

**AN ORDINANCE OF THE CITY OF OLIVE BRANCH, MISSISSIPPI
GRANTING A NON-EXCLUSIVE FRANCHISE AND
RIGHT TO USE AND OCCUPY PUBLIC RIGHTS-OF-WAY
TO ZAYO GROUP, LLC,
TO LAY, CONSTRUCT, MAINTAIN, REPLACE, REPAIR, AND
OPERATE FIBER OPTIC CABLE AND APPURTENANT
TELECOMMUNICATIONS FACILITIES IN, UNDER, OVER,
AND ACROSS AND ALONG ALL STREETS, AVENUES, ALLEYS,
HIGHWAYS, ROADS, BRIDGES, VIADUCTS AND PUBLIC PLACES
IN THE CITY OF OLIVE BRANCH, MISSISSIPPI.**

WHEREAS, Zayo Group, LLC ("Zayo") is a Delaware limited liability company, incorporated or organized, among other things, for the purpose of constructing telephone lines and furnishing intrastate telecommunications services in the State of Mississippi; and

WHEREAS, in the State of Mississippi, Zayo holds a Certificate of Public Convenience and Necessity to provide local exchange and interexchange telecommunications services granted by the Mississippi Public Service Commission in Docket No. 2011-UA-45. Zayo is also authorized by the FCC to provide interstate and international telecommunications services; and

WHEREAS, Zayo and the City of Olive Branch, Mississippi entered into that certain Telecommunications Franchise Agreement and Rights-of-Way Agreement dated April 2, 2013, for a term of five (5) years, and upon its expiration entered into a new agreement on May 7, 2019 ("Franchise"); and

WHEREAS, City and Zayo desire to renew the Franchise and extend its term for an additional five (5) years, which shall include any calendar days in between the expiration of the Franchise and this Agreement; and

WHEREAS, the City and Zayo acknowledge and agree that Zayo has an existing Telecommunications System, lawfully permitted by the City; and

WHEREAS, the City and Zayo agree that Zayo is not knowingly in default of any of the terms or conditions of the Franchise; and

WHEREAS, Zayo has constructed and is in the process of constructing certain telecommunications facilities, a portion of which is and will be located within the city limits of Olive Branch, Mississippi; and

WHEREAS, Sections 21-27-3, 21-27-5 and 77-9-713 of the Mississippi Code of 1972, as amended, authorize the City of Olive Branch, Mississippi, to regulate the manner in which such facilities shall be constructed and maintained along and within the rights-of-way of the municipality's streets; and

WHEREAS, the City of Olive Branch, Mississippi, does hereby find and adjudicate that the proposal of Zayo for the operation of telecommunications facilities in Olive Branch, Mississippi, is in the best interest of the citizens of the City and that the following franchise agreement is reasonable and in the best interests of the City of Olive Branch, Mississippi; and

WHEREAS, the City of Olive Branch, Mississippi, is authorized under the provisions of Sections 21-27-1 et seq. and 77-9-713 of the Mississippi Code of 1972, as amended, to grant the franchise, and the ordinance should be adopted.

**THEREFORE BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN
OF THE CITY OF OLIVE BRANCH, MISSISSIPPI, AS FOLLOWS:**

**TELECOMMUNICATIONS FRANCHISE AGREEMENT AND
RIGHTS-OF-WAY AGREEMENT**

B E T W E E N

THE CITY OF OLIVE BRANCH, MISSISSIPPI

A N D

Z A Y O G R O U P , L L C

The City of Olive Branch, Mississippi, a Mississippi municipal corporation ("City"), and Zayo Group, LLC, a Delaware limited liability company ("Zayo"), enter into this Telecommunications Franchise Agreement ("Agreement") as of _____, 2023 (the "Agreement Date").

UNDERSTANDING

1. Zayo has applied for a franchise from the City for the purposes of laying, constructing, operating, maintaining, replacing and repairing a Telecommunications System (as defined herein) on both private and public property and to provide Telecommunications Services (as defined herein), Video Services (as defined herein), and Other Services (as defined herein) to customers located in the City.
2. The Board of Aldermen, after evaluating Zayo's proposal, and after having provided for comments of interested parties, has determined that Zayo has the financial, legal and technical ability to fulfill the obligations under this Agreement. The City has further determined that it will serve the public interest to grant Zayo a franchise on the terms and conditions of this Agreement.

Based on the above understanding, the parties enter into this Agreement.

AGREEMENT
SECTION I-DEFINITIONS

1. Definitions.

For the purpose of this Agreement, the following terms, phrase, words, and abbreviations shall have the following meanings:

"Affiliates" means an entity which, owns or controls, is owned or controlled by, or is under common ownership with Zayo.

"Agreement" means this Telecommunications Franchise Agreement, as amended.

"Facilities" means all fiber optic wires, poles, wires, telecommunications, amplifiers, electronics, transmission and reception equipment, pedestals, towers, dishes, supporting hardware, and related equipment and fixtures necessary and desirable to construct and maintain the Telecommunications System and to provide Services (as defined herein) under this Agreement.

"FCC" means Federal Communications Commission.

"Franchise" means an initial authorization or renewal issued by the City whether such authorization is designed as an agreement, franchise, permit, license, resolution, contract, certificate or otherwise, which authorizes the construction and operation of the Telecommunications System.

"Gross Revenues" means any revenue derived by Zayo from the operation of the Telecommunications System within the Public Way to provide Telecommunications Services and Video Services to Subscribers in the Service Area, adjusted for non-payment. Gross Revenues shall include, but not be limited to, all Telecommunications Services fees, Video Services fees, late fees, installation and reconnection fees, upgrade and downgrade fees, converter rental fees, lockout device fees and all other fees and charges unless otherwise specifically provided herein. The term Gross Revenues shall not include any taxes on any services furnished by Zayo; franchise fees imposed by any municipality, state, or other governmental unit and collected by Zayo for such governmental unit; or pass through fees.

"Other Services" means services lawfully provided by Zayo in the Service Area in addition to Telecommunications Services and Video Services, including, without limitation, private network services, internet access services, voice mail, call waiting, call forwarding, and distance learning services.

"PEG Access" means the public, educational and governmental access to channels on the Telecommunications System dedicated by Zayo to the City under this Agreement and as required by the regulations of the FCC.

"Person" means an individual, partnership, association, joint stock company, trust, corporation, limited liability company, or governmental entity.

"Public Way" means the surface of, and the space above and below, any public street, highway,

bridge, alley, sidewalk, easement or other public rights-of-way, including, without limitation, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses held by the City in the Service Area.

"Services" collectively refers to Telecommunications Services, Video Services, and Other Services.

"Service Area" means the areas of the City where Subscribers are reasonably accessible from the distribution network of the Telecommunications System.

"Subscriber" means a Person who lawfully receives Services with Zayo 's express permission.

"Telecommunications Services" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of facilities used.

"Telecommunications System" means Zayo's Facilities, consisting of a set of closed transmission fiber optic paths and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide Services to Subscribers.

"Zayo" means Zayo Group, LLC, or its lawful successor or assigns

"Video Services" means the sale of video services to Subscribers within the City.

SECTION II-GRANT OF FRANCHISE

1. Grant.

The City grants to Zayo a non-exclusive Franchise authorizing Zayo to construct and operate a Telecommunications System in the City and to offer Services within the Service Area. Subject to the terms of this Agreement and applicable law, Zayo may erect, install, construct, operate, maintain, repair, replace, expand, and reconstruct its Telecommunications System in any agreed upon Public Way subject however to all applicable regulations, ordinances and laws. The City and Zayo recognize and acknowledge that Zayo will utilize private easements as well as Public Ways in providing the Services described herein.

2. Term.

The Franchise granted under this Agreement shall be for a term of ten (10) years from the Agreement Date, unless otherwise lawfully terminated.

3. Renewal.

At the end of the initial term, this Franchise shall continue to renew automatically for successive one (1) year terms unless either party provides the other party with notice of intent to terminate this Franchise no more than six months and no less than three months prior to the expiration of the then current term.

SECTION III-SYSTEM CONSTRUCTION

1. System Construction.

Within six (6) months of receiving all necessary permits, Zayo shall commence the initial construction within the City of the Telecommunications System. Upon completion of the initial construction of the Telecommunications System, and upon the completion of additions to the Telecommunications System, Zayo shall provide the City with as built drawings of the current Telecommunications System.

2. Conditions on Commencement of Upgrading.

The City acknowledges that Zayo has based its plans and cost estimates on reasonable access to Public Ways, poles, conduits, Subscribers premises, and other space for Zayo 's Facilities. Zayo reserves the right to adjust its construction plans and timing or rescind this Agreement in the event that Zayo faces substantial interference or delay in such access. Throughout the term of this Agreement, provided Zayo otherwise complies with the City's permitting requirements, Zayo may expand and upgrade its Telecommunications System as it deems reasonably necessary.

SECTION IV-PUBLIC, EDUCATION AND GOVERNMENT ACCESS CHANNELS

1. PEG Access Channels.

At any time after the completion of the initial construction of the Telecommunications System under Section III(1), the City may request Zayo to provide the City video channels for noncommercial PEG Access use if video capability exists. Zayo shall provide the PEG Access channel within ninety (90) days of City's request. The City and Zayo agree to comply with the FCC's regulations as they relate to PEG Access channels.

2. Regulation of PEG Access Channels.

The City shall establish reasonable regulations governing use by the public of the PEG Access channels and the content broadcast over the channel. Zayo shall have the right to prohibit the broadcast of inappropriate or illegal programming over the channel in its sole reasonable discretion and in accordance with applicable law. The City shall be solely responsible for all costs, expenses, and equipment necessary for and related to producing or transmitting content over the PEG Access channels. Zayo shall have no obligation, financial or otherwise, other than the obligation to provide access to video channels for noncommercial PEG Access use.

3. Return of PEG Access Capacity to Zayo.

In the event that unused capacity exists on the PEG Access channels, Zayo may request the City to return that capacity to Zayo for Zayo's use. The City shall not unreasonably deny such request.

SECTION V-REGULATION BY THE CITY

1. Franchise Fee.

- (a) Zayo shall pay to the City an annual Franchise fee equal to 5% of Gross Revenues received by Zayo from sale of Video Services to Subscribers within the City.
- (b) Zayo shall also pay to the City an annual Franchise fee equal to 2% of Gross Revenues received by Zayo from the sale of Telecommunications Services to Subscribers within the City.
- (c) The Franchise fee payments set forth in (a) and (b) above shall be computed quarterly as of the last day of March, June, September, and December of each year, and shall be due and payable forty-five (45) days after the close of each quarter. Each payment shall be accompanied by a brief report from Zayo showing the basis for the computation. Each payment must be received by the City on the due date. Zayo shall pay City an additional charge of one percent (1%) per month, for each month the total amount due to the City is not received by City by the due date.
- (d) All amounts paid shall be subject to audit by City no more than twice each calendar year upon reasonable notice to Zayo. If any audit reveals an underpayment by Zayo of five percent (5%) or more during any annual audit period, Zayo shall be responsible for City's reasonable out of pocket costs associated with the audit. Any underpayments shall be paid to City within ten (10) business days after notification to Zayo.

2. Fees for the Use and Occupation of Public Property.

Zayo and the City recognize and acknowledge that in the exercise of the Franchise rights granted by the City to Zayo, it shall be necessary that Zayo utilize substantial Public Ways. Such Public Ways are valuable public properties, acquired and maintained by the City at considerable expense to its taxpayers, and the grant of authority to use said Public Ways is a valuable property right without which Zayo would be required to invest substantial capital in costs and acquisitions. Therefore, as consideration for such use of Public Ways, Zayo shall compensate the City as follows:

- (a) At the rate of one dollar (\$1.00) per linear foot of Public Ways utilized by Zayo to place its Facilities underground. Following the execution of this Agreement, and upon completion of any additional construction of the Telecommunications System ("New Facilities"), Zayo shall provide the City with as-built drawings of the Telecommunications System showing the total number of existing linear feet and the linear footage of any New Facilities in Public Ways. Along with submission of the as-built drawings, Zayo shall submit a check to City in the amount of one dollar (\$1.00) per linear foot for any New Facilities and/or underground installations. For the New Facilities

construction, Zayo agrees to pay the City _____ (\$_____) on the Agreement Date based on its estimated construction footage. The parties agree that this amount will be adjusted based on the final as-built construction drawings upon completion, and any amounts owed by one party to the other hereunder shall be promptly paid.

- (b) After the installation of its New Facilities, any additional construction of Facilities by Zayo in the Public Ways shall require Zayo to pay the City at the rate of One dollar (\$1.00) per linear foot of Public Ways utilized by Zayo to place its Facilities underground.

3. Transfer of Franchise.

Zayo must notify the City not less than thirty (30) days prior to any proposed sale or transfer of this Franchise. Zayo shall not sell, assign, transfer or dispose of its interest in the Franchise or the Agreement without the prior written consent of the City, which consent will not be unreasonably withheld. Notwithstanding the foregoing, Zayo may assign this Franchise and the privileges granted herein without the consent of the City to: a subsidiary, a commonly owned affiliate, or a parent company provided that such assignee has the financial resources equivalent to or greater than Zayo and has the capability to perform its obligations under this Franchise; an entity which succeeds to all or substantially all of Zayo's assets as a result of a merger, sale or other similar transaction.

SECTION VI-OPERATIONAL STANDARDS

1. Condition of Street Occupancy.

Zayo shall install all Facilities so as to minimize interference with the proper use of Public Ways, public utilities and with the rights and reasonable convenience of the City and property owners whose property adjoins any Public Way. Zayo will comply with Sections 77-13-1 et seq. of the Mississippi Code of 1972, as amended ("Mississippi One-Call" statute) as well as all other applicable laws and regulations. Upon completion of any Facilities, Zayo will furnish to the City an as-built drawing of the Facilities located within the City.

2. Restoration of Public Ways.

Zayo shall restore any disturbance it causes to any Public Way to a condition reasonably comparable to the grade, contour and condition of the Public Way existing before the disturbance.

3. Relocation at Request of City.

After receipt of at least ninety (90) days prior written notice, except in cases of emergency or other exigent circumstances, and subject to and in accordance with all applicable laws, Zayo shall, at its own expense, protect, support, temporarily disconnect, relocate in the

Public Way, or remove from the Public Way, any property of Zayo when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewer, drains, gas or water pipes, or any other type of structures or improvements by the City. Zayo shall in all cases have the right to abandon its property. Any such abandoned property, except conduit, shall be removed by Zayo within sixty (60) days of written notice from the City to do so.

4. Relocation at Request of Third Party.

On the reasonable request of any private individual, entity, developer, and/or development, Zayo shall temporarily relocate its Facilities to permit the construction or moving of such building, provided: (a) the expense of such temporary relocation is paid by the requesting Person; and (b) Zayo receives at least ninety (90) days prior written notice to arrange for such temporary relocation.

5. Trimming of Trees and Shrubbery.

Zayo shall have the authority to trim trees or natural growth on Public Ways which may affect its Telecommunications System in the Service Area to prevent interference with Zayo's Facilities. Zayo shall reasonably compensate the City or property owner for any damages caused by such trimming, or Zayo shall reasonably replace all trees or shrubs damaged and otherwise restore any other damage caused by or resulting from its activities. In conducting any such activities Zayo shall comply with all applicable laws, ordinances and regulations.

6. Emergency Use.

In the case of any emergency or disaster, to the extent of availability, Zayo shall, upon request of the City, allow the City to use the Telecommunications System to provide emergency information and instructions during the emergency or disaster period. To the extent that it may lawfully do so, the City shall hold Zayo, its agents, employees, officers and assigns, harmless from any claims arising out of the emergency use of its Facilities by the City, including, but not limited to reasonable attorney's fees and costs.

7. Technical Standards.

Zayo shall install, operate, and maintain the Telecommunications System in a good and workmanlike manner, free from defects in material and workmanship, and in accordance with applicable FCC regulations. Zayo shall install its aerial facilities, if any, in accordance with requirements of the National Electric Safety Code in effect on the Agreement Date and in such manner that they will not unreasonably interfere with installations of the City or of a public utility serving the City.

SECTION VII-COMPLIANCE AND MONITORING

In addition to the provisions of Section V hereof, once per calendar year during the term of this Agreement and upon not less than thirty (30) business days' notice to Zayo, the City may review Zayo's books and records pertaining to the Telecommunications System and the provision of Telecommunications Services within the Service Area at Zayo's business office during normal business hours and on a nondisruptive basis, as is reasonably necessary to monitor compliance with the terms of this Agreement. Zayo shall not be required to disclose information that is reasonably deemed to be proprietary or confidential. The City agrees to treat any information disclosed by Zayo as confidential and only to disclose it to the City's employees, representatives, and agents who have a need to know.

SECTION VIII-INSURANCE

Zayo shall maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance in the amount of One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damages. Prior to commencing construction of the Telecommunications System, Zayo shall provide the City with a certificate of insurance designating the City as an additional insured. Such insurance shall be non-cancelable except upon thirty (30) days prior written notice to the City.

SECTION IX-ENFORCEMENT AND TERMINATION OF AGREEMENT

1. Notice of Noncompliance.

If the City believes that Zayo has not complied with any material term (other than payment of Franchise fees and charges) of this Agreement, it shall notify Zayo in writing. The notice shall state with specificity the basis for the alleged noncompliance.

2. Zayo's Right to Cure or Respond.

Zayo shall have thirty (30) days from receipt of the notice described in Section IX(1) to respond as follows:

- (a) Respond to the City contesting the assertion of noncompliance;
- (b) Cure the noncompliance; or
- (c) In the event Zayo's commercially reasonable efforts cannot cure the noncompliance within the thirty (30) day period, Zayo shall initiate reasonable steps to remedy the noncompliance and notify the City of the steps being taken and the projected date of completion.

3. Public Hearing.

If Zayo fails to respond to the notice described in Section IX(1) under the procedures set forth in Section IX(2), or if Zayo does not cure the alleged noncompliance within sixty (60) days after receiving notice of noncompliance, the City shall schedule a public

hearing to investigate the noncompliance. The City shall notify Zayo in writing of the time and place of such meeting and provide Zayo with an opportunity to be heard.

4. Enforcement.

If, at a Public Hearing pursuant to Section IX(3), the City determines that Zayo remains in noncompliance with a material term of this Agreement, the City may pursue the following remedies:

(a) In the case of a default of a material provision of this Agreement, terminate this Agreement and revoke the Franchise; and/or

(b) Commence an action at law for monetary damages or seek other equitable relief. The prevailing party shall be entitled to reimbursement of its reasonable legal fees and expenses in pursuing any such action as determined by the Court in which such action is brought.

Zayo shall not be held in default for noncompliance with this Agreement, nor suffer any enforcement or penalty, where such noncompliance or alleged defaults are caused by strikes, acts of God, acts of terrorism, power outages, acts of the City, its employees, or representatives, or other events reasonable beyond its ability to control.

5. Failure to Pay Franchise Fees and Charges.

In the event Zayo has not paid the City Franchise Fees, Fees for the Use and Occupation of Public Property, and/or late charges owing under Section V, when due, the City shall send Zayo a certified letter notifying Zayo it is in default. Zayo shall have fifteen (15) business days from the date of its receipt of the letter to cure the default. In the event Zayo fails to cure the default by paying all past-due amounts and late charges due, the City shall notify Zayo of the City's intention to terminate this Agreement. The notice of intention to terminate this Agreement shall be sent certified mail to Zayo not less than ten (10) business days prior to a Board Meeting of the City. The letter shall notify Zayo of the date, time, and place of the Board Meeting and the right of Zayo to be present and participate in the meeting. At the Board Meeting, the City may terminate this Agreement if Zayo has not cured the default in full.

6. Property Removal and Restoration of Public Ways.

Upon the expiration or termination of this Agreement, Zayo may enter upon the Public Ways and remove its property at its own risk and restore the Public Ways to their former grade, contour and condition.

7. Indemnity.

Except to the extent of the City's negligence or willful misconduct, Zayo agrees to indemnify and hold harmless the City, its officers, and employees from any and all damages, losses, or expenses (including reasonable attorneys' fees and costs),

associated with any third party claims to the extent arising out of the acts or omissions of Zayo, its officers, directors, employees, contractors, and agents in connection with this Agreement.

SECTION X-THEFT OF SERVICE

It shall be a misdemeanor for any Person to create, allow to create, or make use of any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the Telecommunications System without the express consent of Zayo. Further, without the express consent of Zayo, it shall be a misdemeanor for any person to tamper with, remove, or injure any property, equipment, or part of the Telecommunications System or any means of receiving Services. Violation of this section of this ordinance shall constitute a misdemeanor punishable by a fine not to exceed \$500.00 and/or six months imprisonment.

SECTION XI-MISCELLANEOUS

1. Actions of the Parties.

In any action by Zayo or the City mandated or permitted under this Agreement, the party shall act in a reasonable, expeditious, and timely manner. In any instance where approval or consent is required, such approval or consent shall not be unreasonably withheld.

2. Notice.

Any notice or response required by this Agreement shall be in writing and shall be deemed given upon receipt: (a) when hand delivered; (b) when delivered by commercial courier; or (c) after having been posted in a properly scaled and correctly addressed envelope by certified or registered mail, postage prepaid, at a post office maintained by U. S. Postal Service.

3. Venue.

This Agreement shall be construed and enforced in accordance with the laws of the state of Mississippi. Venue for any dispute related to this Agreement shall be in the United States District Court for the Northern District of Mississippi, or the state courts of DeSoto County, Mississippi.

4. Use of Right-of-Way.

Zayo in its occupation, use, construction and attendant activities conducted on Public Ways shall comply with all the requirements, terms and conditions of the City's rights-of-way management ordinances and regulations and the May 4, 1999, Ordinance of the Mayor and Board of Aldermen of the City of Olive Branch, Mississippi Regulating Excavation of Streets, Alleys or Public Highways in the City of Olive Branch. However, it is specifically understood that the only Franchise fees and fees for the use and occupation of public property required of Zayo to be paid to the City shall be as provided in this Agreement.

5. No rights to private property.

Nothing in this Agreement shall be construed expressly or impliedly to grant to Zayo any rights with respect to any private property.

6. Customer Service Standards.

The City hereby adopts the customer service standards set forth in the FCC's rules and regulations, and as may be amended. Zayo shall comply in all respects with the customer service requirements established by the FCC.

7. Technical Standards.

Zayo shall comply with all applicable technical standards of the FCC. To the extent those standards are altered, modified or amended during the term and any renewals of this Agreement, Zayo shall comply with such altered, modified or amended standards within a reasonable period after such standards become effective. The City shall have, upon written request, the right to obtain a copy of tests and records required to be performed pursuant to the FCC's rules.

8. No Monetary Recourse Against the City.

Except as prohibited by applicable law, Zayo shall not have any monetary recourse against the City or its officials, board members, commissions, officers, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Agreement or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of the City under this Agreement are in addition to, and shall not be read to limit, any immunities the City may enjoy under federal, State or local law.

9. No Third-Party Beneficiaries.

Nothing in this Agreement is intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Agreement.

10. Validity.

If any term or provision of this ordinance shall be held to be unconstitutional or otherwise unenforceable, the remainder thereof shall not be affected thereby and shall remain in full force and effect.

11. Conflict.

All ordinances that may have been previously adopted on the subject of this Ordinance and which conflict herewith, are hereby repealed, and the applicable provisions of this Ordinance are substituted in their place.

12. Notices to the Parties.

Notices or responses to the City of Olive Branch shall be addressed as follows:

**Mayor of the City of Olive Branch
9200 Pigeon Roost Road
Olive Branch, MS 38654**

with a copy to:

**Bryan Dye
City Attorney
City of Olive Branch
9200 Pigeon Roost Road
Olive Branch, MS 39654**

Notices or responses to Zayo shall be addressed as follows:

**Zayo Group, LLC
Attn: Legal Department – Underlying Rights
1401 Wynkoop St., Suite 500
Denver, CO 80202**

With a Copy to:

**Zayo Group, LLC
Attn: General Counsel
1821 30th Street, Unit A
Boulder, CO 80301**

For Emergencies:

**Network Operations Center & Repair
Phone: (888) 404 9296
E-mail: zayoncc@zayo.com**

The City and Zayo may designate such other address or addresses from time to time by giving notice to the other as provided in this Section.

13. Severability.

If the legislature or a court or regulatory agency of competent jurisdiction determines that any provision of this Agreement is illegal, invalid, or unconstitutional, all other provisions of this Agreement will remain in full force and effect for the term of the Agreement or any renewal.

14. Change of Law.

In the event that any effective legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement or the ability of City or Zayo to

perform any material terms of this Agreement, the parties agree to amend this Agreement as necessary to comply with the change in the law within thirty (30) days of the receipt of written notice of such change in law.

15. Presumption.

It is expressly agreed by the City and Zayo that this Agreement or any section hereof shall not be construed against any party due to the fact that said Agreement or any section thereof was drafted by said party, and such presumptive rights being hereby expressly waived.

16. Entire Agreement.

This Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating hereto, subject to any and all other City ordinances and regulations.

IN WITNESS WHEREOF, the parties execute this separate page and Agreement as of the Agreement Date.

CITY OF OLIVE BRANCH, MISSISSIPPI

_____ Mayor

WITNESS:

ZAYO GROUP, LLC

WITNESS:

The above and foregoing Ordinance having previously been reduced to writing, a motion was made by Alderwoman Hamilton and seconded by Alderwoman Aldridge, to approve and adopt the Ordinance; and, no request having been made by any member the Mayor and Board of Aldermen that said Ordinance be read by the City Clerk before the vote was taken said Ordinance was adopted by the Board of Aldermen with the results being as follows:

Alderwoman Jan Aldridge	Voted: AYE
Alderman George Collins	Voted: PRESIDING
Alderman Dale Dickerson	Voted: AYE
Alderman Gil Earhart	Voted: AYE
Alderwoman Pat Hamilton	Voted: AYE
Alderwoman Joy Henderson	Voted: AYE
Alderman David Wallace	Voted: AYE

The Motion having received the affirmative vote of a majority of the members of the Board of Aldermen present, the Mayor Pro Tempore declared the Motion so carried and this Ordinance ordained and adopted on the 17th day of October 2023.

/s/ GEORGE COLLINS, MAYOR PRO TEMPORE

ATTEST :

/s/ TENA STEWART, CITY CLERK