

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

30-7

**AGENDA ITEM SUMMARY**

**Meeting Date:** 12/19/06       **Consent**       **Regular**  
 **Ordinance**       **Public Hearing**

**Department**      **Submitted By:** Palm Beach County ISS  
**Submitted For:** Palm Beach County ISS and  
Community Services Department

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: an Application Hosting Services Agreement with Alzheimer Community Care, Inc. (ACC) for the use of the County's existing Senior Tracking and Referral System (STARS) in return for an initial setup fee of \$31,125, a training fee not to exceed \$5,200 and a monthly application hosting services fee of \$2,105 which will be an ongoing revenue source to the County in the amount of \$25,262 annually.

**Summary:** Alzheimer Community Care, Inc., (ACC) a community-based, tax exempt 501(c)(3) not for profit corporation in Palm Beach County has expressed interest in entering into an Application Hosting Services Agreement with Information System Services (ISS) in order to utilize the Senior Tracking and Referral System (STARS) to record and track services provided to Alzheimer's clients and care givers. ISS jointly developed STARS with the Senior Services Division of the Community Services Department. ISS will provide a one-time installation of the STARS Application for an initial setup fee of \$31,125 and will host ACC's version of the STARS application and database on an existing enterprise server. The Community Services Department will provide initial training for a fee not to exceed \$5,200. Thereafter, the agreement specifies that ACC will pay the County a monthly application hosting services fee of \$2,105. The Agreement provides for a one (1) year period from November 21, 2006 to November 20, 2007 with perpetual one year automatic renewals unless specifically terminated in writing by either party. This will produce a recurring annual revenue of \$25,262 for each year that the Application Hosting Services Agreement is in effect. Countywide (PK)

**Background and Policy Issues:** Alzheimer Community Care, Inc. was established in October 1996 to fill a need for dementia specific direct care services and resources such as day care, family direction and support, education and training, and therapeutic support groups that are urgently needed in Palm Beach County. Alzheimer Community Care has expanded from their original West Palm Beach headquarters office to a total of seven locations throughout Palm Beach, Martin and St. Lucie Counties. Their desire is to create uniformity in the delivery of services provided by all staff within the organization by the consistent collection, tracking and reporting of information through the use of the STARS software.

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**Attachments:**

- 1) 2 originals, Agreement to Provide Application Hosting Services to Alzheimer Community Care, Inc.
- 2) Alzheimer Community Care, Inc. Agreement Revenue Analysis

Recommended by: Steve Bordelon      11-22-06  
Department Director      Date

Approved by: [Signature]      11-28-06  
County Administrator      Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b><u>2007</u></b>	<b><u>2008</u></b>	<b><u>2009</u></b>	<b><u>2010</u></b>	<b><u>2011</u></b>
Capital Expenditures	\$0	\$0	\$0	\$0	\$0
Operating Costs – Community Services	<u>5,200</u>				
Operating Costs - ISS	<u>30,822</u>	<u>16,262</u>	<u>16,262</u>	<u>16,262</u>	<u>16,262</u>
External Costs – Community Services	<u>(5,200)</u>				
External Revenues	<u>(53,262)</u>	<u>(25,262)</u>	<u>(25,262)</u>	<u>(25,262)</u>	<u>(25,262)</u>
Program Inc (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>NET FISCAL IMPACT</b>	<b><u>(\$22,440)</u></b>	<b><u>(\$9,000)</u></b>	<b><u>(\$9,000)</u></b>	<b><u>(\$9,000)</u></b>	<b><u>(\$9,000)</u></b>

# Additional FTE Positions (Cumulative)                    0                    0                    0                    0                    0

Is Item Included in Current Budget? Yes X No   

Budget Account No.: Fund 5020 Dept 490 Unit 1300 Revenue Source 4900  
 Budget Account No.: Fund 1006 Dept 144 Unit 1467 Revenue Source 4699

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

The Application Hosting Services Agreement will renew automatically each year unless terminated by either party. The County reserves the right to renegotiate the hosting services fee on an annual basis to reflect actual increases in the cost for resources necessary to provide this service.

Revenue realized as a result of the initial setup and ongoing Application hosting Services performed by ISS will be posted to 5020-490-1300-4900

Revenue realized as a result of the training services performed by the Community Services Department will be posted to 1006-144-1467-4699-MW05.

C. Departmental Fiscal Review: Robert C. Basal 11/22/06.

**III. REVIEW COMMENTS**

A. OFMB Fiscal and/or Contract Administration Comments:

Elizabeth Green 11/28/06  
 OFMB 11-28-06 CN 11/27/06 11/30/06 Contract Administration

B. Legal Sufficiency:

Paul F. J. 12/1/06  
 Assistant County Attorney

This contract complies with our contract review requirements.

C. Other Department Review:

\_\_\_\_\_  
 Department Director

## **Background and Policy Issues (continued)**

The STARS Application will provide Alzheimer Community Care with the ability to record case management activities, track services provided to patients and care givers by staff and/or vendors, and analyze the related expenditures. It will also streamline the reporting process which is predominantly a manual effort, thereby allowing the staff more time to provide direct services to the community.

If the Board approves this concept, ISS may pursue discussions with another organization (i.e., Ruth Rales Jewish Family Service) which has also expressed interest in using the STARS application to help manage their outreach programs. Although the STARS application is a ten-year old client-server application, it provides a wide range of functionality which is of value to these types of community service organizations.

Palm Beach County has previously had success in selling another in-house developed application, i.e., the Consumer Affairs Tracking System (CATS) which was developed jointly by ISS and the Consumer Affairs Division of the Public Safety Department. The CATS application has generated close to \$500,000 in sales to a variety of governmental units, including Broward County, the Canadian province of Alberta, the State of Washington Attorney General's Office, and the U.S. Virgin Islands. These transactions represented outright sales of the software with no continuing involvement or participation by Palm Beach County. However, this proposed agreement with the Alzheimer's Community Care represents the first arrangement where ISS will actually host the application on behalf of the outside agency. We are able to accommodate this processing demand and staff workload without any additional investment in hardware or personnel.

Thus far, sales of County software have come about solely through "word of mouth." ISS is currently exploring the feasibility of undertaking a more aggressive marketing effort to either sell selected software licenses outright or license use of the software through an application hosting services agreement. In partnership with County departments and agencies, ISS has built an substantial inventory of customized applications designed to support the business functions of a variety of basic programs, including: disaster management (DMaC); planning, zoning, and building (ePZB); land development (e-Permitting); water utilities' customer information (WUD CIS); environmental resources management (ERM database); financially assisted agencies (FAA), and a wide range of applications for a tax collection function (Ad Valorem, Occupational Licenses, Hunting and Fishing Licenses).

One approach to marketing software developed by Palm Beach County ISS would be to enter into a partnership with a commercial vendor who has the expertise and resources necessary to design and manage a marketing campaign. We may pursue this possibility through the issuance of a Request for Information which might lead to a negotiation process. This type of program will only be pursued with the explicit approval of the County Administrator and the Board of County Commissioners,

## **Agreement to Provide Application Hosting Services to Alzheimer Community Care, Inc.**

This Hosting Services Agreement (the "Agreement") is made as of \_\_\_\_\_, by Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, herein after referred to as the COUNTY, and Alzheimer's Community Care, Inc., a community based, tax-exempt 501(c)(3) not for profit corporation authorized to do business in the State of Florida, hereafter referred to as CUSTOMER.

In consideration of the mutual promises contained herein, the COUNTY and CUSTOMER agree as follows:

### ARTICLE 1 – SERVICES AND SOFTWARE

COUNTY'S responsibility under this Agreement is to provide:

- A. Installation of software application known as Senior Tracking and Referral System (STARS), developed by Palm Beach County Information System Services (ISS) for the Senior Services Division of the Community Services Department, and related professional services including training as set forth in the Statement of Work in attached Exhibit A.
- B. Application Hosting Services to the CUSTOMER as set forth in the Statement of Work in attached Exhibit A.

The COUNTY'S representative / liaison during the performance of this Agreement shall be Valerie Hawthaway, Senior Manager, telephone number 561-355-4293.

The CUSTOMER'S representative / liaison during the performance of this Agreement shall be Patricia R. Oram, Chief Operating Officer, telephone number 561-683-2700.

### ARTICLE 2 – SCHEDULE

COUNTY shall commence services upon the execution of this Agreement and perform to completion all installation services set forth in the Statement of Work in attached Exhibit A.

### ARTICLE 3 – PAYMENT TO COUNTY FOR SERVICES

CUSTOMER agrees to pay COUNTY for the Services listed in the Statement of Work in attached Exhibit A in accordance with the terms set forth in the Agreement as follows:

- A. One-time setup fee of \$31,125 due and payable on the Effective Date of this Agreement per pricing document in attached Exhibit B.
- B. Training fee not to exceed \$5,200 due and payable upon completion of service per pricing document in attached Exhibit B.

- C. Monthly application hosting service fee of \$2,105, with first monthly installment due and payable by the first day of the month after the application becomes available for use at CUSTOMER site per pricing document in attached Exhibit B.

COUNTY shall invoice CUSTOMER monthly in advance for the Application Hosting Service. The monthly fee is due and payable on or before the end of the preceding service period. If the monthly fee is not received by that date, it will be assumed that the services are no longer desired and connectivity to the application will be terminated.

The application hosting service fee is adjustable annually on the anniversary of the Effective Date and requires that COUNTY provide a sixty (60) day notice to CUSTOMER of any proposed changes. Adjustments to the application hosting fee will be based on realized increases in the cost to the COUNTY for resources needed to provide these services, including but not limited to hardware, software and staffing.

COUNTY shall separately invoice CUSTOMER on a monthly basis for training services performed during the period.

#### ARTICLE 4 – TERM AND TERMINATION

The Effective Date of this Agreement will be the date the Agreement is fully executed. The initial term of service is one year. This Agreement will renew automatically unless either party receives written notice from the other of its desire to terminate the service sixty (60) days prior to the renewal date.

After the initial term, either party may signify their choice to cancel this Agreement at any time and for any reason by providing written notice at least sixty (60) days in prior to the termination date.

Upon termination of this Agreement by either party, the COUNTY will export the data to the CUSTOMER.

#### ARTICLE 5 – PERSONNEL

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

#### ARTICLE 6 – PROPRIETARY RIGHTS

By virtue of this Agreement, the CUSTOMER acquires only the limited right to use the STARS Application hosted by the COUNTY, and does not acquire any other right to, or any ownership of any portion of the STARS Application. All other rights, title and interest in and to the STARS Application are retained by the COUNTY. The STARS Application

and all materials, including by not limited, to software, data or information developed or provided by COUNTY pursuant to this Agreement, and any methodologies, equipment, or processes used by COUNTY to provide services to CUSTOMER shall be deemed the sole and exclusive property of the COUNTY. CUSTOMER shall limit access to the STARS Application to its employees and agents whose responsibilities require such access, and CUSTOMER agrees to instruct and obligate its employees and agents to fulfill CUSTOMER'S obligations hereunder. CUSTOMER agrees to treat the STARS Application as a valuable asset of the COUNTY and agrees that the STARS Application shall not be used for any purpose other than internal data processing to record and track services to Alzheimer's clients and caregivers.

#### ARTICLE 7 – WARRANTIES

The COUNTY is providing CUSTOMER access to the STARS Application "as is" without any warranty of any kind, either expressed or implied including, but not limited to, implied warranties of merchantable quality, merchantability or fitness for a particular purpose. The COUNTY does not warrant that its services will meet the CUSTOMER'S requirements, that it will operate in combination with software and / or services which the CUSTOMER selects for use, that the operation of the service will be uninterrupted and error free, and/or that the service will meet any particular criteria of performance of quality.

#### ARTICLE 8 - LIMITATIONS ON LIABILITY

The COUNTY will not be responsible for any damage suffered by the CUSTOMER. This includes loss of data resulting in delays, non-deliveries or service interruptions caused by the COUNTY'S negligence, error or omissions or any communications difficulties outside of the COUNTY'S control. The CUSTOMER'S access to the COUNTY'S STARS Application and Hosting Service is at the risk of the CUSTOMER. The CUSTOMER agrees that in no event shall the COUNTY be liable for damages, including without limitation, direct, indirect, incidental, special or consequential damage, or damages for loss of revenue incurred by the CUSTOMER or any third party, even if the COUNTY has been advised of the possibility of such damages.

#### ARTICLE 9 – INDEMNIFICATION

The CUSTOMER shall protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers harmless from and against all claims, liabilities, expenses, loss, cost, damages or causes of action, including reasonable attorney's fees and costs, whether at trial or appellate levels of otherwise, arising directly from CUSTOMER'S acts or omissions.

#### ARTICLE 10 – SUCCESSORS and ASSIGNS

The COUNTY and the CUSTOMER each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors,

executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the COUNTY nor the CUSTOMER shall assign, sublet, convey or transfer its interest in this Agreement without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CUSTOMER.

#### ARTICLE 11 – REMEDIES

The Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in Palm Beach County. The Article 4 – Term and Termination provisions shall be the CUSTOMER'S sole and exclusive remedy for service unavailability or failure by COUNTY to provide services.

#### ARTICLE 12 – EXCUSABLE DELAYS

The COUNTY shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the COUNTY or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargos, and abnormally severe and unusual weather conditions.

#### ARTICLE 13 – INDEPENDENT CONTRACTOR RELATIONSHIP

The COUNTY is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the CUSTOMER. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the COUNTY'S sole direction, supervision, and control. The COUNTY shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the COUNTY'S relationship and the relationship of its employees to the CUSTOMER shall be that of an Independent Contractor and not as employees or agents of the CUSTOMER.

#### ARTICLE 14 – NONDISCRIMINATION

The CUSTOMER warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status or sexual orientation.

#### ARTICLE 15 – SEVERABILITY

If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, of the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and