



CITY OF MADISON HEIGHTS

CITY HALL - EXECUTIVE CONFERENCE ROOM, 300 W. 13 MILE RD.

INFORMATION TECHNOLOGY ADVISORY BOARD AGENDA

MAY 08, 2023 AT 6:00 PM

CALL TO ORDER

ROLL CALL

ADDITIONS/DELETIONS

APPROVAL OF MINUTES

- [1.](#) Minutes - March 16, 2023

MEETING OPEN TO THE PUBLIC

REPORTS

- [2.](#) BPI Master Services Agreement

UNFINISHED BUSINESS

NEW BUSINESS

ADJOURNMENT

NOTICE: Persons with disabilities needing accommodations for effective participation through electronic means in this meeting should contact the City Clerk at (248) 583-0826 or by email: clerks@madison-heights.org at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

Information Technology Advisory Board
 Madison Heights, Michigan
 March 16, 2023

An Information Technology Advisory Board was held on Thursday, March 16, 2023 at 6:00 PM
 at City Hall - Executive Conference Room, 300 W. 13 Mile Rd.

CALL TO ORDER

The meeting is called to order at 6:02 p.m.

ROLL CALL

PRESENT:

Mark Bliss
 Brain Davis
 Dale Gardner
 Curtis Kogelman
 Scott Tuller
 Melissa Marsh
 Corey Haines
 Alternate Paul Timmins
 Alternate Sean Fleming

ABSENT:

Alternate Robert Didur

Also in attendance: Linda Kunath – Finance Director

APPROVAL OF MINUTES

1. Minutes from May 4, 2022

Motion to approve the minutes with the edit to move the alternates to the “present” section of the minutes.

Motion made by Bliss, Seconded by Davis.

Voting Yes: Bliss, Davis, Gardner, Kogelman, Tuller, Marsh, Haines

Voting No: None

MEETING OPEN TO THE PUBLIC

REPORTS

2. IT Contractor Service Agreement

M. Marsh updated the board that the current contract with BPI is expiring June 30, 2023.

During the City’s staff internal contractor review process, issues were expressed by all Departments regarding the services provided by BPI. Some of these issues included a lack of communication and timeliness, company depth on certain issues lacking, all IT staff being allowed to be off, offering no coverage for the City at times, and many items outside the scope of services to be billed separately. Therefore, staff contacted Enertron, the next most responsible bidder from the 2020 RFP process.

Staff met with Entertron regarding their services and delivery model. The 3-year annual cost would be \$272,400. BPI contract extension was originally quoted at \$270,000 for one-year but then revised to \$252,000 for one-year.

Numerous members of the board questioned SOC and discussed performance issues. Board has requested a follow-up meeting within 60 days to review resumes and/or job descriptions of key staff as quoted in the proposal, including Chief Information Officer and project managers. They have also requested a quarterly business review to be conducted with staff, with two of these meetings with ITAC.

Bliss also suggested contracting with or hiring a part-time IT consultant to act as a third-party review for day-to-day operations.

Motion to review services with BPI, including discussion of services performance/penalty return to ITAC within 90 days.

Voting Yes: Bliss, Davis, Gardner, Kogelman, Tuller, Marsh, Haines

Voting No: None

3. Information Technology Budget FY 2024

L. Kunath discussed the items included in the IT budget.

ITAC suggested removing references and details about specific security software from the budget footnotes with follow-up regarding the proposed security software.

The budget report was received and filed.

ADJOURNMENT

Chairman Kogelman adjourned the meeting at 7:23 p.m.

NOTICE: Persons with disabilities needing accommodations for effective participation through electronic means in this meeting should contact the City Clerk at (248) 583-0826 or by email: clerks@madison-heights.org at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

MASTER SERVICES AGREEMENT

This Master Services Agreement (this "**Agreement**") is entered into as of **{07/01/2023}** (the "**Effective Date**"), by and between BPI, with its principal address at 23399 Commerce Dr., Suite B-7, Farmington Hills, MI 48335 ("**BPI**") and the party below ("**City of Madison Heights**").

Client Name: City of Madison Heights
Billing Address: 300 West 13 Mile Road
City: Madison Heights State: Michigan Zip: 48071
Shipping Address: 300 West 13 Mile Road
City: Madison Heights State: Michigan Zip: 48071
Telephone Number: 248-588-1200 Fax Number:
Company Website: www.madison-heights.org
Primary Contact Name: Melissa Marsh
Primary Contact Email: melissamarsh@madison-heights.org
Accounting Contact Name: Linda Kunath
Accounting Contact Email: lindakunath@madison-heights.org

This Agreement consists of this cover page; the attached Terms and Conditions; and the following Schedule(s), which have been agreed to as of the Effective Date: 07/01/2023 through June 30, 2024 unless extended on an annual basis, in writing by both parties.

EACH PARTY REPRESENTS AND WARRANTS THAT IT HAS READ AND AGREES TO BE BOUND BY THIS AGREEMENT (INCLUDING THE ATTACHED TERMS AND CONDITIONS AND SCHEDULES) AND IS AUTHORIZED TO EXECUTE THIS AGREEMENT.

BPI:

Client:

By: _____

By: _____

Print Name and Title

Print Name and Title

Date: _____

Date: _____

BPI MASTER SERVICES AGREEMENT TERMS AND CONDITIONS

1. **Introduction.** This Agreement is between **BPI** and the **Client** specified on the cover page of this Agreement. Under the terms of this Agreement, BPI shall provide Client with IT support services as described in one or more mutually agreed Schedules (the “**Services**”).
2. **Services**
 - (a) Schedules. The initial scope of Services under this Agreement is described in Schedules executed on or about the Effective Date. The parties may from time to time add to or modify the initial Services by mutual agreement. Services may be added to or modified through an agreed new Schedule or through other formal or informal means (including by means of a request by Client (made verbally, by e-mail, through a BPI online portal, or otherwise) for consulting or support services outside the scope of currently ordered Services, a change order, or Client approval of a quote). BPI shall confirm any informal requests for additional or modified Services by e-mail or other writing. BPI is entitled to rely on requests for additional Services made by any Client user, including requests for on-site Services and Services outside of Regular Business Hours (as defined below). In all cases, the additional or modified Services will be governed by the terms of this Agreement. The term “Schedule” hereunder refers to both a formal Schedule and to any informal document or communication that specifies the scope and fees of Services provided by BPI.
 - (b) Hours of Service. Services will be provided by BPI in one or more of the following windows, as agreed by the parties:
 - **Regular Business Hours.** Regular Business Hours are defined as weekdays between 8:00 a.m. and 4:30 p.m. eastern time.
 - **After Hours Service.** After Hours Service is service and support provided between the hours of 4:30 p.m. and 8:00 a.m. eastern time Monday through Friday, all day (24 hours) on Saturday and Sunday and all day (24 hours) on designated holidays.
 - (c) Help Desk. BPI will maintain a centralized “Help Desk” to manage the reporting and handling of technical issues. Client agrees to report all technical issues to the Help Desk. The Help Desk may be contacted by Client by either logging into BPI’S client portal, sending an email or by calling via telephone, or in other methods as communicated by BPI to Client from time to time. BPI shall provide at least one person on site during pre-approved or sick days unless preapproved by City Management.
 - (d) Start Date. BPI may specify in the Schedule an estimated date for beginning the Services. Any such estimated date is made for project planning purposes only and is not a guarantee; BPI may revise an estimated start date at any time if the assumptions upon which BPI relied in determining its initial estimate change the scope or magnitude of the Services, or if Client fails to provide required information, assistance, and/or decisions.
 - (e) Warranty Service. BPI does not provide warranty service for any third-party hardware or software unless expressly agreed in writing by BPI. Client may request that BPI provide certain products and services that are also covered under the manufacturer’s warranty in

order to expedite repairs to Client systems. Client is responsible for any potential impact that this may have on the balance of Client's manufacturers' warranty. Client is also responsible for payment for all requested products and services provided by BPI related to the repair, replacement, and maintenance of third-party computer hardware and software that may have been otherwise covered under the manufacturer warranties.

- (f) Compliance. Client agrees to comply with all applicable federal, state, local and foreign laws, rules and regulations in connection with its use of the Services and of its IT systems.
- (g) Restrictions. Client shall not: (1) use or allow use of the Services to provide time-sharing, outsourcing, service bureau, or other IT services to third parties; or (2) reverse engineer, decompile, disassemble, modify or change any portion of software provided to Client by BPI in connection with the Services ("**Software**"), or attempt to do any of the foregoing.

3. Fees and Payment

- (a) Fees. Client shall pay BPI the fees and other amounts set forth in the Schedule(s). BPI will deliver invoices on or shortly after the effective date of the applicable Schedule to Client for any one-time set up fee. Invoices for any recurring monthly Services fee will be delivered approximately thirty (30) days in advance of the Services. BPI may in its sole discretion require that a portion or all of the invoices for hardware and software purchases be paid in advance of BPI'S ordering of such hardware or software, and/or on a COD basis.
- (b) Rates: For Services provided that are not Managed Services, unless other arrangements are made in advance, BPI'S standard rates will apply, with time billed in fifteen (15) minute increments. BPI may, but is not required to, provide any requested Services. A multiplier of 1.5 times the standard rate for Services will apply for Services provided during After Hours and a multiplier of 2 times the standard rate will apply for Services provided during Holidays. BPI will use reasonable efforts to notify Client in advance of performing any additional Services. Client may acquire in advance a block of hours ("**Block Time**") to use to pay for such Services. Trip charges are applicable on all on-site engagements unless otherwise specified. The minimum charge for any on-site engagement is based on a two (2) hour visit plus appropriate trip charges.
- (c) Terms. Unless otherwise set forth on the Schedule, all invoices delivered by BPI will be due within thirty (30) days after the invoice date. All payments under this Agreement shall be made in United States dollars and are non-refundable. All payments not submitted when due will be subject to interest at the rate of s 1.0% per month, or the maximum amount allowed by applicable law if lower, calculated from the date when payment becomes overdue until payment is made. Client's agreement to any Schedule constitutes a valid purchase order for the Services associated with that Schedule including any additional Services performed related to but outside the scope of that Schedule. Upon renewal, a user head count will be conducted. The total annual cost will be adjusted to account for the user count on the set date in which the contract is signed and renewed, which will be billed at a monthly fixed cost for the following 12 months. (Appendix B)
- (d) Taxes. Client agrees to pay all federal, state, local and other taxes based on this Agreement, the Services or its use, excluding taxes based on BPI'S net income. If Client claims tax-exempt status for any purpose in connection with this Agreement, Client represents and warrants

that it is a tax-exempt entity and will provide Client upon request with a correct copy of Client's tax-exempt certification.

(e) Expenses. Client shall reimburse BPI for all reasonable out-of-pocket expenses incurred by BPI in connection with this Agreement, including but not limited to travel, lodging, meals, and shipping expenses. All travel must be pre-approved by Client.

(f) Renewals. All fees of BPI are subject to change upon renewal based on BPI'S current fees. Calculation of monthly fees for the calendar year, based on the date of an extension or amendment, are described in 3. (c) Terms.

4. **Authorization to Access Client Devices.** Client hereby authorizes BPI to access, connect to and manage Client devices via remote technologies without first contacting Client as required for the Services. These activities may include, but are not limited to:

- Updating or changing software drivers;
- Installing and applying software patches;
- Rebooting devices within maintenance windows;
- Deleting temporary files & clearing caches;
- Starting or restarting application services;
- Verifying and validating data backup jobs;
- Staging and executing scripts for automated maintenance routines;
- Network performance tuning; and
- Transferring data associated with routine system tuning and upkeep between systems within Client's network.

Notwithstanding the above, Client is responsible for notifying BPI of a restriction of remote access, connections or management activities related to any managed device.

5. **General Client Requirements.** Client will, at its own cost:

- (a) Cooperate with and assist BPI in the performance of the Services, and interact with BPI in a professional and courteous manner.
- (b) Remain solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Client data, information, and materials ("**Client Content**"). Client grants to BPI permission to remove or restrict access to obscene, indecent or offensive content made available by a network user or over the internet, and shall not hold BPI liable for any action taken to restrict access to material on Client's network that appear to be in violation of any law, regulation or rights of a third party, including, but not limited to, rights under copyright law and prohibitions on libel, slander and invasion of privacy.
- (c) Provide all necessary information when requesting technical support. This information includes but is not limited to:
 - Name of the end user experiencing issue

- Location of end user and computer
- Contact information for end user
- Detailed description of the issue

(d) If Services are performed at Client's place of business, Client agrees to furnish full and safe access to Client's network and systems for on-site activities by BPI'S employees, including without limitation to make necessary adjustments and changes. Client will also provide adequate parking, internet access, work space, heating and air conditioning, light, ventilation and electricity. Client also agrees: (a) to provide any security passwords necessary for BPI'S employees to perform requested tasks, and (b) that BPI may request a unique administrative password for the purpose of providing ongoing maintenance and support of Client's network and systems. Client acknowledges that in approving a unique administrative password to BPI and its employees that Client assumes full responsibility and any liability resulting from that decision, unless due to BPI'S negligence, gross negligence, and willful misconduct.

6. Managed Services Client Requirements. For all Managed Services, Client will at its own cost:

- (a) Maintain sufficient bandwidth and a high-speed Internet connection at the Client site(s) to support the Services. If this is not maintained, BPI will not be obligated to provide the Services and/or may increase fees for the Services to reflect the higher cost of supporting Client.
- (b) Notify BPI upon the removal of a covered device from the network so that BPI'S remote management and monitoring systems can be updated.
- (c) Provide necessary supplies when deemed necessary, including but not limited to printer consumables, backup tape media, and tape drive cleaning supplies.
- (d) Maintain Client site conditions within the environmental range of all Client system devices and media as specified by the manufacturer.
- (e) Include (except to the extent that Client wishes to discuss certain aspects of BPI services without BPI present) its BPI account representative in Client's material IT planning and IT decision making meetings in order to facilitate continuity of Services.
- (f) Be responsible for designating one or more authorized contacts responsible for screening end-user service requests and to determine level of service needed and assignment of requests to BPI.

7. Term; Termination.

- (a) Term. This Agreement is effective beginning the Effective Date and continues for the length of the initial term set forth on the Cover Page. After the end of the initial term, this Agreement may be extended on an annual basis, if agreed to in writing by both parties, unless either party provides written notice of its intent to terminate this Agreement at least thirty (30) days prior to the end of the then-current term.

- (b) New Services Adjust to Term. If new Services are added to this Agreement, then the term for the Services will begin on the Effective Date of the Schedule for such Services and will end on termination of this Agreement. The parties may extend the term for this Agreement by written agreement in a new Schedule or amendment to this Agreement. Such extended term, unless otherwise specifically agreed in writing, will apply to all Schedules and Services provided under this Agreement.
- (c) Termination for Breach; Suspension. Either party may terminate this Agreement if the other party materially breaches this Agreement and such breach is not cured within thirty (30) days after written notice.
- (d) Termination for Insolvency. Either party may terminate this Agreement if: (i) the other party has a receiver or administrative receiver appointed over its assets; (ii) the other party's governing body passes a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation, reconstruction, or merger), or a court of competent jurisdiction enters an order to that effect; (iii) the other party makes a general assignment for the benefit of creditors; (iv) the other party ceases or threatens to cease to carry on business; (v) the other party is generally not paying its debts as they become due; or (vi) the other party is the subject of any petition under any bankruptcy or other law for the protection of debtors.
- (e) Survival. Sections 7, 8, 10, 11, 12, 13, 14 and 15 of this Agreement shall survive termination or expiration of this Agreement. Termination of this Agreement will not affect any accrued rights or liabilities of either party.

8. Intellectual Property

- (a) Ownership. Client agrees that BPI and its third party licensors and suppliers own all right, title and interest, including but not limited to copyright, patent, trade secret, and all other intellectual property rights, in the Services and the Software (including but not limited to the look and feel, algorithms, documentation format, database structures, methodologies, and know-how associated with the Services and the Software) and any and all copies and Updates. BPI reserves all rights to the Services and the Software not specifically granted herein.
- (b) Software license. BPI and/or third parties may provide software in connection with the Services. All such software is licensed to Client subject to the terms and conditions of an end user license agreement ("EULA") which is typically provided as either a document accompanying such software or an on-screen dialogue accepted during initial use of such software. Client represents to BPI that it will abide by the terms and conditions of any EULA associated with any software provided to Client with any Services.
- (c) Client Content. Client, at its expense, shall defend or at its option settle any action, suit or proceeding brought against BPI which alleges that any Client Content or that BPI'S access to third party software or hardware required for the Services infringes any third party copyright or patent, or misappropriates a third party trade secret, and shall pay damages finally awarded against BPI, provided that (i) BPI notifies Client promptly in writing of the claim, (ii) Client has sole control of the defense and all related settlement negotiations, and

(iii) BPI provides Client with commercially reasonable assistance, information and authority to perform the above at Client's expense.

9. Confidentiality

- (a) Definition. "Confidential Information" means any business or technical information or data that is disclosed by one party to the other party pursuant to this Agreement. Confidential Information does not include information that: (a) is or becomes publicly known or available without breach of this Agreement; (b) is received by a receiving party from a third party without breach of any obligation of confidentiality; or (c) was previously known by the receiving party as shown by its written records. The terms of this Agreement (and information relating to the negotiation of this Agreement) shall be deemed the Confidential Information of the Parties.
- (b) Confidentiality Obligations. A receiving party agrees: (a) to hold the disclosing party's Confidential Information in confidence; (b) not to, directly or indirectly, use, disclose, copy, transfer or allow access to the Confidential Information, except to its employees who have a need to know such information for the purpose of this Agreement; and (c) to protect the disclosing party's Confidential Information with the same degree of care that it uses to protect its own Confidential Information, no less than a reasonable standard of care. A receiving party may disclose Confidential Information of the disclosing party as required by law or court order; in such event, such party shall inform the other party as soon as practicable, prior to any such required disclosure.
- (c) Remedies. Each party acknowledges and agrees that any violation of this Section may cause such party irreparable injury for which such party would have no adequate remedy at law, and that such party shall be entitled to preliminary and other injunctive relief against the other party for any such violation. Such injunctive relief shall be in addition to, and in no way in limitation of, all other remedies or rights that such party may have at law or in equity.
- (d) Termination. Upon the termination or expiration of this Agreement, the receiving party will return to the disclosing party or destroy all the Confidential Information delivered or disclosed to the receiving party, together with all copies in existence thereof at any time made by the receiving party; provided that, with respect to electronic images of Confidential Information, the receiving party's obligations shall be limited to using commercially reasonable efforts to delete those electronic images from local desktop computer document storage systems and active files on servers but shall not extend to receiving party's routine information systems backup or document retention programs.

10. Warranty

- (a) Limited Warranty. Each party warrants that it has full authority to enter into this Agreement and is not bound by any contractual or legal restrictions from fulfilling its obligations hereunder. BPI warrants that the Services will be provided in a professional and workmanlike manner, using personnel that are qualified and experienced. In the event that Client provides notice of a breach of the foregoing warranty within sixty (60) days after the delivery of the Services, BPI will, as Client's sole and exclusive remedy, use reasonable commercial efforts to correct the breach at no additional charge.

(b) Disclaimer. BPI does not warrant that the Services will be provided uninterruptedly or error-free. Except to the extent set forth in the Schedule (Appendix A.c.iv), Client agrees that it has the sole responsibility for securing and backing up its data.

11. **Indemnification.** Each party will defend, indemnify and hold harmless the other from and against any and all liability, damages, losses, claims, actions, judgments and costs, including reasonable attorney's fees, for damage to any property and for injury to or death of persons, including employees or agents of such other party performing work under this Agreement, caused by the willful misconduct or negligent acts, gross negligence or omissions of the indemnifying party, its agents or employees.
12. **Limitation of Liability.** Client agrees that any liability of BPI or any of its suppliers relating to this Agreement and the Services shall be limited to the amount of fees actually received by BPI from Client under the applicable Schedule during the prior one-year. In no event shall either party or any of its suppliers be liable for any special, incidental, indirect, cover, consequential, exemplary or punitive damages; any damages based on injury to person or property or death; or any lost sales, profits or data, even if a party is told that any of such damages may occur. The foregoing limitations of liability shall not apply to property damage, death or personal injury caused by the willful misconduct or gross negligence of a party, or to a party's obligations under Sections 10 and 12. The fees charged by BPI under this Agreement are calculated with specific reference to the level of liabilities undertaken by BPI hereunder.
13. **Assignment.** Neither party may assign this Agreement without the prior written consent of the other party, except that such consent shall not be necessary for an assignment made to a party's successor in connection with the sale of all or substantially all of such party's business or portion of such party's business to which this Agreement relates, so long as such successor agrees in writing to the terms of this Agreement.

14. **Dispute Resolution**

- (a) Negotiation. Each party shall attempt in good faith to resolve any controversy, claim or dispute of whatever nature arising out of or relating to this Agreement ("**Dispute**") promptly by negotiation between executives or managers who have authority to settle the Dispute and who are at a higher level of management within each of the parties' organizations than the parties' appointed project managers. Each party shall provide the other with all information and documentation relied upon by the party to substantiate its position with respect to the Dispute.
- (b) Mediation. If the Dispute has not been resolved through negotiation within thirty (30) business days of the initiation thereof, the parties shall make a good faith attempt to settle the Dispute by mediation conducted by a mutually agreed mediator.

15. **Other Provisions**

- (a) Security Interest. Client hereby grants to BPI a security interest in any and all hardware and other items purchased by Client from BPI ("**Deliverables**"), until such time as those Deliverables are paid in full by the Client, in order to secure Clients' obligations to BPI. Client agrees that in the event of default in any payment, BPI shall have, in addition to its rights under applicable law, the right to immediately repossess any and all Deliverables previously sold to Client, but not fully paid for by Client, without further operation of law and without

notice to Client. Client further agrees to pay for any and all costs, including reasonable attorney's fees, reasonable engineering fees, and other applicable reasonable costs which BPI incurs as a result of said repossession. Client further agrees to execute any additional documents, at Client's expense, to perfect or continue the security interest created by this Agreement.

- (b) Publicity. BPI may include Client's name and logo in a list of BPI clients and as a user of the Services.
- (c) Independent Contractors. This Agreement is intended to create an independent contractor relationship between the parties for purposes of federal, state and local law, including the Internal Revenue Code of 1986, as amended. Nothing in this Agreement will be construed or implied to create a relationship of agency, partners, affiliates, joint employers, or joint ventures. BPI is free to do work for other entities during the term of this Agreement so long as it does not conflict with BPI'S obligations hereunder. Neither party will have the power or authority to act for the other in any manner or to create obligations or debts which would be binding on the other.
- (d) Non-Solicitation. Client shall not, directly or indirectly, solicit, hire or retain, nor cause to be solicited, hired or retained as an employee or independent contractor, any BPI employee or former employee employed by BPI in a technical or sales position at any time during the term of this Agreement and for a period of one (1) year following termination of this Agreement; provided, however, this provision does not apply to any former BPI employee who has been employed by another employer for a period of one (1) year. Client agrees that if Client wishes to hire any employee of BPI employed by BPI in a technical or sales position while bound by this section, Client will pay to BPI a fee equal to the greater of: (1) \$75,000, (2) such employee's most recent annual salary and bonus or (3) the salary and bonus offered to such employee by Client. Client agrees that this fee is fair and not excessive.
- (e) Notices. Any notice or other communication required or permitted in this Agreement shall be in writing and delivered to the addresses listed on the Contact section of the Cover Page of this Agreement either: (i) by personal delivery; (ii) by certified mail; or (iii) by nationally recognized overnight courier, and shall be effective upon receipt.
- (f) Integration. This Agreement (including the Cover Page and any Schedules) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior proposals, negotiations, conversations, discussions, and agreements between the parties concerning the subject matter hereof. Client specifically acknowledges and agrees that, in entering into this Agreement, Client has not relied on any information or promises that are not specifically set forth in this Agreement. BPI will have no obligation to provide any services, software, networking, or hardware except as specifically set forth in this Agreement. This Agreement may not be modified or waived except in a written document, signed by both parties. Any additional or conflicting terms on any purchase order for any products or services covered by this Agreement shall be void and without effect unless agreed to in a separate writing signed by both parties.
- (g) Applicable Law and Jurisdiction. This Agreement shall be governed by the laws of the State of Michigan, without regard to its conflict of law provisions. The parties submit to the jurisdiction of the state sitting in Oakland County, Michigan and/or the federal court sitting

in the Eastern District of Michigan, Southern Division, and agree that such courts shall have sole and exclusive jurisdiction over any and all disputes and causes of action involving such parties that arise out of or in connection with this Agreement.

- (h) Force Majeure. Except for Client's payment obligations, each party shall be excused from performance and shall not be liable for any delay or failure to perform caused by the occurrence of, war, terrorism, sabotage, insurrection, riot or other act of civil disobedience, labor disturbance or shortage, act of public enemy, failure of the Internet, act of any government affecting the terms hereof, explosion, hurricane, earthquake, flood or other act of God.
- (i) Third-party Beneficiaries. There are no intended third-party beneficiaries of this Agreement, and nothing in this Agreement may be relied upon by, or shall benefit, any party other than BPI and Client.
- (j) Severability. If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, then the invalidity or unenforceability shall not affect the other provisions of the Agreement and all provisions not affected shall remain in full force and effect. Both parties will attempt to substitute with a valid or enforceable provision, which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.
- (k) Headings and Counterparts. Headings to clauses are for ease of reference only and will not affect the interpretation of this Agreement. This Agreement may be executed in any number of counterparts and by the parties upon different counterparts, each of which shall be deemed to be an original, but which together shall constitute one and the same agreement.
- (l) Electronic Signatures. The parties agree that this Agreement and all Schedules may be submitted and signed electronically by digital signatures or other electronic manifestation of acceptance. Such signatures will be fully binding on the parties, in the same manner as if physically signed and submitted by a party. Each party waives any objection that its digital signatures and acceptances are not valid.
- (m) Assignment and Transferability. Either party may, without the prior written consent of the other party, assign, transfer, or otherwise convey this Agreement or any of its rights and obligations hereunder, in whole or in part, to any third party, including but not limited to a successor company, affiliate, subsidiary, or any entity acquiring all or substantially all of the assets or business of the assigning party. The assigning party shall provide written notice to the non-assigning party of any such assignment or transfer within a reasonable time. Upon any permitted assignment or transfer, the assignee or transferee shall assume all rights and obligations of the assigning party under this Agreement and shall be bound by the terms and conditions herein.

Appendix A: Services

(a) Core Services

- (i) *Dedicated Support Telephone Access* – We use a Virtual Contact Center, and we provide a dedicated support number to reach our Managed Services team.
- (ii) *Documentation Services* – We implement a very robust document management system.
- (iii) *Best Practice Services* – Clients are asked to review our best practice documentation and we provide adoption of these best practices and ongoing changes to this documentation as required.
- (iv) *Online User Training Portal* – We provide a training portal for common applications and devices that end-users can access and support, custom uploads of training materials can be provided.
- (v) *Ticketing Management & Reporting* – We deploy a robust ticketing system that tracks each item and configuration to provide details on user problems as well as device issues that may be repeating.
- (vi) *Inventory Management* – Devices deployed by BPI will be tracked via our configurations tabs in our ticketing system and these items will be available for review.
- (vii) *Onboard & Offboard Services* – Employee hiring, and termination services are included.

(b) Client Success

- (i) Her comment was: “What would the monthly cost be; we would only terminate with cause. We would never set ourselves up for a legal battle of without cause”. *Automated Updating Services* – All updates that are considered business critical will be applied at a schedule that our senior engineering staff approve.
- (ii) *Microsoft Patch Management* – Scheduled deployment of patches approved by the BPI NOC services team.
- (iii) *Backing up systems* – Backing up of:
 - (i) *Servers*: DHCP (srv-ns01), RDP (srv-rmapp), Print (srv-print), Fire Application (ch-fire-sr-01), Microsoft Azure AD Connect (ch-azure-sr-1), Radius (ch-radius-sr-01), File (srv-pdfile, srv-file1), Financial Software (srv-bsa)
 - (ii) *Domain Controllers* (DC2, DC3, NEWDC)

(c) Help Desk Support

- (i) *Telephone Support* – Endpoint problem support via telephone to our dedicated engineering teams that are available 24 hours a day.
- (ii) *Core Support* – Available during business hours via our call-in support staff, or if business critical via our business-critical alerting systems.

(d) Microsoft 365 Support

- (i) *Tenant Support & Management* – BPI will provide support of the Microsoft 365 tenant for the client and provide level 1, 2, 3 & 4 support for the tenant.

- (ii) *Threat Protection Support* – Alerting and remediation of Microsoft APT and other threat related items provided by Microsoft.
- (iii) *Secure Score Management* – BPI will help increase the client secure score each month with deployment of best practices across the tenant.
- (iv) *Compliance Score Management* – BPI will help increase the client compliance score each month with deployment of best practices across the tenant.

(e) Hardware Services

- (i) Unlimited hardware repairs on failed or malfunctioning devices. Hardware level parts replacement will be based on the ability to disassemble the device.
- (ii) Hardware exchange services for malfunctioning devices via client stock and includes peripheral support as well.
- (iii) Support of devices with mobile data plans and support of those respective vendors.
- (iv) Assisted support for BYOD devices.

(f) Alerting

- (i) NOC Services will provide business day (8am to 4:30pm) alerting response for alerts that are provided by the devices or software monitoring agents.
- (ii) Windows services that are considered business critical in nature will be alerted and remediated by our team.
- (iii) Drive space monitoring & alerts for critical drives (C: / Boot)
- (iv) Microsoft 365 Security & Compliance Alerting & Remediation.

(g) Software Licenses

- (i) BPI Remote Monitoring & Management (RMM) Software License
- (ii) Remote Control License (Windows)
- (iii) SOC/SEIM

(h) Remote Control Support

- (i) BPI's RMM Agent includes a remote-control toolset for Windows and MAC OS devices and is included as part of our services. This allows our help desk team to remote control and provide immediate support to any user with an internet connection.
- (ii) Deployment Services | Deployment of the initial environment will be treated as a project and based upon information provided as decisions are made, we will provide a scope of work and an associated quote for the deployment.
- (iii) Procurement Services | BPI's Inside sales team can provide competitive quotes on hardware and software along with we have relationships with several mobile data providers if needed.

Appendix B: Pricing Schedule

1-Year Pricing: 2 on-site Technicians (8:00am-4:30pm)

Microsoft Operating System Devices: \$140/Device/Month

Servers: \$140/Server/Month

*User count to be determined prior to contract start date.

*User count will be assessed at the end of each quarter and BPI will notify Madison Heights of price change 30 days in advance

2-Year Pricing: 2 on-site Technicians (8:00am-4:30pm)

Microsoft Operating System Devices: \$144.20/User/Month

Servers: \$144.20/Server/Month

*User count will be assessed at the end of each quarter and BPI will notify Madison Heights of price change 30 days in advance.

3-Year Pricing: 2 on-site Technicians (8:00am-4:30pm)

Microsoft Operating System Devices: \$148.53/User/Month

Servers: \$148.53/Server/Month

*User count will be assessed at the end of each quarter and BPI will notify Madison Heights of price change 30 days in advance.

All out-of-scope projects to be quoted separately.