

ORDINANCE NO. 19-023

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A THREE (3) YEAR CONTRACT WITH OHIO TELECOM, INC., OF PORT CLINTON, OHIO, FOR INTERNET AND TELEPHONE SERVICES; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City Commission approved contracts with Ohio Telecom, Inc. of Port Clinton, Ohio, for the purchase of a 2 PRI's at 100 MB fiber connection for internet service by Ordinance No. 13-049, and for telephone services to maintain two (2) primary rate ISDN (PRI) circuits by Ordinance No. 13-050, passed on May 13, 2013; and

WHEREAS, the City is currently contracting internet and telephone services on a month-to-month basis costing \$1,860.00 per month; and

WHEREAS, a request for proposals (RFP) was issued on December 21, 2018, for Direct Internet Access (DIA) and Primary Rate ISDN (PRI) telephone services in which one (1) proposal was received and evaluated by a selection committee and based upon the proposers experience and past performances, it was determined the proposal of Ohio Telecom, Inc., of Port Clinton, Ohio, was the lowest and best; and

WHEREAS, Ohio Telecom, Inc. will be providing a 100mb circuit for City Hall, a 100mb circuit for the Police Department, and an additional PRI circuit for telephone services and increasing the DIA from one to two (2) DIA's increasing the internet speed and allowing further increased speed over the term of the contract if needed; and

WHEREAS, the cost for the internet and telephone services is \$1,605.00 per month for an annual cost of \$19,260.00 and a total three (3) year cost of \$57,780.00 of which \$28,890.00 will be paid with funds from the Information Technology Department's operating budget, \$14,445.00 will be paid with Water Funds, and \$14,445.00 will be paid with Sewer Funds; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately execute the contract to maximize the cost savings and utilize the increased internet speed at the earliest opportunity; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Information Technology, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a

three (3) year contract with Ohio Telecom, Inc., of Port Clinton, Ohio, for internet and telephone services, substantially in the same form as Exhibit "1", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the terms of this Ordinance, at an amount **not to exceed** One Thousand Six Hundred Five and 00/100 Dollars (\$1,605.00) per month for an annual amount **not to exceed** Nineteen Thousand Two Hundred Sixty and 00/100 Dollars (\$19,260.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.



DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST:



KELLY L. KRESSER
CLERK OF THE CITY COMMISSION

Passed: February 11, 2019



This agreement for the provision of Internet Access is entered into as of this _____ day of _____ 2019, by and between Ohio Telecom, Inc. (Provider) located at 115 W 2nd St. Port Clinton, OH 43452 and ___City of Sandusky_____ (Customer) located at ___222 Meigs St. Sandusky, OH 44870_____.

TERM AND RENEWAL

The term of this agreement is 36 months. Billing will begin upon circuit turn up and continue for 36 months. After completion of the initial service period the circuit will continue to be billed month to month, as proposed in Exhibit A.

PERFORMANCE

Provider shall furnish Customer Internet services as further described in attached Exhibit A.

CHARGES AND PAYMENT

Customer agrees to be solely responsible to Provider for all reasonable and industry-consistent charges billed by Provider for Services provided to customer under this Agreement. Charges for the Services provided under this Agreement will be billed to Customer on a monthly basis.

Payment of all invoices for Services provided by Provider under this Agreement shall be due and payable within 30 days of the date on the Customer's receipt invoice. Late payments shall be subject to a service charge of three percent (3%) on all outstanding balances after ninety (90) days unless expressly waived by the Provider in writing. Provider may, at its sole discretion, terminate or suspend the Services to any Customer whose payments are in arrears by more than (90) days. Such suspension shall not be deemed a waiver of other legal or equitable rights the Provider may have for enforcement of payment. If the Provider suspends Services to Customer pursuant to this Section, Provider reserves the right to charge Customer a reconnection fee to cover the administrative cost of reconnection. The reconnection charge shall be in addition to any other amounts owed to Provider by Customer.

WARRANTIES AND LIMITATIONS ON LIABILITY AND INDEMNIFICATION

Provider shall be liable to Customer for failure to provide Services, but only if such failure(s) is due to the negligence of Provider and not excused by either of the following: 1) Provider shall not be liable for any damages incurred as a result of the errors, omissions, or negligence of Customer, its personnel, employees, agents or users; 2) Provider shall not be liable for failure to perform if such failure is caused by acts of God,



wind, fire, floods, acts of public enemies, insurrection, military action, sabotage, riots, or civil disturbances, failure of a utility or utility type service which is essential to Provider's Service or other event(s) not reasonably within the control of the Provider. Provider liability for failure to provide Services that are deemed to be outside of the exclusions listed above will be compensated via a per diem calculation of the monthly service fee for any days without Service.

NOTICES

- A. All notices permitted or required to be given to either of the parties to this Agreement shall be in writing and shall be deemed given or delivered when: (a) delivered by hand or (b) mailed, if sent by regular mail or other express delivery service (receipt requested), in each case to the appropriate addresses set forth below (or to such other addresses as the party may designate by notice to the other party hereto):

1. If to Provider:

Name: Ohio Telecom, Inc.
Address: 115 W 2nd St
City/State/Zip: Port Clinton, OH 43452
Phone: 419-734-2369
Fax: 419-301-0001

2. If to Customer:

Name:
Address:
City/State/Zip:
Phone:
Fax:

B. GENERAL PROVISIONS

- a. **Successors and Assigns.** This agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, assigns, heirs and personal representatives.
- b. **Waiver, Discharge, etc.** This Agreement may not be released, discharged, changed or modified in any manner, except by an instrument in writing signed by both parties. The failure of either party to enforce at any time any of the provisions(s) of this Agreement shall not be construed to be a waiver of any provisions(s), nor in any way to affect the validity of this Agreement or any part hereof or the right of either party hereto to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. Furthermore, the term of any purchase order, invoice or like document issued in conjunction with the Service to be provided herein shall not serve to add to or modify the terms of this Agreement.

- c. **Captions.** The captions in this Agreement are inserted only as a matter of convenience and as a reference, and in no way define, limit or describe the scope or intent of this Agreement or any of the provisions hereof.
- d. **Rights of person Not Parties.** Nothing contained in this Agreement shall be deemed to create rights in persons not parties hereto
- e. **Severability.** If any provision of this Agreement or the application thereof to any persons or circumstances shall, for any reason or to any extent, be held invalid or unenforceable, the remainder of this Agreement and the application of such provision to such other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.
- f. **Entire Agreement.** This Agreement, together with the documents referred to herein, shall constitute the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writing with respect to such subject matter.
- g. **Counterparts.** This Agreement may be executed in several counterparts, all of which taken together shall constitute one single agreement between the parties hereto.
- h. **Compliance with law.** Each party agrees to comply with all governmental laws and regulations applicable to the Services contemplated by this Agreement. Customer agrees to provide such written evidence of the approval of this Agreement as may be required by law.
- i. **Fully Understand and Freely Enter.** The undersigned hereby acknowledge that they have read and understand the foregoing. The parties to this Agreement also acknowledge that the execution of this Agreement is a free and voluntary act, done in belief that the Agreement is fair and reasonable.

By signing below, Signatory of Customer ("Signatory") certifies authorization to sign on behalf of Customer and certifies having read, understood and agreed to the terms of this Agreement, including the provisions of the attached exhibits which are incorporated herein by reference. Signatory certifies that all information provided by Customer in connection with this Agreement is true and accurate.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date first set forth above.

CUSTOMER:

Printed name of Customer

Signature

Date

Printed name of Signor

PROVIDER:

Ohio Telecom, Inc.

Printed name of Provider

Signature of Provider

Date

Printed name of Provider

**EXHIBIT A
FIBER INTERNET SERVICES**

This exhibit is hereby made part of the Internet Services Agreement (the "Agreement") entered between Ohio Telecom, Inc. ("Provider") and Customer, as these terms are defined in the Agreement. The following additional terms and conditions apply to the Agreement.

1. Services

The services provided and their costs are set forth on Schedule 1 (below) and incorporated herein by reference.

2. Additional Charges

Customer agrees to pay Provider for any installation cost, if incurred, as a result of providing Services to Customer.

3. Providers Obligations

- a. Provider will plan and coordinate all activities incidental to the implementation of the services.
- b. Provider will assume all responsibilities for the equipment and facilities which provide physical connection to the Customer Demarcation.

4. Customer's Obligations

- a. Customer will assume all responsibilities for all local area networks (LAN) connected to the service. These responsibilities include, but are not limited to, Customer-owned communications equipment/cabling, LAN software, and LAN hardware.
- b. Customer will provide Provider with appropriate and sufficient space and electrical power to facilitate the service installation.

SCHEDULE 1

Locations:

222 Meigs St
Sandusky, OH 44870

240 Columbus Ave
Sandusky, OH 44870

100M Internet connection delivered over dedicated fiber to each	2	\$510.00
Location above. Includes existing IP range		
Primary Rate ISDN (23 channels) Includes LD in U.S. & Canada	1	\$585.00
Total Monthly		\$1,605.00

Service pricing does not include sales tax or any other tax or government fees that may be required now or in the future.