

**Award of Contracts for Technology Work
Royal Oak Civic Center**

December 6, 2019

The Honorable Mayor Fournier and
Members of the City Commission:

Bid specifications (request for proposals RFP) for technology work components of the Royal Oak Civic Center (ROCC) project were issued as follows:

- Passive Optical Local Area Network – RFP-RO-019-024 – Issued October 14, 2019
- Server and Storage Devices – RFP-RO-019-025 – Issued October 16, 2019
- Optical Fiber Ring – RFP-RO-019-026 – Issued October 28, 2019

All proposals were evaluated by the information technologies consulting partner for the ROCC project, Convergent Technology Partners (CTP). Their individual assessments are provided for all four of the technology contract work. CTP has made the following reward recommendations, with a five-percent contingency, based on the qualified bids for the scope of work.

Passive Optical Local Area Network:

On November 5, 2019, sealed bids were accepted and opened by the city for the passive optical local area network project (Attachment 1). Four proposals were received and the bid tabulation for the subject work is shown below. Bluestone Communication's bid did not meet the requirements of the RFP and was removed from consideration.

<u>Contractor</u>	<u>Base Bid</u>
Bluestone Communications	\$571,456.00
Motor City Electric Technologies	\$597,070.00
Vision Technologies	\$715,874.08
KLA Laboratories	\$801,753.48

Servers and Storage Devices:

On November 5, 2019, sealed bids were accepted and opened by the city for the servers and storage device project (Attachment 2). Two proposals were received and the bid tabulation for the subject work is shown below. Sentinel's bid did not meet the requirements of the RFP and was removed from consideration. To ensure the pricing from Avalon Technologies was reasonable, the Midwestern Higher Education Compact (MHEC), a multi-state purchasing compact, was used for validation. The pricing provided by Avalon was lower than the pricing on the MHEC contract.

<u>Contractor</u>	<u>Base Bid</u>
Avalon Technologies	\$189,179.00
Sentinel	\$257,423.00

Optical Fiber Ring:

On November 19, 2019, sealed bids were accepted and opened by the city for the optical fiber ring project (Attachment 3). Seven proposals were received and the bid tabulation for the subject work is shown below. All bids were determined to be compliant.

<u>Contractor</u>	<u>Base Bid</u>
Motor City Electric Technologies	\$42,875.00
Amcomm	\$43,346.74
Western Telcom	\$46,420.05
Fiberlink Inc.	\$67,733.04
Stingray Systems	\$67,700.00
Bluestone Communications	\$67,733.04
KLA Laboratories	\$105,090.93

Voice and Data Services:

As part of the ROCC project, existing voice and data services will need to be moved to the new facilities. 123.Net has been the voice and data provider for the city since 2015 when they were awarded the contract for these services. The cost of moving these services to the new facilities is \$5,599. If the city renews the contract, which is due to expire in 2020, the relocation fees will be reduced to \$1,000 and current discounted contract rates will be retained.

The following resolution is recommended for approval:

Be it resolved, the city commission hereby awards technology contract work for passive optical local area network to Motor City Electric Technologies in the amount of \$621,300.00; and

Be it further resolved, the city commission hereby awards technology contract work for servers and storage devices to Avalon Technologies in the amount of \$198,637.95; and

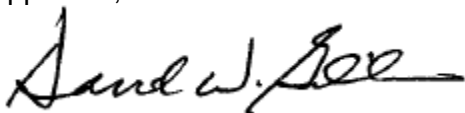
Be it further resolved, the city commission hereby awards technology contract work for optical fiber ring connectivity to Motor City Electric Technologies in the amount of \$45,018.75; and

Be it further resolved, the city commission hereby extends the technology contract work for voice and data services with 123 technology for the recurring monthly fees and a one-time relocation fee of \$1,000; and

Be it further resolved, the city commission directs staff to issue purchase orders for said technology projects.

Respectfully submitted,
Mike Kirby
Manager of Information and Communication Technology

Approved,



David W. Gillam
Interim City Manager and City Attorney

4 Attachments



Convergent Technology Partners
6197 Miller Road, Ste #4,
Swartz Creek, MI 48473
810.720.3820

E-mail: info@ctpartners.net
Website: www.ctpartners.net

November 25, 2019

Mike Kirby
Manager of Information and Communication Technology
City of Royal Oak

Subject: Passive Optical Local Area Network RFP-RO-019-024 Recommendation Letter

Mike,

On October 14, 2019 the City issued a Request for Proposal (RFP) soliciting bids for the Passive Optical Network. The RFP was posted to the State of Michigan Sigma Purchasing Portal. Convergent also spoke with several vendors regarding the solicitation and pointed them to the Portal to download the RFP and supporting documentation.

On November 5, 2019, sealed bids were accepted and opened by the City. Four proposals were received. The initial results were tabulated as follows:

<u>Contractor</u>	<u>Base Bid</u>	<u>System</u>
Motor City Electric Technologies	\$597,070.00	Corning
Bluestone Communications	\$571,456.00	Dasan Zhone
Vision Technologies	\$715,874.08	Tellabs
KLA Laboratories	\$801,753.48	Corning

Evaluation process: RFP compliance, Vendor capabilities and experience, Proposed solution, System topology (manufacturer based), Manufacturer interviews, Vendor interviews, Service and support capability, Initial total cost of ownership and total cost of ownership at seven years.

All proposals were evaluated for compliance with the RFP requirements, pricing, technical solution and acceptance of terms and conditions of the RFP. Bluestone was considered non-compliant and removed from consideration. All others provide compliant proposals. KLA Laboratories was not included in the short list of vendors for evaluation due to the high price. We proceeded with the evaluation of both the short-listed vendors (Motor City Electric Technologies and Vision) and of their proposed manufacturers.

Vendor capabilities and experience:

Motor City Electric Technologies – Well established, stable, staffed and experienced local vendor that does all their work in-house (no subcontracting). Recently completed the Little Caesars Global Resource Center that consisted of several thousand endpoints using the Corning SD One Passive Optical LAN System. They indicated the Project Manager for that project would be the same for the city if they were awarded. The project manager is a BICSI RCDD. The city has used Motor City Electric on several recent projects with reported good results. Motor City does have a Corning SD One lab set up in their office for mockup of installations and training. They appear to have a great deal of support from Corning. Additionally, this vendor is currently working with the city on the project and is a contender for the optical fiber ring project that would connect the two buildings for the POLAN system.

Vision Technologies – also a well-established, stable, staffed and experienced PON vendor, using a local cabling vendor for the low voltage installation (AMR). Vision is a vendor for all three manufacturers represented in the proposals and has reportedly completed over fifty installations nationwide of the various contractors. They use a structured project management office approach for managing projects and have over a dozen BICSI RCDDs on

Attachment 1

staff. They are located in Maryland, which is where their project manager would be located when not required on-site. Their design engineer has been involved with this technology since its inception around 2008 and appears highly knowledgeable.

Vision has had a partnership with AMR for many years for national installations. AMR has a single RCDD on staff and it was not indicated he would be involved in the installation. The city has used AMR for low voltage installation approximately 15 to 20 years ago, but has since changed to another vendor.

Proposed solution

Motor City Electric Technologies – This vendor closely followed the basis of design and its intent. They are using a mixture of ceiling mounted and wall-mounted ONT's for network distribution. Their design appears to have sixty-eight available unused ports between the two buildings. All head end equipment (OLT's, splitters, software data plane, power supplies, etc.) are located in each building's IT server room as shown on the basis of design drawings.

Vision Technologies – This vendor loosely followed the basis of design. The design is using surface mounted ONT's in the user spaces and forty-eight port rackmount ONT's in the IT server rooms with category six cabling (UTP) directly from the ONT in the IT server room to each wireless access point and camera in both buildings. This design provides an extra 254 unused ONT ports. In the evaluator's opinion the use of category six cabling in this manner defeats the intent of the passive optical LAN, and is non-compliant with the requirement that category six cabling not be longer than 30 feet. Additionally, the design distributed the splitters and power supplies in the police department between IT spaces on each floor; spaces that do not have proper power or cooling for active electronics nor have been designed the space adequate for racks to house this equipment. They stated they would redesign after award to meet the intent, but this will take additional time and resources from both the city of Royal Oak and Convergent Technology Partners.

System overview (manufacturer based)

Corning – Corning provides a high-availability solution required of the RFP, which Motor City Electric has included in their proposal. The Corning solution is a modular based rack mounted equipment all under the Corning name. Their current product line does not support 10 Gb, but this is not a requirement of the RFP. All Corning ONT's are Plenum rated and may be placed in the ceiling without any further protection.

The administrative graphical user interface (GUI) has a modern look feel and usability and is easy to operate. This interface will allow IT staff to access port levels on the ONT's for troubleshooting, changes and other administration. This system has the ability to pre-provision using an Excel spreadsheet which then can be imported into the system for quick provisioning. The system seems to have a good reporting structure for failures and faults, and allows both email and SMS reporting to specific administrators. The system seemed very easy to use to make and apply templates for user groups.

Corning splitters are a true passive component and not integrated with the power supply, so if either were to fail a less expensive replacement is possible. As the system is modular additional equipment will need to be added to future buildings brought onto the system.

Tellabs – Tellabs solution is chassis based as the TELCO PON product is being leveraged into the enterprise market. This also means that the platform supports TELCO level quality assurance and security. For example: the platform provides a true type B redundant solution between chassis, and also provides additional redundancy within the chassis itself (dual backplanes). This additional level of redundancy exceeds the requirements of the RFP. The Tellabs equipment is all chassis based (OLT's) with dual 100 Gb backplanes. The OLT blades included in the current proposal are 10 Gb capable now with replacement of appropriate optics. Power supplies are hot-swappable in the chassis. Other equipment such as the splitters/power supplies are from other manufacturers. The system will allow walking down ONT ports to only specific MAC addresses to prevent rogue equipment being plugged in.

Reporting and alarms are not as elegant as the Corning solution and SMS texting is currently not supported.

The low-voltage portion has multiple manufacturers, which if installed per the current bill of material would not allow manufacturer's certification and warranty. It was stated in the interview that all material on the bill of material can be revised to single and to end solutions to provide manufacturer warranties. At this time there is no

Attachment 1

guarantee that the material substitutions will be approved by Convergent Technology Partners. Again, this may mean additional time for redesign.

Their GUI has not been upgraded in several years and still has a TELCO look and feel to the operation of it. It does not appear to be as user-friendly and does not allow administrators to get to the same level of detail as the Corning product. (I.e.- cannot get down to port level at the ONT) that said, it is still very functional.

Support and service

Motor City Electric Technologies – This vendor has not provided a support contract as it would be redundant with the support being provided directly by Corning. A support contract can be provided for consideration but both the vendor and evaluator feel this would be of no value. Corning uses an annual license model, with software assurance included in the fees. See total cost of ownership below for further on this topic. Motor City Electric can and will provide on-site local support as needed.

Vision Technologies – Tellabs uses a support contract model rather than annual license fees. However, first level of support will be from Vision Technologies NOC in Maryland and only escalated to the Tellabs if needed. System based support (not low-voltage infrastructure, which would be from AMR) if needed on-site would require a technician or engineer from Vision in Maryland. AMR would not provide system based support.

Total cost of ownership

Total cost of ownership was calculated out to year seven in order to get an apples to apples comparison based upon the varied pricing models for license fees (Corning) and Support Contract (Tellabs) pricing. Corning can only provide a three year license package after the initial first year of install, whereas Tellabs provide the support contract starting from the initial installation. Therefore the first year was not included in the annual calculations as it was included in the base bid price. Additionally I have provided the estimated cost for licensing if all ports in motor city electric's proposal were to be provisioned on day one. Note that these numbers are calculated using the best pricing available, and is a best estimate only.

	Motor City Electric Technologies bid per RFP	Vision Technologies bid per RFP	Motor City Electric Technologies – all ports day 1
Base bid	\$591,330.00	\$709,257.08	N/A
Base bid + extra ports year 1	N/A	N/A	\$639,114.00
License/support years two through seven	\$94,000.00	\$119,520.00	\$100,320.00
Total	\$685,33.00	\$828,778.08	\$691,650.00

The Corning solution from Motor City Electric Technologies shows an estimated 17% lower total cost of ownership than the Tellabs solution from Vision Technologies at seven years.

Based on our evaluation, we recommend the award of the Passive Optical Local Area Network (RFP-RO-019-024) project to the low bidder - Motor City Electric Technologies in the amount of \$591,330.00, with an additional ~5% contingency of \$30,000.00 for a total of \$621,330.00. Please contact me with any questions at 810-223-0531.

Respectfully,



Eric Helsel, RCDD/OSP/RTPM
Project Manager, Convergent Technology Partners



Convergent Technology Partners
6197 Miller Road, Ste #4,
Swartz Creek, MI 48473
810.720.3820

E-mail: info@ctpartners.net
Website: www.ctpartners.net

To: Mike Kirby
Manager of Information and Communication Technology
City of Royal Oak

From: Richard Kuehnle
Director of Network Services
Convergent Technology Partners

Date: November 13, 2019

RE: Server and Storage Device Purchases

On October 16, 2019 the City issued a Request for Proposal (RFP) soliciting bids for a new virtual network infrastructure including data servers, data storage devices, backup hardware and the associated services for installation and migration of the City's existing data. The RFP specified one major vendor from which we would accept proposals, which was Dell, Inc. The RFP was posted to the State of Michigan Sigma Purchasing Portal. Convergent also spoke with several vendors regarding the solicitation and pointed them to the Portal to download the RFP and supporting documentation.

On November 5, 2019, sealed bids were accepted and opened by the City. Two bid responses were received.

The bid response from Sentinel Technologies, Inc. was determined non-compliant due to not being Dell equipment. This proposal was 36% higher than the compliant bid.

The other bid response was submitted by Avalon Technologies, Inc. Their proposal is for Dell equipment with installation services being provided through Avalon.

This purchase will upgrade the physical servers and storage as well as add storage capacity to be able to create an environment that will continue to support the City's current and future applications. The current environment is of mixed age, is nearing end-of-life and needs updated operating systems across all platforms. This new environment will give the City a more robust network with faster access to all applications with room for growth. The equipment will also be covered under a new 5-year warranty.

Most of the server software and applications will continue to reside on virtual machines that can be managed, backed up and restored with greater efficiency, and provide high availability for on-site and remote users. The servers and storage devices will connect to the network using redundant 10Gbps links. This connectivity compliments the redundant 10Gbps links that now will connect all the city center buildings.

Because Avalon was the only vendor that responded to the RFP, we compared their pricing to pricing that was available through state contracts from which we knew this same equipment and services were available. Our validation source was the Midwestern Higher Education Compact (MHEC). The MHEC is a multi-state

Attachment 2

purchasing compact with regional Commissioners responsible for oversight of the program in their respective states. We found that the Avalon pricing was lower than the quoted pricing on the MHEC contract.

Our recommendation is to award the Servers and Storage RFP-RO-019-025 to Avalon Technologies Inc. in the amount of **\$189,179.00**.

Additionally, we are recommending an approximate 5% contingency amounting to \$9,458.95. This brings the total approved amount being requested to \$198,637.95.

Please contact me if you have any questions about this recommendation.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Richard Kuehnle', is written over a light blue rectangular background.

Richard Kuehnle



Convergent Technology Partners

6197 Miller Road, Ste #4,

Swartz Creek, MI 48473

810.720.3820

E-mail: info@ctpartners.net

Website: www.ctpartners.net

November 22, 2019

Mike Kirby
Manager of Information and Communication Technology
City of Royal Oak

Subject: Optical Fiber Ring Connectivity RFP-RO-019-026 Recommendation Letter

Mike,

On October 28, 2019 the City issued a Request for Proposal (RFP) soliciting bids for the ROCC Optical Fiber Ring. The RFP was posted to the State of Michigan Sigma Purchasing Portal. Convergent also spoke with several vendors regarding the solicitation and pointed them to the Portal to download the RFP and supporting documentation.

On November 19, 2019, sealed bids were accepted and opened by the City. Seven proposals were received. The initial results were tabulated as follows:

<u>Contractor</u>	<u>Base Bid</u>
Motor City Electric Technologies	\$42,875.00
Amcomm	\$43,346.74
Western Telcom	\$46,420.50
Fiberlink Inc.	\$67,733.04
Stingray Systems	\$67,700.00
Bluestone Communications	\$67,733.04
KLA Laboratories	\$105,090.93

All proposals were evaluated for compliance with the RFP requirements, pricing, technical solution and acceptance of terms and conditions of the RFP. All Bidders provided compliant proposals. The low bidder was Motor City Electric Technologies.

Please note that Motor City Electric provided and installed the conduit infrastructure for the first phase of this project already.

Based on our evaluation, we recommend the award of the Optical Fiber Ring Connectivity (RFP-RO-019-026) project to the low bidder - Motor City Electric Technologies in the amount of \$42,875.00, with an additional 5% contingency of \$2,143.75 for a total of \$45,018.75. Please contact me with any questions at 810-223-0531.

Respectfully,

A handwritten signature in purple ink that reads "Eric Helsel".

Eric Helsel, RCDD/OSP/RTPM
Project Manager, Convergent Technology Partners



123.Net, Inc.
24700 Northwestern HWY, Suite 700
Southfield, MI 48075
866-460-3503 | orders@123.net

123Net Order Form

BILLING INFORMATION	NOTIFICATION INFORMATION
The City of Royal Oak 211 S Williams St Royal Oak MI 48067 Account Num: 111984 IT@romi.gov	

Service Address	Type of Service	Non Recurring	Monthly Recurring
The City of Royal Oak 203 S TROY ST Royal Oak, MI 48067 NPA-NXX: 248-545	Internet - Fiber Replacement for /EOF1/103252//LEF Speed: 200.00 Mb/s Equipment 60 Month Term (\$5000 Installation Waived)	\$1000	\$1299
	TDM PRI Replacement for /ISDN/973009//LEF Emergency Call Forwarding 20 DID Numbers 60 Month Term (\$500 Installation Waived)		\$25
			\$349
	SIP Trunking - 69 SIP Call Paths Renewal of /SIPT/852879//LEF 60 Month Term (\$99 Installation Waived)		\$15 \$3
Minutes of Usage Rates: Intrastate (Michigan): Unlimited Intrastate (All Other States): \$0.0299/minute Interstate: \$0.0299/minute Toll Free numbers are included and are billed at \$0.0299/minute (US 48 States)			
Unlimited Michigan Calling Included Notes: Customer is moving from: 211 Williams, Royal Oak, MI.			\$0
<small>123.Net service pricing is budgetary and is subject to change. A site survey will be performed to verify rates and availability of service after an Order is submitted. If 123.Net determines that the rates must be adjusted due to additional requirements and expenses, including build-out costs, or that a circuit is not available, Customer will have the option, within 14 days of being notified in writing of the rate increases, to accept the adjusted rate, or cancel the circuit without incurring an early termination penalty. If Customer fails to notify 123.Net within 14 days of its request to cancel the circuit, 123.Net shall proceed with the increased rate and Customer shall be liable for payment under the adjusted rate. Installation of services is contingent on authorization and access to the property or building in which you are requesting service. Customer shall cooperate with 123.Net to obtain timely approval for authorization and access to the property. Customer is responsible for any additional costs or fees associated with obtaining said approvals</small>			
Total:		\$1000	\$2091

All voice service is subject to EUCL charge of \$24.75/mo. International Calling Varies By Country.

By signing this form Customer agrees to incorporate into this agreement and abide by 123.Net, Inc.'s Service Terms and Conditions v. 2.1.2

Authorized Customer Signature	Authorized 123.Net Signature
Print Name:	Print Name:
Date:	Date:

TERMS & CONDITIONS



123NET PROVIDES ENTERPRISE DATA CENTER, NETWORK & VOICE SERVICES TO MICHIGAN BUSINESSES

These 123.Net Service Terms and Conditions ("Agreement") set forth the terms and conditions upon which customer ("Customer" or "You") agrees to purchase and use the voice, data center (colocation), and/or network services ("Service") provided by 123.Net, Inc. ("123.Net"). This Agreement is incorporated and fully stated as part of Customer's Service Order Form ("Service Order").

RATES

Monthly Recurring Charges ("MRCs"), usage charges, and Non-Recurring Charges ("NRCs") are based on term plan rates and fees in effect at the time Service is ordered, as set forth on the Service Order, plus any applicable taxes and fees imposed by law.

TERM & EXPIRATION

The terms of this Agreement become effective upon execution by Customer. Customer's service term begins at the time Service is activated and shall continue for the duration stated in the Service Order ("Service Term"). Service activation occurs once the Service is available for use by the Customer ("Service Activation"). Upon expiration of the Service Term, this Agreement will continue to automatically renew for a term equal to that stated in the Service Order ("Renewal Term"), unless properly terminated pursuant to the terms stated herein. This Agreement shall be binding and in full force and effect for all Renewal Terms.

TERM PLAN CHANGE

Prior to the completion of the Service Term, Customer may renew the Service Term or change to a different Service Term without incurring early termination charges, provided the new Service: (i) is for an equal or greater number of circuits than the number ordered herein, (ii) the new Service MRC is higher, and (iii) Customer receives written approval from an authorized 123.Net representative authorizing the term plan change.

INSTALLATION AND MOVE

123.Net shall perform all installation, modification, and removal of circuits and customer equipment ("hereinafter referred to as "Customer Edge" or "CE"). Customer must have its phone/data vendor on site during the actual service conversion/porting. If the porting date is rescheduled by Customer or Customer's vendor, a fee may apply. Customer is responsible for connecting 123.Net internet service to Customer's data network. Router equipment provided by 123.Net is unmanaged and will remain the property of 123.Net. Customer must provide a grounded electrical outlet for installation of equipment. Integrated and analog circuits are loop start. By entering into this Agreement, Customer affirms that 123.Net is authorized by the property owner of the installation site to install the necessary devices to provide the Service to Customer and that Customer will cooperate with 123.Net to coordinate and gain whatever approvals and rights of access may be necessary to provide the Service to Customer. Unless otherwise agreed upon by Customer and 123.Net, 123.Net will not be responsible for demarcation extension or inside wiring charges. In the event that Customer moves its Service to a new location, Customer will not incur early termination charges provided termination of the old circuit and installation of the new circuit are ordered to occur concurrently, but NRCs may apply and Customer's MRC may be adjusted based upon the new location. PLEASE NOTE that Customer must notify 123.Net of any change in its location, including a move within the same office building. If Customer fails to notify 123.Net of any such move, please be advised that 911 service and/or other

TERMS & CONDITIONS



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emergency services available by VoIP may not function properly and Customer agrees that 123.Net is not responsible for any losses or damages resulting from Customer's failure to notify 123.Net of its move.

CREDIT APPROVAL, BILLING & PAYMENT

Customer authorizes 123.Net to conduct a credit check and Service installation is contingent upon Customer having a satisfactory credit history. For voice services, billing will begin as of the initial scheduled port/install date or 30 days after the circuit is installed, whichever is sooner. For colocation services, billing will occur as soon as electricity is installed and available for use in Customer's cabinet. For all other services, billing shall commence at Service Activation. If service is disconnected by 123.Net in accordance with these policies and is later restored, restoration of service will be subject to all applicable restoration and installation charges. Customer agrees to pay all undisputed amounts on the last day of the month in which the invoice is billed ("Payment Due Date"). If Customer has an open balance that is owing past the Payment Due Date, and which has not been disputed, 123.Net may apply late charges each month equal to 1.5% of the total outstanding amount "not including current activity." If Customer has an open balance that has not been disputed and is past the Payment Due Date for a period of 60 days or more, 123.Net may cancel Customer's Service and continue to collect on the amount then owing. For colocation customers, if service is cancelled by 123.Net for non-payment, 123.Net may withhold all equipment located in Customer's cabinet(s) until payment is made in full. This remedy shall be in addition to any remedy contained herein or implied by law and shall not constitute an election of remedies. 123.Net charges a fee of \$5 per month for the delivery of paper invoices. For Paperless Billing, E-mail: ebilling@123.net and include Customer's name and account number.

BILLING DISPUTES

If Customer disputes a term or amount on an invoice, Customer must do so in writing within 30 days from the invoice date. Disputes must be sent in writing to: E-mail: DisputeDepartment@123.net, Fax: 586-349-8005, Address: 24700 Northwestern Hwy. Ste. 700 Southfield, MI 48075. Disputes must be reasonable and made in good faith. Customer must pay the portion of the invoice that is not in dispute. Payment of the amount of the invoice that is not in dispute, will not be deemed to constitute acceptance of the portion of the invoice that is in dispute. Partial payment on an invoice, even if said amount is accepted by 123.Net, does not constitute a waiver of any rights held by 123.Net to collect on the entire balance due and owing as stated.

TARIFFS

In the event of conflict or discrepancy between provisions of this Agreement and provisions of the applicable tariff, the provisions of the tariff will prevail.

FRAUDULENT CALL & NETWORK SECURITY

Customer shall manage the integrity of the traffic egressing Customer's network and is responsible for the security of the Customer's phone system and local area network (LAN). Customer shall manage, and correct as necessary, any fraudulent calling patterns or calling patterns perceived as fraudulent that may harm or adversely affect 123.Net or its network, and Customer shall use best efforts to prevent and detect network looping. For services that include long distance calling, all unauthorized domestic usage, international usage, and subsequent charges incurred by

TERMS & CONDITIONS



123NET PROVIDES ENTERPRISE DATA CENTER, NETWORK & VOICE SERVICES TO MICHIGAN BUSINESSES

the Customer as a result of hacking or intrusion into the Customer's phone system or LAN are the sole responsibility and liability of Customer. In addition, Customer acknowledges that 123.Net is not responsible for the security of Customer's network equipment and Customer further agrees to pay for all bandwidth consumption charges and expenses that are a result of fraudulent activity or a compromise of Customer's network or CE. Customer shall indemnify and hold 123.Net harmless from and against all claims, actions, losses, damages, costs, expenses, fines, penalties or other liabilities arising now and in the future resulting from fraudulent calls of any nature carried by means of the Services. Customer shall not be excused from paying 123.Net for the Services provided to the Customer, or any portion thereof, on the basis that fraudulent calls comprised a portion of the Services.

ACCEPTABLE USE POLICY

Customer's use of the Service, shall be subject to 123.Net's Acceptable Use Policy ("AUP"). Customer agrees to fully abide by the AUP and impose its policies on Customer's end users to the extent necessary to ensure compliance. If there is a conflict between the Terms and Conditions and the AUP, the Terms and Conditions shall control. A copy of the AUP can be found at: <https://www.123.net/acceptable-use-policies/>

PROVISION OF VoIP SERVICE

Subject to the terms and conditions herein, 123.Net shall provide Customer with VoIP Service solely for Customer's own use, and not for the benefit of any third party. Should Customer attempt to resell the VoIP Service, including the routing of Internet Protocol traffic from other individuals or organizations, 123.Net must be notified and may, at its sole discretion, increase the fees associated with the VoIP Service, or may terminate this Agreement. Customer agrees that the VoIP Services may not be used for purposes of: auto-dialing, telemarketing, call center activities, continuous use of extensive call forwarding, call relaying, fax broadcasting or fax blasting. 123.Net reserves the right to immediately terminate this Agreement, or modify the VoIP Service or pricing, if 123.Net determines, in its sole discretion that Customer is using the VoIP Service for any of the aforementioned activities.

DISCLAIMER OF LIABILITY: EMERGENCY SERVICES, 911 & E-911 CALLING

Customer acknowledges and agrees that 123.Net's SIP, Dynamic PRI, and Hosted PBX service is internet based (VoIP) and that 911 services are different than that of traditional wireline services. Customer understands that the VoIP Service requires a fully functioning Internet connection and that in the event of an outage the VoIP Service will not function until the Internet connection is restored. Customer acknowledges and agrees to inform all employees, guests and other third party persons who may use the service that basic 911 and E911 services will not function in the case of a service outage. An outage may be caused by the following: (A) Loss of power; (B) Suspended or terminated broadband service and/or broadband connection failure; (C) Suspension of service due to billing issues; (D) Relocation of end user's IP-compatible CE; (E) Use by the end user of a non-native telephone number; or (F) Any other service outages or delays not described herein.

For basic 911 or E911 to accurately route to the appropriate emergency responder, the Customer must provide the telephone number, associated with the SIP and Dynamic PRI trunking service, for the physical address. Customer agrees to ensure that the physical address of its Service is correct, and to immediately update such address whenever the physical location of the Service changes. Customer acknowledges that failure to provide a correct

TERMS & CONDITIONS



123NET PROVIDES ENTERPRISE DATA CENTER, NETWORK & VOICE SERVICES TO MICHIGAN BUSINESSES

physical address (registered address) or the use of the service from a location other than the location to which the service was ordered may result in basic 911 and E911 calls being routed to the incorrect local emergency service provider. Customer acknowledges and agrees that 123.Net, its officers, employees, underlying carriers, or any other third parties involved in the routing, handling, delivery, answering, or responding to emergency calls, shall not be held liable for any claim, damage, loss, fine, penalty or cost (including, without limitation, attorney fees) and customer hereby waives any and all such claims or causes of action, arising from or relating to the provision of all types of emergency services to Customer. Customer acknowledges and agrees to hold harmless and indemnify 123.Net from any claim or action arising out of misroutes of any 911 calls, or whether local emergency response centers or national emergency calling centers answer a 911 call or how the 911 calls are handled by any emergency operator including operators of the national call center. The limitations apply to all claims regardless of whether they are based on breach of contract, breach of warranty, product liability, tort and any other theories of liability. 123.Net shall provide Customer with warning labels regarding the limitations of unavailability of 911 emergency dialing. Customer agrees to place a label on or near each telephone or other Customer Equipment on which the Service may be utilized.

INTERNET ACCESS: VoIP

In order to purchase the VoIP Service from 123.Net, Customer must purchase Internet Access from 123.Net. In addition, Customer understands and agrees that this Agreement for VoIP service modifies and supersedes any prior agreement of 123.Net to deliver Internet Access to Customer and amends that agreement to be coterminous and codependent with the term of this Agreement for VoIP Service. Customer understands and agrees that if Customer unplugs the equipment provided by 123.Net to enable VoIP Service and moves the equipment, to a different location where it is not utilizing 123.Net Internet Access, that 123.Net makes no representations or guarantees about the VoIP Service and Customer use the VoIP Service as its own risk.

123.NET PROVIDED EQUIPMENT (HOSTED PBX ONLY)

In order to facilitate the configuration of equipment and ensure its compatibility with 123.Net's network, 123.Net requires that Customer exclusively use CE supplied by 123.Net. CE may include, but is not limited to: IP phones, Router, Network switch(s), or any other IP connection equipment provided to Customer. Such CE may be included as part of a monthly rental subscription, as defined by the Service Order(s), and carries an equipment MRC. Customer shall bear the cost of any loss or damage to the CE from any cause whatsoever. Customer acknowledges that Customer is solely responsible for maintaining physical, logistical and environmental security and control with respect to all CE, and 123.Net shall have no liability whatsoever with respect to any breach of security caused by, related to, or arising out of Customer's failure to maintain proper physical, logistical or environmental security. 123.Net provided CE is, and at all times shall remain, the sole and exclusive property of 123.Net, and Customer shall have no right, title or interest therein. Customer shall not cause 123.Net CE to become an improvement, attachment, or fixture to real property. Customer, upon the termination or expiration of the Service Order(s) with 123.Net, shall return, at Customer's sole cost, the CE in good repair and condition to 123.Net. If Customer fails to return CE in good condition, as determined by 123.Net in its sole discretion, Customer shall be responsible for the Fair Market Value (FMV) of the damaged CE. Within 60 days after termination or expiration of the Service Order(s), Customer shall coordinate a date and time with 123.Net to allow 123.Net to collect the CE from the Customer premises. Customer shall not attempt to deliver, ship or mail, or otherwise seek to return any

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equipment to 123.Net without 123.Net's prior authorization and approval. Customer shall bear all risk and liability if Customer fails to adhere to this section. 123.Net reserves the right to assess costs for any damage that occurs as a result of a breach of this paragraph, including failure to return any CE as stated herein, and Customer agrees that these costs (the FMV) are liquidated damages which constitute compensation and not a penalty. Customer shall maintain adequate insurance on the CE to insure against damage to or loss of the CE. Customer agrees to use reasonable care in maintaining the CE while in Customer's possession. Customer is also responsible for a recovery fee of Seven-Hundred and Fifty Dollars (\$750.00) for 123.Net to recover 123.Net's CE from Customer's premises.

123.NET SERVICE PROGRAM (HOSTED PBX ONLY)

Should any CE require maintenance service, 123.Net will solely determine whether to replace the unit in whole or repair the malfunctioning unit(s). In the event 123.Net elects to repair damaged CE, replacement parts provided will be either new parts or parts equivalent in performance to new parts. Parts removed from CE for replacement will become the property of 123.Net. 123.Net does not warrant the replacement of any CE that is damaged as a result of negligence. Customer shall be responsible for all costs associated with replacing CE that is damaged as a result of Customer's negligence.

123.Net repair and replacement obligations do not cover any of the following: (i) Electrical work external to the 123.Net CE; (ii) Repair or replacement of damage to or defects in the CE resulting from causes external to the CE, including disaster, fire, accident, neglect, misuse, vandalism, water, power surges, or lightning; or resulting from use of the CE for other than intended purposes; or use of the CE with items not provided or approved by 123.Net; or resulting from the performance of maintenance or the attempted repair of an item of 123.Net CE by persons other than 123.Net authorized personnel; (iii) Furnishing supplies or accessories, or painting or refinishing the CE; (iv) Services in connection with the relocation of the CE, or the addition or removal of items of equipment or parts, attachments, features, from or to other devices not furnished by 123.Net, including communications devices, video devices, audio devices, networks or links; and (v) Services in connection with computer viruses or conflicts involving software that is not installed or introduced by 123.Net.

CUSTOMER NETWORK & EQUIPMENT

Customer is solely responsible and assumes all liability for all network and equipment that was not provided or installed by 123.Net. Customer further agrees that 123.Net is not responsible for controlling, monitoring, maintaining, or accessing Customer's Network or Equipment. Customer is solely responsible for establishing and maintaining adequate security measures including (but not limited to) maintaining passwords, codes, encryption, physical security measures or other methods necessary to restrict access to Customer's computers, network, servers or other equipment used in conjunction with 123.Net services.

FORCE MAJEURE

No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement or any Service Order, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation: (1) acts of God; (2) flood, fire, earthquake, or explosion; (3) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (4) government order or

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law; (5) action by any governmental authority; (6) national or regional emergency; (7) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (8) shortage of adequate power or transportation facilities. The party suffering a Force Majeure event shall give prompt notice to the other party, stating the period of time the occurrence is expected to continue, and shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure event are minimized.

USE OF EQUIPMENT OUTSIDE OF UNITED STATES

123.Net offers and supports Services only in the United States. The Services are designed to work generally with unencumbered high-speed internet connections. If the high-speed internet connection that Customer is using is not within a 123.Net service area, and/or the Customer ISP or broadband provider places restrictions on the usage of the Service, 123.Net does not represent or warrant that use of the Service is permitted by such other jurisdiction or by any ISP or broadband provider. Customer is solely responsible for any violations of local laws and regulations or violations of ISP and broadband provider terms of service resulting from such use.

SERVICE LEVEL AGREEMENT (SLA)

123.Net will provide the Service to you in accordance with its standard Service Level Agreement (the "SLA"). The parties agree to incorporate 123.Net's SLA into this agreement. A copy of the SLA can be found at:

<https://www.123.net/service-level-agreement/>

EARLY TERMINATION: TERMINATION AFTER SERVICE ACTIVATION

In the event that Customer terminates the Service in whole or in part after Service activation but prior to the expiration of the term plan (except as otherwise permitted in this Agreement), Customer will be liable for an early termination charge calculated as: the MRC times the remaining months of the Service term. In addition, upon early termination, if installation or NRCs were waived, those charges may be charged back to Customer.

EARLY TERMINATION: TERMINATION PRIOR TO SERVICE ACTIVATION

In the event that Customer terminates the Service in whole or in part prior to Service activation (except as otherwise permitted in this Agreement), Customer will be liable for an early termination charge calculated as: All costs incurred by 123.Net in processing the Service, and all provisioning-related and/or installation-related costs incurred for the required equipment and facilities up to the date of termination (including but not limited to any termination/cancellation charges 123.Net may be required to pay third parties due to the Service termination).

NOTICE OF TERMINATION & DEFAULT

Written notice of Customer's intent to terminate or not renew the Service must be received by 123.Net a minimum of 30 days prior to the expiration or renewal of Customer's Service Term. Customer shall be liable for all charges incurred as a result of failing to provide timely notice of termination or non-renewal. Customer is responsible for all charges that accrue during the 30-day notice period. Customer further agrees to be liable for all legal fees and costs, including attorneys' fees, incurred in the collection of any undisputed past due amounts or other damages stemming from the breach of this Agreement or Service Order(s).

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REGULATORY & LEGAL CHANGES

In the event of a change in applicable law, regulation, decision, service guide, tariff, rule, or order that materially increases the costs or other terms of delivery of Service, the parties agree to renegotiate the rates to be charged herein to reflect such increase in cost. If the parties are unable to reach an agreement about the new rates within 30 days of 123.Net's written notice requesting renegotiation, then (a) 123.Net may pass such increased costs through to Customer, and (b) if 123.Net elects to pass such increased costs through to Customer, Customer may terminate the affected Service without termination penalty by delivering notice of termination no later than 30 days after the effective date of the rate increase.

PROPERTY RIGHTS

123.Net owns all rights, title and interest in 123.Net trade names, Service marks, inventions, copyrights, trade secrets, patents, and know-how relating to the design, function, or operation of plans and of the hardware and software systems and resources necessary to provide the individual Service elements of which they consist. This Agreement does not constitute a license to Customer to use 123.Net's trade names or Service marks.

UNLIMITED CALLING PLANS

Unlimited calling plans are subject to various limitations as set forth below. 123.Net reserves the right to increase monthly fees for unlimited rate plans and/or immediately terminate Service if 123.Net believes, in its sole discretion, that Customer is doing the following: telemarketing, using auto-dialer equipment, fax blasting, operating a call center, internet dialing, using party lines, reselling the Service, sharing the Service with other parties or service addresses without the express written approval of 123.Net, or is otherwise abusing the Service. 123.Net evaluates Customer usage in comparison to other similarly situated Customers. For example, over ninety-five per cent (95%) of 123.Net's unlimited calling plan Customers use less than twenty thousand (20,000) minutes per month and do not have any unusual calling patterns. Therefore Customer agrees that 123.Net may conclude that Customer's utilization of the unlimited calling plan is abusive if it exceeds 20,000 minutes per month in combination with one or more of the following, including, but not limited to, excessive: (a) numbers of unique numbers called, (b) call lengths, (c) frequency of calls, (d) call forwarding/transferring, (e) conference calling, (f) short duration calls, (g) calls made during business hours, (h) numbers of calls terminated and re-initiated consecutively, which, in aggregate, result in excessive call lengths during a specific time frame, or (i) other abnormal calling patterns indicative of an attempt to evade enforcement of these terms or otherwise abuse the Service. Toll free usage and international calling are excluded from all unlimited plans. Customer acknowledges that if Service is terminated under this provision, Customer is subject to all applicable fees and taxes stated hereunder.

USAGE BILLING & SURCHARGE

Customer agrees to terminate at least eighty percent (80%), of Customer's total domestic usage in a billing month to the local exchange areas serviced by a Regional Bell Operating Company ("RBOC"). If Customer's traffic in a billing cycle exceeds twenty percent (20%) in terminating traffic to a non-RBOC local exchange service area, 123.Net will apply a surcharge of \$0.030 per minute for the number of minutes that exceed twenty percent (20%). If more than twenty percent (20%) of completed calls are equal to or less than six (6) seconds in length ("Short Duration Call"), or if more than twenty percent (20%) of total call attempts do not complete during any given billing

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cycle ("Incomplete Call Threshold"), then 123.Net may apply a surcharge of \$0.02 for each Short Duration Call or incomplete call above the Incomplete Call Threshold.

PERSONAL PROPERTY TAXES

Customer shall be solely responsible, where applicable, for paying local and state personal property taxes associated with Customer's equipment stored in a colocation facility rented or owned by 123.Net. In the event that 123.Net is required by a governmental authority to pay property taxes on Customer's behalf, 123.Net will have the right to be reimbursed by Customer for such amount. Customer must reimburse 123.Net within 30 days of written notice that a tax has been paid on Customer's behalf by 123.Net.

FOR INTRASTATE SERVICE

Except when Service is used solely as transport for 123.Net switched local or access service(s), Customer acknowledges that interstate traffic (including Internet and international traffic) constitutes ten percent (10%) or less of the total traffic on any Ethernet, dedicated, or special access Service.

For Interstate Service: Customer acknowledges that more than ten percent (10%) of the traffic to be transmitted over the subject Service is and will be interstate in nature.

PARTIAL INVALIDITY, WAIVER

If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and effect. The parties agree to renegotiate in good faith any term that is held to be invalid. One or more waivers of a breach of the terms and conditions of this Agreement shall not constitute a waiver of any future breach thereof.

APPLICABLE LAW | VENUE & JURISDICTION | DISPUTE RESOLUTION

This Agreement shall be subject to and governed by the laws of the State of Michigan. Any legal action arising out of this Agreement shall be exclusively initiated within the State of Michigan, Oakland County Circuit Court or the Federal District Court for the Eastern District of Michigan.

ENTIRE AGREEMENT | MODIFICATIONS | AUTHORITY

This Agreement and any relevant Service Order(s) set forth the entire Agreement and understanding between the parties and merges all prior discussion between them. This Agreement may not be modified except by the written consent of both parties. By entering into this Agreement Customer affirms that Customer is a duly organized, legally existing entity or duly authorized individual with authority to enter into this Agreement.

RISK OF LOSS

At all times, Customer will bear the risk of any loss, damage or destruction, whether by fire, water damage, theft or other casualty for: (i) Customer's assets, equipment or property; (ii) property of 123.Net which is located on Customer's property (whether leased or owned) or within Customer's care, custody or control; or (iii) Customer's property that is located within a space rented by Customer in a 123.Net data center. Customer is solely responsible

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for insuring its property and filing insurance claims for losses associated therewith. If 123.Net is aware of loss or casualty to Customer's property, 123.Net will immediately notify Customer, stating the extent of loss or damage incurred and the cause, if known. 123.Net shall bear the responsibility for insuring and shall bear the risk of any loss, damage or destruction of 123.Net's assets, equipment or property that is not within Customer's care, custody or control.

INDEMNIFICATION

Each party to this Agreement agrees to indemnify, defend, and hold harmless the other party (referred to respectively as the "Indemnifying Party" and the "Indemnified Party"), as well as its subsidiaries, affiliates, officers, directors, employees, agents, licensors, consultants, suppliers, and independent contractors, from and against all claims, demands, actions, liabilities, losses, expenses, damages, judgments and costs (including attorneys' fees) (collectively, collectively, a "Claim" or the "Claims") relating to any Claim of any third party resulting from the negligence or willful act or omission of the Indemnifying Party arising out of or related to this Agreement, the obligations set forth herein, and uses or misuses of Services, including any Claim alleging infringement thereof by Customer or its end users. The Indemnifying Party agrees to defend the Indemnified Party from any loss, injury, liability, claim or demand that is the subject of this paragraph. The Indemnified Party agrees to promptly notify, in writing, the Indemnifying Party of any threatened or actual Claim and to reasonably cooperate to resolve such Claim(s). 123.Net reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by Customer. Customer must not accept a settlement of any dispute relating to this contract without prior written consent of 123.Net.

TELECOMMUNICATIONS SERVICE PRIORITY

123.Net may provide Telecommunications Service Priority ("TSP") to Customer for a fee. TSP is a program that authorizes national security and emergency preparedness (NS/EP) organizations to receive priority treatment for vital voice and data circuits or other telecommunications services. In the event of an emergency circumstance, if Customer has enrolled in TSP Service, 123.Net may not be able to notify Customer in advance prior to undertaking additional expense on Customer's behalf to restore the affected Service on a priority basis. Customer agrees in advance to pay for all charges reasonably incurred by 123.Net to restore Service on a priority basis during an emergency circumstance as a result of Customer's TSP enrollment.

TRANSFERS & ASSIGNMENTS

Customer may not assign or transfer its rights or duties in connection with the Services and facilities provided by 123.Net without the prior written consent of 123.Net. All transfers of rights or duties herein, without the advanced permission in writing of 123.Net, shall be void and unenforceable as a matter of law.

COUNTERPART EXECUTION & ELECTRONIC SIGNATURES/COMMUNICATIONS

Customer agrees that any Service Order and this Agreement as incorporated thereto may be executed in any number of counterparts, each of which will be deemed to be an original, and all counterparts, when taken together, will constitute one and the same agreement. Customer further agrees that signatures (whether in the form of a full signature or initials) on this Agreement may be delivered by facsimile or electronically in lieu of an original signature

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and agrees to treat facsimile or electronic signatures as original signatures for the purposes of validity, enforceability, and admissibility, that bind them to the Service Order and this Agreement. Customer further agrees to receive electronic communications through electronic mail or through the customer portal. Customer may withdraw its consent to receive electronic documents, notices, and disclosures at any time by notifying 123.Net. Customer may also request paper version of an electronic document. Customer acknowledges that 123.Net reserves the right to charge Customer a reasonable fee for the production or mailing of paper versions of electronic documents. Customer shall be responsible for providing 123.Net with up to date electronic mail contact information.

STATUTE OF LIMITATIONS

Customer agrees that any claim against 123.Net, whether arising in tort, contract or otherwise, must be brought within one (1) year of the date giving rise to the claim.

LIMITATION OF LIABILITY

123.NET SHALL NOT BE LIABLE FOR ANY AND ALL: INDIRECT, INCIDENTAL, GENERAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF BUSINESS OR BUSINESS OPPORTUNITY OR LOSS OF USE, EVEN IF CUSTOMER IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AS A RESULT OF A BREACH OF THIS AGREEMENT, OR SERVICE ORDER FORM OF 123.NET. 123.NET EXERCISES NO CONTROL WHATSOEVER OVER THE CONTENT OF THE INFORMATION PASSING THROUGH THE 123.NET NETWORK OR OVER THE INTERNET. USE OF ANY INFORMATION OBTAINED OVER THE 123.NET NETWORK OR THE INTERNET IS AT CUSTOMER'S OWN RISK. IN THE EVENT OF A BREACH OF AN OBLIGATION BY 123.NET, CUSTOMER'S DAMAGES SHALL BE LIMITED TO THE AMOUNT CUSTOMER PAID FOR THE SERVICE FOR THE PRECEDING THREE (3) MONTHS. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, CUSTOMER AGREES TO ACCEPT THE SERVICE ON AN "AS-IS" NON-WARRANTABLE BASIS. 123.NET EXPRESSLY DISCLAIMS THE WARRANTIES OF MERCHANTABILITY, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE.