

STANDARD SUBSCRIPTION AGREEMENT

**MEDIA NEWS GROUP, INC.
AND
CITY OF LONG BEACH
36355**

This License Agreement (this "Agreement") is made effective as of May 6, 2022 (the "Effective Date") between MediaNews Group, Inc., 5990 Washington Street, Denver, CO 80126 ("MediaNews Group") and the City of Long Beach, with its principal offices in Long Beach, CA, USA ("Subscriber").

In consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

I. CONTENT OF SUBSCRIPTION MATERIALS; GRANT OF LICENSE

Subscription Materials. The materials (the "Subscription Materials") that are the subject of this Agreement are set forth in Appendix A.

Grant of License. MediaNews Group hereby grants to Subscriber a non-exclusive, non-transferable, right to access and use the Subscription Materials, and to provide the Subscription Materials to Authorized Users (which are defined in Section IV below) in accordance with the terms of this Agreement.

Ownership of Intellectual Property. Nothing in this Agreement shall be interpreted to transfer ownership of any copyright, trademarks or service marks from the MediaNews Group or its suppliers to the Subscriber or Authorized Users.

II. DELIVERY & ACCESS

MediaNews Group will provide the Subscription Materials to the Subscriber in the following manner:

Network Access. The Subscription Materials will be stored at one or more MediaNews Group locations in digital form accessible by telecommunications links between such locations and authorized locations of Subscriber.

III. FEES

Fees and Payment. Subscriber shall pay MediaNews Group for the Subscription Materials pursuant to the terms set forth in Appendix A. All fees are due and payable by Subscriber thirty (30) days after the date of invoice from MediaNews Group.

Notice of Renewal Fees. MediaNews Group shall provide Subscriber with renewal quotes of all Subscription Materials no less than sixty (60) days prior to the end of the current term.

IV. AUTHORIZED USE OF SUBSCRIPTION MATERIALS

Authorized Users. "Authorized Users" are:

Persons Affiliated with the City of Long Beach. Full and part time employees (including but not limited to, staff, and independent contractors) and officials of Subscriber.

Walk-ins. Patrons not affiliated with Subscriber who are physically present at Subscriber Site(s) ("walk-ins").

Access by and Authentication of Authorized Users. Subscriber and its Authorized Users shall be granted access to the Subscription Materials pursuant to the following:

IP Addresses. Authorized Users shall be identified and authenticated by the use of Internet Protocol ("IP") addresses provided by Subscriber to MediaNews Group. The use of proxy servers is authorized as long as any proxy server IP addresses provided limit remote or off-site access to Authorized Users. Subscriber and MediaNews Group shall cooperate in the implementation of new authentication protocols and procedures (such as Shibboleth) as they are developed during the term of this Agreement.

Authorized Uses. Subscriber and Authorized Users may make all use of the Subscription Materials as is consistent with United States copyright law, including its Fair Use Provisions. In addition, the Subscription Materials may be used for purposes of research, education or other non-commercial use as follows:

Display. Licensee and Authorized Users shall have the right to electronically display the Licensed Materials.

Digitally Copy. Licensee and Authorized Users may download and digitally copy a reasonable portion of the Licensed Materials.

Print Copy. Licensee and Authorized Users may print a reasonable portion of the Licensed Materials.

Recover Copying Costs. Licensee may charge a reasonable fee to cover costs of copying or printing portions of Licensed Materials for Authorized Users.

Caching. Subscriber and Authorized Users may make local digital copies of the Subscription Materials in order to ensure efficient use by Authorized Users by appropriate browser or other software. For the avoidance of doubt, the cached copy is not a derivative work.

Office Use. Licensee and Authorized Users may distribute single copies of individual articles or items of the Licensed Materials in print or electronic form to Authorized Users.

Collections of Information. Licensee and Authorized Users shall be permitted to extract or use information contained in the Licensed Materials for educational, scientific, or research purposes, including extraction and manipulation of information for the purpose of illustration, explanation, example, comment, criticism, teaching, research, or analysis.

Electronic Links. Licensee and Authorized Users may provide hyperlinks from the Licensee's and Authorized Users' web page(s) or web site(s) to individual units of content within the Licensed Materials.

Bibliographic Citations. Licensee and Authorized Users may use, with appropriate credit, figures, tables, and brief excerpts from the Licensed Materials in the Authorized User's own work products.

No Diminution of Rights. Nothing in this Agreement, including but not limited to Authorized Uses, shall be interpreted to diminish the rights and privileges of the Subscriber or Authorized Users with respect to any of the Subscription Materials, including exceptions or limitations to the exclusive rights of copyright owners, such as fair use, under Section 107 of the U.S. Copyright Act. In the event that any content included in the Subscription Materials is in the public domain or has been issued under a Creative Commons or other open license, MediaNews Group shall not place access, use or other restrictions on that content beyond those found in the open license, where applicable.

Amount of Authorized Use.

Unlimited Access. Subject to the terms of this Agreement, Subscriber and its Authorized Users shall have unlimited simultaneous user access to the Subscription Materials.

V. SPECIFIC RESTRICTIONS ON USE OF SUBSCRIPTION MATERIALS

Unauthorized Use. Subscriber shall not knowingly permit anyone other than Authorized Users to access the Subscription Materials.

Modification of Subscription Materials. Subscriber shall not modify, manipulate, or create a derivative work of the Subscription Materials without the prior written permission of MediaNews Group.

Removal of Copyright Notice. Subscriber may not remove, obscure or modify any copyright or other notices included in the Subscription Materials.

Commercial Purposes. Subscriber may not use the Subscription Materials for commercial purposes, including but not limited to the sale of the Subscription Materials, fee-for-service use of the Subscription Materials; nor may Subscriber impose special charges on Authorized Users for use of the Subscription Materials beyond reasonable printing or administrative costs. For the avoidance of doubt, research conducted by Subscriber and Authorized Users that is supported by a commercial entity shall not be considered use for commercial purposes.

VI. MUTUAL PERFORMANCE OBLIGATIONS

Notification and Cure of Unauthorized Use. In the event the Subscriber has notice of an unauthorized use of the Subscription Materials and cannot promptly remedy it, the Subscriber shall promptly notify the MediaNews Group. In the event the MediaNews Group has notice of unauthorized use of the Subscription Materials, the MediaNews Group will promptly notify Subscriber.

In the case of unauthorized use which is causing serious and immediate material harm to the MediaNews Group, MediaNews Group may temporarily suspend such offending individual Authorized User's access to the Subscription Materials (e.g. by blocking an individual user's IP address), provided that MediaNews Group immediately notifies the Subscriber of any such suspension, including the reason for the block and any supporting details. Such temporary suspensions will be of the shortest duration possible sufficient to terminate the alleged unauthorized activity and prevent its resumption. Any unauthorized use that is considered a breach of obligations under this Agreement shall be subject to Section XI, below, including the cure period.

VII. MEDIANEWS GROUP PERFORMANCE OBLIGATIONS

MediaNews Group will use reasonable efforts to ensure that its performance will meet or exceed industry standards and practices. Additionally, MediaNews Group agrees to the following performance standards.

Availability of License Materials. Upon the Effective Date of this Agreement, MediaNews Group will make the Subscription Materials available to the Subscriber and Authorized Users.

Persistent Linking. MediaNews Group will comply with the most current version of the OpenURL standard (ANSI/NISA Z39.88), and will provide a mechanism for persistent links to content.

Online Terms and Conditions. In the event that MediaNews Group requires Authorized Users to agree to additional terms relating to the use of the Subscription Materials (commonly referred to as "click-through" or "clickwrap" licenses), or otherwise attempts to impose terms on Authorized Users through online terms and conditions invoked by the mere use or viewing of the Subscription Materials, such terms shall not materially differ from the provisions of this Agreement. In the event of any conflict between the click-through terms or online terms and conditions and this Agreement, the terms of this Agreement shall prevail. For the avoidance of doubt, Authorized Users are not a party to this Agreement.

Documentation. MediaNews Group will provide complete and up-to-date help and operational documentation for Subscriber and Authorized Users in an electronic format.

Quality of Service. MediaNews Group shall use reasonable efforts to ensure that the MediaNews Group's server or servers have sufficient capacity and rate of connectivity to provide the Subscriber and its Authorized Users with a quality of service comparable to current standards in the on-line information provision industry in the Subscriber's locale. MediaNews Group shall use reasonable efforts to provide continuous service seven (7) days a week with an average of 98% up-time per month. The 2% down-

time includes periodic unavailability due to server maintenance; software installation or testing; loading or making available additional Subscription Materials as they become available; and unavailability because of service or equipment failure outside the control of MediaNews Group (including problems with public or private telecommunications services, or Internet nodes or facilities). MediaNews Group may schedule brief unavailability periods, but will do so only where (1) it has given at least forty-eight (48) hour notice to Subscriber, and (2) in ways and at times that minimize inconvenience to Subscriber and its Authorized Users, regardless of when notice has been given.

Problems with Subscription Materials. If the Subscription Materials fail to operate, display, load, or render in conformance with the terms of this Agreement, Subscriber shall immediately notify MediaNews Group, and MediaNews Group shall promptly use commercially reasonable efforts to restore access to the Subscription Materials as soon as possible. In the event that the non-conformity materially affects the Subscriber's or Authorized Users' use of the Subscription Materials, and MediaNews Group fails to repair the nonconformity within five (5) business days, MediaNews Group shall reimburse Subscriber for such problems in an amount that is proportional to the total Fees owed by Subscriber under this Agreement.

Notification of Modifications of Subscription Materials. From time to time MediaNews Group may add, change, or modify portions of the Subscription Materials, or migrate the Subscription Materials to other formats. When such changes, modifications, or migrations occur, the MediaNews Group shall give notice of any such changes to Subscriber as soon as is practicable, but in no event less than sixty (60) days in advance of modification. If any of the changes, modifications, or migrations renders the Subscription Materials substantially less useful to the Subscriber or its Authorized Users, the Subscriber may seek to terminate this Agreement pursuant to the termination provisions of this Agreement in Section X, below. The foregoing does not apply to modifications or updates to stories included within the Subscription Materials.

Withdrawal of Subscription Materials. MediaNews Group reserves the right to withdraw from the Subscription Materials any item or part of an item for which it no longer retains the right to publish, or which it has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful, or otherwise objectionable.

Itemized Holdings/Title List. MediaNews Group will provide to the Subscriber, prior to the beginning of the calendar year within the current term, an itemized holdings report that specifies the titles included in the Subscription Materials for the next subscription term. MediaNews Group will use reasonable efforts to update itemized holdings reports as soon as is practicable when holdings information changes, and will provide this information to Subscriber on request.

Disclosure of usage data shall fully protect the anonymity of individual users and the confidentiality of their searches, and will comply with all applicable privacy laws.

Confidentiality of Personally Identifiable Information. MediaNews Group agrees that no personally identifiable information, including but not limited to log-ins recorded in system logs, IP addresses of patrons accessing the system, saved searches, usernames and passwords, will be shared with third parties, except in response to a subpoena, court order, or other legal requirement. If MediaNews Group

is compelled by law or court order to disclose personally identifiable information of Authorized Users of patterns of use, MediaNews Group shall, to the extent legally permitted, provide the Subscriber with adequate prior written notice as soon as is practicable, so that Subscriber or Authorized Users may seek protective orders or other remedies. MediaNews Group will notify Subscriber and Authorized Users as soon as is practicable if the MediaNews Group's systems are breached and the confidentiality of personally identifiable information is compromised.

Notice of the Use of Digital Rights Management Technology. In the event that MediaNews Group utilizes or implements any type of digital rights management (DRM) technology to control the access to or usage of the Subscription Materials, MediaNews Group will provide to Subscriber a description of the technical specifications of the DRM and how it impacts access to or usage of the Subscription Materials. In no event may such Digital Rights Management Technology be used in such a way as to limit the usage rights of a Subscriber or any Authorized User as specified in this Agreement or under applicable law. If the use of DRM renders the Subscription Materials substantially less useful to the Subscriber or its Authorized Users, the Subscriber may seek to terminate this Agreement for breach pursuant to the termination provisions of this Agreement in Section XI, below.

Use of Digital Watermarking Technology. In the event that MediaNews Group utilizes any type of watermarking technology for any element of the Subscription Materials, MediaNews Group agrees that watermarks will not reduce readability of content and will not degrade image quality. These watermarks shall not contain user-related information, including but not limited to an account number, IP address, and usernames. If digital watermarking technology is implemented, MediaNews Group will notify Subscriber at least thirty (30) days in advance of implementation, and MediaNews Group will provide the technical specifications for the technology used. If the use of the watermarking technology renders the Subscription Materials substantially less useful to the Subscriber or its Authorized Users, the Subscriber may seek to terminate this Agreement for breach pursuant to the termination provisions of this Agreement in Section XI, below.

Interoperability with Prevailing Web Browsers. MediaNews Group will use reasonable efforts to ensure that the Subscription Materials are accessible and interoperable with prevailing web browsers and internet access tools, including, at a minimum, the most recent two major versions (current version and one version prior) and all the associated releases for those versions.

VIII. SUBSCRIBER PERFORMANCE OBLIGATIONS

License Terms Notification. Subscriber will use reasonable efforts to provide Authorized Users with appropriate notice of the terms and conditions under which access to the Subscription Materials is granted under this Agreement.

Protection from Unauthorized Use. Subscriber will use reasonable efforts to restrict access to the Subscription Materials to Authorized Users.

Maintaining Confidentiality of Access Passwords. Where access to the Subscription Materials is to be controlled by use of passwords, Subscriber will use reasonable efforts to inform Authorized Users that they should not divulge their numbers and passwords to any third party. Subscriber will also use

reasonable efforts to maintain the confidentiality of any institutional passwords provided by MediaNews Group.

IX. TERM

The term of this agreement shall commence at midnight on May 6, 2022, and shall terminate at 11:59p.m. on May 5, 2024, unless sooner terminated as provided in this Agreement. The term may be extended for three (3) additional one-year periods, at the discretion of the City manager.

X. TERMINATION

Either party shall have the right to terminate this Agreement for any reason or no reason at any time by giving sixty (60) days prior written notice to the other party. In the event of termination under this section, Subscriber shall pay MediaNews Group for services satisfactorily performed up to the effective date of termination for which MediaNews Group has not been previously paid. Any such final payment is due and payable by Subscriber thirty (30) days after the date of final invoice from MediaNews Group.

XI. WARRANTIES

MediaNews Group warrants that it has all necessary legal and equitable rights, permissions, and clearances to license the Subscription Materials to the Subscriber for the purposes outlined in this Agreement, and that use of the Subscription Materials by Authorized Users in accordance with the terms of this Agreement shall not infringe the copyright or other rights of any third party.

MediaNews Group warrants that the physical object or medium which contains the Subscription Materials will be free from defects for a period of ninety (90) days from delivery.

Accessibility Requirements. MediaNews Group warrants that the Subscription Materials comply with California and federal disabilities laws and regulations, and conform to the accessibility requirements of Web Accessibility Initiative, Web Content Accessibility Guidelines (WCAG) 2.0 at level AA.¹ MediaNews Group agrees to promptly respond to and resolve any complaint regarding accessibility of Subscription Materials.

XII. LIMITATIONS ON WARRANTIES

Notwithstanding anything else in this Agreement, neither party shall be liable for any indirect, special, incidental, punitive or consequential damages, including but not limited to loss of data, business interruption, or loss of profits, that arises from the use of the Subscription Materials, or the inability to use the Subscription Materials.

MediaNews Group makes no representation or warranty, and expressly disclaims any liability with respect to the content of any Subscription Materials, including but not limited to errors or omissions contained therein, libel, infringement of rights of publicity, privacy, trademark rights, moral rights, or

¹ <http://www.w3.org/WAI/guid-tech.html>

the disclosure of confidential information.

Except for the express warranties stated elsewhere in this Agreement, MediaNews Group disclaims any and all other warranties, conditions, or representations (express, implied, oral or written), relating to the Subscription Materials or any part thereof, including, without limitation, any and all implied warranties of quality, performance, merchantability, or fitness for a particular purpose.

XIII. INDEMNITIES

The MediaNews Group shall indemnify and hold harmless the Subscriber and Authorized Users for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, that arise from any third party claim that alleges copyright infringement or other intellectual property infringement arising from the use of the Subscription Materials by the Subscriber or any Authorized User. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION. This Section XV shall survive the termination of this Agreement.

XIV. ASSIGNMENT AND TRANSFER

Neither party may assign, directly or indirectly, all or part of its rights or obligations under this Agreement without the prior written consent of the other party, except as otherwise provided in Section VII. Neither party to this Agreement may unreasonably withhold or delay such written consent.

XV. GOVERNING LAW

This Agreement shall be interpreted and construed according to, and governed by, the laws of California, excluding any such laws that might direct the application of the laws of another jurisdiction.

XVI. VENUE

The exclusive jurisdiction and venue for any and all actions arising out of or brought under the Agreement is in a state court of competent jurisdiction, situated in Los Angeles County, California (or, if applicable, the federal court located in the Central District of California). MediaNews Group agrees to submit to the personal jurisdiction of the state courts in the State of California (or, if applicable, the federal courts in California) with respect to any legal proceedings that may arise in connection with this Agreement or from a dispute as to the interpretation or breach of this Agreement.

XVII. FORCE MAJEURE

Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections, labor strikes or other work stoppages, and/or any other cause beyond the reasonable control of the party whose performance is affected.

XVIII. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings, and agreements relating to the subject matter hereof, whether oral or written. For the avoidance of doubt, online terms and conditions as defined in Section VII shall not modify the terms of this Agreement.

XIX. AMENDMENT

No modification or claimed waiver of any provision of this Agreement shall be valid except by written amendment signed by authorized representatives of MediaNews Group and Subscriber.

XX. SEVERABILITY

If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

XXI. WAIVER OF CONTRACTUAL RIGHT

Waiver of any provision herein shall not be deemed a waiver of any other provision herein, nor shall waiver of any breach of this Agreement be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement.

XXII. NOTICES

All notices given pursuant to this Agreement shall be in writing and may be hand delivered, or shall be deemed received within five (5) business days after mailing if sent by registered or certified mail, return receipt requested. If any notice is sent by facsimile or electronic mail, confirmation copies must be sent by mail or by hand delivery to the specified address. Either party may from time to time change its Notice Address by written notice to the other party. Any legal notices or other legal documents provided to either party as described in this Agreement shall constitute valid legal service, and MediaNews Group expressly waives any further service of process requirements provided under the Hague Service Convention or similar service of process standards or agreements.

If to MediaNews Group:

5990 Washington Street
Denver
CO
USA
80216

With a copy to:
MediaNews Group, Inc.
4 North Second Street, Suite 800
San Jose, CA 95113
Attn: Legal

If to Subscriber:

Licensing/invoicing/technical contact:


Thomas B. Modica
City Manager
City of Long Beach
Technology and Innovation
411 W Ocean Blvd, 7th Floor
Long Beach, CA 90802
Email: Thomas.Modica@longbeach.gov

XXIII. EXECUTION

The parties agree that scanned and/or electronically signed versions of this originally executed Agreement are acceptable in lieu of printed signed copies and are to be given full force and effect under law.


IN WITNESS WHEREOF, the parties have executed this Agreement by their respective, duly authorized representatives as of the date first above written.

MEDIANEWS GROUP:

BY: 
Signature of Authorized Signatory of Publisher

DATE: 7/27/2022

Print Name: Katherine Wang
Title: Director of Circulation
E-mail: kwang@scng.com
Phone: (626) 544-6647

BY: 
Signature of Authorized Signatory of Corporate Officer

DATE: 7/21/2022

Print Name: Leigh Poitinger
Title: Director of Marketing
E-mail: lpoitinger@bayareanewsgroup.com
Phone: (831) 588-2886

SUBSCRIBER:

BY: Linda J. Tubum DATE: 8-19-2022
City Manager *LT*

Print Name: Thomas B. Modica
Title: City Manager-City of Long Beach
Email: Thomas.Modica@longbeach.gov

**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.**

APPENDIX A: BUSINESS TERMS

Subscription Materials:

presstelegram.com

Contract Term: Annually

Access Conditions: IP based-access

Authentication: IP authentication

Fees and Negotiated Discounts:

- Subscription Fee: \$5,000 (USD) / year
- Maintaining existing delivery subscription to Press Telegram

Payment Terms: The MediaNews Group will issue a single invoice for the annual subscription fee, due within 30 days upon receipt.

APPROVED AS TO FORM
August 17, 2022
 CHARLES PARKIN, City Attorney
 By [Signature]
 ERIN WEESNER-MCKINLEY
 DEPUTY CITY ATTORNEY