

MEMORANDUM

TO: Mayor and Board of Commissioners

FROM: Bryan Gruesbeck, Town Manager

SUBJECT: Service Contract for IT Consulting Services

DATE: November 10, 2014

Background: As discussed during previous meetings, the Town network server is reaching the end of its lifespan and is difficult to support and maintain. Staff anticipates bringing the new network server online in December 2014. In order to better accommodate the change, Staff proposes to work with Netsmart, Inc. to provide various IT services on and off-site. The cost for the consulting services provided under this contract will be expended in current budget.

Attached please find a proposed Service Contract for Information Technology (IT) Services with Netsmart, Inc. which formalizes the costs and scope of their support.

Action Requested: Authorize the Town Manager to execute the Contract.

**STATE OF NORTH CAROLINA
COUNTY OF CHATHAM**

**SERVICE CONTRACT FOR IT
CONSULTING SERVICES**

This Agreement, made and entered into by and between the Town of Pittsboro, herein "Town", and "Netsmart, Inc., P.O. Box 1568, Cary, NC 27512-1568.", herein "Contractor" for services hereinafter described for the Town of Pittsboro. This Contract is between the Town of Pittsboro and "Netsmart, Inc" for the Pittsboro Information Technology Service Agreement.

WITNESSETH

That for and in consideration of the mutual promises and conditions set forth below, the Town and Contractor agree:

1. Duties of the Contractor: The Contractor agrees to perform those duties described in Exhibit A, their fee proposal, attached hereto and incorporated herein by reference.
2. Duties of the Town: The Town shall pay for the Contractor's services as set forth in Exhibit A.
3. Fee Schedule and Maximum Sum: Payment shall be made according to Exhibit A.
4. Billing and Payment: The Contractor shall submit a bill to the Town for work performed under the terms of this Agreement. The Contractor shall bill and the Town shall pay the rates set forth herein. Payment will be made by the Town within thirty (30) days of receipt of an accurate invoice, approved by the contact person or his/her designee.
5. Indemnification and Hold Harmless: The Contractor agrees to indemnify and hold harmless the Town of Pittsboro and its officers, agents and employees from all loss, liability, claims or expense (including reasonable attorneys' fees) arising from bodily injury, including death or property damage to any person or persons caused in whole or in part by the negligence or willful misconduct of the Contractor except to the extent same are caused by the negligence or misconduct of the Town.
6. Non-Discrimination: The Contractor shall administer all functions without discrimination because of race, creed, sex, national origin, age, economic status, sexual orientation, gender identity or gender expression.
7. Amendment: This Agreement may be amended in writing by mutual agreement of the Town and Contractor.

8. Term: This Agreement, unless amended as provided herein, shall be in effect until terminated by either party as provided for in Exhibit A.

This Contract is between the Town of Pittsboro and "Netsmart, Inc" for the Pittsboro Information Technology Service Agreement.

IN WITNESS WHEREOF, the parties hereunto cause this agreement to be executed in their respective names.

NETSMART, INC

SIGNATURE

TITLE

ATTEST

TITLE

TOWN OF PITTSBORO

TOWN MANAGER

ATTEST BY TOWN CLERK:

TOWN CLERK

TOWN SEAL

Town Clerk attests date this the ____ day of _____, 2014.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Signature of Finance Officer

Town of Pittsboro Statement of Work

Defining the forthcoming network and IT improvements

Introduction

NetSmart, Inc. and the Town of Pittsboro have entered into an agreement such that NetSmart, Inc. will provide IT, network, computer hardware, network hardware, and labor at the direction of the Town of Pittsboro. This document clearly defines at a high level what deliverables are expected and the estimated costs. This document will not go into detail about the hardware and services specifics; as these details are covered in other documentation.

Statement of Work

Hardware

The Town of Pittsboro will pay NetSmart, Inc. to provide:

- New Server
- New Firewall
- New Switches for Networking
- New Backup Appliance

At the writing of this document (November 3, 2014), the costs for the above hardware before taxes and shipping is 8750.00.

Software

The town of Pittsboro will pay NetSmart, Inc. to provide:

- One License of Microsoft Server 2012 R2 STND and 20 CALS
- One License of Microsoft Server 2012 R2 Essentials

At the writing of this document (November 3, 2014), the costs for the above software before taxes and shipping is 1459.00.

Services

The town of Pittsboro will pay NetSmart, Inc. to provide:

- 4 Servers Under NetCare Prepaid Annually
- 20 Desktops Under NetCare Prepaid Annually (approximation)
- 500 GB of Cloud Backup Storage paid monthly

At the writing of this document (November 3, 2014), the cost of NetCare is 2760.00 (paid annually).

NetCare provides advanced, proactive monitoring, patch management of over 70 vendors' applications, and anti-virus / anti malware support. It also provides the ability for quick, remote access support.

The monthly cost for the cloud backup storage is 240.00 per month for 500 GB.

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Attachment "A"

Office 365

NetSmart, Inc. will manage the email migration to Office 365. Office 365 is a subscription based email solution and will require the Town of Pittsboro to select the appropriate coverage based on individual user requirements. NetSmart, Inc. will assist the Town of Pittsboro with the registration process for Office 365.

Labor

NetSmart, Inc. will design, document, and implement the following projects using the software, hardware, and services mentioned in this document (not in a particular order)

- IT policy development
- NetCare Deployment
- New Server installation with Virtualization
- Creation of two new virtual servers for town
- Creation of a single new virtual server for Law Enforcement
- Migration of appropriate data from existing town server
- Automated Offsite and onsite Backup solution with retention and reporting
- New Firewall with Reporting
- New Switch installation and configuration and wireless re-configuration
- Email migration to cloud based Office 365
- Documentation of all projects made available to the Town of Pittsboro

The Town of Pittsboro will pay NetSmart, Inc. for 42 hours of labor at 135.00 per hour. Note this is a best guess estimate and may increase if unforeseen problems arise or additional items are added outside of this scope.

Conclusion

NetSmart, Inc. looks forward to providing the above deliverables in a timely and courteous manner. For further details on the projects mentioned in this document, please reference the Town of Pittsboro project proposal documents provided by NetSmart Inc.

Signatures

A signature from an authorized representative of NetSmart, Inc. and from an authorized representative from The Town of Pittsboro indicates this document has been read and understood by both parties.

NetSmart, Inc.

Town of Pittsboro

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

[Type here]

Information Technology Service Agreement (2014-2015)

This agreement is made and entered into as of _____, by and between NetSmart, Inc., and _____ (the client).

This Agreement is vital to the client's understanding of the depth of services that are provided by NetSmart, Inc. This Agreement also informs the client of the limitations of liability that NetSmart, Inc. and its representatives accept by doing business with its clients. By signing this document, the client is acknowledging that they have read and understand this Agreement and agree to be bound by it.

Background

_____ (the client) desires to obtain from NetSmart, Inc., and NetSmart, Inc. desires to provide to _____ (the client) certain information technology services (IT Services) subject to the terms and conditions of this document.

Definition of IT Services

On-Site Support

NetSmart, Inc. will provide computer and information technology labor to the client, at the client's location. NetSmart, Inc. can only provide on-site support if the client or representative of the client has requested said support. Please note that IT support does not include web development. On-site support may be provided only at times agreed upon by the client and its representatives, and NetSmart, Inc.

On-Site support can include, but is not limited to:

- Computer Diagnostics and Repair
- Computer Installation and Setup
- Computer Testing
- Software Application Diagnostics and Repair
- Software Application Installation and Setup
- Software Testing
- Network Diagnostics and Repair
- Network Installation and Setup
- Network Testing
- Internet Services
- Mobile Device Services
- Cabling
- Programming
- Training

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Off-Site and Phone Support

NetSmart, Inc. will provide computer and information technology services labor to the client away from the client's location. NetSmart, Inc. can only provide off-site support if the client or representative of the client has requested said support. Off-site support may be provided only at times agreed upon by the client and its representatives, and NetSmart, Inc.

Off-Site support can include, but is not limited to:

- Computer Diagnostics and Repair
- Computer Testing and Setup
- Software Application Diagnostics and Repair
- Software Application Installation and Setup
- Software Testing
- Network Diagnostics and Repair
- Network Testing and Setup
- Internet Services
- Mobile Device Services
- Programming
- Training

Documentation

At the request of the client, NetSmart, Inc. will document the client's existing IT Infrastructure, including software, hardware, and infrastructure, and continue to update this as changes are made. The time required to create and maintain the documentation is billable at the normal hourly rate. Therefore the documentation shall be the property of the client and provided as necessary or requested.

Data Integrity

Upon request of the client or a representative of the client, NetSmart, Inc. will backup and/or restore data for the client, provided the means exist. This may be performed on-site or off-site.

NetSmart, Inc. strives to ensure the client's equipment, data, and information is secure and a disaster recovery plan is in place. Ultimately, it is the responsibility of the client to ensure their equipment, data, and information is secure and protected. Backup reports will be emailed or made accessible to the client for daily review. NetSmart, Inc. does not accept any liability for any lost or damaged data, information, or equipment.

New Software and Hardware

Any new or additional Software or Hardware that the client may require from time to time will be purchased, leased, or licensed by the client in its own name. Upon request, NetSmart, Inc. can process or aid such purchases. Furthermore, NetSmart, Inc. services include advising clients on purchases as well as the best outlet to purchase from. NetSmart, Inc. does not accept any liability for its advice on purchases and on vendors which it recommends.

Subcontracting

Using Subcontractors

The client understands that before and after the date of this Agreement, NetSmart, Inc. may have contracted, and may in the future contract, with third parties (also referred to in this agreement as representatives) to provide services in connection with all or any portion of the IT Services to be provided under this agreement.

[Type here]

Subcontractor Access

NetSmart, Inc. will not, under any circumstances, allow a subcontractor unattended access to the client's premises without permission of the client.

Payment

NetSmart, Inc. charges for all labor involved with the client, including on-site time, off-site time, phone support, e-mail support, and remote support.

Guaranteed Rate for 2014-2015

The client will pay NetSmart, Inc. a **\$75.00** per hour travel fee for on-site visits. This number adjusts with the price of gas. The **\$75.00** rate is based on \$3.00 per gallon gasoline. Roughly for every \$0.25 move in the price of gas, the rate will change \$0.50. We monitor the prices monthly.

The client will pay NetSmart, Inc. **\$135.00** per hour for IT Support.

NetCare Managed Services is invoiced on a monthly basis at a rate of **\$8.00** per workstation, **\$15.00** per managed network device (firewall, switch) and **\$29.00** per server (both physical and virtual).

NetCare provides advanced, proactive monitoring, patch management of over 70 vendors' applications, and anti-virus / anti malware support. It also provides the ability for quick, remote access support.

Additional monthly services may be included in this Agreement. (Such as Data Backup Services)

Pricing and terms may be included in a separate document.

Invoicing

NetSmart, Inc. will invoice the client semi-monthly. The client will pay NetSmart, Inc. for its services and products upon receipt of the invoice, within 15 days, so that the previous bill has been paid before the next billing cycle.

Payment Granularity

NetSmart, Inc. will record all hours for the client in one minute increments for all services and/or travel time performed, rounded up to the nearest tenth or quarter hour. The client may notice that some phone calls and quick "fixes" are overlooked in the interest of customer satisfaction.

Products and Services

Should the client purchase any products from NetSmart, Inc., NetSmart, Inc. will include the amount of said products in the monthly invoice, along with any and all applicable taxes.

Failure of Payment

Invoices overdue can result in a refusal of services from NetSmart, Inc. until reconciled. Invoices past 30 days may have a 1.5% per month late fee added.

Relationship

NetSmart, Inc. and the client are not entering into a joint venture, partnership, or employer-employee relationship. NetSmart, Inc. is providing a paid service to the client at the client's request as an independent contractor.

[Type here]

Confidentiality

Since NetSmart, Inc. may have access to any equipment, computer, software, network, electronic files, or electronic data storage system owned or controlled by the client, NetSmart, Inc. shall limit such access and use solely to provide IT Services under this agreement and shall not access or attempt to access any equipment, computer, software, network, electronic files, or electronic data storage system, other than those specifically required to provide the IT Services.

NetSmart, Inc. shall limit such access to those individuals with a requirement to have such access in connection with this agreement, and shall follow all known security rules and procedures provided by the client for use of the client's resources.

All user identification numbers and passwords disclosed to NetSmart, Inc. by the client and any nonpublic information of the client obtained by NetSmart, Inc. as a result of their access to and use of any equipment, computers, software, networks, electronic files, and electronic data storage systems owned or controlled by the client, shall be considered confidential and will not be distributed.

Ownership of work product

Unless otherwise stated, should NetSmart, Inc. develop any unique solutions, services, programs, scripts, hardware concepts, or combination thereof for the client, it is the right of NetSmart, Inc. to develop and use the aforementioned items for entities outside of the client without legal restriction.

Indemnification

The client will, at its expense, defend, indemnify, and hold NetSmart, Inc. and its representatives harmless from and against any and all claims, actions, demands, suits, losses, liabilities, judgments, expenses and costs (including reasonable attorneys' fees and fees of other professionals) arising out of or relating to any personal injury (including death) or loss or damage to tangible property (including data and information) except to the extent such injury or damage is the result of negligence of NetSmart, Inc. or its representatives.

NetSmart, Inc. will, at its expense, defend, indemnify, and hold the client and its representatives harmless from and against any and all claims, actions, demands, suits, losses, liabilities, judgments, expenses and costs (including reasonable attorneys' fees and fees of other professionals) arising out of or relating to any personal injury (including death) or loss or damage to tangible property (including data and information) except to the extent such injury or damage is the result of negligence of the client or its representatives.

Limitations of Liability

In no event shall NetSmart, Inc., its representatives, or the client be liable for any loss of profit or punitive damages arising out of or relating to this Agreement, even if advised of the possibility of such damages occurring.

Terms and Termination

This Agreement is ongoing, and **may be terminated at any time** by NetSmart, Inc. and/or the client after written notice of termination has been provided. This Agreement will automatically terminate if either the client or NetSmart, Inc. ceases to exist or is purchased by another entity.

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Force Majeure

Neither NetSmart, Inc. or the client will be liable for delays or failure to perform the IT services if due to any cause or conditions beyond its reasonable control, including delays or failures due to acts of God, natural disasters, acts of civil or military authority, fire, flood, earthquake, strikes, wars, alien invasions, or utility disruptions (shortage of power).

Non-Solicitation

Neither NetSmart, Inc. nor the client shall solicit employment from the other.

Permission for Unattended Access

By **initialing**, the client wishes NetSmart, Inc. to access its networks, on-site or off-site, without permission of the client for purposes of repair, installation, monitoring, performing updates, gathering pertinent information, proactive troubleshooting, and documentation. _____

Further Notes:

Signatures

NetSmart, Inc. _____(the client)

P.O. Box 1568 _____

Cary, NC 27512-1568 _____

(888) 696-3693 _____

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

