

RESOLUTION 2013-20

- A) RESOLUTION SELECTING AND AUTHORIZING PARTICIPATION IN AN ENTERPRISE AGREEMENT NEGOTIATED BY THE COUNTY OF RIVERSIDE WITH MICROSOFT INC. FOR SOFTWARE SUPPORT AND UPDATES FOR A PERIOD OF THREE YEARS NOT TO EXCEED \$244,827 AND ACCEPTING A LIMITATION OF LIABILITY, CONDITIONED UPON APPROVAL OF ITEM B;**
- B) RESOLUTION SELECTING AND AUTHORIZING AN AGREEMENT WITH MESSAGING ARCHITECTS INC. FOR EMAIL SYSTEM IMPLEMENTATION SERVICES FOR AN AMOUNT NOT TO EXCEED \$91,250 FOR A PERIOD OF ONE YEAR, CONDITIONED UPON APPROVAL OF ITEM A**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I, (Port Act); and

WHEREAS, the Board of Port Commissioners (BPC) adopted BPC Policy 110 establishing a procedure for the administration of contracts and the purchasing of supplies, materials, and equipment and establishing a policy governing the processing and administration of contracts; and

WHEREAS, the BPC authorized staff to develop a Technology Strategic Plan (TSP) at its August 9, 2011 BPC meeting. One of the TSP projects approved by the BPC is to implement an Email system that is more responsive to the District's operationally advancing needs as the District's current use of Novell GroupWise software has been deemed by industry experts like Gartner and The Forrester Research Group as "non-standard" while Microsoft Exchange has become the industry standard and integrates seamlessly with many other software products including SAP which the District utilizes for financial, human resources, procurement and general service functions; and

WHEREAS, on October 12, 2012 the District issued Request for Proposals (RFP) 12 – 38 which invited firms to propose a software solution and bid on the cost of implementation; and

WHEREAS, the District notified 40 firms electronically and received two bids, both of which were deemed responsive and proposed Microsoft Exchange as the Email solution; and

WHEREAS, based on the written proposals, the interview, and a decision analysis using criteria defined in the RFP, the panel recommends selecting and authorizing an agreement with Messaging Architects, a Microsoft Gold Certified Partner for Integrated Email Management which indicates superior levels of successful implementations, capabilities and certifications and its migration solution reduces the time and cost of email migrations with minimal impact on users and provides uninterrupted access to email and calendars during this migration; and

WHEREAS, Messaging Architects' proposal does not include the cost of Microsoft Exchange licenses, allowing the District to negotiate its own price with its certified resellers, resulting in additional savings above and beyond the cost of implementation; and

WHEREAS, the District does not have the number of Microsoft software licenses to take advantage of the reduced costs for upgrades and replacement of software offered by an Enterprise Agreement and as such actively participating in the County of Riverside's Microsoft Enterprise Agreement will simplify the administrative management of the District's Microsoft licenses along with saving the renewal cost of upgrades in the next 3 years and;

WHEREAS, in assessing the District's needs for email replacement, staff identified Microsoft Office 365 Online services to maintain and support staff's email landscape as they are a set of cloud-based collaboration tools enabling staff to access these services remotely; and

WHEREAS, one of the components, Microsoft Exchange Online, will manage all of staff's emails, scheduling, calendars and contact information which supports staff's proposal to migrate District emails to Microsoft Exchange Online for benefits to include reduced licensing costs, reduced maintenance costs, and reduced IT administration costs as opposed to purchasing additional hardware, maintaining new hardware, and continuous hardware maintenance to support new technology as well as modernizing the District's email environment with geographically distributed data centers for enhanced up-time, physical protection, and overall business continuity; and

WHEREAS, staff's proposed approach will also include measures to ensure the security of District data as Microsoft Office 365 follows the requirements based on the Federal Information Security Management Act (FISMA) guidelines, which require organizations to document and implement an agency-wide program to secure and protect electronic assets as well as following security benchmarks certified by the International Organization for Standardization (ISO) 27001, which defines rigorous physical, logical, and process and management controls; and

WHEREAS, Microsoft will also be responsible to ensure that the District's emails are replicated, backed up daily, and recoverable should there be an extended service interruption, and the District' emails will be encrypted using a unique assigned private key for access and sending and receiving email; and

WHEREAS, included in the agreement is a service level agreement (SLA) which provides additional mitigation against possible loss of data and data availability which will be further protected through District staff's download of all emails daily to local secure storage and as part of the standard backup process will transfer email data to tape and the tape will be stored off-site in a secure local tape vaulting facility; and

WHEREAS, the standard licensing forms between Microsoft Inc. and the District as a participant in the Enterprise Agreement for Online Email Services includes a limitation of liability and requires the Enrolled Affiliate (District) to the extent permitted by applicable law to be responsible for any costs or damages arising from any claims made by an unaffiliated third party regarding patent, copyright, or trademark issues, limit the liability of Microsoft and Enrolled Affiliate (District), their respective Affiliates and contractors arising under the agreement to direct damages in the amount the District was required to pay for the product, and for Online Services, the amount the District was required to pay for the Online Service giving rise to that liability during the prior 12 months and in the case of products provided free of charge, or code that the District is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to \$5,000; and

WHEREAS, the proposed agreement between Microsoft Inc. and the District limits the liability of either party for indirect, consequential, special or incidental damages, with some exceptions for either party's gross negligence or willful misconduct, liabilities arising out of any breach by either party of confidentiality obligations but with a limitation of liability limited to the amount the District paid for the Online Service giving rise to that liability during the prior 12 months, liability for personal injury or death caused by either party's negligence, fraudulent misrepresentations or violation by either party of the other party's intellectual property rights and further specifies that neither party will be liable for any indirect, consequential, special, or incidental damages, or damages for lost profits, revenues, business interruption, or loss of business information arising in connection with the Enterprise Agreement; and

WHEREAS, although the District must accept the limitation of liability as its provisions apply to all participants in the Microsoft Enterprise Agreement, the agreement also offers many benefits and protections such as minimizing the administrative burden and simplifying the process of renewing software; and

WHEREAS, additionally, as a result of cloud-based collaboration tools, the District will gain a secure and well-managed data center, which provides flexibility, email reliability and data protection. Furthermore, the agreement has proven to be a cost-effective method of purchasing Microsoft software.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the Executive Director or his designated representative is hereby authorized on behalf of the San Diego Unified Port District to select and enter into an Enterprise Agreement negotiated by the County of Riverside with Microsoft Inc. for software support and updates for a period of three (3) years not to exceed \$244,827, and accept a limitation of liability, conditioned upon approval of item B; and, is further authorized to select and enter into an Agreement with Messaging Architects Inc. for email system implementation services for an amount not to exceed \$91,250 for a period of one year, conditioned upon approval of item A.

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 12th day of February, 2013, by the following vote:


AYES: Malcolm, Moore, Nelson, Smith, Valderrama

NAYS: None.

EXCUSED: None.

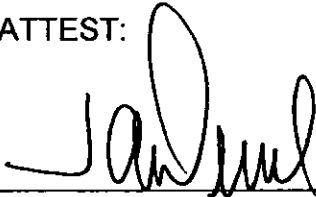
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)