

AGREEMENT TO PROVIDE CAPACITY ON
FIBER OPTIC NETWORK

THIS AGREEMENT is by and between NEWBREAK MANAGEMENT COMPANY, LLC, a Mississippi limited liability company d/b/a Newbreak Communications, (hereinafter "Newbreak" and THE CITY OF VICKSBURG, MISSISSIPPI, a municipal corporation organized under the laws of the State of Mississippi (hereinafter "City"). The parties agree as follows:

1. The City of Vicksburg, MS and Warren County, MS are in the process of updating their respective radio systems so that both entities can become part of the MSWIN system and have better radio communications throughout Warren County and surrounding areas.
2. One of the components of the system is to provide the E-911 Center and the transmission towers with effective communications. Due to the terrain and location of the towers, it is necessary for the E-911 Center to be connected to the transmission towers through fiber optic cable.
3. Newbreak currently has a fiber optic cable that extends from the E-911 Center to the west down Clay Street to the intersection of Clay St. and Walnut Street. The transmission tower is located on Castle Hill approximately four (4) blocks south of the intersection of Clay and Walnut Streets.
4. Newbreak agrees to dedicate to the City of Vicksburg two (2) fiber optic strands of its fiber optic cable from the E-911 Center located at 1401 Clay St., approximately six (6) blocks, to the intersection of Clay Street and Walnut Street. This dedicated capacity will be for the City of Vicksburg to utilize as part of its radio system and as part of the MSWIN system. The cost for this dedicated fiber is \$200.00/month plus two (2) strands of dedicated fiber on the City's fiber optic cable along Walnut St.
5. City will install fiber optic cable from the intersection of Clay St and Walnut St. to the Castle Hill tower, approximately 4 blocks, in order to complete the necessary connections of the towers and the E-911 Center. City will dedicate two (2) strands of its fiber optic capacity to Newbreak as part of the consideration for City to have capacity on Newbreak's cable.
6. This Agreement may only be terminated by giving 180 days written notice to the other party. This agreement may not be assigned without the written consent of the other party.

Notices shall be given to:

City Clerk
1401 Walnut Street
Vicksburg, MS 39180
phone: 601-634-4553
email: cityclerk@vicksburg.org

Newbreak Management Company
4223 I-20 Frontage Road, Main Office
Vicksburg, MS 39180
Phone: 601-456-0556
email: chris@newbreakcommunications.com

7. Due the reliance of emergency services on the radio system, and the health, safety and welfare of the citizens depending upon this system, it is imperative that the system be maintained. Each party is responsible for maintaining in reliable, working condition the portion of the fiber optic cable it owns. If for any reason the fiber optic cable is not maintained in reliable good condition, then the other party may replace the fiber at its own expense and terminate the agreement without notice.

8. Indemnity. In the event that Newbreak fails to maintain its fiber optic cable in reliable, working condition and such failure is the proximate cause of any personal or bodily injury, Newbreak agrees to hold the City of Vicksburg harmless from any claim or judgement for damages. Additionally, Newbreak will provide proof of liability insurance of at least \$1,000,000.00 per incident, naming the City of Vicksburg, Mississippi as additional insured.

9. Severability. If any law, ordinance, regulation or court decision renders any provision of this Authorization invalid, the remaining provisions of the Authorization shall remain in full force and effect.

10.. Force Majeure. Neither party shall be deemed in default, non-compliance, or in violation with any provision of this agreement where performance was rendered impossible by war or riots, civil disturbances, natural catastrophes or other circumstances beyond the that party's control.

11. Entire Agreement. This Authorization and all attachments hereto represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, supersedes all prior oral negotiations between the parties, and can be amended, supplemented, modified or changed only by an agreement in writing which makes specific reference to this Authorization or the appropriate attachment and which is signed by the party against whom enforcement of any such amendment, supplement, modification or change is sought.

12. Laws Governing. This Authorization shall be governed by and construed in accordance with the laws of the State of Mississippi, and applicable federal law.

13. Assignment: This agreement shall be binding on the beneficiaries, successors and assigns of Newbreak Management Company. In the event that the agreement is assigned by Newbreak, it shall provide written notice to the City of Vicksburg with a copy of the assignment and the contact information of the assignee.

This the ____ day of _____, 2017..

The City of Vicksburg, MS

NewBreak Management Company, LLC

Chris Gilmer 4/14/17

BY: George Flagg, Jr., Mayor

Date: _____