

## LICENSE AGREEMENT

(SmartRiverside)

THIS LICENSE AGREEMENT (“**License**”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015 by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation (“**City**”), and SMARTRIVERSIDE, a California non-profit corporation (“**Licensee**”), with reference to the following facts:

A. City owns the City Hall building (“**Premises**”) located at 3900 Main Street, Riverside, California.

B. Licensee desires to use office space located in the basement of Premises for its Digital Inclusion Program (“**Program**”).

C. The Program will benefit City residents. Since 2006, approximately 7,500 City residents have participated in the Program.

D. SmartRiverside’s mission is to implement the vision of technology for the future by developing measurable, high technology programs and initiatives that benefit Riverside businesses, schools, governments, and residents through self-sustaining revenue sources. One example of such initiatives is the Program, which is designed to bridge the digital divide in our community.

E. Licensee wishes to enter into a License Agreement at said Premises in order to license a room within the Premises consisting of approximately 375 square feet for the purpose of administering and operating the Program.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. **LICENSED SPACE.** City hereby licenses to Licensee the right to the use of approximately 375 square feet of space (“**Licensed Area**”) in the basement of Premises.

2. **PURPOSE AND USE.** The Licensed Area shall be used by Licensee solely as offices from which to administer and operate the Program.

3. **TERM.** The initial term (“**Term**”) of this License shall be for the period commencing (a) July 1, 2015, or (b) Licensees’ date of initial occupancy, whichever is later, and ending June 30, 2016. Thereafter, the Term shall be automatically extended for additional periods of one (1) year each. Either party may terminate this License without cause and for convenience effective June 30 of any year during the Term (initial or extended) by giving written notice of termination to the other party at least thirty (30) days prior to the end of the then-current Term.

4. RENT.

4.1 In consideration for the rights granted Licensee under this License, Licensee shall pay to City an annual license fee of One Dollar (\$1). The City reserves the right to increase the annual license fee, after giving notice as provided in Paragraph 4.2. The annual license fee shall be paid in advance on or before the first (1st) day of each fiscal year (July 1), by check made payable to the "City of Riverside" and sent to the Revenue Division of the Finance Department, 3900 Main Street, Riverside, California 92522. If the Term commences on a day other than the first day of a fiscal year, the license fee shall not be prorated and the Licensee will pay the full license fee.

4.2 It is understood and agreed that if City determines to increase the annual license fee for the Premises effective as of July 1 of any year during the Term of this License, including any extension period, City shall give Licensee written notice of such proposed increase no later than May 15 of that year.

5. RIGHT OF ACCESS. City shall permit access by Licensee and the employees and invitees of Licensee to and from the Premises and the Licensed Area for all purposes contemplated by this License; provided, however, no right of access shall be provided at such times as the Premises are not open to the general public. Currently City hours of operation are 8:00 a.m. to 5:00 p.m. Monday through Friday. The Premises are closed on Saturday, Sunday and holidays. City understands that Licensee's hours of operation will be the same hours.

If Licensee desires access to the Premises other than the times that the Premises is normally open to the general public, such access may be permitted subject to advance notice to City. Licensee shall pay to City an after-hours use fee. This fee will be based upon the costs associated with Information Technology and General Services Department staff time and/or established by resolution of the City Council of City. Upon adoption by resolution of the City Council and notice to Licensee, the after-hours fee may be imposed without amendment to this License and shall be considered as additional payment due City hereunder. City shall send an invoice to Licensee setting forth the total amount owed for such after-hours use. Licensee shall pay such invoice within thirty (30) days.

6. LOCKS AND KEYS. City agrees to provide Licensee two keys for the Licensed Area. In case Licensee requires additional keys or replacement keys, Licensee agrees to obtain such keys through City and shall pay City the sum of Eighteen Dollars (\$18) for each such key. In the event the locks to the doors to the Licensed Area must be replaced or re-keyed for any reason excepting the sole fault of City, Licensee shall pay the actual costs for such replacement or re-keying, including the replacement of all keys.

7. TELEPHONE AND ELECTRICITY. City agrees to pay for all telephone service and electricity for the Premises because it is for the benefit of the Program.

8. JANITORIAL SERVICE. City shall provide janitorial services for the Premises. All janitorial services required by Licensee in addition to that provided by City shall be provided by Licensee at its own expense.

9. PARKING. City will provide Licensee and its employees a minimum of two (2) parking spaces. The parking spaces and locations/garage assignments will be assigned by the City's Human Resources Department and/or General Services Department and will be at no charge or expense to Licensee.

10. POSSESSORY INTEREST TAX. Licensee hereby recognizes and understands that this License may create a possessory interest subject to property taxation and that Licensee may be subject to the payment of property taxes levied on such interest. Any such imposition of a possessory interest tax shall be a tax liability of Licensee solely, shall be paid for by the Licensee, and shall not reduce any amounts due City hereunder.

11. INDEMNIFICATION. Licensee shall protect, defend, indemnify and hold City and its officers and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury to or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney's fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this License and/or the use or occupancy of the Licensed Area or the acts or omissions of Licensee's officers, agents, employees, contractors, subcontractors, licensees, invitees or guests, regardless of where the injury, death, or damage may occur, unless such injury, death or damage is caused by the sole negligence or willful misconduct of City or its officers, employees or agents. This indemnification provision shall apply to any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of Licensee or any of Licensee's officers, agents, employees, contractors, subcontractors, licensees, invitees or guests. City shall give to Licensee reasonable notice of any such claims or actions. Licensee shall also use counsel reasonably acceptable to City in carrying out its obligations hereunder.

The parties expressly agree that any payment, attorney fee, cost or expense City incurs or makes to or on behalf of an injured employee under City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this Paragraph 11. The provisions of this paragraph shall survive the expiration or early termination of this License.

12. INSURANCE. Licensee shall secure and maintain during the Term of this License general liability and property damage insurance (or an equivalent program of self-insurance) as shall protect it from claims for damages for personal injury, including accidental death, as well as from claims for property damage which may arise from Licensee's use of or operations on or about the Licensed Area or the Premises. The required insurance shall include commercial general liability insurance issued by a carrier authorized to do business in the State of California in an amount not less than Two Hundred Fifty Thousand Dollars (\$250,000) for injuries, including accidental death, to any one person, and Five Hundred Thousand Dollars (\$500,000) on account of any one occurrence, and property damage insurance in an amount not less than One Hundred Thousand Dollars (\$100,000).

Policies or certificates and additional insured endorsements evidencing the above-required coverage shall be filed with City and shall include City as an additional insured. The policies shall not be canceled or materially changed without thirty (30) days' prior written notice

to City. City reserves the right to increase the amounts of insurance coverage described hereinabove to amounts up to and including One Million Dollars (\$1,000,000) and to require additional riders or provisions in said policies, certificates or endorsements as may be deemed necessary, consistent with the terms and conditions of this License. Licensee shall immediately comply with said increase or change.

The amounts of insurance so required herein shall not be deemed a limitation on Licensee's indemnity obligations under Paragraph 11. If City becomes liable for an amount in excess of the insurance maintained by Licensee, Licensee shall save and hold City harmless from the whole thereof, up to the extent of Licensee's obligations under Paragraph 11. City, its agents and employees make no representation that the limits of the insurance specified to be carried by Licensee pursuant to this License are adequate to protect Licensee. If Licensee believes that any required insurance coverage is inadequate, Licensee will obtain such additional insurance coverage, as Licensee deems adequate, at Licensee's sole expense.

13. **DAMAGE OR DESTRUCTION.** Licensee shall be responsible for any damages or destruction to the Licensed Area or Premises resulting from acts or omissions of Licensee's officers, agents, employees, invitees or guests, and shall repair or compensate City for such damages or destruction and shall return the Licensed Area to City upon termination of this License in the same condition as when received or following construction of any and all improvements, excepting reasonable wear and tear and damages by civil disorders, the elements, act of God or any circumstances over which Licensee has no reasonable control.

14. **ASSIGNMENTS AND SUBLICENSES.** Licensee shall not assign this License or any part thereof, sublicense any of the Licensed Area, or transfer any rights hereunder without the prior written consent of City, acting by and through the City Manager. It shall not be unreasonable for City to condition such consent upon City's determination that Licensee is not in default in the performance of any of Licensee's obligations under this License, whether monetary or non-monetary, or that the proposed assignee or sublicensee is a nonprofit corporation. In addition, any assignment of this License shall be subject to the provision that City is entitled to ninety percent (90%) of the consideration received by Licensee from the assignee, and any sublicense of the Licensed Area or any part thereof shall be subject to the provision that City is entitled to ninety percent (90%) of the consideration Licensee receives from the sublicensee, in excess of the payments due City under this License.

15. **ENTRY BY CITY.** City shall have the right to enter the Licensed Area at all reasonable times to inspect the same with reasonable notice or to maintain the Licensed Area.

16. **NONDISCRIMINATION.** During the Term of this License, Licensee shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, genetic information, gender, gender identity, gender expression or sexual orientation, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, Licensee agrees to conform to the requirements of the Americans with Disabilities Act in the

performance of this License, although nothing herein obligates Licensee to physically modify the Licensed Area or the Premises.

17. NOTICES. All notices, requests, consents, approvals or other communications in connection with this License will be in writing and sent by certified mail addressed to the recipient party at the following address:

City

City of Riverside  
Information and Technology Department  
3900 Main Street  
Riverside, CA 92522  
Attn: IT Manager

Licensee

SmartRiverside  
3900 Main Street  
Riverside, CA 92522  
Attn: Executive Director

Any such communication will be deemed given upon deposit in the United States mail, with postage prepaid, addressed to the recipient party's last known address. Either party, upon written notice to the other, may from time to time change the mailing address of such party.

18. DEFAULT AND REMEDIES. If Licensee defaults in the payment of any payments due in the amounts and at the times provided in this License and if Licensee remains in default for fifteen (15) days after service of notice of such default, City, acting by and through its City Manager, may treat such default as a total breach of this License and thereupon declare this License terminated. In case of any other default upon the part of Licensee, City may give written notice of the same to Licensee and if the same shall not be corrected within thirty (30) days after the giving of such notice, or such longer period provided in said notice, City, acting through its City Manager, may treat such default as a total breach of this License and thereupon declare this License terminated.

If after service of a notice of default, Licensee fails to cure such default within the time provided in this License, City may at any time thereafter recover possession of the Premises by any lawful means and remove Licensee or other occupants and any possessions thereof. If this License shall have been so terminated by City, City shall have the right to any other remedy or remedies provided by law.

City's failure to enforce any right or provisions of this License shall not be construed as a waiver of the right to do so without written notice by City of the intent to waive such right. City's waiver of any default by Licensee shall not constitute a waiver of any future default or defaults in the absence of written notice of City's intent to waive such default.

19. Intentionally deleted.

20. VENUE. Any action at law or in equity brought by either of the parties hereto for the purpose of interpreting this License or enforcing a right arising under this License shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

21. AMENDMENTS. This License sets forth all of the agreements and understandings of the parties hereto with respect to the subject matter of this License and is not subject to modification except by formal written amendment thereto signed by both parties.

22. SEVERABILITY. If any provision or clause of this License is declared invalid by a court of competent jurisdiction, the invalidity shall not affect the remaining provisions, which can be given effect without the invalid provisions or clause. Such invalid provision or clause shall be severed from the remaining provisions and the balance shall remain enforceable and in full effect.

23. AUTHORITY. The individuals executing this License on behalf of Licensee each represent and warrant that they have the legal power, right and actual authority to bind Licensee to the terms and conditions hereof.

24. DELAY IN POSSESSION. If for any reason City cannot deliver possession of the Licensed Area to Licensee by July 1, 2015, City shall not be subject to any liability therefore, nor shall such failure affect the validity of this License, or the obligations of Licensee hereunder, or extend the Term hereof, but in such case, Licensee shall not, except as otherwise provided herein, be obligated to pay a license fee or perform any other obligation of Licensee under the terms of this License until City delivers possession of the Licensed Area to Licensee. If possession of the Licensed Area is not delivered to Licensee within sixty (60) days of July 1, 2015, Licensee may, at its option, by notice in writing to City given at any time following ten (10) days after the end of said sixty (60) day period, cancel this License, in which event the parties shall be discharged from all obligations hereunder.

[Signatures on following page]

IN WITNESS WHEREOF the parties hereto have caused this License to be executed the day and year first above written.

CITY OF RIVERSIDE,  
a California charter city and corporation

SMARTRIVERSIDE, a California non-profit  
corporation

By: \_\_\_\_\_  
City Manager

By: Lea Deesing  
Name: Lea Deesing  
Its: Executive Director

Attest: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

APPROVED AS TO FORM:

[Signature]  
Deputy City Attorney

