

# KPU



*Your Community, Your Utility*

**General Manager**  
334 Front Street  
Ketchikan, AK. 99901

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# 5b(2)

TRANSMITTAL MEMORANDUM
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TO: The Honorable Mayor and City Council

FROM: Lacey G. Simpson, Acting General Manager

DATE: July 26, 2022

RE: **Exempting the Procurement of Technical Support Services from the Competitive Bidding/Written Quotation Requirements of the Ketchikan Municipal Code – Oracle Corporation**

The motion detailed below was prepared at the request of Acting Telecommunications Division Manager Dan Lindgren, who asked that it be placed before the City Council for consideration at its meeting of August 4, 2022. If adopted, the motion provides for exempting the procurement of technical support services from the competitive bidding/written quotation requirements of the Ketchikan Municipal Code and authorizing the procurement of such annual software support and maintenance services from Oracle Corporation at a cost not to exceed \$10,039.

Subparagraph 6 of Section 3.12.050(a) of the Ketchikan Municipal Code provides for exempting the purchase of such encryption support services from competitive bidding/quotations when:

“Supplies, materials, equipment or contractual services which should be purchased from a specific source in order to prevent incompatibility with previously purchased supplies, materials, equipment or contractual services. For the purpose of this paragraph, the term ‘incompatibility’ is defined as:

- (A) The inability to interconnect, combine, interchange, or join; or
- (B) That which causes substantial duplication in maintenance, expertise or training or in the stocking of parts, materials, supplies or replacements. Any purchase which is to be excluded from competitive bidding by authority of this subparagraph which exceeds \$10,000, must first be approved by the council.”

The rationale for the exemption is detailed in Mr. Lindgren's transmittal memorandum and requires no elaboration on the part of my office. I concur with the Acting Telecommunications Division Manager's recommendation.

Mr. Lindgren will be attending the City Council meeting of August 4, 2022, in order to address any questions and/or concerns that Councilmembers may have.

A motion has been prepared for City Council consideration.

### **RECOMMENDATION**

Pursuant to subparagraph 6 of Section 3.12.050(a) of the Ketchikan Municipal Code, it is recommended that the City Council adopt the motion exempting the procurement of technical support services from the competitive bidding/written quotation requirements of the Ketchikan Municipal Code; authorizing the Acting General Manager to enter into an agreement for the procurement of such support services with Oracle Corporation at a cost not to exceed \$10,039; and approving funding from the Telecommunications Division's 2022 Software & Equipment Maintenance Services account (Account No. 635.04).

**Recommended Motion:** Pursuant to subparagraph 6 of Section 3.12.050(a) of the Ketchikan Municipal Code, I move the City Council exempt the procurement of technical support services from the competitive bidding/written quotation requirements of the Ketchikan Municipal Code; authorize the Acting General Manager to enter into an agreement for the procurement of such support services with Oracle Corporation at a cost not to exceed \$10,039; and approve funding from the Telecommunications Division's 2022 Software & Equipment Maintenance Services account (Account No. 635.04).



## Memorandum

**To:** Lacey Simpson, Acting KPU General Manager

**From:** Dan Lindgren, Acting KPU Telecommunications Division Manager

**Date:** July 26, 2022

**Subject:** **Authorizing and Exempting the Procurement of Technical Support Services from Oracle Corporation in the amount of \$10,039 from the Competitive Bid / Written Quotation Requirements of the Ketchikan Municipal Code**

The purpose of this memorandum is to request that the General Manager seek City Council approval to purchase annual technical support services from Oracle Corporation for the Acme Packet Session Border Controllers (SBC) that protect our voice network. If adopted, the approval-motion provides for exempting the procurement of Oracle Corporation technical support services from the competitive bidding / written quotation requirements of the Ketchikan Municipal Code and authorizing the acquisition of technical support services for our Oracle SBCs from Oracle Corporation at a cost not to exceed \$10,039.

### Background

Oracle Corporation provides the technical support services for their Acme Packet Session Border Controllers in the event of a failure of the equipment. Oracle has the requisite expertise and resources to respond to Oracle SBC outages and ensure optimum performance. The cost of the annual technical support services is \$10,039.

At this amount the Ketchikan Municipal Code requires that staff seek competitive bids with written quotations - unless the City Council approves an exemption. Subparagraph 6 of section 3.12.050 (a) of the KMC provides an exemption that is appropriate for this transaction. Subparagraph (6) states the following:

“Supplies, materials, equipment or contractual services which should be purchased from a specific source in order to prevent incompatibility with previously purchased supplies, materials, equipment or contractual services. For purposes of this subparagraph, the term “incompatibility” is defined as:

- (a) The inability to interconnect, combine, interchange, or join; or
- (b) That which causes substantial duplication in maintenance, expertise or training or in the stocking of parts, materials, supplies or replacements

Any purchase which is to be excluded from competitive bidding by the authority of this subparagraph which exceeds ten thousand dollars must first be approved by the council.”

Since acquiring technical support services for the Oracle SBCs from Oracle Corporation is the only option available to KPU that would prevent incompatibility, I recommend seeking approval from City Council to exempt this procurement from the competitive bid/written quotation requirements of the KMC.

The Oracle technical support services are part of the 2022 operating budget in the Software and Equipment Maintenance Services Account (635.04)

**Recommended Motion:**

Pursuant to Subparagraph 6 of Section 3.12.050 (a) of the Ketchikan Municipal Code, I move the City Council exempt the procurement of Oracle technical support services from Oracle Corporation, in the amount of \$10,039 from the competitive bid and written quotation requirements of the KMC; and approve funding from the KPU Telecommunications Division 2022 Software and Equipment Maintenance Services Account (635.04).

Cc: Michelle Johansen, City Finance Director



30-Jun-22

Dear Dan White

A support service renewal is expired or about to expire.

The technical support services for support service number 6425834 will expire, or have expired on 27-Oct-22.

Renewing these services is easy. Just click the Quick Checkout button below and complete your renewal online. Once your renewal is completed, the new Support Period for these services will begin on the start date listed for this renewal in your My Support Renewals account and will be provided through the end date as shown for this renewal in your My Support Renewals account. A renewal order containing all of the information about your renewal is also attached for your reference. So that there is no interruption in these services, please complete your renewal on or before 28-Sep-22. You can see and manage all of your support service renewals anytime on My Support Renewals by clicking the Manage Your Renewals button below.

[Quick Checkout](#)

[Manage Your Renewals](#)

To log into My Support Renewals, you will need your username and password:

Your Oracle.com username is: **DAWHITE@KPUTEL.NET**

New Customer? Forgot your password? [Reset.](#)

If you are unable to complete your renewal on My Support Renewals, you can complete your renewal by following the instructions in the attached renewal order. So that there is no interruption in these services, please complete your renewal on or before 28-Sep-22. If applicable, the attached renewal order may include technical support services that you have requested to order that are in addition to the technical support services that you are renewing.

Have a question? Call 1-888-545-4577, [Chat on My Support Renewals](#), or [Request Assistance](#).



TECHNICAL SUPPORT SERVICES RENEWAL ORDER

GENERAL INFORMATION

<b>OFFER EXPIRATION</b>	<b>ORACLE:</b> Oracle America, Inc.
<b>Support Service Number:</b> 6425834 <b>Offer Expires:</b> 27-Oct-22	<b>Oracle Contact Information:</b> Oracle Premier Support Digital Renewal Center  <b>Call:</b> 1-888-545-4577 <b>Chat:</b> <a href="#">Chat on My Support Renewals</a> <b>Request Assistance:</b> <a href="#">Click to Request Assistance</a>
<b>CUSTOMER:</b> Ketchikan Public Utilities	
<b>CUSTOMER QUOTE TO</b> <b>Account Contact:</b> Dan White <b>Account Name:</b> Ketchikan Public Utilities <b>Address:</b> 334 Front St. KETCHIKAN AK 99901 United States  <b>Telephone:</b> 907 225-1000 <b>Fax:</b> <b>E-mail:</b> dawwhite@kputel.net	<b>CUSTOMER BILL TO</b> <b>Account Contact:</b> Dan White <b>Account Name:</b> Ketchikan Public Utilities <b>Address:</b> City of Ketchikan Finance Department 334 Front Street KETCHIKAN AK 99901 United States  <b>Telephone:</b> 907-225-1000 <b>Fax:</b> <b>E-mail:</b> dawwhite@kputel.net

"You" and "Your" as used in this renewal order, refer to the Customer listed above.

Please take a minute to make sure the email information entered above is correct. Your email address is particularly important because Oracle may email You certain notices about technical support services. If You need to make any changes to the Customer information above, You can either login to your [My Support Renewals](#) account and select "Update Quote to Information" to edit Your "Quote To" information and You can edit Your "Bill To" information at check out. Alternatively, this information can be updated by providing Your current information along with Your support service number 6425834, to Oracle per the General Information section above.

## SERVICE DETAILS

<b>Hardware Technical Support Services</b>						
<b>Service Level: Oracle Premier Support for Systems</b>						

Product Description	Serial Number	CSI #	Qty	Start Date	End Date	Price
<b>Installed At:</b> Ketchikan Public Utilities - 2930 Tongass Ave Ketchikan Ketchikan Gateway Borough AK 99901 United States						
Net-Net 3800 Service Provider software application		19703521	1	28-Oct-22	27-Oct-23	0.00
Net-Net 3820: model family		19703521	1	28-Oct-22	27-Oct-23	0.00
Net-Net 3820: model family	1442NM300H	19703521	1	28-Oct-22	27-Oct-23	0.00
Net-Net 3820 SD, up to 500 sessions		19703521	1	28-Oct-22	27-Oct-23	9,429.35
TOP ASSY, BASE CHASSIS, AP3820,945 REV B, NO PHY CARD, NO POWER SUPPLY, 800-3500-00		19703521	1	28-Oct-22	27-Oct-23	0.00
TOP ASSY, BASE CHASSIS, AP3820,945 REV B, NO PHY CARD, NO POWER SUPPLY, 800-3500-00		19703521	1	28-Oct-22	27-Oct-23	0.00
Two 300 watt DC power supply, second power supply, factory installed.		19703521	1	28-Oct-22	27-Oct-23	221.81
NN3820 Feature Group bundle supporting 500 sessions consisting of QOS, ACC, RTG, LB feature groups		19703521	1	28-Oct-22	27-Oct-23	387.25
SIP, H.323, H.248, and MGCP base protocols		19703521	1	28-Oct-22	27-Oct-23	0.00

**Hardware Technical Support Fees: USD 10,038.41**

**Total Price: USD 10,038.41**

Plus applicable tax

### NOTES

- If Oracle accepts Your renewal order, the start date set forth in the Service Details table above shall serve as the commencement date of the technical support services and the technical support services ordered under this renewal order will be provided through the end date specified in the table for the applicable programs and/ or hardware ("Support Period").
- If any of the fields listed in the Service Details table above are blank, then such fields do not apply to Your renewal.

## **TECHNICAL SUPPORT SERVICES TERMS**

If the Customer and the Customer Quote To name identified in the General Information table above are not the same, Ketchikan Public Utilities represents that Customer has authorized Ketchikan Public Utilities to execute this renewal order on the Customer's behalf and to bind the Customer to the terms contained in this renewal order. Ketchikan Public Utilities agrees that the services ordered are for the sole benefit of Customer and shall only be used by Customer. Ketchikan Public Utilities agrees to advise Customer of the terms of this renewal order as well as any communications received from Oracle regarding the services.

If the Customer and the Customer Bill To name identified in the General Information table above are not the same, Customer agrees that: a) Customer has the ultimate responsibility for payments under this renewal order; and b) any failure of Ketchikan Public Utilities to make timely payment per the terms of this renewal order shall be deemed a breach by Customer and, in addition to any other remedies available to Oracle, Oracle may terminate Customer's technical support service under this renewal order.

Technical support is provided under Oracle's technical support policies in effect at the time the services are provided. The technical support policies are subject to change at Oracle's discretion; however, Oracle will not materially reduce the level of services provided for supported programs and/or hardware during the period for which fees for technical support have been paid, or for U.S. federal and public sector entities, the period for which services have been ordered. You should review the technical support policies prior to entering into this renewal order.

The current version of the technical support policies may be accessed at <http://www.oracle.com/us/support/policies/index.html>.

Regarding the inclusion of DFARS 252.204-7012, the parties agree that DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (OCT 2016), does not apply to the Commercial Off the Shelf (COTS) licenses or hardware, and does not apply to the associated technical support because Oracle will not process, collect, develop, receive, transmit, use, or store "covered defense information" on "covered contractor information systems" as defined in DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (OCT 2016), in performance of the associated technical support services ordered under this renewal quote, and the Government agrees that it will not provide "covered defense information" to Oracle in performance of the associated technical support services.

The technical support services renewed under this renewal order are governed by the terms and conditions of the US-GMA-2152869 ("agreement"). Any use of the programs and/or hardware, which includes updates and other materials provided or made available by Oracle as a part of technical support services, is subject to the rights granted for the programs and/or hardware set forth in the order in which the programs and/or hardware were acquired.

This renewal order incorporates the agreement by reference. In the event of inconsistencies between the terms contained in this renewal order and the agreement, this renewal order shall take precedence.

## **RENEWAL PROCESSING DETAILS**

Please renew the technical support services on this renewal order on [My Support Renewals](#).

If You are unable to renew using My Support Renewals, You can renew using the options below. Your renewal order is subject to Oracle's acceptance. Your renewal is considered complete when You provide Oracle with payment details for the renewal as detailed below or an executed Oracle Financing contract. Once completed, Your renewal cannot be cancelled and Your payment is nonrefundable, except as provided in the agreement. Oracle will issue an invoice to You upon receipt of a purchase order or a form of payment acceptable to Oracle. If You are U.S. federal government or public sector entity, Oracle will issue You an invoice quarterly in arrears after the services are performed.

Unless you are an U.S. federal government entity, Oracle's invoice includes applicable sales tax, GST, or VAT (collectively referred to as "tax"). If Ketchikan Public Utilities is a tax exempt organization and is not an U.S. federal government entity, a copy of Ketchikan Public Utilities's tax exemption certificate must be submitted with Ketchikan Public Utilities's purchase order, credit card, or other acceptable form of payment.

Please note that unless You are a U.S. federal government or public sector entity, if the pre-tax value of this renewal is USD \$2,000 or less, the technical support services ordered must be paid by credit card; or You must renew Your support on My Support Renewals.

**Technical Support fees are invoiced Quarterly in Arrears. All fees payable to Oracle are due within 30 NET from date of invoice.**

You agree to pay any sales, value-added or other similar taxes imposed by applicable law, except for taxes based on Oracle's income.

## **PAYMENT DETAILS**

### **Purchase Order**

If You are submitting a purchase order for the payment of the renewal of the technical support services on this renewal order, the purchase order must be in a non-editable format (e.g., PDF) and include the following information:

- Support Service Number: 6425834
- Total Price: USD 10,038.41 (excluding applicable tax)
- Local Tax, if applicable

In issuing a purchase order, Ketchikan Public Utilities agrees that the terms of this renewal order and the agreement supersede the terms in the purchase order or any other non-Oracle document, and no terms included in any such purchase order or other non-Oracle document shall apply to the technical support services renewed under this renewal order.

Please contact Oracle per the General Information section above to issue Your purchase order.

### **Credit Card**

If You wish to use a credit card to pay for the renewal of the technical support services on this renewal order, please contact Oracle per the General Information section above. Please note that Oracle is unable to process credit card transactions of USD \$100,000 or greater or transactions that are not in USD.

### **Check**

If You are submitting a check for the payment of the renewal of the technical support services on this renewal order, the check must include the following information:

- Support Service Number: 6425834
- Total Price: USD 10,038.41 (excluding applicable tax)
- Local Tax, if applicable

In issuing a check, Ketchikan Public Utilities agrees that only the terms of this renewal order and the agreement shall apply to the technical support services renewed under this renewal order. No terms attached or submitted with the check will apply.

Checks for technical support services renewed under this renewal order should be sent to:

Checks for technical support services renewed under this renewal order should be sent to:

**AK, AZ, CA, HI, ID, NV, OR, UT, WA:**

Oracle America, Inc  
PO Box 884471  
Los Angeles, CA 90088-4471

**All Other States:**

Oracle America, Inc  
PO Box 203448  
Dallas, TX 75320-3448

**Payment Confirmation**

If You cannot pay using any of the payment methods described above, please complete this payment confirmation and submit it to Oracle. Please initial the following statement that best applies to You.

- Ketchikan Public Utilities does not issue purchase orders.
- Ketchikan Public Utilities does not require a purchase order for the services ordered hereto.

Ketchikan Public Utilities certifies that the information provided above is accurate and complies with Ketchikan Public Utilities's business practices in entering into this renewal order, including obtaining all necessary approvals to release the funds for this renewal. In issuing this payment confirmation, Ketchikan Public Utilities agrees that the terms of this renewal order and the agreement shall apply to the technical support services ordered under this renewal order. No terms attached or submitted with the payment confirmation will apply.

The signature below affirms Ketchikan Public Utilities's commitment to pay for the services ordered in accordance with the terms of this renewal order.

Ketchikan Public Utilities

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

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Signature Date

Please contact Oracle per the General Information section above to issue Your Payment Confirmation.