

TELECOMMUNICATIONS HOSTING AGREEMENT

This Hosting Agreement (this "Agreement") is made and entered into by and between the County of Muskegon with offices at 990 Terrace Street, Muskegon, MI 49442 (the "Host") and the Muskegon County Road Commission, a municipal corporation with offices at 7700 E. Apple Avenue, Muskegon, MI 49442 ("Client").

I. RECITALS

- A. Host has the capacity to offer telecommunications and support services relating to, among other things, hosting telecommunications of the Client, and Host is willing to provide services to Client on the terms and subject to the conditions set forth below; and
- B. Client desires to engage Host, and Host desires to be engaged by Client, to provide telecommunications services on the terms and subject to the conditions set forth below.
- C. This Agreement between Host and Client is authorized by MCL 124.501.

NOW THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Host and Client hereby agree as follows:

II. TERMS

This Agreement shall be effective when signed by both Parties (the "Effective Date") and thereafter shall remain in effect for one (1) year, unless earlier terminated as otherwise provided in this Agreement (the "Initial Term"). This Agreement shall automatically be renewed beyond the Initial Term for an additional one (1) years (each a "Renewal Term") unless earlier terminated as otherwise provided in this Agreement.

III. HOSTING SERVICES

- A. Host agrees to provide Client with space on the County's telecommunication servers;
- B. Host agrees to provide Client with maintenance and support for Client's telecommunications;
- C. To the extent that Client wishes to receive from Host, and Host wishes to receive from Client, services other than the Hosting Services (collectively the "Additional Services"), such Additional Services and the arrangements for their provision shall be set forth in a separate addendum to this Agreement which is duly executed by the Parties (the "Services Addendum"), and the Services Addendum shall be incorporated into, and become a part of this Agreement. (The Hosting Services and the Additional Services will hereinafter be referred to collectively as the "Services").
- D. Host agrees to provide Client with connectivity services through the Muskegon County Information Technology Infrastructure.

IV. ADDITIONAL STORAGE AND TRANSFER

In the event that the County servers require additional storage, transfer or upgrade in the Host telecommunications environment, Client may request that Host:

- A. Upgrade the level of Hosting Services; or
- B. Acquire additional incremental storage to be included in the Hosting Services, on a time and materials basis and in accordance with the fee and payment schedule agreed to by the Parties. Host shall review all such requests and determine, in consultation with Client, whether it can reasonably comply with such requests, and if so, and at its option, Host shall propose a procedure and budget for complying with such request.

V. TECHNICAL SUPPORT

Technical Support is to be provided by the Host and included in the allocation formula. This technical support will include Help Desk (tier 1) and Escalated Support (tier 2) which includes on-site work. Technical support and the tier 3 level will be the responsibility of the Client. Tier 3 level support is defined as project support which will be determined by the Clients.

VI. NETWORK SECURITY

The Host subscribed to and periodically audits compliance with security best practices regarding Cisco, Microsoft, VMware and San storage technologies.

VII. FEES AND TAXES

A. Hosting Services Fees

Client shall pay Host an annual fee in the amount of \$2,366.25. This fee shall be paid monthly in the amount of \$197.18, with the first payment due within 5 days of the Effective Date of this Agreement and on the first of each month thereafter during the Initial Term and any Renewal Term of this Agreement.

B. Current Fee

These fees are based upon current rate of allocation. The parties acknowledge that Host is pursuing other clients which may create economies of scale and change the allocation formula and may result in a reduction in the fees charged to the Client.

C. Change in Fee

Parties acknowledge that the fees can change from year to year depending on the level of services provided and the equipment/infrastructure required, as well as any necessary maintenance. An allocation formula for based upon current level of service, server space/other telecommunication equipment, number of phones and software is attached to this document as Exhibit A.

D. Additional Services Fee/Equipment Fee

Unless otherwise agreed to in writing, Client shall pay to Host all fees for Additional Services on a time and materials basis as invoiced by Host. Any additional services must be requested by the Client and mutually agreed to in writing by the parties.

VIII. WARRANTIES

A. Host Warranties

Host represents and warrants that:

1. Host has the power and authority to enter into and perform its obligations under this Agreement; and
2. Host's services under this Agreement shall be performed in a workmanlike manner.

B. Client Warranties

Client represents and warrants that:

1. Client shall not use the Website or the services provided to Client to:
 - a. Be responsible for costs associated with setup;
 - b. Be responsible for costs associated with configuration or special projects.

IX. INDEMNIFICATION

A. Client

Client agrees to indemnify, defend, and hold harmless Host, its directors, officers, employees and agents, and defend any action brought against same with respect to any claim, demand, cause of action, debt or liability, including reasonable attorneys' fees, at trial and on appeal, to the extent that such action is based upon a claim that:

1. If true, would constitute a breach of any of Client's representations, warranties, or agreements hereunder;
2. Arises out of negligence or willful misconduct of Client; or
3. Any of the Client content to be provided by Client hereunder or other material on the Website infringes or violates any rights of third Parties; including, without limitation, rights of publicity, rights of privacy, patents, copyrights, trademarks, trade secrets, and/or licenses.

B. Host

Host agrees to indemnify, defend, and hold harmless Client, its directors, officers, employees and agents, and defend any action brought against same with respect to any claim, demand, cause of action, debt or liability, including reasonable attorneys' fees, at trial and on appeal, to the extent that such action arises out of the gross negligence or willful misconduct of Host.

X. NOTICE

In claiming any indemnification hereunder, the indemnified Party shall promptly provide the indemnifying Party with written notice of any claim which the indemnified Party believes falls within the scope of the foregoing paragraphs. The indemnifying Party may, at its own expense, assist in the defense if it so chooses, provided that the indemnifying Party shall control such defense and all negotiations relative to the settlement of any such claim and further provided that any settlement intended to bind the indemnified Party shall not be final without the indemnified Party's written consent, which shall not be unreasonably withheld.

XII. HOST WARRANTIES

A. Work Product Warranty.

Host warrants that any work product Host or Host made changes to the content shall not

- (1) Infringe of the Intellectual property rights of any third party or any rights of publicity or privacy;
- (2) Violate any statute, ordinance or regulation;

B. Additional Warranties.

Host warrants that:

- (1) Any work product or Host tools will conform to their applicable specifications or acceptance criteria when delivered and for a period one-year thereafter;
- (2) There is no outstanding contract, commitment or agreement which Host is a party or legal impediment of any kind know to Host which conflicts with this agreement or might limit, restrict or impair the rights granted to Client hereunder.

XIII. CLIENT COVENANT

During the period that Host provides web hosting services pursuant to this agreement, Client shall not distribute on the website any content that:

- (a) Infringes on the intellectual property rights of any third party or any rights of publicity or privacy;
- (b) Violates any laws, statutes, ordinances or regulations.

XIV. DISCLAIMER WARRANTIES

Except as set forth herein each party expressly disclaims all warranties or conditions of any kind expressly or implied, including without limitation, the implied warranty of title, non-infringement, merchant ability and fitness for a particular purpose.

XV. LIMITATION OF LIABILITY

HOST SHALL HAVE NO LIABILITY FOR UNAUTHOIRIZE ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF, THE WEBSITE OR CLIENT'S DATA FILES, PROGRAMS OR INFORMATION THROUGH ACCIDENT, FRAUDULENT OR UNAUTHORIZED MEANS OR DEVICES. HOST SHALL HAVE NO LIABILITY WITH RESPECT TO HOST'S OBLICATIONS UNDER THIS

AGREEMENT OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES EVEN IF HOST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE LIABILITY OF HOST TO CLIENT FOR ANY REASON AND UPON ANY CAUSE OF ACTION SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID TO HOST BY CLIENT UNDER THIS AGREEMENT. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING, WITHOUT LIMITATION, TO BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, AND OTHER TORTS.

XVI. GENERAL PROVISIONS

A. Termination

This Agreement may be terminated upon thirty (30) days written notice by either the Client or the Host.

B. Amendment

No amendment, waiver, or modification of this Agreement or any provision of this Agreement shall be valid unless in writing, stating with specificity the particular amendment or modification to be made and duly executed by the Host and Client.

C. Enforceability

If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, administrative agency or as a result of future legislative action, such holding or action shall be strictly construed and the unenforceable provision shall be deemed severable from the remainder of the Agreement to the extent permitted by law, and the validity or effect of any other provision of this Agreement shall remain binding with the same effect as though the void parts were deleted.

D. Assurances

1. Host shall cooperate with Client both during and after the terms of this agreement in the procurement and maintenance of Client's rights to intellectual property created hereunder and execute when requested any other documents deemed necessary or appropriate by Client to carry out the purposes of this Agreement.
2. Host shall insure that its website design and web hosting services will comply with all applicable international, national and local laws and regulations.

E. Severability/Waiver

If any provisions of this Agreement are held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The Parties agree to replace any invalid provisions with a valid provision which most closely approximate the intent and economic effect of the invalid provision. The waiver by either party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver by any other or subsequent breach.

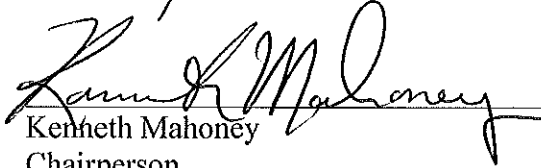
F. Headings

Headings made in this Agreement are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such action or in any way effect this Agreement.

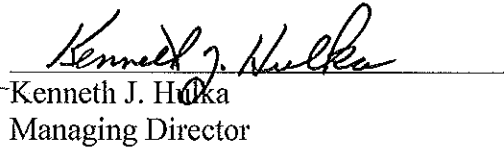
IN WITNESS THEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the date set forth below.

Date: 9/3, 2013

Date: 8-29-, 2013



Kenneth Mahoney
Chairperson



Kenneth J. Hulka
Managing Director

Muskegon County Board of Commissioners Muskegon County Road Commission

Allocation

	monthly	yearly	# DID	
Telnet SIP/PRI	1786.44	21437.28	1427	15.02262
LD/Usage	30	360	1427	0.252278
Smartnet 2951 router		672	1427	0.470918
Secondary Router		672	1427	0.470918
CallManager Smartnet		1331.4	1427	0.933006
Unity Smartnet		7991.2	1427	5.6
CM User license smartnet		3704.4	1427	2.595936
support				25
total per phone per year				50.34568
				2366.247

Hardware expense	qty	price each	total
Cisco 2960 Switch	1	3222.85	3222.85
Cisco 3750 switch	2	900	1800 old equipment
Cisco 9951 Phones	29	341.85	9913.65
Cisco 7960 Phones	5	80	400 old equipment
Cisco 7940Phones	6	70	420 old equipment
Cisco 7912 Phones	7	35	245 old equipment
	47		
total 1 time cost			16001.5