

Agreement

This Agreement ("Agreement") for the Shared Use of the Palm Beach County Fiber Network is entered into this _____ day of _____, 2010, with the Children's Case Management Organization Inc., dba Families First of Palm Beach County, Inc., a Florida Non-Profit corporation, Federal Employer ID #65-0166352, ("FFPBC"), and Palm Beach County (the "County").

WITNESSES THAT:

WHEREAS, FFPBC and the County have recognized the need for FFPBC to connect to the County's Network ("Network") for the purpose of utilizing the County as FFPBC's Internet Service Provider and to gain access to the Florida LambdaRail network resources. Specific services to be provided and responsibilities of the parties are set forth in Exhibit "A"; and

WHEREAS, the County and FFPBC have demonstrated needs for Network connectivity, and both parties are supported by local tax dollars, are stewards of public funds, and are therefore responsible for taking steps to control costs and maximize the potential use of technology in their respective organizations; and

WHEREAS, more effective, efficient, and reliable public services will result from the County and FFPBC utilizing a common network infrastructure rather than duplicating facilities and increasing the cost burden borne by both the County and FFPBC taxpayers; and

WHEREAS, the parties believe that additional advanced networking initiatives will come to fruition through the synergies of the County and FFPBC working in unison; and

WHEREAS, in recognizing these facts, FFPBC and the County desire to enter into such an agreement which provides for the joint use of such Network and establishes policies for its use by each organization.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the parties do mutually agree as follows:

AGREEMENT

Section 1 Purpose

The purpose of this Agreement is to interconnect FFPBC to the County's Network for the purposes described in Exhibit "A". The Network is defined as the cable, associated fibers, and splice enclosures (including hubs, routers, and switches) comprising the Primary Route and Auxiliary Routes throughout Palm Beach County used by County government, FFPBC and other third parties who enter into appropriate licensing agreements with the County.

Section 2 Approval

The County approves of FFPBC's participation in the use of the County's wide area network and such services as specified in Exhibit "A". This Agreement shall become effective upon its execution by both parties.

Section 3 Term

The term of this Agreement, unless terminated as provided herein, is a period of one year. This Agreement shall automatically be renewed annually unless either party gives written notice of termination of this Agreement as provided for in Section 11 herein.

Section 4 Network Connection

FFPBC will be provided with a fiber connection and sufficient bandwidth capacity to meet FFPBC's network service requirements specified in the attached Service Level Agreement (Exhibit "A"). FFPBC shall pay all related connection costs, including the drop from the Network to the facility, all equipment necessary to utilize the Network for the intended purposes of FFPBC, and all associated labor costs to connect to FFPBC's facility, and the monthly Usage Fee as set forth in Exhibit "A".

Section 5 Resale of Network Services

FFPBC shall not share or resell any portion of the County's network or services in any manner not approved of in this Agreement or without explicit written consent from Palm Beach County, which consent shall not be unreasonably withheld.

Section 6 County's Responsibilities for Network Management

The County shall be responsible for the routine, day-to-day management of the County Network. Each party shall be responsible for day-to-day administration of the Network routes which they individually own.

The County shall be responsible for maintaining the Primary Network and all auxiliary components of the Network which exclusively serve County facilities. The County shall also maintain auxiliary portions of the Network which service both County and FFPBC facilities. FFPBC shall maintain that portion of its own network which exclusively serves its facilities. The Palm Beach County ISS Network Services Division (ISS) shall monitor bandwidth utilization on any link between the County and FFPBC. The County shall provide FFPBC with access to the County's Network on a best-effort basis and as otherwise provided for herein. The County agrees to share its network monitoring tools to provide FFPBC's technical staff with the capability to monitor its portions of the Network, and perform local trouble shooting routines prior to escalating any service issue to ISS.

Should the County perform repair and maintenance functions on behalf of FFPBC, it is with the understanding that the County's responsibility extends only to the demarcation point.

The demarcation point is the location which defines where issues of maintenance responsibilities begin and end, considered to be the County-owned network equipment inside each of FFPBC's buildings or facilities connected to the Palm Beach County Network (hereinafter referred to as "Demarcation Point"). Palm Beach County ISS will be responsible for maintaining all network infrastructure to the point of the network equipment connection to FFPBC's facilities. Entrance facilities at FFPBC's locations from road to Demarcation Point belong to FFPBC whereas the fiber within may belong to the County.

Maintenance and restoration work provided by the County shall be limited to the fiber optic cable and service drops, the individual fibers within the cable and service drops, and the County routers installed at each FFPBC site. The County shall have no obligation or right to perform maintenance or restoration on any electronics or other equipment owned by FFPBC.

Notwithstanding the foregoing, should the need arise for maintenance or restoration, the parties hereto may agree to an amendment to this Agreement permitting the County to perform maintenance or restoration on FFPBC's electronics or other equipment.

The County shall provide maintenance to County owned and operated equipment on a 7-day/24-hour basis and may contract for the repair services when deemed necessary. The

County shall abide by agreed upon security requirements of FFPBC. In the event that an outside contractor is needed, the County shall select, supervise, and coordinate with the contractor to complete the repair and monitor for compliance with the agreed upon security requirements.

Section 7 Service Level Agreement

Roles and responsibilities of the County and FFPBC are described in the Service Level Agreement (SLA) attached hereto as Exhibit "A", and made a part hereof. The SLA also sets forth an issue communication and escalation process, as well as methodologies for billing and paying the quarterly fee for network connectivity.

Section 8 Network Ownership

The County shall own the Network. FFPBC shall continue to maintain ownership of its current network assets. Only the County is permitted to connect, expand, or otherwise routinely modify the Network components. Furthermore, any and all technological changes relative to the Network will be implemented at the discretion of the County. Notwithstanding the foregoing, the County agrees to use its best efforts to keep pace with technological changes.

Should FFPBC receive grant funds to assist with the construction or maintenance of the Network, any provisions, limitations, or restrictions associated with the grant(s) shall not affect or apply to the County, and vice versa.

Section 9 Modifications to Network

If FFPBC proposes a modification or connection of a new facility to the Network, it shall notify and submit any applicable construction documents to the County at least 30 calendar days prior to the date construction activities are expected to commence. Should the planned activities of FFPBC require the Network to be upgraded, FFPBC shall be solely responsible for payment of all costs associated with such modifications, unless there is prior agreement by the County to participate in a cost-sharing arrangement for the modification.

The County shall review the modification proposals as soon as practicable and will render recommendations with regard to the proposed modification. Any modifications or connections to the network that may cause disruption or interference of service to any network users shall be coordinated with the appropriate technical staff of both FFPBC and the County. The County agrees to perform such work at a time and in a manner to minimize disruption and interference to the Network users.

When either FFPBC or the County enters into a contract with an outside contractor for Network-related services which benefit only that party, the contracting party shall be individually responsible for remitting payment to the contractor performing work on the Network, and the non-contracting party shall not be responsible or held liable for such payment. However, proposed changes to the Network must be communicated in writing to the County for review and approval. The parties however agree to comply with Network security provisions.

Section 10 Network Interferences

The County shall have no requirement to purchase, install, operate, or maintain any equipment on the premises of FFPBC. However, should any equipment owned by FFPBC render any harmful interference to the County Network, ISS may disconnect any or all FFPBC connections after informing FFPBC's designated Point of Contact (POC) of the underlying reasons for the planned action to disconnect FFPBC facilities. Immediate efforts will focus on attempting to resolve or remove the threat conditions. The County shall be the sole party to determine if harmful interference has impacted the County Network. ISS will utilize its best efforts to prevent any unanticipated network outages should interferences be noted. In the event that reconnection can not occur and the County determines that such disconnection shall become permanent, FFPBC shall be entitled to a pro rata refund of any monies paid in advance for the service.

Section 11 Termination for Convenience

Either party may terminate its participation in this Agreement upon 90 days written notice to the other party. Notwithstanding the foregoing, each party shall endeavor to provide the other party with as much advance notice as practicable if it contemplates that it might desire to terminate this Agreement, so as to allow the non-terminating party the maximum amount of time to make alternative plans to replace the lost services/revenue. In such event, the terminating party shall pay or refund all sums due through the effective date of the termination.

Termination of this Agreement by either party may also be contingent upon the failure to ratify annual appropriation for these services by the party's governing body.

Section 12 Indemnification and Hold Harmless

FFPBC recognizes its liability for certain tortious acts of its agents, officers, employees, and invitees, and agree to be responsible, respectively, for all claims, liability, losses, and/or causes of action that may arise from any negligent act or omission due to the acts of its agents, servants, or employees. FFPBC agrees to maintain sufficient professional, general liability, and workers' compensation coverage, unless self-insured, regarding its liability throughout the term of this Agreement. This Agreement does not provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege, except the provisions hereof involving indemnification by FFPBC.

The parties to this Agreement acknowledge the potential of unlawful hacking to gain surreptitious access into confidential systems. ISS has deployed reasonable steps and safeguards as part of a Network security program, but these systems may not be able to defeat every attempt to gain unlawful access to applications or data. Each party is responsible for protecting its own applications, data bases, and servers. Each party however shall review each other's security procedures and notify each other with reasonable promptness of concerns or issues regarding the same.

Section 13 Damage Caused by Disasters

Should the Network be damaged or destroyed by a natural or man-made event to the extent that the cost to repair or replace the network, including utility pole replacement, exceeds 50% of the original installation costs, this Interlocal Agreement is automatically terminated unless the governing bodies of both FFPBC and County authorize its continuation and associated funding to repair or restore the affected area(s). In the event of such termination, the parties shall pay or refund all sums due through the effective date of the termination. Should the Network sustain damage to an Auxiliary Route used only by either FFPBC or the County, the owning party shall determine if the line will be repaired or replaced.

Section 14 Miscellaneous

No provision in this Agreement shall provide to any person not a party to this Agreement any remedy, claim, or cause of action, or create any third-party beneficiary rights against either party. In the event that any one or more of the provisions in this Agreement shall for any reason be held to have no force and effect, this Agreement shall, if possible, be interpreted in a manner

so as to effectuate the intention of the parties. Provisions contained in this Agreement that, by their sense and context, are intended to survive the suspension or termination of this Agreement, shall so survive. All disputes related to this Agreement shall in the first instance be referred to the appropriate executives of each party for resolution.

Section 15 Notice

Any notice, request, instruction, demand, consent, or other communication required or permitted to be given under this Agreement shall be in writing and shall be delivered either by hand or by certified mail, postage prepaid, and certified return receipt requested to the following addresses or such other addresses as the parties may provide to each other in writing:

To: FFPBC

Attention: Julie Swindler, CEO
3333 Forest Hill Blvd, 2nd Floor
West Palm Beach, FL 33406
561-721-2887

With a copy to: Sarah Rippner, Technical Contact
3333 Forest Hill Blvd., 2nd Floor
West Palm Beach, FL 33406
561-721-2887

With a copy to:

To: COUNTY: Robert Weisman, County Administrator
Palm Beach County Board of County Commissioners
301 N. Olive Avenue, 11th FL
West Palm Beach, FL 33401
Telephone: 561-355-2712

With a copy to: County Attorney's Office
Palm Beach County Board of County Commissioners
301 N. Olive Avenue, Suite 601
West Palm Beach, FL 33401
Telephone: 561-355-2225

Section 16 Entire Agreement

This Agreement represents the entire agreement between FFPBC and the County and supersedes all prior agreements or representations, whether written or oral, with respect to the subject matter hereof. No provision of this Agreement may be changed or amended except by written agreement signed by both Agencies. This Agreement shall be binding upon FFPBC and the County and their respective successors and assigns.

Section 17 Omitted

Section 18 Participation

This Agreement shall not be construed against the party who drafted the same as all parties to this Agreement have participated in drafting the same.

Section 19 Venue for Dispute Resolution

This Agreement shall be construed in accordance with the laws of the State of Florida. Should any litigation arise from this Agreement, venue shall lie in Palm Beach County, Florida.

Section 20 Binding Agreement

This Agreement is binding upon the parties hereto, their heirs, successors, and assigns.

Section 21 Subject to Funding

This Agreement is subject to fiscal funding by the County.

Section 22 Nondiscrimination

Each party 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, familial status, sexual orientation, gender identity and expression.

Section 23 Access and Audits

Palm Beach County has established the Office of the Inspector General in Ordinance 2009-049, as may be amended, which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General has the power to subpoena witnesses, administer oaths and require the production of records, and audit, investigate, monitor, and inspect the activities of FFPBC, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interference or impeding any investigation shall be in violation of Ordinance 2009-049, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

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Section 24 Signatories to the Agreement

ATTEST:

Sharon R. Bock, Clerk & Comptroller

Palm Beach County, Florida, By Its Board of County Commissioners

By: Deputy Clerk

By: Karen T. Marcus, Chair

(SEAL)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

By: County Attorney

By: Steve Bredin, Director, ISS

ATTEST: Children's Case Management Organization Inc., dba Families First of Palm Beach County (FFPBC)

By: Julie Swindler, CEO, Children's Case Management Organization Inc., dba Families First of Palm Beach County

(SEAL)

Witness

By: Sarah Ripner, (Printed Name)

EXHIBIT A

PALM BEACH COUNTY INFORMATION SYSTEMS SERVICES SERVICE LEVEL AGREEMENT

The purpose of this Service Level Agreement is to identify the roles and responsibilities of ISS and FFPBC in carrying out the terms of the Interlocal Agreement re: Interconnection to the Palm Beach County Network. This Service Level Agreement delineates the services to be provided by ISS, sets forth network availability standards, establishes an escalation protocol, and describes the associated costs and payment requirements.

I. Annual Planning and Service Level Agreement Review

There will be an annual review of this Service Level Agreement (SLA). The SLA will document the types of network services to be provided under the Agreement, as well as the annual cost of these services, and the roles and responsibilities of each Agency.

Connection to the Network must be approved by both the County and FFPBC if said connection affects the entire Network. However, all connections must meet the agreed-upon technical specifications.

II. Description of Services

A. Baseline services from ISS will include:

1. Ongoing maintenance of connectivity to the demarcation point(s);
2. Central network security will be maintained by ISS at the ISS router port that feeds FFPBC's network (router) connection. If necessary, security may shut down the entire building feed to protect the networked systems from computer worms and viruses;
3. Network Design;
4. Acquisition and management of Network assets;
5. Installation or relocation of network connections, wiring upgrades, installation of bandwidth upgrades, or other specialized services;
6. Network equipment maintenance;

7. Network security on ISS side of demarcation point;
8. Monitoring of Network performance;
9. Trouble reporting and tracking;
10. Maintenance of the environmental factors in the facilities and closets housing equipment crucial to the health and stability of the Network, including air conditioning, power conditioning, and UPS equipment; and
11. Disaster recovery protection, system reliability, and stability during power outages.

B. FFPBC Responsibilities

1. All intra-building network maintenance and security of the facility;
2. Ensuring that back-door connectivity behind the building router is prohibited;
3. Provisioning of its Dynamic Host Configuration Protocol (DHCP) services;
4. Building infrastructure connectivity;
5. All grid (jack), wiring identification, and tracking for FFPBC-owned facilities;
6. FFPBC agrees to provide, where possible, network engineers or technicians to assist with all portions of network operations, from provisioning to troubleshooting. Initial diagnostic actions will ideally be performed by FFPBC staff to evaluate whether the cause of any system problem is associated with factors under the control of FFPBC; and
7. FFPBC shall install network security hardware and software as specified by the County to minimize the risk of a virus and surreptitious or otherwise inappropriate network entry. FFPBC will modify and enhance security procedures, hardware, and software as required by the County or to the satisfaction of the County ISS Department to prevent unauthorized access to the County Network.
8. FFPBC may request changes in network services. Requests for changes shall be submitted to the County ISS Director, or designee, for action. FFPBC shall be advised of the disposition of the request within thirty (30) calendar days of

submission. Such request shall include extension of Network services to additional sites identified by FFPBC. FFPBC shall be responsible for all reasonable costs associated with requested changes to the Network services approved by the County, which approval shall not be unreasonably withheld.

9. FFPBC will provide, at its expense, the following equipment and facilities at each FFPBC location (if required):
 - An environmentally stable and secure area large enough to accommodate a 19"-wide rack with a height up to 7 feet. This area shall contain two (2) dedicated electrical circuits for providing power to the switching equipment;
 - Air conditioning units which deliver a capacity of BTUs to the equipment room as specified by the manufacturer of equipment installed at FFPBC's site; and FFPBC shall periodically monitor to ensure temperatures are within acceptable limits.
10. FFPBC shall adhere to a documented plan of security strategies deployed to prevent unauthorized access into the physical location(s) where Network access could be gained. Further, FFPBC shall ensure that it has robust and efficient security software and procedures in place to prevent unauthorized access to the Network.
11. FFPBC shall promptly pay for the County's reasonable charges which will be invoiced quarterly.

III. Availability of the County Network Services

The County will provide FFPBC with access to the County's Network on a best-effort basis. The County's goal will be to provide 99.9% availability. The County reserves the right to prioritize its maintenance and recovery efforts, while at the same time providing availability to FFPBC.

In the event that network availability is documented by the County and declared by FFPBC to be less than 99.9% for two (2) consecutive months, FFPBC shall not be liable for service fees

beyond the date of said declaration of non-performance until service is satisfactorily restored. The reduction of previously paid or dismissal of unpaid service fees will be calculated on a pro-rata basis.

The County will monitor FFPBC's utilization of the Network to ensure sufficient capacity. Should the sustained usage exceed 60% for a period of 30 days or more, the County will initiate a bandwidth upgrade. Estimated upgrade completion time is within 60 days.

IV. Protocol for Reporting Network Service Problems

All service issues should be reported to FFPBC's IT support staff. If FFPBC's initial diagnosis of the reported problem indicates that it is related to Network connectivity (e.g., connection lost, slow response time) rather than a problem at the application, server, or desktop level, the technician should immediately report the service problem to the ISS Network Operations Center at 355-6700. All service problems reported by FFPBC will be recorded and tracked in the County's Automated Help Desk System until problem resolution and service restoration. Response time service levels are established at the time the call is reported based on the severity of the issue. The service level target for problem diagnosis and response to FFPBC is within one (1) hours of the reported problem. The County also employs an escalation process for problems which are not resolved according to the established standards.

V. Facility Access for Network Service and Maintenance

The County shall coordinate with and obtain prior written approval from FFPBC's designee as to the time of any planned maintenance, repair, or installation work. However, FFPBC shall provide the County with access to its equipment on a 24-hour/7-day per week basis. During normal business hours, the County shall ensure that all ISS personnel or contractors representing the County sign in prior to commencing any work, and sign out prior to leaving the facility.

On weekends, holidays, or after normal business hours, the County's representative shall call FFPBC to report any emergency that requires access to any FFPBC facility. FFPBC shall make reasonable efforts to arrange for access of County's personnel as quickly as possible.

The County shall supply FFPBC with a list of authorized ISS employees who will carry in their possession badges for identification purposes. All individuals permitted access to FFPBC must be fingerprinted and shall be subjected to a "background check". All of the County's contractors' employees, agents, contractors, and subcontractors must undergo a background check and fingerprinting in accordance with FBI CJIS security policies.

The County represents that it has verified, prior to entering into this Agreement, that neither the County or County's contractors, nor any of their respective employees, agents, or representatives who have been convicted or who are currently under investigation for a crime delineated in Florida Statutes §435.04 or Section 1012.467 shall have access to FFPBC facilities under the Agreement.

VI. Problem Escalation Contacts:

Palm Beach County ISS

Palm Beach County 24x7 Network Services Help Desk: 561-355-6700

Michael Butler, Director of ISS Network Services:
561-355-4601 (office)
561-722-0850 (cell)

Phil Davidson, Deputy Director of ISS Operations:
561-355-3956 (office)
561-722-3349 (cell)

Steve Bordelon, Director of ISS:
561-355-2394 (office)
561-713-3197 (cell)

FFPBC Information Technology

Hours of Operation:
Emergency Contact Number:

Sarah Rippner, Technical Contact
Contact Name: 561-721-2887

VII. Fees and Charges for Network Connectivity and Related Services

One of the goals of this Agreement is to establish the lowest competitive pricing for the County's Network Services provided to FFPBC.

The usage fees for connection to the County's Network and Internet provisioning shall be a flat monthly fee of \$700.00 for the initial point of connection and \$500.00 per month for each additional point of connection.

In order to minimize the impact of the initial fiber construction cost, the County will fund the initial cost of \$5,386.00 which will then be recovered over the first 12 months of the agreement. A fiber construction fee of \$448.83 will be charged for the first 11 months with a 12th and final payment of \$448.87

An additional usage fee of \$100 per month will be charged for connectivity to the Northwest Regional Data Center (NWRDC) if FFPBC chooses to use the NWRDC for hosting services. FFPBC may contract directly with NWRDC for hosting services or may use PBC provided hosting at NWRDC. If FFPBC chooses to utilize PBC provided hosting, a separate agreement and fee schedule for hosting services will be provided. Charges shall be assessed on a monthly basis, and the County will invoice FFPBC quarterly.

A. Cost Components

A portion of the flat monthly fee identified above includes direct costs incurred by Palm Beach County to connect to the Florida LambdaRail. In the event the Board of Directors of the Florida LambdaRail institute a pricing change, Palm Beach County agrees to review the financial impact and make appropriate rate adjustments on an annual basis.

B. Billing and Payment

The ISS Director may, at his/her discretion, permit staff resources to assist FFPBC in the execution of certain Information Technology responsibilities, assuming that FFPBC agrees to fully reimburse the County for all reasonable costs associated with the rendering of ISS staff assistance. Reasonable costs include the staff's hourly salary rate, fringe benefits, overtime (if applicable), travel, and administrative overhead. These components have all been factored into the standard hourly billing rates as part of the ISS Cost Allocation Plan and will be subject to modification on an annual basis.

The County shall submit quarterly invoices to FFPBC which shall include a reference to the Agreement and identify the amounts due and payable to the County. FFPBC will pay such

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Re: Interconnection to the Palm Beach County Network

invoices within 30 days of presentation by the County. If FFPBC in good faith disputes any portion of a charge, the County shall be provided with written notice of the billing dispute within 30 days thereafter. Dispute resolution between the County and FFPBC shall be in accordance with Florida law.