

SARASOTA COUNTY TECHNOLOGY SERVICE AGREEMENT

THIS TECHNOLOGY SERVICE AGREEMENT (Agreement) made and entered into as of the date of execution by both parties, by and between the City of North Port, Florida, hereinafter referred to as "City," and Sarasota County, a political subdivision of the State of Florida, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, the County and the City wish to enter into an agreement for the provision of hosting and related technology services; and

WHEREAS, the County possesses available technological capacity in its data center and provides fiber optic infrastructure; and

WHEREAS, the City desires to utilize a portion of this available capacity and infrastructure; and

WHEREAS, the County recognizes that sharing its available capacity with other public entities serves the public interest; and

WHEREAS, County Resolution No. 2004-095 authorizes the Sarasota County Administrator to approve and enter into agreements whereby the County's excess capacity is made available.

NOW, THEREFORE, the County and City, in consideration of the mutual covenants contained herein, do agree as follows:

1. County agrees to provide to City services as set forth below. County will provide the following services at its Administrative Offices or Technology Data Center, located at 1660 Ringling Boulevard, and 5875 Bahia Vista Street, Sarasota, Florida, respectively.
2. Services to be provided by County:
 - a. Rack Space and Power requirements
 - i. Provide rack space for City devices in one (1) shared cabinet. Current estimate is sixteen (16) devices. This could vary on an annual basis.
 - ii. Provide physical security over the rack.
 - iii. Arrange for continuous power to be provided by Florida Power and Light (FPL).
 - iv. In the event of interruption or loss of primary power (FPL), City will be supported via redundant power systems including Uninterrupted Power Supply (UPS) and generator power until such time that the primary power source is restored and reliable.

b. Network and Security Requirements

- i. Physical access to the facility will be by key card only and requires a Criminal Justice Information Services (CJIS) certification. Video cameras at the data center monitor activity 24 hours a day, seven days a week. In order for City to gain physical access to data center without the CJIS certification, City shall contact the County 24 hours prior to desired access and then must be accompanied by a CJIS certified staff member at all times. County will notify City 60 days prior to any changes in physical security.
- ii. Maintain confidentiality of all City data files. Data files are exclusively owned by City and will not be accessed by unauthorized personnel. Promptly notify City if there is suspicion or evidence of a security breach of any kind.
- iii. City will be provided secure access to its systems in the datacenter for the purpose of remote management and software updates.

3. Information to be provided by City:

City will provide a current list of all devices located in the Technology Data Center. If any changes are made to devices, the City will provide an updated list prior to equipment decommissioning or new installments.

4. Conditions of City use of County services:

County's regularly scheduled maintenance (downtime) is between 5:00a.m. and 6:30 a.m., Monday through Friday for standard changes. High impact changes will be performed on Sunday between 12:00 a.m. and 10:00 a.m. unless circumstances warrant performing maintenance at another time. County will communicate any and all planned downtime to City. County will attempt to perform such maintenance so as not to interfere with City operations, but makes no warranty in that regard.

5. Term:

The term of this Agreement shall commence immediately upon execution by both parties and shall continue for one (1) year thereafter, or until such earlier date upon which the Agreement is cancelled as provided below. The parties may elect to renew the Agreement by mutual consent for up to five (5) renewal periods of one (1) year each. The renewal of the Agreement shall be exercised in writing not later than ninety (90) days prior to the end of the initial term or the first renewal period as applicable. In the event of a mutual decision to renew, the County shall provide a renewal document which shall be executed by both the City or its authorized agent, and the County. The terms and conditions during such renewal period shall be the same as provided in Exhibit A, except the fee shall be adjusted as provided in Exhibit A of this Agreement.

6. Payment of Fees:

- a. Annual fee for the services provided by County under this Agreement: City shall pay the County annually the amount of Eighteen Thousand, Six Hundred Fifty-One Dollars and Twenty-Four Cents (\$18,651.24). Initial payment of One Thousand Five Hundred Fifty-Four Dollars and Twenty-Seven Cents (\$1,554.27) is due within thirty (30) days upon execution of this Agreement. The remainder is due and payable in monthly installments of One Thousand Five Hundred Fifty-Four Dollars and Twenty-Seven Cents (\$1,554.27) each and shall be paid on the first of every month. The details of the fees are listed in Exhibit A attached and incorporated herein.
- b. Fee Adjustment: The fee shall be reviewed annually as part of the County's annual budget process and any fee adjustment shall be provided with a ninety (90) day notice.
- c. Requests for any additional services, not specified in this Agreement, will be submitted through the County's Help Ticket process. The County will process the request and invoice the City at the Technology Rate of One Hundred Dollars (\$100.00) per hour. The County will provide quarterly invoices with detail of the additional service requests.

7. Termination of the Agreement:

- a. If the City is in material breach or default, including non-payment of any fees or invoices, and the breach or default is not cured within thirty (30) days after receipt of the written notice of breach or default, County may terminate this Agreement upon thirty (30) days prior written notice.
- b. In the event County terminates the Agreement, or elects not to exercise the option to renew the Agreement, immediately following termination of this Agreement, City shall either destroy or return any manuals, templates and product software provided by County and certify in writing to the County's Administrative Agent that the City has destroyed any such materials, which have not been returned.
- c. If the County is in material breach or default which is not cured within thirty (30) days after receipt of the written notice of breach or default, then City may terminate this Agreement upon thirty (30) days prior written notice.
- d. Termination Without Cause: County and City may terminate the Agreement with or without cause by giving not less than ninety (90) calendar days written notice to the other party of the intent to terminate. Any fees or other amounts owed between the parties shall be prorated to the termination date.

8. Force Majeure:

Neither party shall be in default by reason of any failure in the performance of this Agreement if such failure arises out of cause beyond its reasonable control. Such causes may include, but are not limited to, acts of God, acts of the public enemy, acts of government in either its sovereign or contractual capacity, acts of the party whose performance is not sought to be excused, fires, flood, weather, epidemics, quarantine restrictions, strikes, freight embargoes, failure of transmission or power supply, mechanical difficulties with equipment which could not have been reasonably forecasted or provide for, or other causes beyond its sole control. The party affected will resume performance as soon as practicable after the force majeure event terminates.

9. Limitation of Liabilities:

- a. County shall have no liability for any loss or liabilities resulting from any application of technology services, or results, or such application by City or any other party. In any event, County's liability for any losses or damages which arise out of or in connection with technology services provided under this Agreement, whether the claim is in contract or otherwise, shall not exceed the annual amount paid by City for the particular technology service as to which the claim arose. Under no circumstances shall County be liable for special, incidental or consequential damages, including, but not limited to, loss of anticipated income or loss resulting from business disruption, even if County has been advised of the possibility of such damages.
- b. No liability limitation, waiver, release, or other provision in the Agreement will limit, reduce, or eliminate either party's liability for direct damages to any person or property resulting from the negligence or wrongful conduct of such party or such party's employees, officers, directors, agents, or affiliates. The provision in Section 9.b. shall control in the event there is overlapping subject matter or a conflict with Section 9.a.

10. Dispute Resolution:

- a. In the event of a dispute between the City and the County under this Agreement, the City Manager and the County Administrator or their designated representatives shall review such dispute and options for resolution. Any dispute not resolved by the representatives shall be referred to the City Manager and the County Administrator to address. The decision of the City Manager and the County Administrator regarding the dispute shall be final.
- b. In the event the City Manager and County Administrator are unable to agree, the parties may proceed to litigation as set forth below.
- c. The venue for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement shall be in the Twelfth Judicial Circuit in and for

Sarasota County, Florida, which shall have personal jurisdiction over each of the parties to the Agreement.

- d. The parties agree to waive all rights to trial by jury for any litigation undertaken concerning this Agreement.
- e. This Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles.

11. County's Administrative Agent:

The County's Administrative Agent is designated to act on behalf of the County and to administer the terms and conditions of this Agreement. If necessary, a specific Administrator may be authorized to perform the duties and responsibilities of the Administrative Agent. The County's Administrative Agent is Ken Watson, Senior EIT Manager, Sarasota County Government.

12. Notices: Except as otherwise provided herein, all notices required or permitted under this Agreement shall be made in writing and shall be deemed given and served when deposited in the United States Mail, postage prepaid and certified, directed as follows:

IF to County	Sarasota County Government 1660 Ringling Boulevard Sarasota, Florida 34236 Attn: Ken Watson, Senior EIT Manager
With Copies to:	Sarasota County Government 1660 Ringling Boulevard Sarasota, Florida 34236 Attn: Glenn Zimmerman, CIO Enterprise Information Technology
IF to City	City of North Port 4970 City Hall Boulevard North Port, Florida 34286 Attn: IT Manager
With Copies to:	City of North Port 4970 City Hall Boulevard North Port, Florida 34286 Attn: General Services Director

Either party may change its addresses by giving written notice of such change.

13. Miscellaneous:

- a. This Agreement constitutes the sole and complete understanding between the parties and supersedes all other contracts between them, whether oral or written with respect to the subject matter. No amendment, change or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement.
- b. The language of this Agreement shall be construed, in all cases, according to its fair meaning and not for or against any party hereto.
- c. The exercise by either party of any rights or remedies provided herein shall not constitute a waiver of any other rights or remedies available under this Agreement or any applicable law. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall be valid and binding on each party. The terms and conditions of this Agreement shall prevail over any printed provision of any purchase order form used by City to order the technology services.
- d. This Agreement is not intended, and shall not be construed to grant any rights, privileges or interests to any third parties.
- e. The rights and remedies of the County provided for under this Agreement are in addition to any other rights and remedies provided by law.
- f. Paragraph headings are for the convenience of the parties and for reference purposes only and shall be given no legal effect.

14. Non-Discrimination:

The City of North Port, Florida, does not discriminate on the basis of race, color, national origin, sex, age, disability, family or religious status in administration of its program, activities or services. The parties will not administer this Agreement in an unlawfully discriminatory manner, not deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.

WITNESS WHEREOF, the parties have executed the Agreement as of the last date below written.

ATTEST:

City of North Port:

Signed by: _____
Patsy C. Adkins, MMC
City Clerk

Signed by: _____
Vanessa Carusone
Mayor

Date: _____

Approved as to form and correctness:

BY: _____
Amber L. Slayton
City Attorney

SARASOTA COUNTY

BOARD OF COUNTY COMMISSIONERS OF
SARASOTA COUNTY, FLORIDA

BY: _____
Jonathan R. Lewis,
County Administrator

DATE: _____

*Executed by the County Administrator, pursuant to
Sarasota County Resolution No. 2004-095*

Approved as to form and correctness:

BY: _____
COUNTY ATTORNEY

EXHIBIT A – Pricing for Delivered Services

Service	Annual Cost	Notes
Hosted Devices	\$18,651.24	Sixteen (16) devices
Total annual fee, payable by City	\$18,651.24	

Annual fee shall be paid in monthly installments of \$1,554.27.