

CONTRACT

Maintenance Agreement

by and between

Cuyahoga County, Ohio

and

Stephen Campbell & Associates, Inc.

THIS CONTRACT is made and entered into this _____ day of _____, 20____ by and between Cuyahoga County, Ohio (the "County"), on behalf of the Cuyahoga Support Enforcement Agency and the Cuyahoga County Department of Senior and Adults Services, and **Stephen Campbell & Associates, Inc.** ("Stephen Campbell & Assoc."), an Ohio Corporation, having principal place of business at 2418 Allen Blvd., Beachwood, Ohio 44122 (the Provider).

WHEREAS, the County has a present need for system maintenance service on the County's Voice Vault and UPS Recording System used by the CSEA & DSAS; and

WHEREAS, Stephen Campbell & Assoc., is the lowest bidder of three provider of maintenance service on the County's Voice Vault and UPS Recording System used by the CSEA and DSAS; and

WHEREAS, the County desires to avail itself of the County's Voice Vault and UPS Recording System used by the CSEA and DSAS and Stephen Campbell & Assoc. is willing to provide such service to the County all upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Stephen Campbell & Assoc. and the County agree as follows:

ARTICLE I – AGREEMENT AND TERM

- 1.1 Scope of Agreement. During the term of this Contract, Stephen Campbell & Assoc. shall provide the County with maintenance on the County's Voice Vault and UPS Recording System used by the CSEA and DSAS as outlined in Stephen Campbell & Assoc.'s Guaranteed Maintenance and Service Agreement attached hereto and incorporated by reference herein as Schedule A. In the event a discrepancy exists between this Contract and Schedule A, the terms and conditions of this Contract will be controlling and binding.
- 1.2 Term. The term of this Contract shall commence as of February 1, 2011; and, unless earlier terminated in accordance with the provisions of this Contract, shall continue in effect for a period of one year from commencement date (2/1/11 – 1/31/12). The cost of

this Contact shall not exceed Four Thousand Eight Hundred Dollars and Zero Cents (\$4,800.00).

ARTICLE II - SCOPE OF WORK

- 2.1 Rendering of Services. Stephen Campbell & Assoc. hereby agrees to render the services outlined in Schedule A attached hereto and incorporated by reference herein at a total price which shall in no event exceed the amount of Four Thousand Eight Hundred Dollars and Zero Cents (\$4,800.00).

ARTICLE III – PAYMENT AND INVOICING

- 3.1 Payment. Payment will be due upon approval of the Cuyahoga County Executive.
- 3.2 Invoicing. Stephen Campbell & Assoc. shall invoice the County for Maintenance Service. Stephen Campbell & Assoc. shall submit original invoice(s) to the following address:

Cuyahoga County Information Services Center
Business Department
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

ARTICLE IV - INDEMNITIES AND LIABILITIES

- 4.1 Subcontracting. This Contract was awarded to Stephen Campbell & Assoc. based upon Stephen Campbell & Assoc.'s unique qualifications and skills, and no task required to be performed under this contract by Stephen Campbell & Assoc. shall be subcontracted to third parties without the express written consent of Cuyahoga County.
- 4.2 Indemnification. Stephen Campbell & Assoc. agrees to release, indemnify, and to hold harmless the County and any and all officers, agents, servants, or employees thereof, from any and all responsibility or liability for the negligence or failure of Stephen Campbell & Assoc. to perform its duties and obligations under this contract. Stephen Campbell & Assoc. shall agree to indemnify and save the County of Cuyahoga, Ohio harmless from suits or actions of every nature and description brought against the County, for or on account of any injuries (including death) to persons or damages to real or tangible property to the extent caused by an act of Stephen Campbell & Assoc., its servants or agents that arises out of the performance of the service rendered by Stephen Campbell & Assoc..
- 4.3 Condition Precedent to Indemnification. The indemnities in Article IV are conditioned upon the County providing Stephen Campbell & Assoc. prompt written notice of the claim, allegation or action for which indemnification is sought, together with full

information and reasonable cooperation and full opportunity to control the response thereto and the defense thereof.

- 4.4 Warranties. All of Stephen Campbell & Assoc.'s services will be performed by qualified personnel and will be of a professional quality conforming to best practices of the industry.

The end system shall be fit for the intended use previously identified herein, and shall be capable of processing data without error, and without causing system lock-ups.

If any services do not meet this warranty, Stephen Campbell & Assoc. will do everything necessary, without charge, to bring its services to the specified level. In order to obtain warranty service, the problem must be reported to Stephen Campbell & Assoc. within 90 days of delivery of the system in question.

ARTICLE V - DISPUTE RESOLUTION AND TERMINATION

5.1 Dispute Resolution.

a) In the event of any dispute or disagreement between Stephen Campbell & Assoc. and the County, either with respect to the interpretation of any provision of this Contract or with respect to the performance by Stephen Campbell & Assoc. or the County hereunder, which cannot be resolved in the normal course of business, then upon written notice of either party, each party will appoint a designated officer whose task it will be to meet for the purpose of endeavoring in good faith to resolve such dispute or to negotiate for an adjustment to such section or provision of this Contract. The designated officers shall meet as often as the parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. Such officers will discuss the problem and/or negotiate the applicable section or provision without the necessity of any formal proceedings relating thereto. During the course of such negotiation, all reasonable requests made by one party to the other for information will be honored in order that each of the parties may be fully advised in the negotiations. The specific format for such discussions will be left to the discretion of the designated officers but may include the preparation of agreed upon statements of fact or written statements of position furnished to the other party. No formal proceedings for the binding arbitration of such dispute may be commenced until (i) resolution as contemplated in this clause has been unsuccessful and (ii) either of the parties concludes in good faith that amicable resolution through continued negotiation of the matter in issue does not appear likely and so notifies the other party.

(b) The rights and obligations of the parties under this provision shall not limit either party's right to terminate this Contract as may be otherwise permitted hereunder.

- 5.2 Termination for Default. Either party may terminate this Contract, in whole or in part, whenever such party determines that the other has failed satisfactorily to fulfill its

obligations and responsibilities hereunder and is unable to cure such failure within a reasonable period of time, not to exceed thirty (30) calendar days or such longer period of time as may be specified in writing by the terminating party, taking into consideration the gravity and nature of the default. Such termination shall be referred to as "Termination for Default". Upon determination by either party hereto that the other has failed to satisfactorily perform its obligations and responsibilities hereunder, the party seeking termination shall notify the defaulting party in writing of the failure and of the time period that has been established to cure such failure, which time period shall be not less than ten (10) days. If the defaulting party is unable to cure the failure within the specified time period, the party seeking to terminate may, by giving written notice thereof to the defaulting party, terminate this Contract, in full or in part, as of the date specified in the notice of termination. Stephen Campbell & Assoc., however, shall be paid for all services and/or materials provided on or prior to the date of termination.

- 5.3 Termination for Financial Instability. In the event that Stephen Campbell & Assoc. becomes financially unstable to the point of (i) ceasing to conduct business in the normal course, (ii) making a general assignment for the benefit of creditors, or (iii) suffering or permitting the appointment of a receiver for its business or its assets, or there is a filing by or against Stephen Campbell & Assoc. of a meritorious petition in bankruptcy under any bankruptcy or debtor's law, the County may, at its option, immediately terminate this Contract under Section 5.2, the "Termination for Default" clause, by giving written notice thereof.

ARTICLE VI – ADHERENCE TO ELECTRONIC SIGNATURE POLICY OF COUNTY

1. Electronic Signature. By entering into this Contract, Stephen Campbell & Assoc., its officers, employees, subcontractors, sub-grantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring county signatures may be executed by electronic means, and that the electronic signatures affixed by Cuyahoga County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document.
- 6.2 Compliance with O.R.C. Stephen Campbell & Assoc. further agrees to be bound by the provisions of Chapter 304 and 1306 of the Ohio Revised Code as they pertain to Electronic Transactions and to comply with the electronic signature policy of Cuyahoga County.

ARTICLE VII – MISCELLANEOUS

7.1 Notices. Wherever one party is required or permitted to give notice to the other pursuant to this Contract, such notice shall be deemed given when delivered by hand, via certified mail with return receipt requested, via overnight courier with signature required, and addressed as follows:

In the case of the County: Cuyahoga County Information Services Center
Jeff Mowry, Chief Information Officer
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

In the case of Stephen Campbell & Assoc.:

Stephen Campbell & Associates, Inc.
Stephen Campbell
2418 Allen Blvd.
Beachwood, Ohio 44122

Either party may from time to time change its designated recipient or address for notification purposes by giving the other party written notice of the new designated recipient or address and the date upon which it will become effective.

- 7.2 Severability. If, and only to the extent that, any provision of this Contract is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provision, it being the intent and agreement of the parties that this Contract shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent. If that is not possible, another provision that is legal and enforceable and achieves the same objective shall be substituted. If the remainder of this Contract is not affected by such declaration or finding and is capable of substantial performance, then the remainder shall be enforced to the extent permitted by law.
- 7.3 Waiver. No delay or omission by either party in the exercise of any right or power shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties of any of the covenants, conditions or agreements to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained. No change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of the party against which such change, waiver, or discharge is sought to be enforced.
- 7.4 Survival of Terms. Termination or expiration of this Contract for any reason shall not release either party from any liabilities or obligations set forth in this Contract which (i) the parties have expressly agreed shall survive any such termination or expiration, or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.
- 7.5 Headings and Interpretation. The article and section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof.
- 7.6 Governing Law. This Contract shall be subject to interpretation under the laws of the State of Ohio.

Social Security Act. Stephen Campbell & Assoc. shall be and remain an independent with respect to all services performed hereunder and agrees to and does hereby accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Local, State or Federal Law which are measured by the wages, salaries, or other remuneration paid to persons employed by the Stephen Campbell & Assoc., for work performed under the terms of this contract and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by and duly authorized State or Federal officials; and said Stephen Campbell & Assoc., also agrees to indemnify and save harmless Cuyahoga County from such contributions or taxes or liability.

7.8 Assignment. Stephen Campbell & Assoc., shall not assign, transfer, convey or otherwise dispose of this Contract, or its right to execute it, or its right, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Contract without approval of Cuyahoga County by resolution.

7.9 Contract Processing. Stephen Campbell & Assoc., shall submit one (1) original contractual agreement with original signature to the following:

Cuyahoga County Information Services Center
Business Department
1255 Euclid Avenue, Fourth Floor
Cleveland, Ohio 44115

7.10 Commencement of Contract Performance. In order to protect the interest of Cuyahoga County this contract must be executed by the County Executive before compensation for the services or products set forth in this contract can be provided. In the event that services are provided by Stephen Campbell & Assoc. prior to the execution of this agreement by Cuyahoga County, the same will be provided at Stephen Campbell & Assoc. risk, and payment therefore cannot, and will not, be made unless and until this agreement is approved by the Cuyahoga County, Ohio. Upon approval by the County Executive of this contract, however, any and all prior performance under this contract shall be deemed ratified and said performance shall be deemed to be included in this contract. Payment(s) for said prior performance shall not increase the amount of the contract limit.

7.11 Entire Agreement and Modification. This Contract, including any Schedules and documents referred to in this Contract or attached hereto, each of which is incorporated herein, constitutes the entire and exclusive statement of the agreement between the parties with respect to its subject matter and there are no oral or written representations, understandings or agreements relating to this Contract which are not fully expressed

acknowledgments, bills of lading or other forms utilized or exchanged by the parties shall not be incorporated herein or be binding unless expressly agreed upon in writing by authorized representatives of the parties. No modification, change or amendment hereof shall be valid unless such is in writing and signed by the authorized representative of the party against which such modification, change or amendment is sought to be enforced.

THIS AGREEMENT shall be subject to interpretation under the laws of the State of Ohio, and is subject to the review of the County Prosecutor's Office as to legal form and correctness.

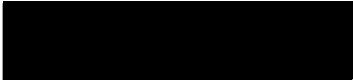
IN WITNESS WHEREOF, the County and Stephen Campbell & Assoc. have each caused this Contract to be signed and delivered by its duly authorized representative as of the date first written.

Stephen Campbell & Associates, Inc.

BY: Stephen Campbell
Stephen B. Campbell, President

Cuyahoga County, Ohio
Edward FitzGerald, County Executive

Edward FitzGerald
2012-03-05 18:13:11
BY: _____
Edward FitzGerald, County Executive



Stephen Campbell & Associates, Inc.
2418 Allen Blvd., Beachwood, OH 44122

Schedule A

Phone: (216) 292-7121

lg 2/10/19

GUARANTEED MAINTENANCE SERVICE AGREEMENT

1. Stephen Campbell & Associates, Inc. will maintain for the original purchaser, the equipment covered in efficient operating condition on a year-to-year basis, provided that this equipment is placed under this Agreement within one year from date of original purchase and the Agreement is continued in force without lapse, and is non-transferable.
2. Equipment placed under this Guaranteed Maintenance Service (GMS) Agreement more than one year after date of original sale is subject to inspection by Stephen Campbell & Associates, Inc. or its authorized service dealer representative, to determine that the equipment is in good operating condition. If the equipment is not in such condition, the customer will be charged a separate charge for any necessary overhauling or rebuilding of such equipment.
3. All parts necessary as replacement parts will be furnished without charge with the exception of media, connectors, cables, or special accessories. The GMS Agreement excludes fire, theft, water damage, accidents, abuse, power line fluctuations, acts of God, or repairs by unauthorized personnel, or any other cause not due to fault of CyberTech.
4. Guaranteed Maintenance Service coverage includes: All parts, labor charges, travel charges, and necessary shop repairs. It does not include moves, adds, and changes.
5. Response time for emergency conditions will be within twenty-four (24) hours from the time that the authorized service agent receives the call. Emergencies are defined as the inability to record incoming calls. Non-emergency response time may extend to the next business day--8:00 a.m. to 5:00 p.m.
6. Stephen Campbell & Associates, Inc.'s responsibility with respect to the GMS Agreement is limited to CyberTech equipment covered and does not cover the telephone company's trunks and circuits, or any outside manufacturers.
7. The customer shall allow employees of Stephen Campbell & Associates, Inc. and representatives of Stephen Campbell & Associates, Inc. access, as needed, to premises and facilities where the equipment is to be maintained at all hours consistent with the requirements of this Agreement.
8. Any maintenance or service work performed on the equipment by anyone other than an authorized agent of Stephen Campbell & Associates, Inc. during the period of this Agreement without consent of Stephen Campbell & Associates, Inc. shall render this Agreement null and void.
9. This Agreement is for the contract period set forth below, and can be renewed at the annual renewal date. If applicable, the customer agrees to pay any sales tax or other tax imposed with respect to this Agreement.
10. Stephen Campbell & Associates, Inc. is not responsible for loss of business to the customer caused by the equipment failure. If the foregoing disclaimers are contrary to applicable law or otherwise are held by a court of competent jurisdiction to be ineffective, CyberTech's and Stephen Campbell & Associates Inc.'s liability, if any, for damages shall not exceed the end user's purchase price for the product(s) or part(s) in question.

CUSTOMER: * CSEA and CCISC
ADDRESS: * 1255 Euclid Ave.
* Cleveland, OH 44115

EQUIPMENT	CONTRACT PERIOD	AMOUNT
CyberTech Pro 125-CH VoIP Recorder, HP Server & UPS Power Supply	2-1-2011 thru 1-31-2012	\$4,800.00 Total

By: _____

By: _____

Stephen Campbell
STEPHEN CAMPBELL & ASSOCIATES, INC.

Stephen B. Campbell