

**AMENDMENT 1**  
**TO THE OPERATING COVENANT AGREEMENT**

**between**

**THE CITY OF DINUBA,**  
**a California municipal corporation,**

**and**

**BestBuy.com, LLC**  
**a Virginia LLC**

This **Amendment 1** (this "**Amendment 1**") is effective retroactive from January 1, 2017 (the "**Amendment 1 Effective Date**") by and between The City of Dinuba ("**City**"), and Best Buy.com, LLC ("**Best Buy**"), and amends that certain Master Services Agreement which was effective as of November 2015, (the "**Agreement**"). Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

**RECITALS**

**WHEREAS**, the City and Best Buy entered into an Agreement to ensure that the City continues to generate substantial revenue, as a result of Best Buy adding and/or retaining approximately 285 temporary and permanent jobs, as well as continuing to maintain and expand, directly, or through its affiliates, a regional distribution center and warehouse space in the City, so long as continued and expanded operations are commercially reasonable for Best Buy;

**WHEREAS**, the City and Best Buy agree to modify the payment terms and the Terms set forth in the Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants set forth herein, the parties hereby amend the Agreement as follows:

1. The term, as identified in the introductory section of the Agreement, and the definition of Covenant Term in Section 1.3.6 will be deleted and replace with "a period of no less than forty-five (45) years following the Effective Date (unless terminated sooner pursuant to specific provisions of this Covenant Agreement)."

2. Section 3.2.2 is amended by adding the following:

(d) Notwithstanding the provisions of (a), (b) and (c) above, if the total BBY Sales Tax Revenue exceeds \$7,300,000 in any Computation Year, Best Buy shall receive Covenant Payments equal to 50% of all BBY Sales Tax Revenue in that Computation Year. If the BBY Sales Tax Revenue exceeds \$7,300,000 in two consecutive Computation Years, the 50% will become permanent for all subsequent Computation Years during the Covenant Term.

3. Section 3.2.3 is deleted in its entirety and replace with the following:

**3.2.3 Computation Quarter Covenant Payments.** Within forty-five (45) days following the end of each Computation Quarter, Best Buy shall submit to the City copies of its quarterly reports submitted to the California State BOE which sets forth the amount of sales taxes paid to the BOE during the Computation Quarter arising from Best Buy's Sales Activities.

- (a) Within one hundred twenty (120) days following the end of each Computation Quarter, City shall pay to Best Buy a percentage of the Computation Quarter Covenant Payment, less a deferred percentage of the Covenant Payment due for such Computation Quarter (not to exceed more than \$5 million in total for all Computation Years), as follows:

Computation Year	Deferred Percentage
2017	80%
2018	50%
2019	25%

Total of all Covenant Payments deferred from January 1, 2017-December 31, 2019 will be referred to herein as the "Deferral Amount".

- (b) The Deferral Amount will be paid to Best Buy in the subsequent Computation Years, with payment due at the end of each of the corresponding Computation Years as follows:

Computation Year	Deferred Amount
2020	\$250,000
2021	\$500,000
2022	\$750,000
2023	\$750,000
2024	\$1,250,000
2025	\$1,300,000
2026	Any and all remaining balance

4. Other Terms and Conditions. All other terms and conditions of the Agreement not otherwise amended herein shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have caused this Amendment 1 to become effective as of the Amendment 1 Effective Date.

**CITY OF DINUBA**

**BEST BUY.COM, LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_