P.R. No. 18080
01/02/2014 FB

RESOLUTION NO. 14-050

A RESOLUTION APPROVING THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION ENTERING INTO A ONE-TIME FEE AGREEMENT IN AN AMOUNT NOT TO EXCEED $90,000.00 WITH TIME WARNER CABLE TO PROVIDE ETHERNET AND DEDICATED INTERNET ACCESS SERVICE TO SERVE THE SPUR 93 BUSINESS PARK

WHEREAS, on November 11, 2013, Time Warner Cable ("TWC") presented a cost estimate of $187,000 to build underground coax in order to provide internet access service to the Port Arthur Business Park using the design attached hereto as **Exhibit "A"** with a new fiber node (collectively the "Services"); and

WHEREAS, at the City of Port Arthur Section 4A Economic Development Corporation (the "PAEDC") regular Board meeting on December 2, 2013, the Board authorized the Chief Executive Officer to proceed with TWC negotiations; and

WHEREAS, the PAEDC Chief Executive Officer negotiated with TWC to contribute $90,000 to the total amount of $187,000 for the Services; and

WHEREAS, on December 5, 2013, TWC agreed to a one-time fee of $90,000 to build underground coax to the Spur 93 Business Park with new fiber node.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ARTHUR:

Section 1. That the facts and opinions in the preamble are true and correct.

Section 2. That the City Council authorizes the PAEDC to enter into a one-time fee agreement with Time Warner Cable to provide underground coax to the Spur 93 Business Park with a new fiber node at a cost not to exceed $90,000 as denoted in **Exhibit "A".**

Section 3. That a copy of the caption of the Resolution be spread upon the Minutes of the City Council.

READ, ADOPTED AND APPROVED on this 21st day of Jan A.D., 2014, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES:

Mayor Prince,

Councilmembers Scott, Gray, Lewis and Freeman.,

;

NOES: Mayor Pro Tem Williamson.

Deloris Prince

Deloris "Bobbie" Prince, Mayor

ATTEST:

K Bellard

Sherri Bellard, City Secretary

APPROVED:

Floyd Batiste

Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:

Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:

Valecia R. Tizeno, City Attorney

EXHIBIT "A"

TIME WARNER CABLE
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Account Executive: Jackson "J.P." Adams
Phone: (409) 720-5564 ext:
Cell Phone: +1 4096587693
Fax: (866) 246-5152
Email: jackson.adams@twcable.com

Business Class Customer Service Order

Order # 3613743

Business Name	PORT ARTHUR EDC	**Customer Type:** Existing Customer
Federal Tax ID	**Tax Exempt Status**	**Tax Exempt Certificate #**
*****1885		760501503
Billing Address		**Account Number**
4173 39TH ST PORT ARTHUR TX 77642		8262290120170082
Billing Contact	**Billing Contact Phone**	**Billing Contact Email Address**
Floyd Batiste	4099630579	
Authorized Contact	**Authorized Contact Phone**	**Authorized Contact Email Address**
Floyd Batiste	4099630579	
Technical Contact	**Technical Contact Phone**	**Technical Contact Email Address**

Dedicated Internet, Metro Ethernet, and Private Line Service Order Information For 950 S Business Park Drive Port Arthur TE 77640

Site Name	Address Location	Location Type	Bandwidth	Customer Requested Due Date
	950 S Business Park Drive Port Arthur, TE 77640			

One Time fees At 950 S Business Park Drive , Port Arthur TE 77640

Description	Quantity	Sales Price	Total
CONSCONTRB	1	$90,000.00	$90,000.00
Total			**$90,000.00**

*Prices do not include taxes and fees.

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Special Terms

The services, products, prices and terms identified on this Service Order constitute Time Warner Cable's offer to provide such services on such terms. Until Customer has accepted this offer by signing as appropriate below, Time Warner Cable reserves the right to rescind this offer at any time, at its sole discretion.

The Agreement shall be renewable for successive terms unless at least thirty (30) days prior to the expiration of the then-current term, either party notifies the other party of such party's intent not to renew this Agreement. Agreement term and corresponding monthly billing will commence on actual service installation date. Cable television and Work-at-home services are subject to annual price change.

Electronic Signature Disclosure

By signing and accepting below you are acknowledging that you have read and agree to the terms and conditions outlined in this document.

Authorized Signature for Time Warner Cable	**Authorized Signature for Customer**
Printed Name and Title	**Printed Name and Title**
Date Signed	**Date Signed**

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Ethernet and Dedicated Internet Access Service Level Agreement

This document outlines the Service Level Agreement ("SLA") for the Ethernet and Dedicated Internet Access ("DIA") fiber-based Services (each, a "Service"). Capitalized words used, but not defined herein, shall have the meanings given to them in the Time Warner Cable Business Class Service Agreement (including the terms and conditions, attachments, and Service Orders described therein, the "Agreement"). This SLA is a part of, and hereby incorporated by reference into, the Agreement. If any provision of this SLA, on the one hand, and any provision of the Agreement, on the other hand, are inconsistent or conflicting, the inconsistent or conflicting provision of this SLA shall control.

I. SLA Targets:

Service	Availability	Mean Time To Restore ("MTTR")	Latency (Roundtrip)	Packet Loss
DIA / Ethernet (Metro and Regional Services)	End to End: 99.99% (On-Net Circuit)	Priority 1 Outages within 4 hours	DIA: 45ms Ethernet: Metro Market - 10ms Wide Area Market - 25ms Metro Market Exception - 45 ms	<0.1%

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II. Priority Classification:

A "Service Disruption" is defined as a disruption or degradation that interferes with the ability of a TWC network hub to: (i) transmit and receive network traffic on Customer's dedicated access port at the TWC network hub; and (ii) exchange network traffic with another TWC network hub. The Service Disruption period begins when Customer reports a Service Disruption using TWC's trouble ticketing system by contacting Customer Care, TWC acknowledges receipt of such trouble ticket, and TWC validates that the Service is affected. The Service Disruption ends when the affected Service has been restored.

TWC will classify Service Disruptions as follows:

Priority	Criteria
Priority 1	a. Total loss of Service other than as a result of Excluded Disruptions (as defined below) b. Service degradation to the point where Customer is unable to use the Service and is prepared to release it for immediate testing.
Priority 2	Degraded Service where Customer is able to use the Service and is not prepared to release it for immediate testing.
Priority 3	a. A service problem that does not impact the Service. b. A single non-circuit specific quality of Service inquiry.

III. Network Availability

"Network Availability" is calculated as the total number of minutes in a calendar month less the number of minutes that the circuit is unavailable due to a Priority 1 Outage ("Downtime"), divided by the total number of minutes in a calendar month. Downtime excludes (i) planned outages, (ii) routine maintenance, (iii) time when TWC is unable to gain access to Customer's premises to troubleshoot, repair or replace equipment or the circuit, (iv) service problems resulting from acts or omissions of Customer, (v) Customer equipment failures, and (vi) Force Majeure Events (collectively "Excluded Disruptions").

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Commitment:
TWC's monthly Network Availability Target is 99.99% for that portion of the circuit that is part of TWC's own network ("On-Net Circuit") and not any portion that is provided by a third party.

The following table contains examples of the percentage of Network Availability translated into minutes of Downtime for the 99.99% Network Availability target:

Percentage by Days Per Month	Total Minutes / Month	Downtime Minutes
99.99% for 31 Days	44,640	4.5
99.99% for 30 Days	43,200	4.3
99.99% for 29 Days	41,760	4.2
99.99% for 28 Days	40,320	4

IV. Mean Time To Restore ("MTTR")

The MTTR measurement for a Priority 1 Outage is the average time to restore Priority 1 Outages during a calendar month calculated as the cumulative length of time it takes TWC to restore Service for an On-Net Circuit following a Priority 1 Outage in a calendar month divided by the corresponding number of trouble tickets for Priority 1 Outages opened during the calendar month for that circuit.

MTTR per calendar month is calculated as follows:

$$\frac{\text{Cumulative length of time to restore Priority 1 Outage(s) per On-Net Circuit}}{\text{Total number of Priority 1 Outage trouble tickets per On-Net Circuit}}$$

V. Latency (On–Net Circuit)

Latency is the average roundtrip network delay, measured every 5 minutes during a calendar month, to adequately determine a consistent average monthly performance level for latency for each On-Net Circuit. The roundtrip delay is expressed in milliseconds (ms).

For DIA, TWC measures latency using a standard 64 byte ping from the Customer dedicated access port at the TWC network hub to the TWC Internet access router in a roundtrip fashion between TWC inter-regional transit backbone (TBONE) routers.

For Ethernet, TWC measures latency using a standard 64 byte ping between closest TWC network hubs to corresponding site A and site Z locations in a roundtrip fashion.

Latency is calculated as follows:

$$\text{Latency} = \frac{\text{Sum of the roundtrip delay measurements for an On-Net Circuit}}{\text{Total \# of measurements for an On-Net Circuit}}$$

Latency targets for Ethernet circuits in defined Metro Area Markets, Wide Area Markets, and Metro Market Area Exceptions are as follows:

Metro Area Market – 10ms Latency		**Wide Area Market** – 25ms Latency	**Metro Area Market Exceptions** – 45ms Latency
Round trip where both sites A and Z are *within* the same Metro Area Market		Round trip *between* any 2 Metro Area Markets within Wide Area Market	Round Trip *between* any Metro Area Market and Metro Area Market Exception within same Wide Area Market, except that where both sites A and Z are within the same Metro Market Area Exception, the Latency target is 10ms.
• Austin, TX	• Laredo, TX	Texas Region	• El Paso, TX
• Beaumont, TX	• San Antonio, TX		• Rio Grande Valley, TX
• Corpus Christi, TX	• Wichita Falls, TX		
• Dallas, TX			

Metro Area Market – 10ms Latency		**Wide Area Market –** 25ms Latency	**Metro Area Market Exceptions –** 45ms Latency
Round trip where both sites A and Z are *within* the same Metro Area Market		Round trip *between* any 2 Metro Area Markets within Wide Area Market	Round Trip *between* any Metro Area Market and Metro Area Market Exception within same Wide Area Market, except that where both sites A and Z are within the same Metro Market Area Exception, the Latency target is 10ms.
• North Los Angeles, CA • South Los Angeles, CA • San Diego, CA • Palm Springs, CA	• Desert Cities, CA • Yuma, AZ • Honolulu, HI	PacWest Region	• Coeur d'Alene, ID • Gunnison, CO • Telluride, CO • Pullman, WA
• Columbus, OH • Cincinnati, OH • Dayton, OH • Akron, OH • Cleveland, OH • Green Bay, WI • Milwaukee, WI	• Louisville, KY • Lexington, KY • Richmond, KY • Lincoln, NE • Kansas City, MO • Kansas City, KS • Lima, OH	Mid-West Region	• Libby, MT • Dothan, AL
• New York City (including all surrounding boroughs and metro areas in New Jersey and Pennsylvania)	• Albany, NY • Buffalo, NY • Rochester, NY • Syracuse, NY	Northeast/ NYC Region	• Portland, ME
• Greensboro, NC • Raleigh, NC • Charlotte, NC • Wilmington, SC	• Columbia, SC • Myrtle Beach, SC • Hilton Head, SC	Carolinas	• None

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VI. Packet Loss (On Net)

Packet Loss is defined as the percentage of packets that are not successfully received compared to the total packets that are sent in a calendar month. The percentage calculation is based on packets that are transmitted from a network origination point and received at a network destination point (TWC network hub to TWC network hub).

Packet Loss is calculated as follows:

Packet Loss (%)	**=**	**100 (%)**	**–**	**Packets Received (%)**

VII. Network Maintenance

Maintenance Notice:
Customer understands that from time to time, TWC will perform network maintenance for network improvements and preventive maintenance, and in some cases, TWC will have to perform urgent network maintenance, which will usually be conducted within the routine maintenance windows. TWC will use reasonable efforts to provide advance notice of the approximate time, duration, and reason for any urgent maintenance.

Maintenance Windows:
Routine maintenance may be performed during the following maintenance windows:

Monday – Friday 12 a.m. – 6 a.m. Local Time

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VIII. Service Credits

Any SLA credits shall be calculated based on a percentage of the Service Charges for the Service that was affected by the Service Disruption. All credits must be (a) requested by the Customer within 30 days of a Service Disruption by calling the Customer Care Center and opening a trouble ticket and (b) confirmed by TWCBC engineering support teams as associated with a trouble ticket and as failing to meet the Network Availability and/or MTTR targets. The credits described in this SLA shall constitute Customer's sole and exclusive remedies, and TWC's sole and exclusive liabilities, with respect to TWC's failure to meet any service level commitments outlined herein. Customer shall not be eligible for credits exceeding four (4) months of Customer's applicable monthly Service Charges during any calendar year.

Network Availability Credits

In the event that Network Availability is less than 99.99% in any calendar month, then upon Customer's compliance with this section, Customer is entitled to receive a credit equal to thirty percent (30%) of the applicable monthly Service Charges for the affected Service, to be applied as a credit or set-off against any amounts otherwise due by Customer to TWC.

Meantime to Restore Credits

In the event that MTTR for Priority 1 Outage averages greater than 03:59:59 hours, then upon Customer's compliance with this section, Customer is entitled to receive a credit equal to the percentage of the applicable monthly Service Charges for the affected Service as set forth below, to be applied as a credit or set-off against any amounts otherwise due by Customer to TWC.

MTTR	Monthly Credit (% of Service Charges)
> 4 hours ≤ 7:59:59 hours	4%
> 8 hours	10%

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Attachment

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PRI and SIP Service Level Agreement

This document outlines the Service Level Agreement ("SLA") for the PRI or SIP Trunk voice service ("Service"). All capitalized terms used but not defined herein shall have the meanings given to them in the Agreement.

Service Availability

Service availability is defined as the total number of minutes in a billing month during which the applicable trunks within TWC's network are available to complete voice calls, divided by the total number of minutes in such billing month ("Service Availability").

TWC's monthly Service Availability target is 99.97% ("Service Availability Target").

Service Outage

An "Outage" is the complete loss of Service Availability involving one or more trunks that results in the inability to complete voice calls for more than one (1) hour during a single incident resulting from any circumstance other than: (i) a planned outage, (ii) routine maintenance, (iii) an act or omission of Customer, (iv) applications, equipment or facilities provided by Customer or its contractors or end-users, (v) a Force Majeure event, or (vi) outages or failures outside of TWC's network (e.g., third party provider network outages, power failures, etc.).

An Outage period commences after the Customer opens a trouble ticket based on an Outage, TWC acknowledges receipt of such trouble ticket, and TWC validates that the Service is affected by an Outage. An Outage period ends when the affected Service has been restored. If TWC is unable to gain access to Customer's premises to troubleshoot, repair or replace equipment, circuits or connections, such period of delay shall not be considered when calculating the Outage period.

Outage Credits

Subject to Customer's full and timely compliance with this SLA, in the event Customer experiences an Outage in any monthly billing period in excess of one (1) hour, Customer may request a credit for such Outage ("SLA Credit"). The SLA Credit shall be calculated as a fraction of the monthly recurring Service Charge for the affected trunk as follows:

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- 1/30 for Outages lasting between 1 hour and 24 hours
- 1/10 for Outages lasting greater than 24 hours

In all cases, however, usage charges and applicable taxes will apply and will not be credited. In no event may the SLA Credit in any monthly billing period exceed the monthly recurring Service Charge for the affected trunk.

Network Maintenance

Maintenance Notice:

Customer understands that from time to time TWC will perform routine network maintenance for network improvements and preventive maintenance, and in some cases, TWC will have to perform urgent network maintenance, which will usually also be conducted within the routine maintenance windows. TWC will use reasonable efforts to provide advance notice of the approximate time, duration and reason for the routine maintenance and if commercially practicable, will provide notice of urgent maintenance. In no event shall any routine or urgent network maintenance be calculated against the foregoing outage measurements.

Maintenance Windows:

Routine maintenance is typically performed during the following maintenance windows:

Monday - Friday 12 a.m. – 6 a.m. Local Time

SLA Remedies

To receive SLA Credits, Customer must: (i) notify TWC of the Outage using the TWC trouble ticketing system and (ii) within ten (10) days of (i) herein, provide a written SLA Credit request (that includes the trouble ticket number) to Customer's TWC billing contact.

Notwithstanding anything to the contrary in this SLA or the Agreement, the SLA Credits shall constitute Customer's sole and exclusive remedy with respect to any Outages, Service interruption, Service loss, or Service deficiency of any kind. In no event shall TWC's failure to achieve or maintain any Service Availability Target be deemed a breach the Agreement.

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