

Public Right-of-Way Agreement between the City of Gahanna, Ohio ("City") and
Adelphia Business Solutions ("ABS")

Whereas, ABS has been informed that the City has begun to develop ordinances amendments for use in authorizing the occupation of public right-of-way by telecommunication providers. This investigation includes assessing the needs and desire of the City to establish underground use within the right-of-way. The current timetable for this investigation is unknown but the City will be evaluating the situation for the next sixty days.

Whereas, ABS has requested to install aerial fiber optic cable on existing poles within the City prior to the creation of the new ordinance amendments.

- 1.) ABS agrees that the permits granted to them shall permit ABS to transport telecommunication signals to and from customers inside and outside of the City. Distribution off of the main system in this agreement will be determined on a case by case basis. The City shall determine in each case whether the placement of the distribution lines are to be located underground or aerial. ABS agrees that this contract shall be null and void in the event ABS build facilities within the municipal boundaries of the City without acquiring the proper permits.
- 2.) ABS agrees to place its telecommunication facilities pursuant to the original permit request and attached maps labeled Exhibit A. ABS shall place overhead facilities throughout all areas noted in the original request and maps. ABS agrees to pay all applicable fees for the permitting process and occupation of the public right-of-way. ABS will comply with all federal, state and local laws regulating use of poles and public right-of-way.
- 3.) ABS agrees that certain planned and forecasted construction projects (i.e., new construction, road widening, etc.) may result in the burial of utilities. The burial of any ABS facilities will not be at the City's expense.
- 4.) ABS agrees to construct its system in such a manner as to minimize the impact on the traveling public. Lane closings shall be coordinated in advance with both the Police Department and Engineering Department. Any collateral damage to property from installation/construction of authorized facilities shall be the sole responsibility of ABS.
- 5.) ABS shall provide proof of insurance and an on-site point of contact with available numbers (office and mobile) to resolve any complaints.

- 6.) ABS agrees that it and other concerned telecomms shall have an opportunity to provide comments, as well as alternative language, regarding specific provisions of the proposed ordinance amendments. ABS will have the opportunity to participate in one or more public hearings before the City Council in order to express its views, but that the final form of the ordinance, which is approved by City Council may not reflect adoption of the comments or alternative language proposed.
- 7.) ABS understands that the ordinance amendments, along with any standard contract or franchise based on provisions of the ordinance amendments, shall treat all telecomms equally and shall be universally applicable to all occupants of the public rights-of-way by all telecomms.
- 8.) In the event that the ordinance amendments, and any contracts or franchise executed in accordance with those, adopted by Gahanna are consistent with Section 7, ABS agrees that it shall execute an agreement pursuant to said ordinance amendments, and shall comply with said ordinance amendments. Failure to comply with the adopted ordinance amendments within 180 days shall constitute a violation of the law. ABS agrees that this contract shall authorize the City to remove all of ABS's overhead facilities at ABS's expense upon failure to comply.
- 9.) Failure of ABS to comply with any provision of this contract shall render this agreement null and void constituting a violation of the law. Thus authorizing the City to remove all of ABS's facilities at ABS's expense.
- 10.) ABS agrees to provide to the City of Gahanna, prior to construction of said facilities encompassed in this agreement, written verification from AEP and all other owners of existing poles which certifies the condition of each pole used. This verification shall include documentation that each pole used is structurally capable of supporting said facilities as well as compliance with all local, state and federal requirements governing pole attachment.

Nothing in this agreement shall be construed as either party waiving any of their rights or remedies under applicable law or equity. ABS expressly reserves its right to challenge any ordinance, regulation or other requirement promulgated by the City of Gahanna or its representatives.

Each party agrees to the above agreements and all exhibits attached and herein made part of this contract.

John B. Glicksman
V.P. and General Counsel

Jim McGregor
Mayor of Gahanna

Tom Weber
City Attorney

Roland Hall
Service Director