

# GROVE CITY, OHIO COUNCIL LEGISLATIVE AGENDA

October 02, 2017

6:30 - Caucus

7:00 - Reg. Meet.

---

Presentations:

FINANCE: Mr. Davis

- 
- |                           |                                                                                                                                                                                                                   |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Ordinance C-49-17</u>  | Appropriate \$6,000.00 from the SR665 Tax Increment Equivalent Fund for the Current Expense of Making Payments in accordance with the Jackson Township Compensation Agreement. Second reading and public hearing. |
| <u>Ordinance C-50-17</u>  | Appropriate \$374,000.00 from the Scioto Township Joint Economic Development District Fund for the Current Expense of Making Payments in accordance with the JEDD Contract. Second reading and public hearing.    |
| <u>Ordinance C-51-17</u>  | Authorize the City Administrator to enter into an Agreement with Lighttower for Dark Fiber. Second reading and public hearing.                                                                                    |
| <u>Ordinance C- 54-17</u> | Authorize the City Administrator to enter into a Master Services Agreement with Expedient for Co-location Services. First reading.                                                                                |
- 

SAFETY: Mr. Robinette

- 
- |                          |                                                                                                                                                                       |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Ordinance C-46-17</u> | Amend Various Sections of the Codified Ordinances to Prohibit Cultivation, Processing or Retail Distribution of Medical Marijuana. Second reading and public hearing. |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
- 

SERVICE: Mr. Berry

- 
- |                          |                                                                                                                                                                                                                                 |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Ordinance C-52-17</u> | Authorize the City Administrator to enter into a Maintenance Agreement with the Ohio Department of Transportation for the Stringtown Road and I-71 Northbound Ramp Intersection Improvement. Second reading and public hearing. |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
- 

LANDS: Mr. Bennett

- 
- |                          |                                                                                                                                                                                    |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Ordinance C-53-17</u> | Approve a Special Use Permit for an Automotive Dealer and Repair Services for RCD RV Supercenter located West of Seeds Rd. & South of S.R. 665. Second reading and public hearing. |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
- 

ON FILE: Minutes of: 9/18 - Council Meeting      9/25 - BZA

Date: 09/13/17  
Introduced By: Mr. Davis  
Committee: Finance  
Originated By: Mr. Turner  
Approved: Mr. Boso  
Emergency: 30 Days:       
Current Expense: XX

No.: C-49-17  
1st Reading: 09/18/17  
Public Notice: 9/21/17  
2nd Reading: 10/02/17  
Passed:      Rejected:       
Codified:      Code No:       
Passage Publication:     

## ORDINANCE C-49-17

### AN ORDINANCE TO APPROPRIATE \$6,000.00 FROM THE SR665 TAX INCREMENT EQUIVALENT FUND FOR THE CURRENT EXPENSE OF MAKING PAYMENTS IN ACCORDANCE WITH THE JACKSON TOWNSHIP COMPENSATION AGREEMENT

---

WHEREAS, the City has created the SR665 Tax Increment Equivalent Fund for the deposit of service payments; and

WHEREAS, the Franklin County Auditor 2<sup>nd</sup> half settlement for the SR665 Tax Increment Equivalent Fund has been received; and

WHEREAS, the Jackson Township Compensation Agreement approved by Ordinance C-10-06 requires funds to be disbursed to the township within 60 days of receipt.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

SECTION 1. There is hereby appropriated \$6,000.00 from the unappropriated monies of the SR665 Tax Increment Equivalent Fund to account number 204000.559000 for the current expense of contractual obligations.

SECTION 2. This ordinance appropriates for current expenses and shall therefore go into immediate effect.

\_\_\_\_\_  
Roby Schottke, President of Council

Passed:  
Effective:

\_\_\_\_\_  
Richard L. Stage, Mayor

Attest:

\_\_\_\_\_  
Tami K. Kelly, MMC, Clerk of Council

I Certify that this ordinance is correct as to form.

\_\_\_\_\_  
Stephen J. Smith, Director of Law

I Certify that there is money in the treasury, or  
is in the process of collection, to pay the within  
ordinance.

\_\_\_\_\_  
Michael A. Turner, Director of Finance

Date: 09/13/17  
Introduced By: Mr. Davis  
Committee: Finance  
Originated By: Mr. Turner  
Approved: Mr. Boso  
Emergency: 30 Days:       
Current Expense: XX

No.: C-50-17  
1st Reading: 09/18/17  
Public Notice: 9/21/17  
2nd Reading: 10/02/17  
Passed:      Rejected:       
Codified:      Code No:       
Passage Publication:     

## ORDINANCE C-50-17

AN ORDINANCE TO APPROPRIATE \$374,000.00 FROM THE SCIOTO TOWNSHIP JOINT ECONOMIC DEVELOPMENT DISTRICT (JEDD) FUND FOR THE CURRENT EXPENSE OF MAKING PAYMENTS IN ACCORDANCE WITH THE JEDD CONTRACT

WHEREAS, City Ordinance C-31-13 authorized the creation of the Scioto Township JEDD; and

WHEREAS, the JEDD Contract requires funds to be disbursed to the Township of Scioto, the Village of Commercial Point, and the City of Grove City by the 10<sup>th</sup> business day of each quarter.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

SECTION 1. There is hereby appropriated \$374,000.00 from the unappropriated monies of the JEDD Fund to account number 620000.559030 for the current expense of contractual obligations.

SECTION 2. This ordinance appropriates for current expenses and shall therefore go into immediate effect.

\_\_\_\_\_  
Roby Schottke, President of Council

Passed:  
Effective:

\_\_\_\_\_  
Richard L. Stage, Mayor

Attest:

\_\_\_\_\_  
Tami K. Kelly, MMC, Clerk of Council

I Certify that this ordinance is correct as to form.

\_\_\_\_\_  
Stephen J. Smith, Director of Law

I Certify that there is money in the treasury, or is in the process of collection, to pay the within ordinance.

\_\_\_\_\_  
Michael A. Turner, Director of Finance

Date: 9/13/17  
Introduced By: Mr. Davis  
Committee: Finance  
Originated By: Mr. Hurley  
Approved: Mr. Boso  
Emergency: 30 Days: X  
Current Expense:

No.: C-51-17  
1st Reading: 09/18/17  
Public Notice: 09/21/17  
2nd Reading: 10/02/17  
Passed:  Rejected:   
Codified:  Code No:   
Passage Publication:

## ORDINANCE C-51-17

### AN ORDINANCE TO AUTHORIZE THE CITY ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH LIGHTOWER FOR DARK FIBER

WHEREAS, this agreement will provide 21.3 miles of dark fiber to connect the City's fiber network to the data center; and

WHEREAS, this agreement will replace an existing three-year agreement and save the City \$2,100.00 a month; and

WHEREAS, because the new agreement with Lightower exceeds twelve (12) months, it must be approved by Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

SECTION 1. The City Council hereby authorizes the City Administrator to execute a new multi-year agreement with Lightower as set forth in Exhibit "A".

SECTION 2. This Ordinance shall take effect at the earliest date permitted by law.

Roby Schottke, President of Council

Passed:

Richard L. Stage, Mayor

Effective:

Attest:

Tami K. Kelly, MMC, Clerk of Council

I certify that this ordinance is correct as to form.

Stephen J. Smith, Director of Law

I certify that there is money in the treasury, or is in the process of collection, to pay the within ordinance.

Michael A. Turner, Director of Finance



Date: 09/25/17  
Introduced By: Mr. Davis  
Committee: Finance  
Originated By: Mr. Hurley  
Approved: Mr. Boso  
Emergency: 30 Days: X  
Current Expense:

No.: C-54-17  
1st Reading: 10/02/17  
Public Notice: 10/05/17  
2nd Reading: 10/16/17  
Passed:  Rejected:   
Codified:  Code No:   
Passage Publication:

## ORDINANCE C-54-17

### AN ORDINANCE TO AUTHORIZE THE CITY ADMINISTRATOR TO ENTER INTO A MASTER SERVICES AGREEMENT WITH EXPEDIENT FOR COLOCATION SERVICES

---

WHEREAS, the City currently has Tier 2 data center space that is no longer under contract; and

WHEREAS, this Agreement with Continental Broadband, LLC dba "Expedient" will provide Tier 3 data center space for the City's Server Infrastructure; and

WHEREAS, this Agreement will be a cost savings from its current data center provider; and

WHEREAS, this Agreement with Expedient is for thirty-six (36) months and must be approved by Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

SECTION 1. The City Administrator is hereby authorized to enter into a Master Services Agreement with Continental Broadband, LLC dba "Expedient" attached as Exhibit A.

SECTION 2. This ordinance shall take effect at the earliest opportunity allowed by law.

Roby Schottke, President of Council

Passed:

Richard L. Stage, Mayor

Effective:

Attest:

Tami K. Kelly, MMC, Clerk of Council

I certify that this ordinance is correct as to form.

Stephen J. Smith, Director of Law

C-54-17  
**Master Services Agreement: #92045**



CONTINENTAL BROADBAND, LLC  
DBA EXPEDIENT ("EXPEDIENT")  
810 PARISH STREET, PITTSBURGH PA 15220

|                                                                                                                                                               |                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| <b>Customer Name:</b> City of Grove City                                                                                                                      | <b>Desired Install Date:</b>                                                                                             |
| <b>Billing Address:</b><br>City of Grove City<br>4035 Broadway<br>Grove city, OH 43123                                                                        | <b>Installation Address:</b><br>Expedient Columbus (Upper Arlington)<br>5000 Arlington Centre Blvd<br>Columbus, OH 43220 |
| <b>Primary Contact:</b> Todd Hurley<br><b>Primary Phone #:</b> (614) 277-1725<br><b>Secondary Phone #:</b><br><b>Email Address:</b> thurley@grovecityohio.gov | <b>Secondary Contact:</b><br><b>Primary Phone #:</b><br><b>Secondary Phone #:</b><br><b>Email Address:</b>               |
| <b>Account Manager:</b> Kristopher Hill                                                                                                                       | <b>Account Number:</b>                                                                                                   |

Expedient sets forth in this Master Services Agreement ("Agreement") a straight-forward and comprehensive terms pursuant to which Expedient provides the Customer with data center colocation / technology equipment hosting services ("Colocation Services"), managed information technology ("IT") services ("Managed Services") and/or Internet and network access services ("Internet Access Services"). Additionally, this Agreement facilitates the provision of additional technology solutions and services as may be requested by Customer in the future; specifically, at any time the parties agree to additional solutions and services, or changes to existing services, they will execute a Work Order or Project Change Request that references this Agreement and defines such additional solutions or services and/ or changes to be provided without the need for an additional "Master" agreement. All services that at any time during the Term (defined herein) of this Agreement are provided by Expedient to Customer hereunder, including, without limitation, Colocation Services, Managed Services, Internet Access Services and any such additional solutions or services, are referred to herein collectively as the "Services", and any work product or other deliverables provided to Customer in connection therewith are referred to herein collectively as "Deliverables".

By signing below, Customer and Expedient each acknowledge that they have read and understand this Agreement and, intending to be legally bound, agree to its terms and conditions.

|                                                               |                           |
|---------------------------------------------------------------|---------------------------|
| <b>Continental Broadband, LLC dba Expedient ("Expedient")</b> | <b>City of Grove City</b> |
| <b>By:</b>                                                    | <b>By:</b>                |
| <b>Name:</b>                                                  | <b>Name:</b>              |
| <b>Title:</b>                                                 | <b>Title:</b>             |
| <b>Date:</b>                                                  | <b>Date:</b>              |

**Contract Presentation Date:** Sep 19, 2017

**Effective Date:**

(Upon full execution of signatures unless otherwise stated)

## 1. Co-Location and/or Managed Services.

**1.1 General.** Subject to the terms and conditions of this Agreement, including the Exhibits hereto, Expedient shall deliver and maintain the services, hardware and software as set forth on Exhibit A and Exhibit B at Expedient's facility (the "Colocation Infrastructure") for the purpose of enabling certain employees of Customer to use and/or operate the applicable Services, which may include the conduct of business for internal purposes or the transaction of business with external parties, such as agents, vendors and its own customers. If applicable, Expedient shall provide the communications channel set forth on Exhibit A and Exhibit B between the respective facilities of Expedient and Customer (the "Communications Infrastructure") to facilitate Customer's use of the applicable Services.

**1.2 Hours of Availability.** Expedient shall use reasonable best efforts to make the Colocation Services, Managed Services and Communications Infrastructure available twenty-four (24) hours per day, three hundred sixty five (365) days per year. Notwithstanding the foregoing, Expedient may schedule routine maintenance for any or all such Services during off-peak hours (6:00 p.m. through 6:00 a.m. prevailing Eastern Time), provided, Expedient shall endeavor to provide Customer with at least one week advance notice of any such scheduled routine maintenance. If such routine maintenance requires downtime or unavailability for any or all of such Services, Expedient shall use best efforts to provide Customer with at least thirty (30) days advance notice of such downtime/unavailability, along with a full report on the purpose of such maintenance and an estimated length of the downtime event. In case of an emergency or other non-routine maintenance event, Expedient reserves the right to suspend Customer's access to the Colocation Services and/or Managed Services for purposes of conducting such maintenance work at any time as deemed appropriate by Expedient in its sole discretion, without prior notice to Customer, but will use best efforts to notify Customer of such suspended access as soon as practically feasible.

### 1.3 Customer's Obligations.

**1.3.1 Customer-Supplied Equipment.** Unless otherwise negotiated and documented herein, Customer shall be responsible for obtaining and maintaining all equipment, hardware and software that is required to be provided by Customer (including both Customer's own equipment, hardware and software and any equipment, hardware and software obtained by Customer from a third party) ("Customer-Supplied Equipment") in connection with the operation of the Services and / or Customer's use thereof. Furthermore, Customer (and not Expedient) shall be solely responsible for procuring and maintaining in effect insurance coverage for all such Customer-Supplied Equipment in such types and amounts as Customer shall determine in its sole discretion.

**1.3.2 Cooperation.** Customer shall cooperate with Expedient in connection with the performance of this Agreement by making available such personnel and information as may be reasonably requested by Expedient, and Customer shall take such other actions as Expedient may reasonably request from time to time in connection with its performance of the Services hereunder, including, but not limited to, providing Expedient with reasonable advance notice when scheduling installation and delivery of Services and / or Customer-Supplied Equipment, maintenance work and any other events where Customer may require assistance from Expedient personnel. Customer shall also cooperate with Expedient in accordance with Expedient's Security and Control Policies and Procedures (defined in Section 6.4 below) so that only authorized employees and designated agents of Customer have access to the facilities, equipment and software systems that are used in connection with Expedient's performance of or otherwise related to the Services.

**1.3.3 Primary and Secondary Contact.** Customer shall designate a primary contact and a secondary contact that will be responsible for all technical matters relating to this Agreement, and Customer shall provide Expedient with emergency contact information for both contacts (such emergency contact information shall consist of email address, cell phone number and the like and may be used by Expedient to contact such Customer designees for all appropriate purposes). Customer may change the individuals designated as primary and secondary contacts at any time by providing written notice to Expedient in accordance with section 12.7 below.

## 2. Internet Access Services.

**2.1 General.** Subject to the terms and conditions of this Agreement, if Expedient provides Customer with Internet Access Services directly or indirectly by way of any connection to the Communications Infrastructure such Internet Access Services shall be used by Customer at all times in accordance with Expedient's Terms and Conditions for Use of Service ("TCUS") as published on the Expedient web site located at <http://www.expedient.com> (the "Expedient Web Site"). The TCUS are hereby specifically incorporated into this Agreement by this reference as if fully set forth herein. Customer acknowledges that Expedient may change the TCUS from time to time at Expedient's sole discretion and without any notice by posting modified TCUS on the Expedient Web Site; provided, if any such change to the TCUS is of a material nature or would in any way impair or require a material modification of Customer's intended use of the Services, such change shall not be binding upon Customer unless agreed to in writing. Notwithstanding anything herein to the contrary, in the event of a conflict between the terms and conditions contained in this Agreement and the TCUS, the terms and conditions in this Agreement shall control.

**2.2 Limitations.** Customer shall not knowingly or intentionally upload, post, transmit, distribute or otherwise publish, through use of the Internet Access Services, any material or information that: (i) infringes or misappropriates any patent, copyright, trademark, trade secret or other intellectual property or proprietary right of any person or entity, (ii) violates any law, statute, ordinance, or regulation (iii) is threatening, defamatory, libelous, harassing or profane, (iv) contains a virus, Trojan horse, worm or other malicious code or system component that may adversely affect any hardware or software, or that intercepts or misappropriates any

data or information, or (v) includes unsolicited bulk e-mails, advertisements or solicitations. Expedient may restrict or limit Customer's Internet Access Services hereunder if Expedient determines, in its sole discretion, that Customer has engaged in or is likely to engage in (whether knowingly or unknowingly) any prohibited conduct described herein and such conduct, in Expedient's reasonable opinion, poses any risk of any kind or nature to Expedient's network, business or other customers. As promptly as practicable after becoming aware of Customer's engagement in any such prohibited conduct, Expedient will use reasonable best efforts to immediately notify Customer of the required restriction or limitation to Customer's Internet Access and will promptly restore Customer's access after Expedient has reasonable assurance that such conduct has been permanently discontinued. In addition to and not in limitation of the foregoing rights and remedies, Expedient reserves the right to refuse to post or to remove in whole or in part any information or materials provided or submitted by or on behalf of Customer in connection with its use of the Services that Expedient determines, in its reasonable discretion, are either in violation of this Agreement or pose any risk of any kind or nature to Expedient's network, business or other customers.

**2.3 Internet Content.** Customer may access third-party web sites and other content or information on the Internet ("Content") through use of the Internet Access Services. Customer acknowledges that the Content has not been reviewed by Expedient and is supplied and maintained by third parties over which Expedient exercises no control. Accordingly, Expedient expressly disclaims any responsibility for any and all Content, the accuracy of the information therein, and/or the quality of products or services provided by or advertised therein or otherwise on the Internet. Customer agrees that Expedient has the right, but not the obligation, to monitor Customer's access to the Internet and to disclose any information as may be necessary to satisfy any law, regulation or other governmental request, and to protect itself and / or its other customers; provided, however, that except where prohibited by the inquiring party or by applicable law or regulation, Expedient shall provide Customer with prior notice of any such required disclosure of Customer-related information.

### **3. Changed or New Services/Deliverables.**

In the event that Customer desires to change the scope of Services or Deliverables originally or at any time thereafter set forth in this Agreement ("Changed Services/Deliverables"), or Customer desires Expedient to provide Customer with services ("New Services") and/or deliverables ("New Deliverables") in addition to those originally contemplated hereunder, Customer shall request that Expedient prepare a proposed project change request in the form attached hereto as Exhibit B ("Project Change Request") or proposed work order in the form attached hereto as Exhibit C ("Work Order") in respect of such Changed Services/Deliverables, New Services or New Deliverables. Each such proposed Project Change Request or Work Order shall include a detailed description of the applicable Changed Services/Deliverables, New Services and/or New Deliverables to be provided to Customer by Expedient, a list of any Customer tasks and responsibilities in respect thereof, any special terms and conditions applicable thereto and the fees / costs and schedule for performance of the Changed Services/Deliverables, New Services and/or New Deliverables to be provided, and all such proposed Project Change Requests and Work Orders shall thereafter be subject to discussion by the parties. Any estimates of fees / costs and / or performance-schedule included in a Project Change Request or Work Order shall not be binding on Expedient, and no Project Change Request or Work Order shall be binding on either party unless and until executed and delivered by both parties. Each Project Change Request and Work Order shall be subject to the terms of this Agreement shall be effective as of the effective date set forth therein and, unless otherwise expressly specified therein, shall run coterminous with this Agreement. If any of the terms of a Project Change Request or Work Order conflict with the terms of this Agreement, the terms of the Project Change Request or Work Order shall control; provided, however, that unless expressly set forth therein, the terms of any particular Project Change Request or Work Order shall not relieve Customer of any payment obligations set forth in this Agreement or any other Project Change Request or Work Order.

### **4. Additional Service Terms.**

**4.1 Third Party Components.** Customer acknowledges that in order to provide certain Services and Deliverables hereunder, Expedient may be required to purchase access to third party telecommunications, energy/utility transportation and/or managed service facilities ("Third Party Facilities") and/or purchase/license and provide Customer with access to certain software applications and services provided by third parties ("Third Party Software") (Third Party Facilities and Third Party Software provided or otherwise made available by Expedient to Customer hereunder are sometimes referred to collectively as "Third Party Components"). Customer further acknowledges that availability of these Third Party Components is based solely on the best information available to Expedient as of the Contract Presentation Date, including third party representations and government regulations, and is subject to change during the Term of this Agreement with little or no advance notice. If any necessary Third Party Components are determined by Expedient to be unavailable as a result of changes to any third party availability, governmental regulations or any other condition or circumstance outside of Expedient's control, then (a) Expedient shall not be in breach hereof or otherwise liable for any failure or inability to provide Services or Deliverables hereunder as a result of such unavailability of any Third Party Components, and (b) Expedient may in its sole discretion modify, change or replace the applicable Third Party Components originally contemplated in order to fulfill its obligations under this Agreement and otherwise attempt to mitigate the impact of such unavailability of Third Party Components, provided, if any such modification, change or replacement of the original Third Party Components includes a material price increase with respect to the applicable Services enabled by such Third Party Components or impairs Customer's ability to utilize such Services in substantially the same manner as they were utilized prior to the modification, change or replacement, Customer may cancel the affected Services by providing written notice to Expedient within thirty (30) days after Customer's receipt of notification of such material price increase or discovery of such impairment.

**4.2 Form of Deliverables.** If any software is part of a Deliverable hereunder it shall be delivered in object code form only, unless otherwise expressly specified in this Agreement or the applicable Project Change Request or Work Order. Customer agrees that

any source code applicable to a Deliverable is the Confidential Information (defined below) of Expedient or Expedient's provider of the applicable Third Party Component under section 4.1. Unless Expedient is required to and does deliver source code to Customer hereunder, Customer shall not decompile, disassemble, reverse engineer or otherwise manipulate a Deliverable in any manner so as to derive (or attempt to derive) the source code for such Deliverable.

**4.3 License.** Expedient hereby grants to Customer a limited non-transferable, non-sublicensable, non-exclusive license to use, during the Term of this Agreement or the applicable Project Change Request or Work Order, the Deliverables delivered by Expedient solely for Customer's internal business purposes, which may include serving its own customers and / or related parties, as set forth in this Agreement or the applicable Project Change Request or Work Order. Except as may otherwise be expressly set forth in this Agreement or a Project Change Request or Work Order and except for any Confidential Information of Customer contained therein, Expedient retains all Intellectual Property Rights in any Deliverable delivered to Customer, and in any and all derivative works thereof. As used in this Agreement, "Intellectual Property Rights" shall mean all rights with respect to inventions (whether or not patentable), trade secrets, patents, copyrights, trademarks, service marks, trade dress, know how, as well as moral rights and similar rights of any type, under the laws of any governmental authority, domestic or foreign, including rights in and to all applications and registrations relating to any of the foregoing.

## **5. Payment.**

**5.1 Initiation Fee.** In consideration of Expedient establishing the applicable Services, Expedient shall invoice Customer for the one-time fee ("Initiation Fee") for the Original Services (defined in Section 8.1 below), if any, as set forth on Exhibit A within ten (10) days after the Effective Date, and unless otherwise specified herein Customer shall pay such Initiation Fee in full within thirty (30) days after the date of such invoice.

**5.2 Monthly Service Fees.** In consideration of Expedient providing / maintaining the applicable Services, Customer shall pay Expedient the monthly service fees set forth on Exhibit A ("Monthly Service Fees"), as such Monthly Service Fee may be modified from time to time by mutually agreed upon and executed Project Change Requests and/or Work Orders. The first Monthly Service Fee for each Service hereunder will be invoiced on the first to occur of (a) the day Customer commences use of such Service, or (b) the one hundred twentieth (120th) day after the Effective Date, if on such one hundred twentieth (120th) day there have not been any installation or other delays by Expedient or its third party providers and the applicable Service is otherwise available for use by Customer (the first of (a) or (b) for a Service is its "Service Activation") (the parties acknowledge that different Services contemplated under this Agreement may have different Service Activations). Following the Service Activation for a given Service, subsequent Monthly Service Fees for such Service will thereafter be invoiced on a monthly basis in advance for so long as this Agreement remains in effect.

**5.3 New Service Fees.** In consideration of any Changed Services/Deliverables, New Services and/or New Deliverables provided pursuant to a mutually agreed upon and executed Project Change Request or Work Order, Customer shall pay to Expedient the fees set forth in such Project Change Request or Work Order, as applicable. Unless otherwise specified in a Project Change Request or Work Order, fees for Changed Services/Deliverables, New Services and New Deliverables described in such Project Change Request or Work Order will be added to Customer's account and will be reflected on the next regularly scheduled invoice after the delivery date thereof and on each subsequent regular invoice thereafter for so long as this Agreement remains in effect.

**5.4 Late Payments.** Except for any Initiation Fee invoiced under section 5.1 above, all invoices for fees hereunder shall be payable (and paid) by Customer within fifteen (15) days after the invoice date, without any right of set-off or deduction. Any amount that is not paid within thirty (30) days after the invoice date shall be considered "late". If Customer payment is late more than two (2) times in any twelve (12) month period during the Term of this Agreement, Expedient reserves the right to apply interest to Customer's unpaid balance at the rate of one and one-half percent (1.5%) per month, or the maximum rate allowed by law, whichever is less. Expedient shall also be entitled to recover its costs and expenses incurred in collecting any past due amounts owed hereunder, including reasonable attorneys' fees and costs. If payment in full of all amounts at any time owed to Expedient hereunder is not made within ten (10) business days after Customer's receipt of written notice that payment is late and suspension of Service is pending, then in addition to and not in limitation of any other available remedies, Expedient may restrict or suspend Customer's access to all Services without any further notice or liability to Customer.

## **5.5 Taxes.**

### **5.5.1 Applicable Taxes.**

Fees payable by Customer under this Agreement are exclusive of all applicable taxes, including federal/national, state or provincial taxes and local use, sales, property and similar taxes, if any, payable in connection with or as a result of any Services or Deliverables provided by Expedient to Customer hereunder, but excluding taxes based on Expedient's income (collectively, "Applicable Taxes"). While Expedient will make reasonable efforts to apply, bill and collect from Customer all Applicable Taxes together with the fees payable by Customer under this Section 5, and to remit such Applicable Taxes to the appropriate governmental taxing authority, in each case in accordance with the most recent guidance provided to Expedient by Expedient's tax advisors, Applicable Taxes on Expedient Services and Deliverables vary among state and local taxing jurisdictions and at times are subject to the interpretations of individual representatives, agents, legal counsel and auditors of each specific taxing authority. Customer is and shall remain liable for any Applicable Taxes payable and therefore Customer agrees to pay (and shall pay) any and all Applicable Taxes to Expedient upon written request by Expedient, regardless of whether Expedient is required to or does collect such taxes from Customer at the time of billing for the Services or Deliverables to which the Applicable Taxes relate, except

that Expedient shall not seek to collect Applicable Taxes for any periods other than the periods for which the authorized taxing authority has issued a final assessment of taxes owed.

#### **5.5.2 Tax Exempt Documentation.**

If any transactions with Customer are validly exempt from any such Applicable Tax, or from having Expedient collect any such Applicable Tax from Customer, then (i) Expedient will accept any certificate or similar document provided for by state or other applicable law validly excusing/exempting Expedient from collecting such taxes, and (ii) Expedient will in turn refrain from collecting any such taxes that Expedient is excused/exempt from collecting.

#### **5.5.3 Confirmation & Attestation of Direct Payment.**

In certain tax jurisdictions, applicable law may allow Customers to administer, report and remit Applicable Taxes directly to the taxing authority. In such cases, Customer may submit to Expedient a legally valid and acceptable "Confirmation and Attestation of Direct Sales and Use Tax Form" with respect to any such Applicable Tax, in order to relieve Expedient from any obligation for collecting any such Applicable Taxes from Customer. Expedient will accept any appropriate certificate or similar document provided for by state or other applicable law validly excusing Expedient from collecting such taxes and Expedient will in turn refrain from collecting any such Applicable Taxes.

#### **5.5.4 Multiple Points of Use.**

If Services or Deliverables provided to Customer are subject to sales or use tax in multiple jurisdictions, Expedient shall have the right to require Customer (A) to furnish Expedient a Multiple Points of Use Certificate, or similar document applicable in the jurisdiction(s) in question and (B) to administer, report and remit among those jurisdictions all Applicable Taxes payable.

### **6. Confidentiality.**

**6.1 Definition.** "Confidential Information" shall mean confidential or other proprietary information that is disclosed in writing by one party (the "Disclosing Party") to the other party (the "Receiving Party") under this Agreement, including, without limitation, designs, drawings, models, prototypes, software designs and code, bit-map files, product specifications and documentation, business and product plans, and other business information. Confidential Information shall not include information which: (i) is or becomes publicly-available without any action by, or involvement of, the Receiving Party; (ii) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information; (iii) is already known to the Receiving Party at the time of disclosure under this Agreement; (iv) is disclosed to the Receiving Party by a third party without any obligation of confidentiality; or (v) is disclosed pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party sufficient prior notice to contest such order.

**6.2 Protection of Confidential Information.** Neither party shall transfer or otherwise disclose to any third party the Confidential Information of the other party. Each party shall (i) give access to Confidential Information of the other party solely to those of its employees with a need to have access thereto for purposes of this Agreement, and (ii) take the same security precautions to protect against disclosure or unauthorized use of such other party's Confidential Information that the party takes with its own confidential information, but in no event shall a party apply less than a reasonable standard of care to prevent such disclosure or unauthorized use.

**6.3 Confidential Information Not Related to the Performance of this Agreement.** Customer acknowledges that (i) Expedient does not wish to receive any Confidential Information from Customer except Confidential Information that is necessary for Expedient to perform the Services and provide the Deliverables under this Agreement, and (ii) unless the Parties specifically agree otherwise, Expedient may reasonably presume that any information received from Customer that is not necessary for Expedient to perform the Services and provide the Deliverables hereunder does not and shall not constitute Confidential Information of Customer.

**6.4 Control Policies, Procedures, Security and Availability.** Annually, and for each subsequent twelve-month period thereafter during the Term of this Agreement, Expedient has completed or shall complete, as applicable, an independent audit of internal control policies, procedures, security and availability, conducted by an American Institute of Certified Public Accountants (AICPA) accredited third-party firm, and Customer acknowledges and agrees that the resulting Confidential SSAE16 Type II and SOC2 Type II reports have been and will be, as applicable, made available to Customer. During the Term of this Agreement, Expedient shall use all commercially reasonable efforts to maintain in effect all of the material controls, policies, procedures, security and availability standards (collectively referred to herein as "Security and Control Policies and Procedures") described and tested in accordance with the AICPA requirements and criteria for SSAE16 SOC1 Type II and SOC2 Type II or any relevant successor industry audits, reports or standards relating to control policies, procedures, security and availability. Without limiting the foregoing, upon Customer's written request, Expedient shall provide to Customer a copy of Expedient's then most currently audited version of the aforementioned reports (which, for the avoidance of doubt, shall constitute Confidential Information, defined above, of Expedient). To the extent Expedient fails to maintain substantial compliance with a material control policy, procedure, security or availability criteria included in its Security and Control Policies and Procedures and fails to remediate such non-compliance within thirty (30) days after receipt of notice of non-compliance from Customer or any applicable accrediting agency, Customer shall have the right to terminate this Agreement by providing written notice to Expedient within the twenty-day period immediately following the expiration of the aforementioned thirty-day remediation period; if Customer timely exercises such termination right, then this Agreement shall thereupon terminate with no further cost, charge, cost, fee or penalty, other than fees for Services actually provided by Expedient prior to the effective date of such termination.

## 7. Reservation of Rights.

Except as expressly set forth herein, Expedient reserves all right, title and interest in, to and under, and grants no rights whatsoever with respect to the Colocation Services, Managed Services, Internet Access Services, Communications Infrastructure, Deliverables, Changed Services/Deliverables, New Services, New Deliverables or other property of Expedient or its suppliers, or any Intellectual Property Rights therein.

## 8. Term and Termination.

**8.1 Term.** This Agreement shall commence on the Effective Date and continue for a period of 36 Months (the "Initial Term") from the Final Service Activation Date. (For purposes hereof, (a) the "Final Service Activation Date" is the date of the last Service Activation (as defined in Section 5.2 above) for Original Services to be provided hereunder; and (b) the "Original Services" are the Services reflected in Exhibit A as of the Effective Date, as such Exhibit may thereafter be amended at any time prior to the Service Activation for all such Services.) Thereafter, this Agreement shall automatically renew for successive additional periods equal in length to the Initial Term (each a "Renewal Term"), unless either party gives the other party written notice of its intention not to renew this Agreement not less than ninety (90) days prior to expiration of the Initial Term or then current Renewal Term, as applicable. The Initial Term, together with any Renewal Term, constitutes the "Term" of this Agreement.

**8.2 Termination for Cause.** In the event of any material breach of this Agreement, the non-breaching party may terminate this Agreement prior to the end of the Term by giving thirty (30) days' prior written notice to the breaching party; provided, however, that this Agreement shall not terminate if the breaching party has cured the breach prior to the expiration of such thirty-day period.

**8.3 Termination for Insolvency.** If (i) insolvency, receivership or bankruptcy proceedings are instituted by or against a party, (ii) a party makes an assignment for the benefit of creditors or (iii) a party admits an inability to pay its debts as they come due, then in any such event the other party may in its sole discretion terminate this Agreement without notice.

**8.4 Effect of Termination.** Upon the expiration or sooner termination of this Agreement, all Services and Deliverables provided by Expedient and any and all license rights of Customer under this Agreement shall automatically and immediately cease. In the event Customer terminates this Agreement prior to the end of the Term in a manner not expressly permitted hereunder, all Monthly Service Fees and other amounts that would have otherwise been payable to Expedient hereunder during the remaining Term of this Agreement shall become immediately due and payable by Customer. Articles 6, 7, 9, 10, 11 and 12 and this Section 8.4 shall survive any expiration or termination of this Agreement.

## 9. Warranty Disclaimer.

EXCEPT AS OTHERWISE PROVIDED FOR IN THE EXPEDIENT SLA (EXHIBIT D ATTACHED HERETO) AND FOR ANY UNEXPIRED PASS THROUGH THIRD PARTY WARRANTIES, IF ANY, (i) THE COLOCATION SERVICES, COLOCATION INFRASTRUCTURE, MANAGED SERVICES, COMMUNICATIONS INFRASTRUCTURE, INTERNET ACCESS SERVICES, DELIVERABLES, CHANGED SERVICES/DELIVERABLES, NEW SERVICES, NEW DELIVERABLES, THIRD PARTY COMPONENTS AND ANY AND ALL OTHER SERVICES PROVIDED BY OR ON BEHALF OF EXPEDIENT HEREUNDER ARE PROVIDED "AS-IS", WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, AND (ii) EXPEDIENT HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## 10. Limitation of Liability.

EXCEPT FOR LIABILITY IN RESPECT OF THE PARTIES' RESPECTIVE INDEMNIFICATION OBLIGATIONS UNDER SECTION 11 BELOW OR RESULTING FROM OR ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF A PARTY, (i) IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE OR ANTICIPATED PROFITS, LOST BUSINESS OR LOST SALES, AND DAMAGES DUE TO LOSS OR DISCLOSURE OF DATA OR OTHER INFORMATION) ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PROVISION OR USE OF ANY SERVICES OR DELIVERABLES HEREUNDER, THE DELAY OR INABILITY TO USE ANY SERVICES OR DELIVERABLES, OR OTHERWISE ARISING FROM THIS AGREEMENT, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (ii) THE TOTAL LIABILITY OF EACH PARTY FOR ANY CLAIM BY THE OTHER PARTY HEREUNDER, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED, IN THE AGGREGATE, THE FEES PAID TO EXPEDIENT HEREUNDER IN THE THREE (3) MONTH PERIOD ENDING ON THE DATE THAT SUCH CLAIM OR DEMAND IS FIRST ASSERTED, PROVIDED, NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE FOREGOING LIMITATION ON LIABILITY SHALL NOT APPLY TO ANY FEES OR OTHER AMOUNTS OWED BY CUSTOMER TO EXPEDIENT BUT NOT YET PAID. THE FOREGOING LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

## 11. Indemnity.

**11.1** Each party shall indemnify and hold harmless the other party and its affiliates, and its and their directors, officers, employees and agents, from and against any and all claims, demands, actions and proceedings asserted by any third party, and all losses, liabilities, judgments, awards, settlements, damages, fines, injuries, penalties and costs (including reasonable legal fees and

expenses) (collectively, "Losses") incurred in connection with such third party claims, for personal injury (including death) or damage to real and/or tangible property arising out of or resulting from acts or omission to act under this Agreement of any employees, contractors or agents of the indemnifying party.

**11.2** Expedient shall indemnify and hold harmless Customer and its affiliates, and its and their directors, officers, employees and agents, from and against any and all claims, demands, actions and proceedings asserted by any third party, and all Losses incurred in connection with such third party claims, arising out of or resulting from (i) any breach by Expedient of this Agreement, and/or (ii) any claim that Expedient's performance of the Services or the exercise by Customer of its rights granted under this Agreement in accordance with the terms hereof, infringes, misappropriates or violates the intellectual property rights of any third party.

**11.3** Customer shall indemnify and hold harmless Expedient and its affiliates, and its and their directors, officers, employees and agents, from and against any and all claims, demands, actions and proceedings asserted by any third party, and all Losses incurred in connection with such third party claims, arising out of or resulting from (i) any breach by Customer of this Agreement, (ii) Customer's use of any Services or Deliverables, including but not limited to any Third Party Components thereof, and/or (iii) any information that Customer transmits via, posts on, or accesses and / or views through the Internet or any Internet web-site, including as a result of or in connection with any claim that such information constitutes copyright infringement or infringement of any other intellectual property rights of any third party.

**11.4** The indemnified party shall promptly notify the indemnifying party in writing of any claims, demands, actions and proceedings related to the indemnifying party's obligations under this Section 11, provided, however that the indemnifying party's obligations hereunder shall not be affected by any delay or failure in providing such notice unless and then only to the extent the indemnifying party's defense or settlement of the applicable claim was materially prejudiced thereby. The indemnifying party shall have the right, at its sole expense, to defend with counsel reasonably acceptable to the indemnified party all such claims, demands, actions or proceedings and, so long as the indemnifying party is defending any such claim diligently and in good faith, the indemnifying party shall have full and complete authority for the defense thereof; provided, however, the indemnifying party shall have no authority to enter into any settlement or compromise on behalf of the indemnified party without the prior written consent of the indemnified party, which consent shall not be unreasonably withheld or delayed. If the indemnifying party does not undertake the diligent, good faith defense of a claim, the indemnified party shall have the right to conduct the defense of such claim at its sole defense, provided, (i) nothing in the foregoing shall limit or be deemed to limit a party's right to dispute that a claim (and/or any Losses arising therefrom) relates to an indemnifiable matter hereunder, and (ii) if the indemnifying party has agreed that a claim relates to an indemnifiable matter hereunder, the indemnified party shall have no authority to enter into any settlement or compromise on behalf of the indemnifying party without the prior written consent of the indemnifying party, which consent shall not be unreasonably withheld or delayed. In all circumstances, the indemnified party shall have the right to participate in the defense of any proceedings with counsel of its own choosing, at its sole expense, and shall cooperate with the indemnifying party in the defense of any claim maintained thereby.

## **12. General Provisions.**

**12.1 No Lease.** This Agreement is an agreement for services and is not intended to and shall not constitute a lease of any real property.

**12.2 Relationship of the Parties.** The relationship established between the parties by this Agreement is that of independent contractors, and nothing contained herein shall or shall be construed to: (i) give either party the power to direct and/or control the day to day activities of the other, (ii) constitute the parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking, or (iii) allow a party to create or assume any obligation on behalf of the other party for any purpose whatsoever, except as expressly contemplated by this Agreement.

**12.3 Publicity and Relationship Reference.** Each party may reference this Agreement and/or the relationship contemplated hereunder (including through public announcements, press releases, electronic/email publications and notices, and other collateral or marketing materials) for any legitimate commercial purpose, including vendor or customer referral; provided, however, that (i) neither party may disclose any specific terms or conditions of this Agreement or such relationship (including but not limited to financial terms), and (ii) each such reference to the other party and/or this Agreement/relationship shall be subject to the prior review and approval of such other party (not to be unreasonably withheld or delayed).

**12.4 Non-Solicitation.** During the Term of this Agreement and the six (6) month period following any expiration or termination of this Agreement, each party agrees that without the prior written consent of the other party it will not directly or indirectly solicit for employment or employ any person employed by the other party; provided, notwithstanding the foregoing, any employee who has been dismissed by or resigned from a party at least six (6) months prior to any solicitation or employment by the other party shall not be subject to the prohibition on solicitation and employment hereunder.

**12.5 Complete Understanding; Modification.** This Agreement (including all Exhibits hereto and any Project Change Request or Work Order hereafter entered into hereunder) constitutes the complete and exclusive agreement of the parties and supersedes all prior understandings and agreements, whether written or oral, with respect to the subject matter hereof. No modification or amendment to this Agreement shall be effective unless in writing signed by both parties hereto.

**12.6 Severability.** In the event that any provision in this Agreement shall be found by a governmental authority or court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be construed and enforced as if it had been narrowly drawn so as not to be invalid, illegal or unenforceable, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

**12.7 Assignment.** Neither party shall assign this Agreement to any third party without the prior written consent of the other party; provided, however, that Expedient may, without notice to or the consent of Customer, grant a security interest in this Agreement to a lender pursuant to a lending arrangement and/or assign this Agreement to any entity that at that time controls, is controlled by or is under common control with Expedient. For purposes of this Agreement, "assignment" shall exclude: (i) the sale of all or substantially all of the assets of a party, (ii) a merger, consolidation or reorganization, or (iii) the sale or transfer of more than fifty (50%) of the voting stock (as measured by assuming all convertible securities converted into common stock) to an individual or entity or group of individuals or entities acting in concert that immediately prior to such sale or transfer did not own more than fifty percent (50%) of the then outstanding voting stock. Subject to the foregoing, the Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns.

**12.8 Notices.** Except where otherwise contemplated herein, all notices and other communications required to be provided hereunder shall be in writing and shall be deemed effective (i) upon receipt, when delivered by hand, (ii) three (3) business days after mailing when mailed by registered or certified mail (return receipt requested), postage prepaid, (iii) one(1) business day after deposit with a nationally-recognized overnight express mail service or (iv) upon "confirmed receipt" of facsimile, email or electronic correspondence through Expedient's customer service portal, in any such case to the parties at the addresses first listed above (or at such other address for a party as shall be specified by like notice).

**12.9 Force Majeure.** Neither party shall be in breach or default under this Agreement or otherwise liable for any failure to perform or delay in the performance of its obligations under this Agreement (other than its obligation to pay any monies owed hereunder) or for any losses hereunder resulting from a cause over which it does not have direct control, including, but not limited to, failure or unavailability of any third party or external facilities, software or services, failure or unavailability of any electronic or mechanical equipment, failure or unavailability of any third party or external communication lines, or telecommunications or telephone facilities or other interconnect problems, computer viruses, unauthorized access, theft, operator errors, severe weather, earthquakes, or natural disasters, strikes or other labor problems, wars, or governmental restrictions.

**12.10 Waiver.** No failure or delay on the part of any party in exercising any right hereunder, irrespective of the length of time for which such failure or delay shall continue, will operate as a waiver of, or impair, any such right. No single or partial exercise of any right hereunder shall preclude any other or further exercise thereof or the exercise of any other right. No waiver of any right hereunder will be effective unless given in a signed writing.

**12.11 Governing Law; Dispute Resolution.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, U.S.A., without regard to any provision that would make the laws of any other jurisdiction applicable. Each party irrevocably consents to the exclusive jurisdiction and venue of any state or federal court that is located in Pittsburgh, Pennsylvania in connection with any dispute, claim or controversy arising out of or relating to this Agreement, and each party hereby waives any objections in the nature of jurisdiction or venue. EACH PARTY HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT.

**12.12 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same agreement.

# Exhibit A

## LIST OF ORIGINAL SERVICES AND PRICING

| SKU                                            | Type | Qty | Description                                                                                                                                                       | Unit         | One Time Cost     | Monthly Recurring Cost |
|------------------------------------------------|------|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-------------------|------------------------|
| <b>Columbus - COL - 5000 Arlington Centre</b>  |      |     |                                                                                                                                                                   |              |                   |                        |
| <b>Colocation and Data Center Connectivity</b> |      |     |                                                                                                                                                                   |              |                   |                        |
| 1954                                           | New  | 2   | <b>Data Center Cabinet - 42U</b><br>Per Cabinet. 42U of Dedicated Cabinet Space with 2U reserved for Expedient use if necessary.                                  | 0.00         |                   | 0.00                   |
| 1955                                           | New  | 2   | <b>Data Center Cabinet - 42U - Installation</b><br>Cabinet Installation                                                                                           | 200.00       | 400.00            |                        |
| 2123                                           | New  | 4   | <b>Data Center PDU - 30AMP@120V</b><br>Per PDU. 30AMP@120V PDU for use in 42U Cabinet. (24) NEMA 5-20R Output Connections                                         | 0.00         |                   | 0.00                   |
| 1963                                           | New  | 4   | <b>Data Center PDU - 30AMP@120V - Installation and Configuration</b><br>PDU Installation                                                                          | 49.00        | 196.00            |                        |
| 1976                                           | New  | 2   | <b>Data Center Power and Floor Space - 30AMP@120V A/B - 2.9kW Useable</b><br>30AMP Redundant Power, Actual Maximum Utilization is 80% of Circuit, 2 Circuits      | 650.00       |                   | 1,300.00               |
| 1977                                           | New  | 2   | <b>Data Center Power and Floor Space - 30AMP@120V A/B - 2.9kW Capable - Installation and Configuration</b><br>Installation and Configuration of Data Center Power | 200.00       | 400.00            |                        |
| 447                                            | New  | 2   | <b>Switch Port - 1000baseT</b><br>1000baseT Ethernet Switch Port in Private or Public VLAN                                                                        | 15.00        |                   | 30.00                  |
| 219                                            | New  | 2   | <b>Switch Port - Installation and Configuration - 1000baseT</b><br>1000baseT Ethernet Switch Port (Installation)                                                  | 0.00         | 0.00              |                        |
| 220                                            | New  | 100 | <b>Mbps Dedicated Internet Access to Colocation</b><br>Sustained Internet Access Delivered to Colocation                                                          | 10.00        |                   | 1,000.00               |
| 539                                            | New  | 2   | <b>Cross Connect - Fiber</b><br>Fiber Cross Connect inside the Data Center                                                                                        | 50.00        |                   | 100.00                 |
| 540                                            | New  | 2   | <b>Cross Connect - Fiber - Installation and Configuration</b><br>Network Cross Connect inside the Data Center - Installation                                      | 50.00        | 100.00            |                        |
|                                                |      |     |                                                                                                                                                                   | <b>TOTAL</b> | <b>\$1,096.00</b> | <b>\$2,430.00</b>      |

### Summary of Fees\*:

Initiation Fee (One-Time Fee): \$1,096.00

Monthly Service Fees (Recurring Fees): \$2,430.00

### Original Statement of Work:

1. Services to be Provided.

2. Deliverables to be Developed.

3. Customer Tasks.

**4. Payment Terms.**

**5. Estimated Schedule.**

2.00 weeks

**6. Additional Terms and Conditions.**

\*All prices and pricing information provided as an Exhibit to proposed original agreement and/or any subsequent proposed Project Change Request(s) and/or Work Order(s) are valid for up to thirty (30) calendar days after the Presentation Date and expressly exclude any and all applicable taxes and regulatory fees/assessments.

# Exhibit A

## CONTINUED

### LIST OF ORIGINAL SERVICES AND PRICING

**1. Third Party Software Licensing** - Certain Services and Deliverables provided to Customer under this Agreement may include Third Party Software. Such Third Party Software may be (i) provided on a direct subscription based basis from the applicable vendor (including, but not necessarily limited to, direct subscription based licenses with Microsoft) ("Direct Licenses") and/or (ii) embedded within Services or Deliverables and covered by an indirect software license with the applicable vendor (including, but not necessarily limited to, embedded licenses with VMware and/or for Virtual or Cloud Products) ("Embedded Licenses"). With respect to such Third Party Software and the associated Direct Licenses and Embedded Licenses, as applicable, and notwithstanding anything in this Agreement to the contrary, Customer acknowledges and agrees that the following additional terms and conditions shall apply:

**A) Price Changes**

i) *Direct Licenses*. Any vendor of Third Party Software covered by Direct Licenses may from time to time increase the prices of its software products and services, and in that event Expedient reserves the right to pass on to Customer (on a dollar-for-dollar, actual cost pass-through basis only, and with no additional mark-up or margin to Expedient) any such price increases incurred by Expedient during the Term of this Agreement.

ii) *Embedded Licenses*. Any vendor of Third Party Software covered by Embedded Licenses may from time to time increase the price of its software products and services, and if the price of the software products/services associated with any Embedded License increases by more than ten percent (10%) (as measured from the Effective Date of this Agreement or the date of the last price increase related to such Embedded License under this Paragraph 1.A.ii of this Exhibit A, whichever is more recent), then Expedient reserves the right to pass on to Customer (on a dollar-for-dollar, actual cost pass-through basis only, and with no additional mark-up or margin to Expedient) such price increase, provided in such event that Expedient provides Customer with documentation reflecting the corresponding price increase of the underlying Embedded License.

B) **Warranties** - Vendors typically disclaim, to the extent allowable by law, all warranties and any liability for any damages, whether direct, indirect or consequential, arising from the use of their Third Party Software.

C) **Maintenance** - Vendors typically do not provide direct maintenance or technical support of their Third Party Software provided or otherwise made available to Customer under this Agreement, and therefore Customer shall be responsible to provide or cause to be provided such support for Third Party Software.

D) **Proprietary Rights** - Customer must display in the form provided all copyright, trademark and patent notices included within any Third Party Software (including, where applicable, identifying the applicable Third Party Software vendor via appropriate descriptors), and Customer shall not remove, modify, or obscure any copyright, trademark or other proprietary rights notices that appear on or during the use of any Third Party Software.

E) **Reverse Engineering** - Customer shall not reverse engineer, decompile or disassemble any Third Party Software, except to the extent such activity is expressly permitted by applicable law.

F) **Customer Information** - Customer hereby allows Expedient to provide Third Party Software vendors with information regarding Customer to the extent required under Expedient's agreements with any vendors, which such information may include (but is not necessarily limited to) results of demonstrations to Customer of and/or evaluations by Customer regarding the Third Party Software.

G) **High Risk Use** - Customer shall not utilize any Third Party Software in any application or situation where the failure thereof could directly or indirectly lead to death or serious bodily injury to any person and/or to severe physical or environmental damage.

H) **Other** - If Customer provides any Services or Deliverables that contain Third Party Software to Customer's own clients (i.e., such that Customer is not the end user of such Services/Deliverables and Software), Customer must ensure that its clients' use of such Services/Deliverables and Third Party Software is subject to all applicable restrictions and limitations hereunder on the use thereof, including those listed above in this Exhibit A.

I) **Acknowledgement** - If and to the extent Microsoft is the applicable vendor of any Third Party Software (eg, Exchange, Sharepoint, Dynamics, SQL, etc.) used by Customer in connection with any Services or Deliverables provided by Expedient under this Agreement, then Microsoft will be (and is) an intended third party beneficiary of this Agreement, with the right to enforce all applicable provisions of this Agreement against Customer and to verify the compliance of Customer with such provisions.

J) **Customer Owned License Mobility Assurance** - If at any time during the Term of the Agreement, Customer intends to utilize Microsoft software license(s) not provided by Expedient in conjunction with Services provided under this Agreement, Customer will execute a zero cost PCR (no charge from Expedient) to document such software and to attest to Customer's required compliance

with the Microsoft License Mobility (LM) provision associated with the Microsoft Software Assurance program. Customer will be responsible for transmitting the required information to Microsoft in order to validate eligibility for License Mobility and will provide written acknowledgement and supporting evidence of LM approval from Microsoft.

**K) Software Restrictions and International Usage** - If Customer is utilizing Expedient Services that are hosted on private virtual infrastructure physically located outside of the United States, Customer agrees not to transmit to Expedient in the course of Customer's use of the Services and Deliverables any information, data or technology controlled by the International Traffic in Arms Regulations or otherwise requiring an export license or other authorization from the U.S. Government or any other governmental authority.

**L) Red Hat Licensure** - If any of the Services provided under this Agreement, include Red Hat Software, Customer hereby agrees to and assent (in a binding manner) to the Cloud Services Subscription Agreement set forth at [www.redhat.com/licenses/cloud\\_cssa/](http://www.redhat.com/licenses/cloud_cssa/), which may be amended from time to time by Red Hat in its sole discretion ("End User Agreement"), as a condition to providing End Users with access to the Software and/or Updates. Any modification or waiver of the End User Agreement requires prior written consent by Red Hat.

## **2. Bandwidth Bursting**

Bandwidth usage levels are determined by traffic samples taken every five minutes. The five-minute samples are collected for the month and then the top 5% are eliminated. The bandwidth charge is based on the next highest remaining sample. Expedient's flexible pricing allows virtually unlimited "bursting" for up to 36 hours per month (based on 8640 samples in a typical month) without additional fees. Incremental charges for usage above Customer's base bandwidth commitment will only apply if Customer's usage, as defined above, exceeds Customer's contracted bandwidth in more than 5% of the monthly samples. Unless stated otherwise in this Agreement, additional fees will be assessed for excess incremental bandwidth consumption in an amount equal to Customer's monthly per megabit rate for the service multiplied by the overage (in increments of one megabit).

**3. Variable Pricing on Managed Backup Services** - Unless otherwise stated herein, Customer shall be responsible for the following additional incremental fees as prescribed:

- A) If the month averaged throughput amount is in excess of the quantity purchased, a fee equal to that excess multiplied by the listed rate will apply with overage amounts assessed in 50GB increments.
- B) If the amount of data restored from tape in a given month exceeds the amount of weekly throughput purchased, a fee equal to the amount of overage multiplied by the listed rate will apply with overage amounts assessed in 50GB increments.
- C) If Customer requires more than two (2) hours of backup assistance in a given month, the standard consulting rate of \$150/hour with a one (1) hour minimum will apply.
- D) If weekly throughput amount is in excess of 500GB, additional network access and related fees may be required.

## **4. Power Service Consumption and Fee Changes**

A) **Increased Power Cost Pass-Through.** In the event that Expedient incurs an increase in power costs from its energy generation and/or energy transport provider(s) of greater than three percent (3%), Expedient reserves the right to pass through the impact of such power cost increase to Customer, on a pro rata or proportionate basis. To eliminate any confusion, by way of example: (i) in cases where Customer subscribes to a specific, itemized power service, the rate will be changed by an equal percentage to that of the actual percentage rate change incurred by Expedient; or (ii) In instances where Customer is subscribing to a "bundled" per rack service or per square foot service in which, power is included (bundled service), that rate will be changed by an amount equal to the actual percentage rate change incurred by Expedient times thirty percent (30%) of the fees for the bundled service.

B) **A-B Feed Restrictions** Unless otherwise specified and/or defined in Power Service descriptions listed elsewhere in this Agreement and/or in any Work Order or Project Change Request, Expedient will provide, as part of its Standard Power Service offering, a set of redundant branch circuits commonly referred to as "A" and "B" side access feeds. The sole and exclusive purpose of the A and B access feeds are to provide an added layer of power redundancy.

The aggregate consumption of the equipment connected to the combined A and B side access feeds shall not exceed eighty percent (80%) of the branch circuit rating of either the A side access feed or the B side access feed. If at any time during the Term of this Agreement, Customer's aggregate power consumption on a set of redundant A and B side access feeds exceeds eighty percent (80%) of the branch circuit rating of either single feed, then in addition to and not in limitation of any other provisions of this Agreement, Customer hereby acknowledges and agrees that (i) Expedient is not and shall not be liable for any service disruption that may occur as a result of the excess power consumption, (ii) Customer will be obligated to pay Expedient for charges equal to two times the amount of Customer's standard power service charge for the previous three (3) months of service, and (iii) Expedient and Customer will then agree to the appropriate amount of actual power needs and corresponding charges required by customer on a go forward basis.

**5. Device & Application Management.** If applicable, management of devices, including but not limited to servers, SANs and network elements, or applications, will include a specified number of hours ("**Management Hours**") per device or application. Management Hours are for maintenance, monitoring, troubleshooting, Customer consultation, application of standard patches and/or upgrades. Application support and non-standard requests, including but not limited to operating system re installation, corrective work stemming from Customer's improper device or application use and engineering time, in excess of the specified

number of Management Hours will be provided by Expedient to Customer at the rate of \$150 per hour, in one hour increments with a one (1) hour minimum.

[END]

| Continental Broadband, LLC dba Expedient ("Expedient") | City of Grove City |
|--------------------------------------------------------|--------------------|
| By:                                                    | By:                |
| Name:                                                  | Name:              |
| Title:                                                 | Title:             |
| Date:                                                  | Date:              |

# Exhibit B

## PROJECT CHANGE REQUEST

This Project Change Request dated the date of \_\_\_\_\_, is issued pursuant to Master Services Agreement date \_\_\_\_\_ (the "Agreement") between Continental Broadband, LLC dba Expedient ("Expedient") and the customer identified above in the Agreement ("Customer"). Capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Agreement.

|                                    |           |                        |                                    |
|------------------------------------|-----------|------------------------|------------------------------------|
| Company Name<br>City of Grove City | Account # | Contact<br>Todd Hurley | Account Manager<br>Kristopher Hill |
|------------------------------------|-----------|------------------------|------------------------------------|

| By Component                                  | Description of Equipment and Services | One-Time Charge | Monthly Charges |
|-----------------------------------------------|---------------------------------------|-----------------|-----------------|
| <b>Services</b>                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
| <b>Equipment</b>                              |                                       |                 |                 |
|                                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
| <b>Maintenance</b>                            |                                       |                 |                 |
|                                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
| <b>Installation</b>                           |                                       |                 |                 |
|                                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
|                                               |                                       |                 |                 |
| Total                                         |                                       |                 |                 |
| Excludes Applicable Taxes and Regulatory Fees |                                       |                 |                 |

# Exhibit C

## WORK ORDER

This Work Order is issued pursuant to Master Services Agreement dated \_\_\_\_\_ (the "Agreement") between Continental Broadband, LLC dba Expedient ("Expedient") and the customer identified above in the Agreement ("Customer"). Capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Agreement.

**1. Services to be Provided.**

**2. Deliverables to be Developed.**

**3. Customer Tasks.**

**4. Additional Payment Terms.**

**5. Estimated Schedule.**

**6. Additional Terms and Conditions.**

# Exhibit D

## SERVICE LEVEL AGREEMENT (SLA)

**1. Service Level Target.** In accordance with Section 1.2 of this Agreement, subject to specifically mentioned exceptions, Expedient shall use commercially reasonable efforts to cause the Services to be available 100% of the time ("Service Level Target"), as measured during each monthly service billing cycle. In the event any Services do not meet the Service Level Target, Customer may be eligible to receive a Service Credit in accordance with the procedures described below.

**2. Service Interruption.** "Service Interruption" is defined as either the total loss of Customer availability to an itemized Service or group of Services or the degradation of a specific element or component of a given Service, to an extent by which the Service or Services are not functional for their intended purpose, subject to the exceptions described below.

**3. Service Interruption Exceptions.** Any interruptions to the Service(s) caused by any of the following events or circumstances shall not constitute a Service Interruption hereunder and shall not to be considered and/or included in, or for the purpose of, calculating any Service Credits available under this SLA:

- i) If Customer's account is more than 30 days past due or suspended for late payment, as described in Section 5.4 of the Agreement.
- ii) Incidents outside Expedient's reasonable control, including those described in Section 12.9 of the Agreement.
- iii) Expedient scheduled or emergency maintenance events as described in Section 1.2 of the Agreement.
- iv) Incidents caused by equipment, software or other technology provided by Customer or by a third party on behalf and at the direction of Customer.
- v) Incidents related to Customer's usage of power that exceeds the recommended and / or capacity thresholds for proper configuration and use of A-B circuit configuration as outlined in Exhibit A, section 4 of the original Agreement.
- vi) Incidents involving a Customer's Private Virtual Colocation Service, where successful failover is prevented as a result of Customer's overconsumption of either the allotted memory and/or the allotted CPU contracted for, to the point where such overconsumption exceeds the resources available to maintain an N+2 configuration.
- vii) Incidents caused by an error or the direct negligence or willful misconduct of Customer or Customer agents or employees.
- viii) Hardware failures on equipment that is owned or exclusively used by Customer, which are cured within 4 hours as prescribed by Expedient's "Break Fix" coverage.
- ix) Incidents associated with disaster recovery services (including backups) in which testing of the solution was not cooperatively completed by Customer and Expedient upon service activation or following a subsequent configuration change that prevents successful failover/recovery.

**4. General Service Interruption Increments for Specific Services.** While an actual Service Interruption can take on different forms in unique circumstances, the following guidelines are provided as a "general reference", with respect to the different types of Services Expedient provides, in order to help identify circumstances in which a Service Level Target is not met and a qualifying Service Interruption event occurs:

- i) **Power related services** - A degradation or complete loss of Expedient-provided power to a Customer device or group of devices the length of which causes the device to lose power or requires a re-boot.
- ii) **Environmentals in the Colocation Service** - Any period of time whereas:
  - (a) The ambient room temperature reading measured in the center of the nearest cold aisle row, no more than four (4) feet from the floor, is less than 64.4 degrees or greater than 80.6 degrees Fahrenheit (or the then current "Recommended Range" for Equipment Environment Specifications as Published by ASHRAE; Thermal Guidelines for Data Processing Environments), for more than twenty (20) minutes within any twenty four (24) hour period of time.
  - (b) The humidity reading measured in the center of the nearest cold aisle row, no more than four (4) feet from the floor, is less than 25% or more than 60% (or the then current "Recommended Range" for Equipment Environment Specifications as Published by ASHRAE; Thermal Guidelines for Data Processing Environments), for more than twenty (20) minutes within any twenty four (24) hour period of time.

iii) **Network related services** - A degradation or complete interruption of data throughput on a given network, telecommunications and/or internet access component of a Service the length of which causes a material and measureable delay or loss of ability to transmit data packets on that specific Network Service component.

iv) **Managed Servers and System Oversight** - The degradation or complete operational failure or lack of availability of system or advanced network service (for example, but not limited to: firewall, load balancing, managed hosting, etc.) the length of which causes such component to be "off line" or causes a material impairment to functionality.

v) **Fixed, Incremental or Periodic Service** - The failure to perform or deliver on a specific and regularly scheduled Service task (for example, but not limited to: data backups, data back-up recovery, individual client issues, etc.) that has not been completed within 24 hours of the prescribed time line for such Service.

vi) **Single Threaded - Non Redundant Services.** For service disruptions caused by the failure of a non-redundant Service chosen by Customer as an alternative to a redundant Service, (i.e. single firewall, single power corded server, circuit etc.), the Service Credit as defined in Section 6 will only be calculated for the specific failed, non-redundant Service and not any other related Services impacted by that failure.

**5. SLA Credit Request Procedure.** If Customer experiences a Service Interruption which qualifies for a remedy prescribed by this SLA, in order to receive consideration for a corresponding Service Credit, Customer must submit a "Request for SLA Credit" (include in subject header) via email to [support-sla@expedient.com](mailto:support-sla@expedient.com) within 10 days after the Service Interruption. The request should include, at minimum, the date, time and duration of the interruption, as well as a specific list of the Services that were unavailable. In instances of uncertainty or dispute as to whether an actual Service Interruption has occurred, Expedient shall make a final determination with respect to such uncertainty and/or dispute, in good faith, based on its review of data provided by system logs, monitoring reports and configuration records, which Expedient shall make available to Customer at Customer's request.

**6. Service Credit Methodology and Calculation.** Each distinct Service Interruption, including the events described in clauses i, ii, iii and iv of Section 4 of this SLA, shall be measured in one hour increments, with Service Interruptions lasting for only a portion of an hour, whether such interruption is continuous or intermittent, being deemed a Service Interruption for the full hour, such that a 5 minute interruption would be considered a 1 hour interruption, a 65 minute interruption would be considered a 2-hour interruption, a 125 minute interruption would be considered a 3-hour interruption, and so on. The credits due Customer under this SLA for any applicable Service Interruption ("Service Credit"), subject to satisfaction of all other requirements and to the exceptions to Service Interruptions described above, will be calculated in accordance with the following formula:

The Service Credit will be an amount equal to (i) the total Monthly Service Fees paid by Customer for the Services that were unavailable due to the Service Interruption, (ii) divided by 30 (number of days in the average month), (iii) multiplied by the length of the Service Interruption as measured in the number of hours, as described above.

In other words, 1 day of Service Credit for each hour of Service Interruption.

**7. Service Credit Maximum.** The parties acknowledge and agree that (i) the maximum Service Credit a Customer may receive for Service Interruptions as described in this SLA shall be no more than 100% of the Monthly Service Fee paid for the affected Services, and (ii) the Service Credits prescribed under this SLA shall be the sole and exclusive remedy for any and all such Service Interruptions, in each case notwithstanding anything to the contrary in this SLA or elsewhere in this Agreement.

[END]

Date: 08/27/17  
Introduced By: Mr. Robin.  
Committee: Safety  
Originated By: Mayor Stage  
Approved: \_\_\_\_\_  
Emergency: 30 Days: \_\_\_\_\_  
Current Expense: \_\_\_\_\_

*Postponed*  
*10-2-17*

No.: C-46-17  
1st Reading: 09/05/17  
Public Notice: 09/07/17  
2nd Reading: 09/18/17  
Passed: \_\_\_\_\_ Rejected: \_\_\_\_\_  
Codified: \_\_\_\_\_ Code No: \_\_\_\_\_  
Passage Publication: \_\_\_\_\_

## ORDINANCE C-46-17

### AN ORDINANCE TO AMEND VARIOUS SECTIONS OF THE CODIFIED ORDINANCES TO PROHIBIT CULTIVATION, PROCESSING, AND RETAIL DISTRIBUTION OF MEDICAL MARIJUANA WITHIN THE CITY OF GROVE CITY

WHEREAS, on May 25, 2016, the Ohio General Assembly passed Substitute House Bill 523 ("H.B. 523"), which allows individuals with a qualifying medical condition, on the recommendation of a physician, to apply to the State, and upon approval of their application receive an identification card allowing them to obtain, possess, and use medical marijuana for the treatment of said condition; and

WHEREAS, H.B. 523 was signed into law by Ohio Governor John Kasich and thereafter became effective on September 9, 2016; and

WHEREAS, pursuant to home rule authority found in Article XVIII of the Constitution of the State of Ohio, the City Charter, and the Ohio Revised Code, municipalities have the inherent power to enact planning, zoning and business regulation laws that further the health, safety, welfare, comfort and peace of the citizens of the municipality, including restricting, prohibiting and/or regulating certain business uses; and

WHEREAS, ORC §3796.29, enacted by H.B. 523, affirms that municipalities may adopt restrictions, including prohibiting or limiting the number of cultivators, processors, or retail dispensaries of medical marijuana within their corporation limits; and

WHEREAS, H.B. 523 provides that the Ohio Department of Commerce, the Board of Pharmacy, and the State Medical Board shall adopt rules establishing standards and procedures for the medical marijuana control program; and

WHEREAS, these state boards have published their proposed rules governing operation of marijuana dispensaries, cultivators, and processors, the issuance of certificates to physicians wishing to recommend medical marijuana to patients, and the registration of patients and caregivers wishing to purchase medical marijuana pursuant to these recommendations; and

WHEREAS, these proposed rules are in the process of completing the state's agency rule-review; and

WHEREAS, the City has studied these proposed rules; and

WHEREAS, marijuana (cannabis) remains classified as a Schedule I controlled substance under the Federal Controlled Substances Act, rendering the manufacture, distribution, dispensation, and the possession of marijuana with intention to manufacture, distribute, or dispense, a crime under federal law; and

WHEREAS, a consequence of the continued prohibition of marijuana by the Federal government is that financial services providers such as banks and credit card companies are unable to do business with

marijuana enterprises because it is illegal under Federal law to transmit funds known to have been derived from marijuana; and

WHEREAS, the unbanked status of marijuana businesses results in the businesses and their customers carrying significant amounts of cash; and

WHEREAS, the presence of large amounts of cash invites opportunity for robbery, theft, money laundering, tax evasion, and other crimes constituting threats to the public health, safety, and welfare; and

WHEREAS, due to the above threats to public health, safety, and welfare, having reviewed the State's rules and Federal law's continued classification of marijuana (cannabis) as a Schedule I drug, the City of Grove City determines that cultivation, processing, and retail dispensing of marijuana for medical purposes, or otherwise, shall not be a permitted use within this City;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

SECTION 1. Chapter 732, entitled Medical Marijuana, is hereby enacted as follows:

## **CHAPTER 732 – MEDICAL MARIJUANA**

### **732.01 DEFINITIONS.**

**(1) “Academic medical center” has the same meaning as in section 4731.297 of the Ohio Revised Code.**

**(2) “Marijuana” has the same meaning as marihuana as defined in section 3719.01 of the Ohio Revised Code.**

**(3) “Medical marijuana” means marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.**

**(4) “State university” has the same meaning as in section 3345.011 of the Ohio Revised Code.**

### **732.02 CULTIVATION, PROCESSING, OR RETAIL DISPENSING OF MEDICAL MARIJUANA PROHIBITED.**

**(1) The cultivation, processing, or retail dispensing of medical marijuana within the City of Grove City is hereby prohibited.**

**(2) This section does not prohibit research related to marijuana conducted at a state university, academic medical center, or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity, if otherwise permitted by State law or rule, or local ordinance.**

### **732.99 PENALTY**

**Whoever violates Section 732.02(1) is guilty of a misdemeanor of the fourth degree. Each day of violation shall constitute a separate offense.**

SECTION 2. Section 1135.09(o), entitled Medical Marijuana Cultivation, Processing, or Retail Dispensing, is hereby enacted as follows:

**1135.09(o) CULTIVATION, PROCESSING, OR RETAIL DISPENSING OF MEDICAL MARIJUANA PROHIBITED IN ALL DISTRICTS.**

- 1. The cultivation, processing, or retail dispensing of medical marijuana shall be a prohibited use in all zoning districts within the City of Grove City.**
- 2. Use of property in violation of this section shall constitute a nuisance.**
- 3. In addition to other penalties provided by law, the Director of Law shall be authorized to institute civil proceedings in a court of competent jurisdiction to enjoin violations of this Section; for monetary damages arising from violations of this Section; and to take all actions necessary to secure enforcement of any injunction and collect upon any damage award, judgment, or fine in contempt levied in relation to a violation of this Section.**

SECTION 3. This Ordinance shall take effect at the earliest date permitted by law.

\_\_\_\_\_  
Roby Schottke, President of Council

Passed:

\_\_\_\_\_  
Richard L. Stage, Mayor

Effective:

Attest:

\_\_\_\_\_  
Tami K. Kelly, MMC, Clerk of Council

I certify that this  
ordinance is correct as to form.

\_\_\_\_\_  
Stephen J. Smith, Director of Law

Date: 09/12/17  
Introduced By: Mr. Berry  
Committee: Service  
Originated By: Mr. Smith  
Approved: Mr. Boso  
Emergency: 30 Days: X  
Current Expense:

No.: C-52-17  
1st Reading: 9/18/17  
Public Notice: 9/21/17  
2nd Reading: 10/02/17  
Passed:  Rejected:   
Codified:  Code No:   
Passage Publication:

## **ORDINANCE C-52-17**

### **AN ORDINANCE TO AUTHORIZE THE ADMINISTRATIVE ASSISTANT TO ENTER INTO A MAINTENANCE AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR THE STRINGTOWN ROAD AND I-71 NORTHBOUND RAMP INTERSECTION IMPROVEMENT**

---

WHEREAS, under Section 5501.03(A)(3) of the Ohio Revised Code, the Director may coordinate the activities of the Department of Transportation with other appropriate public authorities and enter into contracts with such authorities as necessary to carry out its duties, powers and functions and Under Section 5501.11(A)(4) of the Ohio Revised Code, the Director may cooperate with the counties, municipal corporations, townships and other subdivisions of the state in the establishment, construction reconstruction, maintenance, repair and improvement of the public roads and bridges; and

WHEREAS, Grove City has determined it to be in the public interest to make certain street improvements to Stringtown Road which will widen and upgrade the road by installing dual westbound right turn lanes at the Interstate 71 Northbound on-ramp intersection, including new curb, drainage facilities and landscaping within the City of Grove City, Franklin County; and

WHEREAS, ODOT agrees with Grove City in proceeding with construction of this improvement, including features extending into the I-71 northbound ramp right-of-way; and

WHEREAS, the parties desire to memorialize the responsibilities and obligations for maintenance, repair and replacement of those features of this Project which are located within or adjacent to I-71 right-of-way and the northbound ramp intersection by entering into the attached Agreement.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

**SECTION 1.** The City Administrator is hereby empowered and directed on behalf of the City to enter into the Maintenance Agreement with ODOT, attached hereto and made a part hereof as Exhibit "A".

**SECTION 2.** This ordinance shall take effect and be in force from and after the earliest period allowed by law.

ODOT AGREEMENT NO. 31219

C-52-17  
Exhibit A

**MAINTENANCE AGREEMENT  
BETWEEN THE CITY OF GROVE CITY AND  
THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION  
STRINGTOWN ROAD AND I-71  
NORTHBOUND RAMP INTERSECTION IMPROVEMENT**

This Maintenance Agreement (hereinafter the "Agreement") is made by and between the State of Ohio, acting by and through the Director of Transportation, hereafter referred to as "ODOT", 1980 West Broad Street, Columbus, Ohio 43223, and the City of Grove City, Ohio, hereinafter referred to as "THE CITY", 4035 Broadway, Grove City, Ohio 43123.

**PURPOSES:**

**WHEREAS**, under Section 5501.03(A)(3) of the Ohio Revised Code, the Director may coordinate the activities of the Department of Transportation with other appropriate public authorities and enter into contracts with such authorities as necessary to carry out its duties, powers and functions and under Section 5501.11(A)(4) of the Ohio Revised Code, the Director may cooperate with the counties, municipal corporations, townships, and other subdivisions of the state in the establishment, construction, reconstruction, maintenance, repair, and improvement of the public roads and bridges; and

**WHEREAS**, under Section 5515.01 of the Revised Code, the Director may grant a permit to any individual to use or occupy such portion of the highway system that will not incommode the traveling public; and

**WHEREAS**, THE CITY has determined it to be in the public interest to make certain street improvements to Stringtown Road which will widen and upgrade the road by installing dual Westbound right turn lanes at the Interstate 71 (IR-71) Northbound on-ramp intersection, including new curb, drainage facilities and landscaping within the City of Grove City, Franklin County; and

**WHEREAS**, ODOT agrees with the CITY in proceeding with construction of this improvement, including features extending into the IR-71 northbound ramp right of way; and

**WHEREAS**, the description of the project identified as **STRINGTOWN ROAD AND I-71 NORTHBOUND RAMP INTERSECTION IMPROVEMENT** (hereinafter referred to as "THE PROJECT") is as follows:

THE PROJECT, includes the addition of dual Westbound right turn lanes through pavement widening, and drainage upgrades beginning around station 30+50 at the intersection of the I-71 northbound ramp intersection to around 36+50 at the

curb intersection of Jackpot Road. Also included in the project is the partial median removal to extend the eastbound left turn lane to Jackpot Road, and northbound I-71 Ramp intersection signal replacement. Sidewalk, decorative fencing and masonry pillars are also included; and

**WHEREAS**, the improvements to be made within the area of the IR-71 northbound ramp intersection with Stringtown Road are depicted on Exhibit A attached hereto; and

**WHEREAS**, the parties desire to identify and memorialize the responsibilities and obligations for maintenance, repair and replacement of those features of THE PROJECT which are located within or adjacent to IR-71 right of way and the northbound ramp intersection.

**NOW THEREFORE**, in consideration of the mutual covenants and benefits stated herein, and in further consideration of the obligations, terms and considerations hereinafter set forth, ODOT and THE CITY agree as follows:

**1. OBLIGATIONS OF THE CITY**

- 1.1 Upon completion of THE PROJECT, THE CITY will maintain or cause to be maintained decorative fencing and masonry pillars, painted signal poles, painted signs, street lighting and other aesthetic enhancements that are located in the highway right-of-way as depicted and noted on Exhibit A.
- 1.2 THE CITY shall generally provide for the routine maintenance of THE PROJECT as defined in but not limited to, Section 5501.49 of the Ohio Revised Code. Additional work to be performed by THE CITY shall consist of all aspects of the maintenance, repair and/or the replacement of:
  - a. All sidewalks;
  - b. All items associated with the street lighting and any specialized lighting;
  - c. All decorative fencing and masonry pillars;
  - d. Signal supports, signal heads, pedestrian heads, push buttons, bracket arms, luminaires and controller cabinet.
  - e. All aesthetic design elements including the paint on the light poles, signal poles and supports and signs.
- 1.3 While performing any routine maintenance, or repair or replacement of these features, THE CITY agrees to maintain traffic on the lanes, shoulders and exit and entrance ramps to the interstate system (IR-71) in accordance with the applicable ODOT standards. In the event that such activities or work would require lane, shoulder or ramp closures THE

CITY will obtain advance written approval from ODOT by permit with application made to the District 6 offices.

- 1.4 In the event that maintenance or repair work requires that workers or vehicles are on the pavement or shoulders, such work and occupation shall be conducted in compliance with all requirements of the Ohio Manual of Uniform Traffic Control Devices.
- 1.5 Highway appurtenances disturbed by THE CITY or its agents shall be restored using materials, design, and workmanship in conformance with ODOT's Location and Design Manual, Construction and Material Specifications, and ODOT Standards.
- 1.6 THE CITY shall be responsible for all loss, liability, damages or claims for injury or death, or damage of whatever nature to any person, property, or business caused by or resulting from activities of THE CITY, its employees, agents, or contractors under this Agreement, including any costs incurred by ODOT for defending against the same.
- 1.7 THE CITY shall comply with Air pollution requirements of Rule 3745-17-08 of the Ohio Administrative Code promulgated and enforced by the Ohio Environmental Protection Agency.

## **2. OBLIGATIONS OF THE STATE**

- 2.1 Subject to the restrictions of state and federal law, including but not limited to the Highway Beautification Act, ODOT shall not unreasonably deny THE CITY and any future developer permits that meet the development and aesthetic needs of THE CITY and ODOT.
- 2.3 Following the completion of THE PROJECT, in the event of any ODOT sponsored project which affects THE PROJECT area, ODOT shall replace, or temporarily relocate and reinstall any landscaping and design elements.

## **3. EXPIRATION; TERMINATION**

- 3.1 The term of this agreement shall commence upon the date of execution of both parties and shall not expire, unless otherwise agreed between the parties in a written document.

## **4. GENERAL PROVISIONS**

- 4.1 The signing of the Agreement does not in any way abridge the right, duties and responsibilities of the Director of Transportation in ODOT's jurisdiction over the state and interstate highway system. If at any time it becomes necessary, in the opinion of the Director of Transportation to order the removal, reconstruction, relocation, or repair of the improvements in Section 1.2 above for the safety of the traveling public, such removal work shall be completed wholly at the expense of THE CITY, and be made as directed by the Director of Transportation.

- 4.2 This Agreement constitutes the entire Agreement between the parties. All prior discussion and understandings between the parties regarding maintenance are superseded by this Agreement.
- 4.3 Any modifications to this Agreement shall only be made by written agreement of both parties.
- 4.4 Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned to any party hereto without the express written consent of the other parties.
- 4.5 This Agreement shall be construed and interpreted and the rights of the parties determined in accordance with the laws of the State of Ohio (including, but not limited to R.C. 5501.22, which restricts jurisdiction over claims brought against ODOT or the Director to courts of Franklin County) together with any relevant federal law or regulations.
- 4.6 The ODOT Deputy Director of District 6 shall have authority to ensure the compliance with any and all provisions of this Agreement.
- 4.7 The signing of the Agreement or the doing of any work thereunder shall constitute an agreement by THE CITY to comply with all of the terms, conditions and restrictions written herein.
- 4.8 In the event that any of the improvements constructed by THE CITY under THE PROJECT identified herein requires or required acquisition of right of way to expand or to adjust existing IR-71 right of way held by ODOT, THE CITY hereby confirms that such acquisition was performed in compliance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Chapter 61), 49 CFR Part 24, Ohio Revised Code Chapter 163, and Ohio Administrative Code Sections 5501:2-5-01 through 2-5-06.
- 4.9 THE CITY for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, national origin, sex, disability, low-income status, or limited English proficiency, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of the facilities described in THE PROJECT, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, national origin, sex, disability, low-income status, or limited English proficiency, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that the THE CITY will use the premises covered under this Agreement in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended.

In the event of breach of any of the above Nondiscrimination covenants, the *Ohio Department of Transportation* will have the right to terminate this Agreement or any

permit issued under it and to enter or re-enter and repossess said land and the facilities thereon within the IR-71 right of way and hold the same as if this Agreement or any permit issued under it had never been made or issued.

- 4.10 It is expressly understood by the parties that all financial obligations of the State of Ohio are subject to the provisions of Section 126.07 of the Ohio Revised Code. The financial obligations of the State of Ohio shall not be valid and enforceable unless funds are appropriated by the Ohio General Assembly and encumbered by ODOT. If the Ohio General Assembly fails at any time to continue funding for any maintenance and inspection by ODOT provided herein, this Agreement may be terminated as of the date that the funding expires without further obligation of ODOT.

- 4.11 Notice under this Agreement shall be directed, in writing, as follows:

Ohio Department of Transportation  
District 6  
400 East William Street  
Delaware, Ohio 43015

City of Grove City  
4035 Broadway  
Grove City, Ohio 43123

Attn: Administrator

Attn: District Deputy Director

- 4.12 Any person executing this Agreement in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute on such principal's behalf.

**STATE OF OHIO**

**CITY OF GROVE CITY**

**Department of Transportation**

By: \_\_\_\_\_  
Jerry Wray, Director

By: \_\_\_\_\_  
Charles W. Boso, Jr.,  
City Administrator

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: 09/13/17  
Introduced By: Mr. Bennett  
Committee: Lands  
Originated By: Plan. Comm.  
Approved: \_\_\_\_\_  
Emergency: 30 Days: \_\_\_\_\_  
Current Expense: \_\_\_\_\_

No.: C-53-17  
1st Reading: 09/18/17  
Public Notice: 9/21/17  
2nd Reading: 10/02/17  
Passed: \_\_\_\_\_ Rejected: \_\_\_\_\_  
Codified: \_\_\_\_\_ Code No: \_\_\_\_\_  
Passage Publication: \_\_\_\_\_

## **ORDINANCE C-53-17**

### **AN ORDINANCE TO APPROVE A SPECIAL USE PERMIT FOR AN AUTOMOTIVE DEALER AND REPAIR SERVICES FOR RCD RV SUPERCENTER LOCATED WEST OF SEEDS ROAD AND SOUTH OF STATE ROUTE 665**

WHEREAS, RCD RV Supercenter, applicant, has submitted a request for a Special Use Permit for an Automotive Dealer and motor vehicle repair, services located West of Seeds Road and South of State Route 665; and

WHEREAS, on September 02, 2017, the Planning Commission of the City of Grove City recommended the approval of a Special Use Permit at this location, with the following stipulations:

1. Pre-owned vehicular sales as well as vehicular repair and service shall be permissible provided they are in conjunction with the operation of a dealership selling new vehicles;
2. In addition to the requirements of Chapter 1145 "Signs", no over-sized inflated displays, whirligigs, window paints, spinners or other attention getting devices shall be permitted on any vehicle, building, or anywhere on the premises;
3. Signs on vehicles for sale shall be limited to only one (1) side window containing price, description and warranty information.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

**SECTION 1.** A Special Use Permit, under Section 1135.09b(12)A1e & f are hereby issued to RCD RV Supercenter, located West of Seeds Rd. & South of SR665, contingent upon the stipulations set by Planning Commission.

**SECTION 2.** This ordinance shall take effect at the earliest opportunity allowed by law.

\_\_\_\_\_  
Roby Schottke, President of Council

Passed:

\_\_\_\_\_  
Richard L. Stage, Mayor

Effective:

Attest:

\_\_\_\_\_  
Tami K. Kelly, MMC, Clerk of Council

I Certify that this ordinance  
is correct as to form.