

**PROFESSIONAL SERVICES
AGREEMENT FOR INFORMATION TECHNOLOGY SERVICES
BETWEEN
CONSTANT COMPUTING, LLC
AND
RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY**

THIS AGREEMENT is made and entered into this ____ day of January 2020, by and between **Constant Computing, LLC**, a Florida limited liability company (hereinafter referred to as "Independent Contractor") whose mailing address is 8400 N, University Dr, Suite 301, Tamarac, FL 33321, and the **Riviera Beach Community Redevelopment Agency**, a body corporate and politic, hereinafter referred to as "CRA," whose address is 2001 Broadway, Suite 300, Riviera Beach, Florida, 33404.

WHEREAS, the CRA, pursuant to the Riviera Beach Community Redevelopment Agency Procurement Code advertised RFP 2019-03 soliciting proposals to provide information technology services; and

WHEREAS, five (5) firms responded to RFP 2019-03; and

WHEREAS, the Constant Computing, LLC was deemed the best and most responsive respondent by the evaluation committee; and

WHEREAS, the Board of Commissioners of the Agency authorized staff to negotiate a contract with the Consultants

NOW THEREFORE, in consideration of the mutual promises contained herein, the CRA and the Consultant agree as follows:

1. Independent Contractor agrees to perform professional information technology services for the CRA in three general areas: maintenance, new capabilities (planning, consulting, and assisting in setting up new technology and removal of any old technology,) and consultation as set out in the Scope of Work attached hereto as Exhibit "A."

2. Independent Contractor agrees to be bound by all the terms and conditions as set forth in the Scope of Work.

3. The term of this Agreement shall be beginning on the Effective Date through January 30, 2023, unless terminated sooner pursuant to the terms of this agreement. The effective date of this agreement shall be the date that the last of the parties executes the agreement. The CRA shall have the option to renew this agreement upon the same terms as this agreement for a one year period by giving 30 days written notice prior the end of the initial term of this agreement.

4. Work must begin within (5) calendar days from the date of receipt of official notice to proceed with a work element and shall be carried on for the duration of the contract.

5. The CRA agrees to compensate the Independent Contractor at the rate as identified in the Fee Schedule contained in Exhibit "B" to this agreement the yearly amount not to exceed \$85,140.00 with a 9% contingency total not to exceed \$92,802.00. Services are to be on an on-call/as needed basis with the except for routine maintenance. The CRA shall not reimburse the Independent Contractor for any miscellaneous costs incurred as a direct result of the Independent Contractor providing deliverables to the CRA in accordance with the Scope of Work contained in Exhibit "A," unless such costs have been approved, in writing and in advance, by the CRA. The Independent Contractor shall provide the CRA with monthly invoices containing adequate documentation supporting amounts billed to the CRA. The CRA agrees to pay contractor invoices within 30 days of submission to the CRA.

6. This Agreement may be terminated by either party with or without cause upon fifteen (15) days prior written notice. In the event that the CRA terminates this Agreement, for any reason whatsoever, the Independent Contractor understands and agrees that it shall not receive any further compensation beyond the termination date.

7. Independent Contractor hereby represents that it has complied and shall continue to comply with all applicable Federal and State statutes and local ordinances. Further, Independent Contractor shall be solely responsible for obtaining and complying with all necessary permits, approvals and authorizations, required for the work to be performed pursuant to the terms of this Agreement from any federal, state, regional, county, or city agency.

8. The Independent Contractor represents that it has, or will secure at its own expense, all necessary personnel, equipment and materials required to perform the services under this agreement. Such personnel shall not be employees of or have any contractual relationship with the CRA.

9. All of the services required hereunder shall be performed by the Independent Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

10. The Independent Contractor agrees that it is fully responsible to the CRA for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the Independent Contractor. Nothing contained herein shall create any contractual relationship between any subcontractor and the CRA.

11. All of the Independent Contractor's personnel (and all Subcontractors) while on CRA premises will comply with all CRA requirements governing conduct, safety and security.

12. The CRA is exempt from payment of Florida State Sales and Use Taxes. The CRA will sign an exemption certificate submitted by the Independent Contractor. The Independent Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the CRA, nor is the Independent Contractor authorized to use the CRA's Tax Exemption Number in securing such materials.

13. The Independent Contractor shall indemnify and save harmless and defend the CRA, its agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act or omission of the Independent Contractor, its agents, servants, or employees in the performance of services under this Agreement.

14. The Independent Contractor further agrees to indemnify, save harmless and defend the CRA, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the Independent Contractor not included in the paragraph above and for which the CRA, its agents, servants or employees are alleged to be liable. Nothing contained in this provision shall be construed or interpreted as consent by the CRA to be sued, nor as a Waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

15. The Independent Contractor shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the Independent Contractor or its subcontractors and without their fault or negligence. Such

causes include, but are not limited to, acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions. Upon the Independent Contractor's request, the CRA shall consider the facts and extent of any failure to perform the work and, if the Independent Contractor's failure to perform was without it or its subcontractors fault or negligence, as determined by the CRA, the Agreement Schedule and/or any other affected provision of this Agreement shall be revised accordingly; subject to the CRA'S rights to change, terminate, or stop any or all of the work at anytime. If the Independent Contractor is delayed at any time in the process of the work by any act or neglect of the CRA or its employees, or by any other contractor employed by the CRA, or by changes ordered by the CRA or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the Independent Contractor's control, then the time of completion shall be extended for any reasonable time the CRA may decide. In the case of continuing cause of delay, only one (1) claim is necessary.

16. The Independent Contractor does not have the power or authority to bind the CRA in any promise, agreement or representation other than as specifically provided for in this Agreement.

17. The CRA reserves the right to make changes in the scope of work, including alterations, reductions therein or additions thereto. Upon receipt by the Independent Contractor of the CRA's notification of a contemplated change, the Independent Contractor shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the CRA of any estimated change in the completion date, and (3) advise the CRA if the contemplated change shall affect the Independent Contractor's ability to meet the completion dates or schedules of this Agreement. If the CRA so instructs in writing, the Independent Contractor shall suspend work on that portion of the work affected by a contemplated change, pending the CRA's decision to proceed with the change.

18. If the CRA elects to make the change, the CRA shall initiate an Agreement Amendment and the Independent Contractor shall not commence work on any such change until such written amendment is signed by the Independent Contractor and approved and executed by the Board of Commissioners of the Agency.

19. All materials and/or work to be furnished and/or installed by the Independent Contractor under this Agreement shall be guaranteed by the Independent Contractor for a period of one year from the date of final acceptance thereof by the CRA against defects including death satisfactory growth, workmanship, or materials. Upon receipt of notice from

the CRA of failure or defect of any part covered under such warranty/guaranty period, the affected part, parts, or materials shall be replaced promptly with new parts or materials by the Independent Contractor at no expense to the CRA. In the event the Independent Contractor fails to make the necessary repairs or replacements within 30 days after notification by the CRA, the CRA may accomplish the work at the expense of the Independent Contractor. The services rendered in the execution of this agreement do not relieve the contractor from any obligations related to any prior agreements. All work produced under any previous agreements will be held to that agreement, and a one year inspection must occur.

20. The Independent Contractor shall continuously maintain adequate protection of all work from damage, and shall protect such work and the CRA's property from injury or loss arising during the term of the Agreement.

21. This Agreement and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

22. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given here under or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

23. If any action, whether in law, equity or otherwise, is brought for any dispute, disagreement, or issue of construction, declaration or interpretation arising hereunder whether relating to the Agreement's execution, validity, the obligations provided therein, or performance of this Agreement, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

24. Time is of the essence in all respects under this agreement.

25. Failure of the CRA to enforce or exercise any right(s) under this Agreement shall not be deemed a waiver of CRA's right to enforce or exercise said right(s) at any time thereafter.

26. The Independent Contractor shall comply with Florida's Public Records Act, and specifically section 119.0701, Florida Statutes, by agreeing to:

- (a) Keep and maintain all public records that ordinarily and necessarily would be required by the CRA to keep and maintain in order to perform the services under this Agreement.
- (b) Provide the public with access to said public records on the same terms and conditions that the CRA would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- (d) Upon completion of the contract, transfer, at no cost, to the CRA all said public records in possession of the CONSULTANT or keep and maintain public records required by the CRA to perform the service. If the CONSULTANT transfers all public records to the CRA upon completion of the contract, the CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public record disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the contract, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CRA, upon request from the CRA's custodian of public records, in a format that is compatible with the information technology systems of the CRA.

IF THE CONSULTANT HAS A QUESTION REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, RELATING TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, TAMARA SEQUIN AT 561-844-3408, tsequin@rbkra.com, 2001 Broadway, Suite 300, Riviera Beach, FL 33404.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties unto this Agreement have set their hands and seals on the day and date first written above.

RIVIERA BEACH COMMUNITY
REDEVELOPMENT AGENCY

BY: _____
KASHAMBA MILLER-ANDERSON

ATTEST:

BY: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
J. MICHAEL HAYGOOD,
J. Michael Haygood, PA
CRA ATTORNEY
Date: _____

CONSULTANT

CONSTANT COMPUTING, LLC

BY: _____
MICHAEL DePASTINO, PRINCIPLE-IN-CHARGE

EXHIBIT A
Constant Computing
Scope of Work

All work activities performed by the Independent Contractor for the CRA are at the request of Riviera Beach Community Redevelopment Agency (CRA) management. No work is to be done without the prior approval of the CRA unless it is time-critical and obvious that the work needs to be done. Any such time critical or obvious work should be documented.

The CRA's Operations Manager and Public Information Officer shall serve as the Independent Contractor's primary contact person. Constant Computing will keep the CRA contact person informed of the status of assigned work. All resources needed for work (computers, network cable, equipment etc,) are provided through the CRA. Exceptions are approved in advance.

Constant Computing will submit an invoice containing supporting documentation for requested and completed work and provide a summary of work done and work in progress.

The following sentences are provided under this agreement:

MAINTENANCE FOR MAIN OFFICE CLEAN & SAFE OFFICE AND MARINA EVENT CENTER:

- Break/Fix - as computers/equipment slow or stop working, diagnose and repair them.
- Coordinate with Dell (or other) Tech Support as needed. Work is coordinated through the CRA contact person.
- Monitor servers/network - periodically check server performance and system logs.
- Take action as needed. Evaluate and install system/security updates, Check antimalware software status and performance.
- Monitor backups.
- Maintain network and network firewall. Maintain backups of firewall configurations.
- Set-up new/replacement Sprint or other phones.
- Maintain consulting area network connectivity.
- Maintain Clean and Safe Community Policing Program computer environment.
- Periodically survey the computing infrastructure health.

- Create and maintain a back-up manual with the Administrative Director.
- Miscellaneous work as requested.
- Remote and phone-based support

NEW CAPABILITIES FOR MAIN OFFICE CLEAN & SAFE OFFICE AND MARINA EVENT CENTER

- Plan, generate specifications, get quotes, assist purchases, and perform/manage process of installing computing infrastructure.
- Replace existing computers/network infrastructure same process.
- Clean up computers that have been retired.
- Miscellaneous work as requested.

CONSULTATION FOR MAIN OFFICE CLEAN & SAFE OFFICE AND MARINA EVENT CENTER

- Coordinate with other technical vendors to ensure CRA's needs are met.
- Advise on technology purchases.
- Advise on using technology in business.
- Advise on process.
- Be a resource for onsite technical person.

VALUE ADDED SERVICES (VAS) FOR MAIN OFFICE CLEAN & SAFE OFFICE AND MARINA EVENT CENTER

- Network Monitoring- Technical monitoring through the use of monitoring tools to evaluate performance and health of IT resources.
- Backup Services- provide back solutions including cloud back up service, hybrid cloud back up services, and disaster recovery options.
- Email Security and Services- provide email services including transport/ delivery of email, security filtering, spam filtering, and email archiving solutions.
- Antivirus Services.

- Web Protection- protect network from malware, phishing, proxies and botnet attacks through content filtering/web protection services.
- Network Security/Compliance Audits - perform audits of network and IT resources utilizing industry accepted benchmarks and standards. Assist in creating and performing remediation schedules.

NOTES

Constant Computing recommended services are subject to CRA approval and may be scaled back or not performed due to a variety of reasons including budget/time constraints and/or management preferences. The CRA assumes the consequences of these decisions, Constant Computing has limited latitude in committing resources to resolve issues and will inform and seek guidance from the CRA contact person when the time or resources being spent is likely to exceed a reasonable amount

EXHIBIT B

FEE SCHEDULE

Rate Type	Category	Monthly Cost	Yearly Cost
Fixed	Initial Assessment/Implementation of: -Advanced Performance & Health Monitoring -Network Inventory Software -Help Desk Ticketing System -Backup Service -Antivirus Service -Antispam Service -Remote Support Tools	\$0	\$0
Fixed	Monitoring, Patch Management, and Antivirus Service for Servers and Workstations	\$1,550	\$18,600
Fixed	Hybrid Backup for Servers and Workstations	\$995	\$11,940
Variable	User Support: (~4.5 hours) * Desktop App Support Help Desk Support Staff Training Onsite Support	\$550	\$6,600
Variable	Admin Services (12 hours) * Server Network Security	\$1,500	\$18,000
Variable	Projects (~12.5-20 hours) **	\$1550 - \$2,500	\$18,600 - \$30,000
Totals		\$6145 - \$7,095	\$73,740 - \$85,140

Notes:

*Analysis of almost three years of service at the current agreed upon billing structure and current trends yields average hours for the categories assuming current IT Infrastructure size/inventory. The historical Virtual CIO category was folded into the Projects category for this RFP Proposal.

**Project hours varied based on CRA requirements and budgets.