CONTRACTUAL SERVICES AGREEMENT

THIS AGREEMENT (hereinafter the "Agreement") is made this _____ day of _____, 2023 (the "Effective Date") by and between the **City of Sanibel, FL**, (hereinafter the "Customer"), and **N. Harris Computer Corporation**, an Ontario Corporation, with its place of business at 4464 Markham Street, Suite 1202, Victoria, BC, V8Z 7X8 (hereinafter the "CityView" or "Vendor"). The Customer and the Vendor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A   The Vendor, through its unincorporated CityView division, desires to perform and assume responsibility and obligation for the provision of certain professional services, as hereinafter described, on the terms and conditions set forth herein. Vendor represents that it is experienced in providing business process automation and implementation services to public clients and is familiar with the scope of work of the Customer;

B   The Customer desires to engage Vendor to render such services, as hereinafter described, for the Implementation of a Community Developing and Licensing Solution (the "Project") on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Customer and the Vendor agree as follows:

1   OPERATIVE PROVISIONS

1.1   ENGAGEMENT AND SERVICES OF THE VENDOR

1.1.1   Engagement of Vendor. The Customer hereby engages the Vendor and the Vendor promises and agrees to furnish to the Customer, subject to the terms and conditions set forth in this Agreement, all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional services necessary (the "Services") for the project described in the statement of work set out in ATTACHMENT E to this Agreement (the "Project"). The Services are more particularly described in ATTACHMENT A and in the statement of work set out in ATTACHMENT E attached hereto and incorporated herein by reference.

1.1.2   Performance of the Vendor; Standard of Care. The Vendor accepts the relationship of trust and confidence established between the Customer and the Vendor by the terms of this Agreement. The Vendor covenants with the Customer to perform all Services under this Agreement in a skillful and competent manner, consistent with or in excess of the standards of skill, quality and care adhered to by recognized professionals in the same discipline in Canada while performing services of a like or similar nature under like or similar circumstances. Vendor represents and maintains that it is skilled in the professional calling necessary to perform the Services, and that it shall consider all recent proven and tested methods known and successfully employed by recognized professionals in the same discipline in the USA. Vendor shall also cooperate with the Customer and any other consultants or contractors engaged by or on behalf of the Customer in performance of the Project. The Vendor covenants to use its commercially reasonable efforts to perform its duties and obligations under this Agreement in an efficient, expeditious and economical manner, consistent

with the best interests of the Customer and the professional standard of care set forth in this Agreement.

2   RESPONSIBILITIES OF THE VENDOR

2.1   <u>The Vendor's Responsibilities for Costs and Expenses</u>. Except as otherwise expressly stated herein, the Vendor shall be solely responsible for all costs and expenses incurred relative to the Vendor, personnel of the Vendor and sub-Vendors of the Vendor in connection with the performance of the Services, including, without limitation, payment of salaries, fringe benefits contributions, payroll taxes, withholding taxes and other taxes or levies, office overhead expense, telephone and other telecommunication expenses, and document reproduction expenses.

2.2   <u>Independent Contractor</u>. The Services shall be performed by Vendor or under its supervision. Vendor shall determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The Vendor represents that it possesses the professional and technical personnel required to perform the Services. The Customer retains Vendor on an independent contractor basis and not as an employee of the Customer. Vendor retains the right to perform similar or different services for others during the term of this Agreement. The personnel performing the Services on behalf of the Vendor shall at all times be under the Vendor's exclusive direction and control. The Vendor shall pay all expenses, including, without limitation, all wages, salaries, fringe benefit contributions, payroll taxes, withholding taxes, other taxes or levies and all other amounts due such personnel for the Services or due others as a result of the performance by such personnel of the Services. Vendor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to, all reports for social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

2.3   <u>Vendor's Project Manager</u>. The Vendor shall designate and assign a project manager ("Project Manager"), who shall coordinate all phases of the Services and act as the Vendor's representative for performance of this Agreement. The Project Manager shall have full authority to represent and act on behalf of the Vendor for all purposes under this Agreement, and shall be available to the Customer at all reasonable times. The Project Manager shall supervise and direct the Services, using his or her best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures employed by Vendor's personnel, as well as the satisfactory coordination of all portions of the Services under this Agreement.

2.4   <u>Time of Performance</u>. Generally, Vendor's implementation services bench is booked 90 – 120 days in advance. The Customer will be added to the schedule after a signed agreement is received. Vendor shall complete the Services to be performed by Vendor under and pursuant to this Agreement by a date mutually agreed to in the accepted project plan. This targeted completion date may be modified by mutual written agreement as a result of the fine tuning of the plan. Vendor shall perform the Services expeditiously, within the term of this Agreement, and in accordance with any schedule of services mutually acceptable to the Parties.

2.4.1   Any project schedule provided by Vendor as part of a proposal, is provided only as an example for similar projects. Such a schedule shall not be deemed to be the definitive schedule for the Customer's project. Vendor's project manager will develop a project-specific schedule, within the project plan, and this will become the project baseline, after the data collection process and process mapping is complete and once all applicable information is known (including vacation schedules and other "black-out" periods).

2.5 <u>Software Subscription and Support Agreement</u>. The Vendor will provide the access to software identified in ATTACHMENT A for the Customer's use as governed by its Software Subscription and Support Agreement, a copy of which is attached as ATTACHMENT C.

2.6 <u>Compliance with Laws.</u> Each party represents and warrants to the other party that it and its users will at all times be in compliance with all applicable local, state, provincial, federal and international laws, rules and regulations including, but not limited to, those laws regarding restrictions on exports (including the U.S. Export Administration Regulations end-user, end use and destination restrictions by Canadian, U.S. and other governments related to Vendor and its service provider's products, services and technologies.

2.7 <u>Insurance</u>. Vendor currently carries insurance coverage for commercial general liability, non-owned automobile coverage, workers' compensation, and errors and omissions policies. Customer has no rights to review the Vendor's policies.

2.8 <u>Assignment</u>. Neither party may assign any of its rights or duties under this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld, except that either party may assign to a successor entity in the event of its dissolution, acquisition, sale of substantially all of its assets, merger or other change in legal status. The Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and permitted assigns.

2.9 <u>Progress.</u> The Vendor shall endeavor to keep the Customer Project Manager and/or his or her duly authorized designee informed on a regular basis regarding the status and progress of the Services, activities performed and planned, and any meetings that have been scheduled or are desired relative to the Services or this Agreement.

2.10 <u>Confidentiality</u>. The Parties each acknowledge that they may receive information from the other Party or otherwise in connection with this Agreement or the performance of the Services. Except for information in the public domain, unless such information falls into the public domain by disclosure or other acts of the disclosing party or through the fault of the receiving party, the receiving party agrees:

2.10.1 to maintain this information in confidence and to take all reasonable steps, which shall be no less than those steps it takes to protect its own confidential and proprietary information, to protect the information of the other party from unauthorized use, disclosure, copying or publication;

2.10.2 not to use this information other than in the course of this Agreement;

2.10.3 not to disclose or release such information except to the extent required by applicable law or during the course of or in connection with any litigation, arbitration or other proceeding based upon or in connection with the subject matter of this Agreement, provided that the receiving party shall first give reasonable notice to the disclosing party prior to such disclosure so that the disclosing party may obtain a protective order or equivalent and provided that the receiving party shall comply with any such protective order or equivalent;

2.10.4 not to disclose or release such Confidential Information to any third person without the prior written consent of the disclosing party, except for authorized employees or agents of the receiving party who have a need to know such information for the purpose of performance under this Agreement and exercising its rights under this Agreement, and who are bound by confidentiality obligations at least as protective of the disclosing party's information as this Agreement; and

2.10.5   to take all appropriate action, whether by instruction, agreement or otherwise, to ensure that third persons with access to the information under the direction or control or in any contractual privity with the receiving party, do not disclose or use, directly or indirectly, for any purpose other than for performing the Services during or after the term of this Agreement, any material or information, including the information, without first obtaining the written consent of the disclosing party.

2.10.6   Vendor must fully cooperate with all public records requests by providing the necessary records to the City promptly upon notice unless the records are exempt from Section 24 (a) of Article I of the State Constitution and Chapter 119, Florida Statutes. Failure by Vendor to promptly respond to notices requesting records constitutes ground for unilateral cancellation by the City at any time, with no recourse available to Vendor. Records may be provided in the form or format in which they are kept including electronic files. Vendor's good faith right to claim an exemption from disclosure will not be deemed failure to comply with this Section. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE SANIBEL CITY CLERK (CUSTODIAN OF PUBLIC RECORDS).

2.11   No Set Hours/Right to Contract. The Vendor's obligation hereunder is to complete the Services in accordance with this Agreement and to meet any deadlines established pursuant to this Agreement. The Vendor has no obligation to work any particular schedule, hours or days, or any particular number of hours or days. However, the Vendor shall coordinate with the Customer in achieving the results and meeting the goals established pursuant to this Agreement.

2.12   Audits. Vendor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Vendor shall allow a representative of Customer during normal business hours and with reasonable notice (not less than 7 business days) to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Vendor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement. The Customer shall be limited to one request to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement per twelve (12) month period.

2.13   Data conversion. In the event that data conversion is required, it is possible there will be anomalies in the data that cannot be reconciled. Vendor will convert the data as it is in the database. However, if there is data that does not match the format of the field (i.e. alpha characters in a numeric field), or if there is inconsistent information, Vendor either will not bring that data in or the inconsistencies will be converted as is. Vendor will report any data anomalies found during the conversion process.

3   RESPONSIBILITIES OF THE CUSTOMER

3.1   Cooperation. The Customer shall cooperate with the Vendor relative to the provisions of those Services for which the Vendor is responsible. To the extent permitted by applicable law, the Customer shall provide criteria and information in its possession, or reasonably obtainable by it, as requested by Vendor, and shall make that information and related data available for Vendor's use during the performance of this Agreement. The Customer shall render decisions required by this Agreement within the time indicated, or if not specifically stated, with reasonable promptness so as not to unduly delay the progress of Vendor's Services.

3.2   <u>Customer's Project Manager and Project Staff.</u> The Customer shall designate and assign a Customer project manager ("Customer Project Manager") who shall have full authority to represent and act on behalf of the Customer for all purposes under this Agreement. The Customer Project Manager, or his/her designee, shall be the principal officer of the Customer for liaison with the Vendor, and shall review and give approval to the details of the Services as they are performed, in particular, but not exhaustively, Project Plan, Scope of Work, Acceptance Plans, Statements of Completion, Change Order Requests as they may be required during project implementation. In addition, the Customer Project Manager shall ensure proper and timely availability of all Customer personnel required by the Vendor for successful completion of project tasks, in particular, but not exhaustively, Business and Systems Analysts, IT staff, Subject Matter Experts, Users. The Customer designates Julian Halitaj to be its Project Manager, but reserves the right to appoint another person as Customer Project Manager upon written notice to the Vendor. Any change to project plan shall be dealt with through the Change Order Management process detailed in ATTACHMENT E.

3.3   <u>Project Plan.</u> The Customer shall be responsible for meeting specific milestones and providing specific deliverables that will be defined in the project plan to be mutually agreed to by the Parties in writing (the "Project Plan") including without limitation the date of readiness for testing following the completion of Initial Installation and configuration of the software solution. In addition, the Customer covenants to meet any turnaround or review times specified in the Project Plan. Should the Customer fail to meet the agreed milestones or to provide the agreed deliverables or to meet the specified turnaround or review times, the Vendor will inform the Customer of the consequences thereof and reserves the right to modify the project plan accordingly. Following any fine tuning of the Project Plan, after data collection/process mapping sessions and review, the Project Plan shall be agreed upon and signed by authorized representatives of each Party. The mutually agreed Project Plan shall be attached to this Agreement and shall be deemed to form part of this Agreement. The Customer agrees that the project schedule is a dynamic document and as such, only the most current version shall be considered in contract discussion throughout the project.

3.4   <u>Formal completion statement.</u>   No later than thirty days past go-live of the software solution, the Customer shall provide the Vendor with a written statement of completion certifying that the solution has been implemented successfully (the "Statement of Completion"). In case of a partial go-live this shall refer to the part of the solution that has gone live.

3.5   <u>Applicable Taxes and Exemptions.</u> The Customer shall be responsible for any sales tax due on fees associated with this Agreement. If the Customer is exempt from sales tax on fees associated with the Services to be provided by Vendor under this Agreement an exempt certificate will be provided to the Vendor prior to the execution of this contract.

3.6   <u>Allowance for Suspension or Delay due to Customer.</u>   In the event that the Customer shall suspend the performance of Services, delay any deliverable date, or cause a delay in performance by failing to fulfill any of its obligations under this paragraph 3, then the following shall apply: any applicable delivery schedule shall be extended by a period of time equal to the time lost because of any such delay. The due date for any deliverable that is dependent on such performance by the Customer shall be deemed adjusted equitably to allow for the effect of such delay on Vendor's ability to supply or perform such deliverable.

4   COMPENSATION

4.1   Compensation. In consideration of the performance by Vendor of the Services, the Customer shall pay to the Vendor compensation at the rates set forth in ATTACHMENT A attached hereto and incorporated herein by reference. Total compensation under this Agreement (including 1st year subscription) shall not exceed **$301,638.00** (plus travel and Annual Maintenance fees) without written approval of the Customer.

4.2   Extra Service. The Vendor shall not receive additional compensation for any extra service unless such extra service has been authorized in writing by the Customer prior to the commencement of the extra service, provided that the Change Order Management procedures in ATTACHMENT E have been followed. Any changes to the total compensation shall require the Customer's approval and further agreement between the parties. The Customer shall pay the Vendor for extra service in accordance with the Vendor's then current services rates. As used herein, "Extra Service" means any work which is determined by Customer to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement or for which initial assumptions driving estimated efforts are no longer valid.

4.3   Payment of Compensation. The Vendor shall submit invoices to the Customer in accordance with the payments milestones specified in ATTACHMENT A. The Customer shall make payments to the Vendor thirty (30) days following the date of receipt of the invoice.

4.4   Reimbursements. Customer shall reimburse the Vendor for its direct expenses, including, but not limited to, all reasonable travel and accommodation costs, meal expenses of not more than $65.00 per diem for week days and $110.00 per diem for weekend days (no receipts provided), including a travel time rate of $95.00 per hour, and all other reasonable expenses incurred in the performance of the Consultant's duties pursuant to the budget for "travel and expenses" described in ATTACHMENT A attached hereto. Reimbursement for expenses beyond the "travel and expenses" line item in ATTACHMENT A shall occur only if such additional expenses are agreed upon in writing by the Parties.

4.5   Mediation. The parties agree to submit any claim, controversy or dispute arising out of or relating to this Agreement or the relationship created by this Agreement to non-binding mediation before bringing a claim, controversy or dispute in a court or before any other tribunal. The mediation is to be conducted by either an individual mediator or a mediator appointed by mediation services mutually agreeable to the parties. Such mediator shall be knowledgeable in software system agreements. The mediation shall take place at a time and location which is also mutually agreeable; provided; however, in no event shall the mediation occur later than ninety (90) days after either party notifies the other of its desire to have a dispute be placed before a mediator. The costs and expenses of mediation, including compensation and expenses of the mediator (and except for the attorney's fees incurred by either party), is to be shared by the parties equally. If the parties are unable to resolve the claim, controversy or dispute within ninety (90) days after the date either party provides the other notice of mediation, then either party may bring and initiate a legal proceeding to resolve the claim, controversy or dispute unless the time period is extended by a written agreement of the parties.   Nothing in this paragraph 4 shall inhibit a party's right to seek injunctive relief at any time.

4.6   Late Payment. If the Customer fails to make payment of any amount within five (5) days after it is due, interest shall accrue on the overdue amount, from the date overdue until the date paid, at the overdue rate of 1.5% per month.

5   REMEDIES AND LIABILITIES

5.1   Remedies and Limitation of Liability.

5.1.1   The Customer and the Vendor recognize that circumstances may arise entitling the Customer to damages for breach or other fault on the part of the Vendor arising from this Agreement. The parties agree that in all such circumstances the Customer's remedies and the Vendor's liabilities will be limited as set forth below and that these provisions will survive notwithstanding the termination or other discharge of the obligations of the parties under this Agreement.

5.1.2   TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, VENDOR, ITS AFFILIATES, AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND SHAREHOLDERS' ENTIRE LIABILITY AND THE CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT TO THE SERVICES AND ANY OTHER PRODUCTS, MATERIALS OR SERVICES SUPPLIED BY THE VENDOR IN CONNECTION WITH THIS AGREEMENT FOR DAMAGES FOR ANY CAUSE AND REGARDLESS OF THE CAUSE OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING FUNDAMENTAL BREACH, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL THEORY, SHALL NOT EXCEED IN THE AGGREGATE AN AMOUNT THAT IS EQUAL TO THE SERVICES FEES PAID UNDER THE PARTICULAR STATEMENT OF WORK UNDER WHICH THE CLAIM AROSE.

5.1.3   IN NO EVENT SHALL THE CUSTOMER OR THE VENDOR, ITS AFFILIATES AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND SHAREHOLDERS, BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO FOR LOST REVENUE OR LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF DATA, FAILURE TO REALIZE EXPECTED SAVINGS, OR COST OF SUBSTITUTE GOODS OR SERVICES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE LIKELIHOOD OF THE OCCURRENCE OF SUCH LOSS OR DAMAGE OR SUCH LOSS OR DAMAGE IS FORSEEABLE AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY

5.2   Intent.   The parties hereby confirm that the waivers and disclaimers of liability, releases from liability, limitations and apportionments of liability, and exclusive remedy provisions expressed throughout this Agreement shall apply even in the event of default, negligence (in whole or in part), strict liability or breach of contract of the person released or whose liability is waived, disclaimed, limited, apportioned or fixed by such remedy provision, and shall extend to such person's affiliates and to its shareholders, directors, officers, employees and affiliates.

5.3   Remedies.   Where remedies are expressly afforded by this Agreement, such remedies are intended by the parties to be the sole and exclusive remedies of the Customer for liabilities of the Vendor arising out of or in connection with this Agreement, notwithstanding any remedy otherwise available at law or in equity.

6   EXPIRATION AND TERMINATION

6.1   Events of Default. Each of the following events shall constitute an "Event of Default":

6.1.1   The Vendor shall fail to observe, perform or comply with any material term, covenant, agreement or condition of this Agreement which is to be observed, performed or complied with by the Vendor, if such failure continues uncured for thirty (30) calendar days after the Customer gives the Vendor written notice of the failure and the specific nature of such failure.

6.1.2   The Vendor shall commit any fraud, misrepresentation, breach of fiduciary duty, willful misconduct, or intentional breach of any material provision of this Agreement.

6.1.3   The Vendor is adjudged bankrupt, makes a general assignment for the benefit of its creditors or a receiver is appointed on account of the Vendor's insolvency.

6.1.4   The Vendor undergoes a change in control which adversely effects the Vendor's ability to satisfy some or all of its obligations under the Agreement in the discretion of the Customer (except that no internal re-organization of the Vendor with an affiliated company shall be deemed a change in control);

6.1.5   If the Vendor assigns this Agreement without consent of the Customer (except that this subsection shall not apply to an assignment by the Vendor to an affiliated company where the affiliated company assumes all of the rights and obligations under the terms of this Agreement).

6.2   Termination Upon Event of Default. In addition to any other available legal or equitable rights or remedies, upon an Event of Default by the Vendor, the Customer shall have the right to terminate this Agreement upon written notice to the Vendor.

6.3   Expiration. Unless extended as provided for herein, this Agreement shall naturally expire on receipt of the Statement of Completion from the Customer. The expiration of this Agreement under this term shall neither affect nor require the termination of the Subscription and Support Agreement.

6.4   Payment Upon Termination. Upon a termination of this Agreement, the Customer shall pay to the Vendor the part of the Compensation which would otherwise be payable to the Vendor with respect to the Services which had been completed as of the date of termination, less the amount of all previous payments with respect to the Compensation.

6.5   Termination by Vendor. Vendor may terminate this Agreement only upon the breach by the Customer of a material provision of this Agreement such as the Customer withholding payment for more than 30 days beyond due date.

7   GENERAL PROVISIONS

7.1   Nondiscrimination by the Vendor. The Vendor represents and agrees that the Vendor, its affiliates, subsidiaries, or holding companies do not and will not discriminate against any subcontractor, Vendor, employee, or applicant for employment because of race, religion, color, sex, handicap, national origin or any other protected classification under federal or state law. Such nondiscrimination shall include, but not be limited to, the following: employment, upgrading, demotion, transfers, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

7.2   Rights to Employ Other Vendors. The Customer reserves the right to employ other Vendors in connection with this Project.

7.3   Conflicts of Interest; Prohibited Interests. Vendor maintains and warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Vendor, to solicit or secure this Agreement. Further, Vendor warrants that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Vendor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Customer shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of Customer, during the term of his or her service with Customer, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

7.4   Subcontracting. The Vendor shall not subcontract any portion of the Services except as expressly stated herein, without prior written consent of the Customer. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

7.5   Waiver. No waiver of any default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by other parties shall give the other any contractual right by custom, estoppel, or otherwise.

7.6   Notices. Any notice required or permitted to be given by any party pursuant to this Agreement shall be given by means of electronic message. The notice shall not be conclusively deemed given and received until a representative from the receiving party has responded to the initiating party by email within five (5) business days. Notice shall be deemed given and received on the date that the receiving party's representative contacts the initiating party. In the event that the receiving party fails to respond to the initiating party by email, the initiating party may subsequently give notice in writing by prepaid registered post. If the prepaid registered post is sent within ten (10) business days after the initiating party sent the initial electronic message, the notice shall be deemed given and received on the original date that the initiating party sent the initial electronic message. If the prepaid registered post is sent more than ten (10) business days after the initiating party sent the initial electronic message, the notice shall be deemed given and received on the date that the prepaid registered post was sent by the initiating party. The electronic message or prepaid registered post shall be addressed, in the case of Vendor to:

CityView	and in the case of the Customer, to:
Attention: Sean Higgins	Attention: City Manager
Address: 4464 Markham St., Suite 1202	Address: 800 Dunlop Road
Victoria, BC V8Z 7X8	Sanibel, FL 33957
Phone: 800.665.5647	Phone: 239-603-7261
Email: shiggins@harriscomputer.com	Email: citymanager@mysanibel.com

7.7   Authority to Enter Agreement. Each Party has all requisite power and authority to conduct its business and to execute, deliver and perform all of its obligations under this Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right and authority to enter into this Agreement so as to bind each respective Party to perform the conditions contemplated herein.

7.8   Severability. If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

7.9   Governing Law and Venue. This Agreement shall be construed in accordance with, and governed by, the laws of the state of Florida. Any lawsuit brought to enforce this Agreement shall be brought in the appropriate court in the state of Florida. The Parties hereby waive the right to trial by jury in any action, proceeding or counterclaim filed by any party. This Agreement expressly excludes any applicable Uniform Commercial Code and the United Nations Convention on Contracts for the International Sale of Goods and any legislation implementing such Convention, if otherwise applicable.

7.10   Days. Any term in this Agreement referencing time, days, or period for performance shall be deemed to be calendar days and not work days.

7.11   Entire Agreement. This Agreement contains the entire agreement of the Customer and the Vendor, and supersedes any prior or contemporaneous written statements or agreements between the Customer and the Vendor. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by both Parties.   Provisions of a Customer purchase order or similar document are not applicable to the extent that they conflict with the terms of this Agreement. Under no circumstances shall the provisions of a purchase order supersede those of this Agreement. For further clarification, the parties agree that the Software Subscription and Support Agreement being entered into between the parties concurrently with this Agreement is a separate agreement and is binding in its own right and upon its own terms.

7.12   Binding on Assigns. Each and all of the covenants and conditions of this Agreement shall be binding on, and shall inure to, the benefit of the successors and assigns of the respective parties.

7.13   Survival. The parties recognize and agree that in addition to any sections or obligations that explicity state as such, Sections 2.10, 2.12, 3.5, 4, 5, 6.4 and 7.9 of this Agreement shall survive the cancellation, termination, or expiration, of this Agreeement.

7.14   Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

7.15   Captions. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, content or intent of this Agreement.

7.16   Construction. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language in all parts of this Agreement shall be construed simply, according to its fair meaning and not strictly for or against any party.

7.17 <u>Cooperation/Further Acts</u>. The Parties shall fully cooperate with one another in attaining the purposes of this Agreement. In connection therewith, the Parties shall take any additional further acts and steps and sign any additional documents as may be necessary, appropriate and convenient to attain the purposes of this Agreement.

7.18 <u>No Third Party Beneficiaries</u>. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

7.19 <u>Incorporation of Recitals, Schedules and Exhibits</u>.

7.19.1 The "Recitals" constitute a material part hereof, and are hereby incorporated into the Agreement by reference as though fully set forth herein.

7.19.2 The "Schedules" and "Exhibits" constitute a material part hereof, and are hereby incorporated into the Agreement by reference as though fully set forth herein.

7.20 <u>Allocation of Risk.</u> Customer acknowledges that the limited warranties, disclaimers and limitations of liability contained in this Agreement are fundamental elements of the basis of bargain between Customer and Vendor and set forth an allocation of risk reflected in the fees and payments due hereunder.

7.21 <u>Force Majeure</u>. Neither party shall be liable for delay or failure in performance resulting from acts beyond the control of such party including, but not limited to, acts of God, acts of war or of the public enemy, riots, fire, flood, or other natural disaster, acts of government, strike, walkout, communication line or power failure, failure in operability or destruction of the Organization's computer (unless by reason of the negligence of a party to this Agreement) or failure or inoperability of any software other than the Software. Any applicable delivery schedule shall be extended by a period of time equal to the time lost because of any such delay.

7.22 <u>Pricing</u>. Pricing in this Agreement has been submitted in confidence and contains trade secrets and/or privileged or confidential commercial or financial information that would result in a competitive disadvantage if disclosed without prior permission by Vendor ("Trade Secret"). A Trade Secret includes, but is not limited to, any formula, pattern, device, or compilation of information that is used in one's business, which gives him/her an opportunity to obtain an advantage over competitors who do not know or use it. Since it would harm Vendor if any of our Trade Secrets were known to our competitors, it is Vendor's policy that this Agreement be disclosed to any party outside of the party addressed as the recipient of this Agreement. Customer shall have the restricted right to disclose the entire contract dollar amount; however, this disclosure may not include itemized data herein to the extent provided in the resulting contract.

7.23 <u>Professional Services Fees</u>. Customer agrees to pay Vendor the professional services fees in the amounts set forth in ATTACHMENT A Payment Milestones and Project Deliverables, in this Agreement. Those amounts are payable in accordance with CityView's Compensation policy in paragraph 4. Customer acknowledges that the fees stated in the ATTACHMENT A are based on good-faith estimates of the amount of time and materials required for the Customer's implementation. Should Vendor's estimates be invalidated as a result of new or different information coming to light, Vendor will advise the Customer of any discrepancy and its implication. Any required adjustment will be addressed in a change order.

IN WITNESS WHEREOF the Parties have executed this Agreement to be effective on the Effective Date by their duly authorized representatives.

ACCEPTED

ACCEPTED

CityView Authorized Signature:

Customer Authorized Signature:

Name:

Name:

Title:

Title:

Date:

Date:

LIST OF ATTACHMENTS

ATTACHMENT A - Payment Milestones and Project Deliverables

ATTACHMENT C - CityView Software Subscription and Support Agreement

ATTACHMENT D - CityView Service Level Agreement

ATTACHMENT E - Statement of Work

ATTACHMENT F - Project Plan

ATTACHMENT B Software & Subscriptions (Year 1 – subject to annual revision)	Deliverables	Payment Milestone	Payment Terms

Annual Subscription Fees Include:
   20 CityView Named Users - Full Read/Write
   5 Named Users CityView Mobile
 	
Subscribed Add-ons & Extensions Include:
   1 CityView Esri ArcGIS Mapping Extension
   1 CityView Portal (licensed for Permits & Inspections, Planning and Business Licensing
   CityView Electronic Plans Review
   1 CityView MS Outlook Add-in
   1 CityView MS Word Add-in
   1 CityView [Preferred] Payment Processor Extension
   1 CityView Configuration Console
 	
Software Subscription Services include:
 	
Solutions:
   CityView Property Information
   CityView Permits & Inspections
   CityView Planning
   CityView Licensing (Business)
   CityView Cashiering
	CityView will:
	• Set up as a client on FTP, Host site & CityView Connect
	• Provide documentation on CityView Connect site
	• Send the access instructions for the CityView development site on the host site
	• Provide documentation to download the Bluebeam Software from Bluebeam site
	
	Subscribers receive:
	• All major and minor software upgrades
	• Unlimited technical support;
	• Unlimited access to the CityView FTP site
	• Unlimited access to the CityView Connect
		$91,356	The invoice for fifty percent (80%) of the first year Annual Subscription Fees shall be issued on the Effective Date and payable net 30 days. The invoice for the remaining fifty percent (20%) of the first year Annual Subscription Fees shall be issued on the date set out in the Project Plan (as defined in the Contractual Services Agreement) when the Software has been installed, configured and is ready for testing by Customer, and due net 30 days. All other invoices shall be due and payable within thirty (30) days of the date of the invoice. The Annual Subscription Fees applicable to subsequent annual subscription terms shall be invoiced ninety (90) days in advance of the anniversary of the date set out in the Project Plan when the Software was installed, configured and is ready for testing.

5 Named User Bluebeam Revu Subscriptions (Complete)	• Provide documentation to download the Bluebeam Software from Bluebeam site	$2,000	Invoiced on execution of the contract and due net 30 days
Total Licensing & Subscriptions		**$93,356**	

Solution Implementation	Deliverables	Payment Milestone	Payment Terms
Remote Infrastructure Review	Remote review of customer infrastructure for purposes of accessing CityView Workspace and for interface purposes. Provide questionnaire to customer for completion. Study of hardware and software infrastructure in context of optimization for CityView. Provision of hardware and software infrastructure report.	$700	Invoiced on delivery of infrastructure report, due net 30 days
Project Kickoff, online Process Mapping (onsite & remote components)	Project kick-off and confirmation of initial project plan. CityView Select process mapping with online workbooks and other digital materials, including up to 6 Subject Matter Experts (SMEs) per session. Online workbook completion for Property Information, Permits & Inspections, Planning, Business Licensing and Cashiering. Includes up to 2 person days on site for customizations & custom workflows. Deliverable is the Scope Document with completed online process mapping answer sheets, other digital materials provided by CityView & completed by customer and, where applicable, customizations & custom workflows definition.	$19,775	Invoiced on commencement of online Process Mapping and due net 30 days
Installation (remote) and Environment Management	Initial Installation of CityView environments (production & test) on host site. Test to ensure proper operation. Management of environment through upgrades etc through the life of the implementation. Includes up to 3 installs. Deliverable is successful set up of CityView in Production and Test environments on remote host site.	$4,200	Due upon completion of the remote host site Initial Installation
Data Mapping/Interfaces (can include onsite & remote components)	Provide customer with data mapping templates and instructions for completion. Validate data conversion and interface requirements and cost. Includes 3 person days onsite. Deliverable is signed-off data mapping and interface documentation.	$8,400	Invoiced upon commencement of data mapping and due net 30 days
Configuration	Configuration based on completed Scope Document. Deliverable is CityView-hosted development environment ready for review & validation & configuration refinement.	$48,650	50% invoiced upon commencement of the configuration and due net 30 days; and, 50% invoiced upon scheduling of the first review & validation session and due on or before the first review & validation session.
Data Conversion (estimate to be confirmed upon review of the data required for conversion)	Initial Data Conversion. Deliverable is CityView-hosted development environment ready for data conversion validation testing.	$15,400	Invoiced upon scheduling of the first review & validation session and due on or before the first review & validation session
Customizations and Integrations	Create any customizations and interfaces agreed to in the scope and provide reference documentation for client. Currently this includes a batch export to the City's GL. Deliverable is CityView-hosted development environment ready for remote review & validation session of customizations and interfaces.	$16,406	Due upon commencement of customizations and integrations

Remote Review Sessions for Validation and Refinement	Perform remote review sessions, focusing on configuration and workflow, data conversion, customizations and interfaces (where applicable). If it is determined that additional reviews are required outside what is stated in the Statement of Work, an estimate will be provided. Gather validation feedback. Identify in-scope vs. out of scope feedback. Implement any in-scope refinements arising out of the validation. Complete in-scope refinements arising from two week final client-acceptance testing. Deliverable is final, end-user-training-ready environment. Written acceptance by client is required.	$30,100	50% invoiced on the first remote review session and due net 30 days; 50% invoiced upon completion of validation moving to UAT and due net 30 days.
Training (onsite unless otherwise specified)	8.5 days end-user training for: •CityView Basics (up to 20 students) • Permits & Inspections (up to 10 students) • Planning (up to 5 students) • Business Licensing (up to, 5 students) • Cashiering (up to 5 students) • Bluebeam (up to 5 students, remote) • CityView Mobile (up to 5 students) • CityView Portal (up to 5 students, remote) 5 days advanced-user training for: • CityView Reporter (up to 4 students) • Configuration & Maintenance (up to 6 students) • System Administrator (up to 4 students, remote)	$26,820	Invoiced upon the first day of user training and due net 30 days
Data Update / Install (Remote)	Final data update/conversion to get current data into client database for go-live. Must be the same scripts used in initial data conversion. Data must be verified by both CityView and Client before go-live. Sign off required. Deliverable is final data conversion for Go-live.	$1,400	Invoiced on the first day of Go Live Facilitation and due net 30 days.
Onsite Go Live Facilitation	4 days of onsite facilitation to provide over-the-shoulder guidance and training to users	$8,531	Invoiced on the first day of Go Live Facilitation and due net 30 days.
Project Management	Ongoing management of all implementation services. Project Management is included based on the proposed scope of the project. Should delays by the customer occur, or scope changes result in the need for additional project management, time may be billed at $189/hr. upon authorization through the change control process.	$25,900	50% due upon commencement of data collection, 50% balance due upon scheduling of go-live.
Travel & Expenses	Budget for travel and related expenses for services to be conducted on customer's site (budget assumes 5 person trips and 20.25 days spent on site). If additional travel is mutually agreed to be warranted, this will be charged at cost of flights, accommodation and expenses plus $65/weekday ($110/weekend day) per diems & US$95/hr. travel time.	$21,375	Invoiced and due as incurred
Total Services		**$227,657**	

Mandatory Annual Recurring Fees	Deliverables	Payment Milestone	Payment Terms
Annual Software Maintenance (custom interfaces and product level customizations) (Year 1)	Provides: • Support for stated interfaces • Support for in-scope, CityView-delivered customizations to product.	**$3,528**	Due upon Host site Initial Installation
Bluebeam Revu Annual Subscriptions	First line of support for Bluebeam Revu	**$2,000**	Invoiced on annual renewals

ATTACHMENT D CityView Service Level Agreement

The purpose of this Exhibit is to provide our customers with information on our standard coverage, the services which are included as part of your annual software support, a listing of call priorities, an outline of our escalation procedures and other important details.

CITYVIEW reserves the right to make modifications to this document as required; provided, however, CITYVIEW shall not reduce the scope of support provided hereunder without the prior consent of the Customer.

Contract Term: 1 Year (renewable annually)

Support Channels: Web, Email or Telephone

Support Requests Allowed: Unlimited

Who Can Report: Individuals who are trained in the use of CityView can report issues to Customer Support.

Hours of Coverage: Coverage hours are 8:00 a.m. to 8:30 p.m. Eastern Standard Time from Monday through Friday, excluding CityView Technical Support observed holidays. (Only those statutory holidays that coincide between Canada and the United states are observed by CityView Technical Support.)

Accessing Support: The preferred method of opening a support incident is to use our CityView Connect Feedback mechanism within the software. Telephone support requests should be preceded by filing a support request within CityView Connect web site, including a detailed problem description. Telephone support requests will be answered live during business days, though staff may be involved serving other customers. If your call is not answered live, please leave a message, including the support request tracking number you received from the electronic filing, your name and phone or pager number. Messages are typically responded to within two hours.

Auto Acknowledgement: CityView Connect will assign a case number, accessible from the CityView Connect Feedback Status web page. Email and telephone correspondence will also result in cases being created and those will be available for review through the CityView Connect Feedback Status web page. Whenever the status of your incident changes, an email notification will automatically be sent to the individual that opened the call.

Request Response Time: A technical support engineer will respond to all requests within the time frames specified in Table 1. Business hours are 8:00 a.m. to 8:30 p.m. Eastern Standard Time from Monday through Friday, excluding CityView Technical Support observed holidays. Only those statutory holidays that coincide between Canada and the United States are observed by CityView Technical Support. We process requests in the order of their priority followed by order of submission.

What we will do if we don't hear back from you?: If we don't hear back from you in ten business days, we will close your support request and mark it as "Closed / No response from customer."

Resolution of Bug-Related Requests: We will keep your request open and follow up when a fix is available in a production release. We will also contact you if we post an experimental build that will help with your problem.

What We Need to Help You? CityView wants to be as responsive as possible to your support needs. To accomplish this goal, the CityView customer support staff relies on your knowledge, self-sufficiency, and thoroughness during the troubleshooting process. You reap the benefits from this effort — it allows CityView to focus on the more difficult problems and make the product more robust. It also helps control the amount CityView charges for support.

- Knowledge: You should be experienced in the installation, operation, and maintenance of the hardware, desktop, and network operating systems, and applications in your environment before you install CityView.

- Self-sufficiency: Please be as self-sufficient as possible when you encounter problems. You can do this by referring to technical documentation for your environment and by searching our CityView Connect Help site to determine if your issue is addressed before you submit it to our customer support staff.

- Complete information: As with any troubleshooting process, accurate and timely resolution depends on information. When you request support, please fill in all relevant fields in the request form, provide a detailed problem description, and attach any appropriate log files. Please note that using the CityView Connect Feedback mechanism within the product records most of this information automatically; therefore, it is the preferred way to submit a request to support because it guarantees we get this information with minimal effort from you. Unfortunately, when the request information is incomplete, it will take longer to resolve your issue.

- Preparation: If you call us for support, be prepared to provide the same level of information as is requested on the request submission form. You can help reduce the time to resolution by completing the online support request form and attaching files as directed. Then, simply provide us with the request number when you call. In addition, please have immediate access to the computer(s) on which CityView products are running.

How to Access Support CityView offers several methods of accessing support described below. Please note that for Priority 1 (see Table 1) issues, customers are encouraged to submit their incident online and then follow up via CityView's toll-free phone number:

CityView Connect is the best way to receive support for our product. This feature is available from the Home tab of the ribbon in CityView Workspace as well as in many of our add-on products.
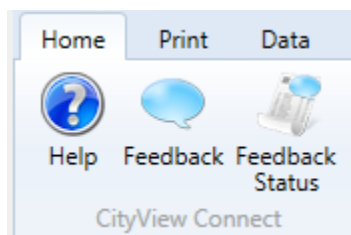
CityView Connect Feedback (preferred method) If there is a feature you are having trouble using, or, if there is a feature you really like, please let our team know about it. Within CityView, use the Feedback button to let us know about your question or inquiry. If you have a feature request for our team, please use this method to let us know what you would like to see in the product. The information can also include screenshots and documents to help describe your feedback.

CityView Connect Help The Help button will redirect your internet browser to our CityView Connect Help site (http://cityviewhelp.iharriscomputer.com/CityViewCMS). The site is available for customer self-service, and is comprised of a searchable content management system and downloadable updates, including links to our release notes and latest features.

CityView Connect Feedback Status Our CityView Connect Feedback Status link redirects to our Connect Feedback website (http://cityviewsupport.harriscomputer.com/connect). This site will allow users to log new support incidents and check the status of previously submitted incidents on a 24 x 7 basis. Please contact our support group by telephone or email if there are preferred individuals who should be able to review all site calls.

Telephone Support Telephone technical support is available between the hours of 8:00 a.m. to 8:30 p.m. Eastern Standard Time on regular business days. Customers can contact us toll-free at 1.866.988.8324. CityView technical support will respond to telephone inquiries using the Service Level Agreement provided in Table 1 below.

Email Support Email support is available by reaching our support team at cityviewsupport@harriscomputer.com

Please note that any suggestions for enhancements to CityView that you submit will become the property of CityView. CityView may use this information for any CityView business purposes, without restriction, including for product support and development. CityView will not use information in a form that personally identifies you.

Limitations

CityView Support helps to identify and resolve issues with CityView's software. This Support begins as soon as the implementation project gets underway and may be provided by CityView Technical Support or R&D, depending on the circumstances. From time to time, an issue may manifest itself in CityView software but its true cause lies in a third–party product, or in the customer's infrastructure. CityView is happy to spend the time to investigate such issues and resolve them when they are within CityView. Should it be determined that the issue lies elsewhere, time may be billed at $175/hour, plus a $300 administration fee, upon authorization by the customer.

The following are not covered by CityView's Standard Support Agreement, but may be available as separate services on a time and materials basis:

- Services required due to misuse of CityView maintained software;

- Services required due to software corrections, customizations, or modifications not developed by CityView;

- Services required by the Customer to be performed by CityView outside of CityView's regular business hours;

- Services required to resolve or work-around problems that cannot be reproduced in CityView's support environment;

- Services which relate to tasks other than maintenance of the Customer's existing implementation and configuration of CityView, including but not limited to, enhancing or adapting CityView for specific operating environments;

- Services requested by the Customer to implement software updates provided by CityView.

Table 1 Service Level Agreement

Priority	Definition	Initial Response Time*	Commitment (CityView and Customer)	Examples
1 (High)	Operation/Service down or critically impacted. Business process impacted. No known workaround.	2 Hours	CityView and customer will commit necessary resources to fix problem or obtain a workaround.	Users cannot login Business process halted
2 (Medium)	Operation affected, but not down. Business process is not affected. Workaround may be available.	4 Hours	CityView and customer will commit resources during normal business hours to resolve issue or obtain workaround.	Cannot print Cannot process payments Application response is exceptionally slow
3 (Normal)	Moderate to negligible impact. No impact to business.	24 Hours	CityView and customer will commit necessary resources during normal business hours to restore operation to satisfactory levels.	Non-critical feature not working Feature works but requires user intervention
4 (Info.)	Request for information, documentation issues, and enhancement requests.	48 Hours	Request-dependent.	Help file clarification Form design not in production

* Response time targets are during business hours only.

Obtaining More Information   Information about our support programs may be obtained by contacting the CityView support team at 1.800.665.5647, or via email at cityviewsupport@harriscomputer.com.

ATTACHMENT E Statement of Work