RESOLUTION NO.: 72-2023
INTRODUCED BY: Mayor Thomas

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH CHAGRIN VALLEY DISPATCH FOR MANAGED INFORMATION TECHNOLOGY SERVICES.

WHEREAS, Chagrin Valley Dispatch, a regional council of governments which also serves as the City's emergency dispatch center, has provided professional information technology support services to the City since September 15, 2021 at a cost of $3,000 per month, and the previous agreement for such services expired after February 15, 2023;

WHEREAS, the Mayor has advised this Council that the City is in need of continuing information technology support services on an immediate and as needed basis and is recommending the continued provision of those services by Chagrin Valley Dispatch, which has offered to provide continuing information technology support services at a cost of $3,000 per month for a period of one (1) year for a term beginning March 1, 2023, for a total amount not to exceed $36,000.00, which is the same price as charged in 2022-23;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1:   The Mayor is authorized to enter into an agreement with Chagrin Valley Dispatch for the provision of information technology support services for the period of March 1, 2023 through February 29, 2024 at a cost of $3,000 per month and a total cost not to exceed $36,000, the contract for which shall be in a form substantially as set forth in the "Agreement to Provide Managed IT Services to City of Richmond Heights" attached hereto as "Exhibit "A" and as approved for legal form and correctness by the Director of Law.

Section 2:   It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

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Section 3:   This Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _May 9, 2023_

APPROVED: _May 9, 2023_ _____
                                                    Kim A. Thomas, Mayor
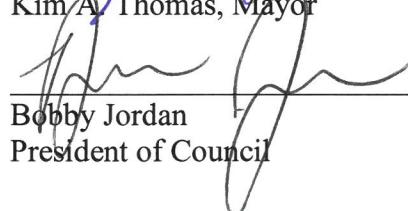
ATTEST: _Donnie Hunter_ _____
Donnie L. Hunter   Bobby Jordan
Clerk of Council   President of Council

AGREEMENT TO PROVIDE MANAGED IT SERVICES
TO
CITY OF RICHMOND HEIGHTS

THIS MANAGED IT SERVICES AGREEMENT ("Agreement"), is entered into this 1st day of March, 2023, by and between the Chagrin Valley Dispatch Council located at 88 Center Street, Bedford, Ohio 44146 (hereinafter called "CVD"), and **CITY OF RICHMOND HEIGHTS** located at **26789 Highland Road.** (hereinafter called " Member"), both hereinafter "Parties", in consideration of the promises made in this Agreement and intending to be legally bound, the Parties do hereby agree as follow:

1. **Services and Service Delivery** – CVD shall provide help desk support, maintenance, administration, diagnostic, troubleshooting, repair and/or consultation services ("Services") to Member with respect to Member's computer technology, computer network, computer hardware and software listed below and collectively called ("Equipment").

Equipment As Described In Schedule A (this equipment establishes the pricing for this Agreement and is included only if selected by Member and listed in Schedule A)

    a) Microsoft Windows Servers {hardware, components and Operating System software)
    b) Microsoft Windows Workstations and Laptops (hardware, components and Operating System software)
    c) Microsoft Office software applications
    d) Member's third party software applications
    e) Wireless Access Points
    f) Wide Area Network (WAN) private data links to other facilities (VPN tunnels, Frame Relay circuits, Point-to-Point Private Line circuits)

All Other "Base" Equipment Included

    h) Switches
    i) Routers
    j) Firewalls
    k) Print Servers
    l) Printers
    m) Internet access circuits
    n) Internet email software
    o) Data Backup systems hardware and software
    p) Anti-Virus systems software
    q) Anti-Spyware systems software

       CVD shall provide these Services to CVD Member during the "Support and Help Desk Hours" selected by and agreed upon by CVD Member and specified in the attached Schedule A. CVD and Member's employees needing technical assistance are to call into CVD's help desk via CVD's generally published support phone number or email CVD's generally published support email address. In the event that CVD is unable to resolve Member's problem regarding the Equipment by means of a telephonic diagnostic consultation or remote administration, then CVD shall schedule an On-Site Service Call to resolve the problem or issue.

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CVD will provide the Services pursuant to this Agreement and in recognition of the charges and fees described in this Agreement without charging for labor time whenever the Services can be performed remotely.

CVD will provide scheduled preventive maintenance on Member's Equipment, with the schedule to be based on the specific needs of the Equipment as determined by CVD, within its sole discretion. In addition, CVD may provide unscheduled remedial maintenance on Member's Equipment as and when CVD determines that said remedial maintenance might be needed. Both scheduled and unscheduled maintenance may include adjustments and replacement of part(s) to Member's Equipment deemed necessary by CVD. Maintenance includes, but is not limited to:

a) Patch Management. CVD will ensure proper and timely application of all critical patches and fixes to Member's Equipment. This includes, but is not limited to, Windows updates.
b) Upgrades and Updates. CVD will ensure proper, timely application and installation of all critical upgrades and updates to Member's Equipment.

CVD reserves the right to source all necessary replacement part(s) needed in servicing Member and in repairing Equipment and/or resolving issues and problems. CVD, if sourced through CVD, will bill these part(s) at fair market value, to Member. CVD also reserves the right to source all part(s), software, hardware and Equipment with regards to complete new hardware and software systems installations. Member shall have ultimate purchase authority.

CVD shall provide all Services to Member and charge Member for these Services pursuant to Section 4. "Charges for Services". CVD reserves the right to track all time spent servicing Member.

2. **Exclusions** – The Services performed pursuant to this Agreement shall <u>not</u> include any of the following:

a) New hardware or software equipment installations, setups and configurations except for additional PC workstations, which are included. This Agreement is understood to be for support and maintenance of existing Equipment.
b) Any form of service to Equipment, which, within the professional judgment and discretion of CVD, has not been operated or stored in accordance with the manufacturer's specifications.
c) Painting or refinishing the Equipment or furnishing the material for these services.
d) Any type of work external to the Equipment.

3.   **Access to Equipment** – CVD's personnel shall have free access to the Equipment for the purpose of providing Services. This includes, but is not limited to, access to any keys or passes, electronic or otherwise, which will provide or grant access to the Equipment.

4. **Charges for Services** - The monthly charges for the Services CVD provides for the Equipment, pursuant to the terms of this Agreement, is set forth on the attached Schedule A and shall constitute the "Monthly Recurring Charge Contract Price" (MRC).

In the event Member places additional equipment in service, CVD will provide an amended Schedule A reflecting the increased MRC for the additions. The MRC amount for each piece of newly added Member equipment will be the same amount for said equipment as listed in the most recent Schedule A. In the event the additional equipment has not previously been priced, CVD and Member will agree on the new pricing prior to signing the amended Schedule A.

Member shall be solely responsible for, and shall pay, any shipping charges, including insurance, necessitated as a result of shipping any Equipment to CVD and/or shipping any Equipment from CVD to Member pursuant to the terms of this Agreement.

The most recently Amended Schedule A shall supersede all previous Schedule A's for purposes of this Agreement and shall constitute the MRC for the purpose of this Agreement and any renewal of this Agreement. Further, all Amended Schedule A's shall be signed

5. **Payment of Charges** – Member shall pay CVD the Monthly Recurring Charge (MRC) monthly in advance. Member shall pay CVD the MRC every month in advance throughout the entire term of this agreement and according to the terms of the related monthly CVD invoice. Member shall be solely responsible for and shall pay, or reimburse CVD, for all taxes arising as a result of this Agreement, including all sales, use and property taxes, except for taxes based upon CVD's income. CVD shall invoice CVD Member all appropriate costs, expenses, fees, taxes and charges when they are incurred.

6. **Term** – This Agreement shall be effective commencing on the date Member signs this Agreement ("Effective Date"), and shall remain in force and effect for the term stated in the attached Schedule A. This Agreement may be terminated by either party, without cause, at the end of the initial term or any time thereafter upon ninety (90) day written notice.

7. **Member Obligations, Responsibilities and Representations** – Member shall be responsible for the operation and storage of all Equipment in accordance with the manufacturer's specifications.

8. **Confidentiality of Agreement and Materials** – Except as otherwise provided in this Agreement and/or as provided by law, Member agrees to maintain in confidence and not to disclose, reproduce, or copy this Agreement, any materials, pricing, data, documentation, or specifications that are provided by CVD pursuant to the terms of this Agreement. Except as otherwise provided in this agreement and/or as provided by law, CVD agrees to maintain in confidence and not to disclose, reproduce, or copy any of Member's data, information or documentation that is provided by Member or that CVD observes during the normal course of support Services, pursuant to the terms of this Agreement.

9. **Termination on Occurrence of Stated Events** – If Member fails to pay CVD all or any part of any charges incurred pursuant to the terms of this Agreement on the date due, CVD, at CVD's option, may terminate this Agreement by giving written notification to Member, only after CVD has provided written notice to CVD Member setting forth the past due charges and providing Member ten (10) business days to pay said charges. If either party defaults in the performance of this Agreement or materially breaches any of the provisions of this Agreement, then either party at their option, may terminate this Agreement by giving written notification to the other party, only after said party has provided written notice to the other party setting forth the alleged breach of this Agreement and providing said party ten (10) business days to remedy the breach.

10. **Delays** - CVD shall not be liable for any delays in performance, or inabilities to perform Services, directly or indirectly resulting from acts of Member, its agents, employees, suppliers or subcontractors, or causes beyond the control of CVD. "Causes beyond the control of CVD" include, but are not limited to:

a) Acts of God.
b) Acts of a public enemy or war.
c) Acts of the United States or the District of Columbia, any State or Territory of the United States, or any of their political subdivisions.
d) Fire.
e) Flood.
f) Epidemics.
g) Quarantine restrictions.
h) Strikes, civil commotions, or revolution.
i) Freight embargoes.
j) Unusually severe weather conditions.
k) Default of CDV's or Member's subcontractors, vendors or suppliers.

11. **Liability** – Member agrees that CVD's total aggregate limit of liability hereunder (whether contract, statutory, in tort or otherwise) for damages on any one or more or all claims (regardless of the number of different or other claims, claimants or occurrences) shall not exceed the annual total of professional fees paid under this contract. Member further agrees that CVD shall not be liable to Member for any indirect, incidental, special or consequential damages, or any lost profit, revenue, or data arising out of the Services and/or Equipment, components, parts and/or any other portion of this Agreement.

12. **Parties Bound** - This Agreement and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.

13. **Notices** - Any notices required by this Agreement to be given by one party to the other party shall be made in writing to that party at the address shown at the beginning of this Agreement or at any other address that may be designated in writing from time to time by that party. All notices shall be delivered U.S. Certified Mail prepaid or via facsimile, and shall be effective upon the receipt by the party.

14. **Governing Law** - This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

15. **Entire Agreement of the Parties** - This Agreement supersedes any and all agreements, both oral and written, between the parties with respect to the subject matter of this Agreement and contains all of the covenants and agreements between the parties with respect to the subject matter of this Agreement. Each party acknowledges that no representations, inducements, promises, or agreements, written or oral, have been made by either party, or by anyone acting on behalf of either party, that are not embodied in this Agreement.

16. **Partial Invalidity.** – If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect without being impaired or invalidated in any way.

17. **Amendments of Agreement.** – This Agreement shall be modified only by a written agreement duly executed by CVD and Member.

18. **Assignment of Agreement.** – Member shall not assign this Agreement or its rights under this Agreement without the prior written consent of CVD. Any attempt to make an assignment without CVD's consent shall be void.

19. **Nonwaiver** – CVD and Member agree that no failure to exercise and no delay in exercising any right, power, or privilege under this Agreement on the part of either party shall operate as a waiver of any right, power, or privilege under this Agreement. However, CVD and Member expressly agree that the various deadlines for the performance of certain acts provided in this Agreement are mandatory and cannot be waived, unless waived in writing by CVD and Member.

20. **Indemnification** – Each party shall, to the extent permitted by law, and not inconsistent with the doctrine of sovereign immunity as to third parties, be responsible for all damages, costs, fees and expenses which arise out of the performance of this Agreement and which are due to that party's own negligence, tortious acts and other unlawful conduct and the negligence, tortious acts and unlawful conduct of its respective agents, officers and employees. In the absence of negligence or intentional misconduct in CVD's performance hereunder, to the extent permitted by law, Member shall defend, indemnify and hold CVD free and harmless from and against any claims, demands, actions, damages, expenses, fees and liabilities arising by virtue of any and all claims, demands or actions brought by third parties which are in any way related to Member implementation of CVD's recommendations and findings.

21. **Matters to be Disregarded** - The titles of the several sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties have signed this Agreement on the date and year first above written.

CHAGRIN VALLEY DISPATCH COUNCIL

By: _____   Date: _____
    Mayor Kirsten Holzheimer Gail, President

Approved as to Form:

_____   Date: _____
David J. Matty, Director of Law

MEMBER

By: _____   Date: _____

Approved as to Form:

_____   Date: _____

SCHEDULE A

Fee / Support Hours
Village of South Russell agrees to pay CVD $3,000.00 per month. Support and Help Desk Hours are 8:00 am to 6:00 pm, Monday through Friday except all legal holidays. After hour support is available at no additional cost for mission critical system failures. In the event of such failure, response is guaranteed to be under four (4) hours.

Equipment
An equipment list will be established after a complete inventory of all computer related equipment that the **City of Richmond Heights** intends to include under this agreement.
Additional and/or replacement equipment purchases are not included, unless such equipment is recommended by CVD IT personnel and, approved and paid for by the City of Richmond Heights.

Additional
CVD will provide the City of Richmond Heights set up and configuration of basic computer, network and server additions and/or replacements (less equipment costs), however, major network overhaul or additional projects where specific vendors require certified and/or specifically trained staff to deploy such technology is not included without the prior approval and agreement of CVD.
The City of Richmond Heights agrees to maintain all vendor support / maintenance contracts, including but not limited to, Anti-Virus Software, Security Hardware, Networking equipment, and other necessary equipment / software vendors to ensure the most up to date software availability and continued support.