

By electronic CONFIDENTIALITY
A G R E E M E N T B Y A N D A M O N G
COUNTY OF MONTEREY, CALIFORNIA
AND
THE BUSKE GROUP
AND
COMCAST OF CALIFORNIA IX, INC.

THIS Confidentiality Agreement ("Agreement") is made as of the date first written below among Comcast of California IX, Inc. (hereinafter "Comcast"), the Buske Group (hereinafter "Consultant"), and the County of Monterey (hereinafter "the County"), a political subdivision of the State of California, acting pursuant to the authority of Ordinance # 03391 (hereinafter "the Ordinance").

WHEREAS, the County has retained Consultant to perform a franchise fee audit, and

WHEREAS, conduct of the audit requires Consultant to have access to certain information considered by Comcast to be proprietary and confidential, and

WHEREAS, Section 7.12.110 of the Monterey County Code requires Comcast to produce documentation requested for the purposes of conducting the franchise fee audit, notwithstanding any claims of confidentiality, and

WHEREAS, the County, Comcast and Consultant (hereinafter collectively the "Parties") desire to enter into a working relationship which will permit the review of necessary documentation so that the audit can be completed, while providing reasonable assurances to Comcast that information legitimately considered confidential will not be publicly disclosed,

NOW, THEREFORE, the Parties agree as follows:

1. The purpose of the disclosure hereunder shall be for the sole purpose of permitting the County and Consultant to perform a franchise fee audit of Comcast's cable franchise serving the County. The County and Consultant each agree to use the Confidential Information only for such purpose or other purposes related to enforcement of Comcast's obligation to pay monetary amounts pursuant to Comcast's cable franchise serving the County and Comcast's compliance therewith and only in accordance with the terms of this Agreement.

2. The term "Confidential Information" shall mean and refer to all Comcast confidential or proprietary information, documents, and materials, whether printed or in machine-readable form or otherwise, all of which will be specified in writing by Comcast, including, but not limited to, processes, hardware, software, trade secrets, research, know-how, business methods, and procedures relating to and including but not limited to management, products and services, customer service, and internal communication processes and technology tools. Notwithstanding anything herein to the contrary, it is understood that the County is subject to the California Public Records Act (Sections 6250-6270 of the California Government Code) and that nothing herein shall be construed to limit the County's obligations thereunder. If Comcast believes the requested information is confidential and proprietary, Comcast must provide the following documentation to the County and Consultant: (i) specific identification of the information; and (ii) statement attesting to the reason(s) Comcast believes the information is confidential. The County and Consultant shall take good faith steps to protect the proprietary and confidential nature of any information, documents and materials requested that are provided pursuant to this Agreement to the extent they are designated as such pursuant to this paragraph by Comcast.

3. Subject to Section 4 and 5 hereof:

- (i) The County and Consultant each agrees to use the same degree of care and scrutiny as it would use with respect to its own confidential information, but in any case using no less than a reasonable degree of care, to avoid disclosure (including, but not limited to, disclosure to the United States government or any agency or department thereof), publication, dissemination, or use of any or all of the Confidential Information obtained hereunder; and
 - (ii) Confidential Information will be kept confidential for a period of five (5) years from the date hereof and shall not, without the prior written consent of Comcast, be disclosed by either the County or Consultant, or any of its or their representatives
4. The County and Consultant each agrees that with respect to Confidential Information it will:
- (i) not use the Confidential Information other than in connection with the franchise fee audit contemplated herein or other purposes related to enforcement of Comcast's monetary obligations pursuant to Comcast's cable franchise serving the County and Comcast's compliance therewith
 - (ii) reveal the Confidential Information only to its representatives who need to know the Confidential Information for the purpose of performing the franchise fee audit, who are informed of the confidential nature of the Confidential Information, and who shall agree to act in accordance with the terms and conditions of this Agreement or other purposes related to enforcement of Comcast's monetary obligations pursuant to Comcast's cable franchise serving the County and Comcast's compliance therewith, and
 - (iii) at Comcast's reasonable request and at Comcast's expense following the completion of the audit and final resolution of any disputes related to or arising from the audit return promptly to Comcast or destroy (and confirm such destruction in writing to Comcast) any and all portions of the Confidential Information disclosed under this Agreement (including copies forwarded to subcontractors and/or agents, except as described below), together with all copies thereof that come into either the County's or Consultant's possession.

The County and Consultant shall be responsible for any breach of this Agreement by its respective representatives under Section 4(ii) above.

5. It is understood, however, that the foregoing provisions in Sections 1, 2, 3, and 4 above shall not apply to any portion of the Confidential Information which:
- (i) was previously known to either the County or Consultant without obligation of confidentiality;
 - (ii) is obtained by either the County or Consultant after the date hereof from a third party that is lawfully in possession of such information and is not in violation of any contractual or legal obligation to Comcast or other third party with respect to such information;
 - (iii) is or becomes part of the public domain through no fault of either the County or Consultant or any of its or their respective employees, subcontractors, or agents;
 - (iv) is required to be disclosed by administrative or judicial action provided that the County and/or Consultant as soon as reasonably possible after notice of such action notifies

Comcast of such action to give Comcast the opportunity to seek any other legal remedies to maintain such Confidential Information in confidence; or

- (v) is approved for disclosure and release by written authorization of Comcast;
- 6. All the Confidential Information disclosed to, delivered to, or acquired by either the County or Consultant from Comcast hereunder shall be and remain the sole property of Comcast. It is understood that, by agreeing to accept information as Confidential Information, County and Consultant do not waive their right to seek the same information on a non-confidential basis.
- 7. Disclosure of the Confidential Information disclosed by Comcast to either the County or Consultant shall not constitute any option, grant, or license to either the County or Consultant of such Confidential Information under any patent, know-how, or other rights heretofore, now, or hereinafter held by Comcast. It is understood and agreed that the disclosure by Comcast of the Confidential Information hereunder shall not result in any obligation on the part of either party to enter into any further agreement with the other with respect to the subject matter hereof or otherwise.
- 8. Representatives of the County and Consultant shall have reasonable access to all requested documents. The requested documents will be made available for inspection by electronic transmission to the requesting party. Representatives of the County and Consultant shall be permitted to view and review such documents to the extent necessary to complete the audit and any subsequent enforcement proceeding pursuant to the Franchise Agreement, and may take and retain any handwritten or typewritten (i.e., notes typed on a computer or similar device) notes they deem necessary. Such notes shall be deemed within the scope of this Agreement. All documents shall be returned to Comcast at the conclusion of the audit.
- 9. Any final audit report prepared by Consultant (or in any report concerning the enforcement of Comcast's monetary obligations pursuant to Comcast's cable franchise serving the County or Comcast's compliance therewith) and/or the County that references or is based upon Confidential Information provided shall disclose such information only to the extent necessary to convey essential report information (e.g., as in a compilation or abstract). If disclosure of Confidential Information is essential to the report, the County and Consultant shall provide advance notice to Comcast and the Parties shall in good faith negotiate toward an agreed manner of presenting the information while protecting the interests of Comcast. Neither the Consultant nor the County shall release any confidential or proprietary information except in accordance with the terms of this Agreement.
- 10. It is understood that the County is subject to the California Public Records Act (Section 6250-6270 of the California Code). If a request is made to the County pursuant to that Act that Confidential Information received by Consultant hereunder be disclosed, the County shall notify Comcast of the request promptly so that Comcast has the opportunity to seek legal remedies to maintain such Confidential Information in confidence.
- 11. This Agreement is binding on the Parties, their successors and assigns. No modification of this Agreement shall be effective unless in writing and signed by both parties hereto.
- 12. Notices hereunder shall be in writing and shall be deemed to have been delivered as of the day they are received when delivered personally, via certified mail, or via nationally recognized overnight courier:
 - fi) if to the County: Attention: Mr. Dave Dalby, Assistant Director of Information Technology, at 1590 Moffett Street, Salinas, CA 93906

- (ii) if to Consultant: Attention: Ms. Sue Buske, The Buske Group, at 4808 T Street, Sacramento, CA 95819 and Attention: Ms. Connie Cannady, JNewGen Strategies at 2803 Bowie St. Amarillo, TX. 79109.
- (iii) if to Comcast: Attention: Mr. Marc Lockard, at 200 Cresson Blvd, Phoenixville, PA 19460
13. Comcast's waiver of any breach or failure to enforce any of the terms and conditions of this Agreement at any time shall not in any way affect, limit, or waive its right thereafter to enforce and compel strict compliance with every term and condition hereof. The County and Consultant each acknowledge that damages may not be an adequate remedy for any breach of this Agreement, and that Comcast shall be entitled to equitable relief for any threatened or actual breach of this Agreement.
14. This Agreement shall be governed, construed, and enforced in accordance with the laws or the State of California, without regard to principles of conflicts of law. Venue for any proceeding shall be in Monterey County, California.
15. This Agreement constitutes the complete agreement between the parties hereto and supersedes and cancels any and all prior communications and agreements between the parties with respect to the disclosure of Confidential Information related to the purpose described herein and the subject matter hereof.

IN WITNESS HEREOF, the Parties hereby indicate their assent this 2nd ... day of Nov, 2016.

THE COUNTY OF MONTEREY, CALIFORNIA

By: *Ken A. Chatham*

Title: *Interim Director ITD*

Date: *11/2/16*

Rebecca M. Cenicer
APPROVED AS TO FORM
Rebecca M. Cenicer
DEPUTY COUNTY COUNSEL
COUNTY OF MONTEREY
Oct 27, 2016

THE BUSKE GROUP

By: *Sue Buske*

Title: *President*

Date: *The Buske Group*

Reviewed as to fiscal provisions

[Signature]
Auditor-Controller
County of Monterey

10-27-16

J. STOWE & CO.

By: _____

Title: _____

Date: _____

- (ii) if to Consultant: Attention: Ms. Sue Buske, The Buske Group, at 4808 T Street, Sacramento, CA 95819 and Attention: Ms. Connie Cannady, J. Stowe and Co., at 1300 E. Lookout Drive, Suite 100, Richardson, TX 75082
- (iii) if to Comcast: Attention: Ms. Robbin Pepper, at 183 Inverness Drive West, Englewood, Colorado 80112.
13. Comcast's waiver of any breach or failure to enforce any of the terms and conditions of this Agreement at any time shall not in any way affect, limit, or waive its right thereafter to enforce and compel strict compliance with every term and condition hereof. The County and Consultant each acknowledge that damages may not be an adequate remedy for any breach of this Agreement, and that Comcast shall be entitled to equitable relief for any threatened or actual breach of this Agreement.
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15. This Agreement constitutes the complete agreement between the parties hereto and supersedes and cancels any and all prior communications and agreements between the parties with respect to the disclosure of Confidential Information related to the purpose described herein and the subject matter hereof.

IN WITNESS HEREOF, the Parties hereby indicate their assent this ' ... day of _____, 2016.

THE COUNTY OF MONTEREY, CALIFORNIA

By: _____

Title: _____

Date: _____

THE BUSKE GROUP

By: _____

Title: _____

Date: _____

~~J. STOWE & CO.~~ NEWGEN STRATEGIES & SOLUTIONS, LLC.

By: Connie Cannady

Title: Executive Consultant

Date: Oct 5, 2016

COMCAST OF CALIFORNIA IX, INC

By: 

Title: MANAGER

Date: 10/6/18