1725.5.
- iii. This project is subject to compliance monitoring and enforcement by the DIR.
- iv. As required by the DIR, Contractor is required to post job site notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.
- v. Contractors and all subcontractors must submit certified payroll records online to the Labor Commissioner for all public works projects.
  - 1) The certified payroll must be submitted at least monthly to the Labor Commissioner.
  - 2) The County reserves the right to require Contractor and all subcontractors to submit certified payroll records more frequently than monthly to the Labor Commissioner.
  - 3) The certified payroll records must be in a format prescribed by the Labor Commissioner.
- vi. Registration with the DIR and the submission of certified payroll records to the Labor Commissioner are not required if the public works project is \$25,000 or less when the project is for construction, alteration, demolition,

installation, or repair work, or if the public works project is \$15,000 or less when the project is for maintenance work.

b. Labor Code section 1725.5 states the following:

“A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, “contractor” includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a contractor shall do all of the following:

(1) (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.

(2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without

being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

(i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.

(f) This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.”

c. Labor Code section 1771.1 states the following:

“(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted, nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(h)(1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to

the state, of one hundred dollars (\$100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess and may waive the penalty for a first-time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(3) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works contractor or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(j)(1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.

(2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:

(A) Manual delivery of the order to the contractor or subcontractor personally.

(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at one of the following:

(i) The address of the contractor or subcontractor on file with either the Secretary of State or the Contractors' State License Board.

(ii) If the contractor or subcontractor has no address on file with the Secretary of State or the Contractors' State License Board, the address of the site of the public work.

(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed

by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

(4) Any employee of an unregistered contractor or subcontractor who is affected by a work stoppage ordered by the commissioner pursuant to this subdivision shall be paid at his or her regular hourly prevailing wage rate by that employer for any hours the employee would have worked but for the work stoppage, not to exceed 10 days.

(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.”

d. Labor Code section 1771.4 states the following:

“a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

(3) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(A) At least monthly or more frequently if specified in the contract with the awarding body.

(B) In a format prescribed by the Labor Commissioner.

(4) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.

(5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.

(b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:

(1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.

(2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.

(d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016.”

## **B. STATE PUBLIC WORKS APPRENTICESHIP REQUIREMENTS**

### **1. State Public Works Apprenticeship Requirements:**

- a. The Contractor is responsible for compliance with Labor Code section 1777.5 and the California Code of Regulations, title 8, sections 230 – 230.2 for all apprenticeable occupations (denoted with “#” symbol next to craft name in DIR Prevailing Wage Determination), whether employed by the Contractor, subcontractor, vendor, or consultant. Included in these requirements is (1) the Contractor’s requirement to provide notification (i.e. DAS-140) to the appropriate apprenticeship committees; (2) pay training fund contributions for each apprenticeable hour employed on the Contract; and (3) utilize apprentices in a minimum ratio of not less than one apprentice hour for each five journeyman hours by completion of Contract work (unless an exception is granted in accordance with Labor Code section 1777.5) or request for the dispatch of apprentices.
- b. Any apprentices employed to perform any of the Scope of Work shall be paid the standard wage to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code sections 3070 et seq. are eligible to be employed for the Scope of Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is trained.

### **2. Compliance with [California Labor Code section 1777.5](#) requires all public works contractors to:**

- a. Submit Contract Award Information (DAS-140):
  - i. Although there are a few exemptions (identified below), all Contractors, regardless of union affiliation, must submit contract award information when performing on a California public works project.

- ii. The DAS-140 is a notification “announcement” of the Contractor’s participation on a public works project—*it is not a request for the dispatch of an apprentice.*
- iii. Contractors shall submit the contract award information (you may use form DAS 140) within 10 days of the execution of the prime contract, or subcontract, but in no event later than the first day in which the Contractor has workers employed on the public work.
- iv. Contractors who are already approved to train apprentices (i.e. check “Box 1” on the DAS-140) shall only be required to submit the form to their approved program.
- v. Contractors who are NOT approved to train apprentices (i.e. those that check either “Box 2” or “Box 3” on the DAS-140) shall submit the DAS-140 TO EACH of the apprenticeship program sponsors in the area of your public works project. For a listing of apprenticeship programs see <http://www.dir.ca.gov/Databases/das/pwaddrstart.asp>.

b. Employ Registered Apprentices

- i. Labor Code section 1777.5 requires that a contractor performing work in an “apprenticeable” craft must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman. This ratio shall be met prior to the Contractor’s completion of work on the project. “Apprenticeable” crafts are denoted with a pound symbol “#” in front of the craft name on the prevailing wage determination.
- ii. All Contractors who do not fall within an exemption category (see below) must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required.
- iii. Contractors may use the “DAS-142” form for making a request for the dispatch of an apprentice.
- iv. Contractors who are participating in an approved apprenticeship training program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from ALL OTHER apprenticeship committees in the project area in order to fulfill this requirement.
- v. Contractor should maintain and submit proof (when requested) of its DAS-142 submittal to the apprenticeship committees (e.g. fax transmittal confirmation). A Contractor has met its requirement to employ apprentices only after it has successfully made a dispatch request to all apprenticeship programs in the project area.
- vi. Only “registered” apprentices may be paid the prevailing apprentice rates and must, at all times work under the supervision of a Journeyman (Cal. Code Regs., tit 8, § 230.1).

c. Make Training Fund Contributions

- i. Contractors performing in apprenticeable crafts on public works projects, must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices.

- ii. Contractors may use the "CAC-2" form for submittal of their training fund contributions.
- iii. Contractors who do not submit their training fund contributions to an approved apprenticeship training program must submit their contributions to the California Apprenticeship Council (CAC), PO Box 420603, San Francisco, CA 94142-0603.
- iv. Training fund contributions to the CAC are due and payable on the 15th day of the month for work performed during the preceding month.
- v. The "training" contribution amount identified on the prevailing wage determination shall not be paid to the worker, unless the worker falls within one of the exemption categories listed below.

**3. Exemptions to Apprenticeship Requirements:**

- a. The following are exempt from having to comply with California apprenticeship requirements. These types of contractors do not need to submit a DAS-140, DAS-142, make training fund contributions, or utilize apprentices:
  - i. When the Contractor holds a sole proprietor license ("Owner-Operator") and no workers were employed by the Contractor. In other words, the contractor performed the entire work from start to finish and worked alone.
  - ii. Contractors performing in non-apprenticeable crafts. "Apprenticeable" crafts are denoted with a pound symbol "#" in front of the craft name on the prevailing wage determination.
  - iii. When the Contractor has a direct contract with the Public Agency that is under \$30,000.
  - iv. When the project is 100% federally funded and the funding of the project does not contain any city, county, and/or state monies (unless the project is administered by a state agency in which case the apprenticeship requirements apply).
  - v. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720.

**4. Exemption from Apprenticeship Ratios:**

- a. The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions are met:
  - i. Unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%); or
  - ii. The number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen; or
  - iii. The Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis; or
  - iv. If assignment of an apprentice to any work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be

assigned is of such a nature that training cannot be provided by a journeyman.

- b. When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

**5. Contractor's Compliance:**

- a. The responsibility of compliance with this Section for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Section are subject to the provisions of California Labor Code section 3081 and penalties are pursuant to Labor Code section 1777.7 and the determination of the Labor Commissioner.