

6. A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY (THE AGENCY) APPROVING THE AGREEMENT WITH NEXMIL, INC. (THE CONTRACTOR) FOR PROFESSIONAL INFORMATIONAL TECHNOLOGY SERVICES; PROVIDING AN EFFECTIVE DATE. (ATTACHMENT - #6)




Florida's Dynamic
Waterfront Community

RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY

2001 BROADWAY, SUITE 300
RIVIERA BEACH, FL 33404
PHONE: 561-844-3408
FAX: 561-881-8043
Website: www.rbkra.com

MEMORANDUM

TO: Honorable Chair and Members, CRA Board of Commissioners
City of Riviera Beach, Florida

FROM:  Tony T. Brown
Executive Director, CRA

DATE: March 9, 2012

SUBJECT: Agenda Item No. 6; Contract with Nexmill Inc.

Nexmill Incorporated currently provides on-going Computer, Internet & Technology Service and support for the Community Redevelopment Agency. Nexmill has been providing on-going services since 2008. The CRA is attempting to formalize all continuing services agreements including marketing, graphic design, meeting minutes, & IT services. The agreement is for one year with an option to extend for one additional year. The agreement may be terminated by either party with or without cause upon 30 days written notice.

The agreed scope of service shall provide service and support for CRA servers, network, firewall, integration with Sprint cell phone and mobile data, manage and monitor server back-ups and maintain a healthy functioning network infrastructure.

Nexmill Inc. has provided the CRA with efficient and expert services, and provides limited phone support without charge. The initial contract term shall be from March 1, 2012 through February 28, 2013.

TB/SE

RESOLUTION NO. 2012-__

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY (THE AGENCY) APPROVING THE AGREEMENT WITH NEXMILL, INC. (THE CONTRACTOR) FOR PROFESSIONAL INFORMATIONAL TECHNOLOGY SERVICES; PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, the Agency desires Contractor to provide certain professional technology services for the Agency and the Contractor desires to provide such professional services to the Agency pursuant to the terms of the Agreement; and

WHEREAS, the Contractor is a sole source provider as determined pursuant to the Agency's procurement code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY THAT:

SECTION 1. The Agency hereby approves the attached Professional Service Agreement with Nexmill, Inc. and authorizes the Chairman and Executive Director to execute said Agreement.

SECTION 2. This resolution shall be effective immediately upon its adoption.

[Signatures on following page]

PASSED AND ADOPTED this 14th day of March, 2012.

RIVIERA BEACH COMMUNITY
REDEVELOPMENT AGENCY

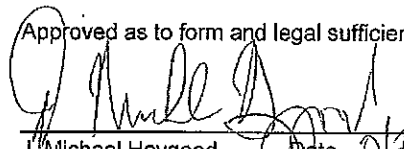
ATTEST:

By: _____
Name: Judy L. Davis
Title: Chairperson

Executive Director

MOTION BY: _____
SECONDED BY: _____

- B. BROOKS _____
- D. PARDO _____
- C. THOMAS _____
- S. LOWE _____
- J. DAVIS _____

Approved as to form and legal sufficiency

J. Michael Haygood Date 01/7/2012
Haygood & Harris LLC
General Counsel to CRA

PROFESSIONAL SERVICE AGREEMENT
Between
Riviera Beach Community Redevelopment Agency
and
Nexmill, Inc.

THIS AGREEMENT is made and entered into this _____ day of March, 2012, by and between Nexmill, Inc., hereinafter referred to as "Independent Contractor," whose mailing address is 222 Lakeview Ave., #160-225, West Palm Beach, FL 33401, and the Riviera Beach Community Redevelopment Agency, a body corporate and politic, hereinafter referred to as "CRA," whose address is 2001 Broadway, Suite 300, Riviera Beach, Florida, 33404.

In consideration of the mutual covenants and promises set forth herein, the parties to this agreement do hereby agree as follows.

1. Independent Contractor agrees to perform professional information technology services for the CRA in three general areas: maintenance, new capabilities (planning, consulting, and assisting in setting up new technology and removal of any old technology), and consultation as set out in the Scope of Work attached hereto as Exhibit "A."

2. Independent Contractor agrees to be bound by all the terms and conditions as set forth in the Scope of Work.

3. To the extent that there exists a conflict, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

4. Work must begin within (5) calendar days from the date of receipt of official notice to proceed with a work element and shall be carried on for the duration of the contract. The CRA shall have the option renew for one year this Agreement by giving 30 days notice prior the end of the term of this agreement upon the same terms as this Agreement.

5. The CRA agrees to compensate the Independent Contractor at the rate of \$115.00 per hour for services as identified in the Scope of Work contained in Exhibit "A" to this agreement. Total compensation to the Independent Contractor shall not exceed twenty-five thousand dollars (\$25,000.00) for the term of the contract. The term of this agreement shall be one (1) year beginning March 1, 2012 and ending February 28, 2013. The agreement may be extended for one year, under the terms specified in this agreement. The CRA shall not reimburse the Independent Contractor for any miscellaneous costs incurred as a direct result of the

Independent Contractor providing deliverables to the CRA in accordance with the Scope of Work contained in Exhibit "A," unless such costs have been approved, in writing and in advance, by the CRA. The Independent Contractor shall provide the CRA with monthly invoices containing adequate documentation supporting amounts billed to the CRA. The CRA agrees to pay contractor invoices within 30 days of submission to the CRA.

6. This Agreement may be terminated by either party with or without cause upon thirty (30) days prior written notice. In the event that the CRA terminates this Agreement, for any reason whatsoever, the Independent Contractor understands and agrees that it shall not receive any further compensation beyond the termination date. This shall be true even where there are remaining months under the terms of this Agreement.

7. Independent Contractor hereby represents that it has complied and shall continue to comply with all applicable Federal and State statutes and local ordinances. Further, Independent Contractor shall be solely responsible for obtaining and complying with all necessary permits, approvals and authorizations, required for the work to be performed pursuant to the terms of this Agreement from any federal, state, regional, county, or city agency.

8. The Independent Contractor represents that it has, or will secure at its own expense, all necessary personnel, equipment and materials required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the CRA.

9. All of the services required hereunder shall be performed by the Independent Contractor 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.

10. The Independent Contractor agrees that it is fully responsible to the CRA for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the Independent Contractor. Nothing contained herein shall create any contractual relationship between any subcontractor and the CRA.

11. All of the Independent Contractor's personnel (and all Subcontractors) while on CRA premises will comply with all CRA requirements governing conduct, safety and security.

12. The CRA is exempt from payment of Florida State Sales and Use Taxes. The CRA will sign an exemption certificate submitted by the Independent Contractor. The Independent Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the

CRA, nor is the Independent Contractor authorized to use the CRA's Tax Exemption Number in securing such materials.

13. The Independent Contractor shall indemnify and save harmless and defend the CRA, its agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act or omission of the Independent Contractor, its agents, servants, or employees in the performance of services under this Agreement.

14. The Independent Contractor further agrees to indemnify, save harmless and defend the CRA, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the Independent Contractor not included in the paragraph above and for which the CRA, its agents, servants or employees are alleged to be liable. Nothing contained in this provision shall be construed or interpreted as consent by the CRA to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

15. The Independent Contractor 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 Independent Contractor or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions. Upon the Independent Contractor's request, the CRA shall consider the facts and extent of any failure to perform the work and, if the Independent Contractor's failure to perform was without it or its subcontractors fault or negligence, as determined by the CRA, the Agreement Schedule and/or any other affected provision of this Agreement shall be revised accordingly; subject to the CRA's rights to change, terminate, or stop any or all of the work at any time. If the Independent Contractor is delayed at any time in the process of the work by any act or neglect of the CRA or its employees, or by any other contractor employed by the CRA, or by changes ordered by the CRA or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the Independent Contractor's control, then the time of completion shall be extended for any reasonable time the CRA may decide. In the case of continuing cause of delay, only one (1) claim is necessary.

16. The Independent Contractor does not have the power or authority to bind the CRA in any promise, agreement or representation other than as specifically provided for in this Agreement.

17. The CRA reserves the right to make changes in the scope of work, including alterations, reductions therein or additions thereto. Upon receipt by the Independent Contractor of the CRA's notification of a contemplated change, the

Independent Contractor shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the CRA of any estimated change in the completion date, and (3) advise the CRA if the contemplated change shall affect the Independent Contractor's ability to meet the completion dates or schedules of this Agreement. If the CRA so instructs in writing, the Independent Contractor shall suspend work on that portion of the work affected by a contemplated change, pending the CRA's decision to proceed with the change.

18. If the CRA elects to make the change, the CRA shall initiate an Agreement Amendment and the Independent Contractor shall not commence work on any such change until such written amendment is signed by the Independent Contractor and approved and executed by the Board of Commissioners of the Agency.

19. All materials and/or work to be furnished and/or installed by the Independent Contractor under this Agreement shall be guaranteed by the Independent Contractor for a period of one year from the date of final acceptance thereof by the CRA against defects including death satisfactory growth, workmanship, or materials. Upon receipt of notice from the CRA of failure or defect of any part covered under such warranty/guaranty period, the affected part, parts, or materials shall be replaced promptly with new parts or materials by the Independent Contractor at no expense to the CRA. In the event the Independent Contractor fails to make the necessary repairs or replacements within 30 days after notification by the CRA, the CRA may accomplish the work at the expense of the Independent Contractor. The services rendered in the execution of this agreement do not relieve the contractor from any obligations related to any prior agreements. All work produced under any previous agreements will be held to that agreement, and a one year inspection must occur.

20. The Independent Contractor shall continuously maintain adequate protection of all work from damage, and shall protect such work and the CRA's property from injury or loss arising during the term of the Agreement.

21. This Agreement and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

22. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further

exercise thereof.

23. If any action, whether in law, equity or otherwise, is brought for any dispute, disagreement, or issue of construction, declaration or interpretation arising hereunder whether relating to the Agreement's execution, validity, the obligations provided therein, or performance of this Agreement, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

24. Time is of the essence in all respects under this agreement.

25. Failure of the CRA to enforce or exercise any right(s) under this Agreement shall not be deemed a waiver of CRA's right to enforce or exercise said right(s) at any time thereafter.

SIGNATURES ON FOLLOWING PAGE

**AGREEMENT WITH THE RIVIERA BEACH COMMUNITY REDEVELOPMENT
AGENCY**

IN WITNESS WHEREOF, the Parties unto this Agreement have set their
hands and seals on the day and date first written above.

ATTEST:

**RIVIERA BEACH COMMUNITY
REDEVELOPMENT AGENCY**

By: _____
Judy L. Davis, Chairperson

Approved as to form and legal sufficiency:

By: 
J. Michael Haygood
Interim General Counsel

CONSULTANT

Nexmill, Inc.

By: _____

Name: _____

Title: _____

EXHIBIT A

Nexmill, Inc.

Scope of Work

All work activities performed by the Independent Contractor for the CRA are at the request of Riviera Beach Community Redevelopment Agency (CRA) management. No work is to be done without the prior approval of the CRA unless it is time-critical and obvious that the work needs to be done. Any such time critical or obvious work should be documented.

The CRA's Administrative Director shall serve as the Independent Contractor's primary contact person. Nexmill will keep the CRA contact person informed of the status of assigned work. All resources needed for work (computers, network cable, equipment, etc.) are provided through the CRA. Exceptions are approved in advance.

Nexmill will submit an invoice containing supporting documentation for requested and completed work and provide a summary of work done and work in progress.

The following services are provided under this agreement. There is no charge for light phone support. However, if it requires stopping other work and engaging an issue, the normal rates apply.

Maintenance

- Break/Fix – as computers/equipment slow or stop working, diagnose and repair them. Coordinate with Dell (or other) Tech Support as needed. Work is coordinated through the CRA contact person.
- Monitor servers/network – periodically check server performance and system logs. Take action as needed. Evaluate and install system/security updates. Check anti-malware software status and performance.
- Monitor backups.
- Maintain network and network firewall. Maintain backups of firewall configurations.
- Set-up new/replacement Sprint or other phones.
- Maintain consulting area network connectivity.
- Maintain Clean and Safe Community Policing Program computer environment.

- Periodically survey the computing infrastructure health.
- Create and maintain a back-up manual with the Administrative Director
- Miscellaneous work as requested.

New Capabilities

- Plan, generate specifications, get quotes, assist purchases, and perform/manage process of installing computing infrastructure.
- Replace existing computers/network infrastructure – same process.
- Clean up computers that have been retired.
- Miscellaneous work as requested.

Consultation

- Coordinate with other technical vendors to ensure CRA's needs are met.
- Advise on technology purchases.
- Advise on using technology in business.
- Advise on process.
- Be a resource for onsite technical person.

Notes

Nexmill recommended services are subject to CRA approval and may be scaled back or not performed due to a variety of reasons including budget/time constraints and/or management preferences. The CRA assumes the consequences of these decisions. Nexmill has limited latitude in committing resources to resolve issues and will inform and seek guidance from the CRA contact person when the time or resources being spent is likely to exceed a reasonable amount.

Riviera Beach Community Redevelopment Agency

JUSTIFICATION FOR SOLE SOURCE PURCHASE

This questionnaire has been designed to assist staff in relating information necessary for the submission and review of sole source/sole brand purchase requisitions.

The Executive Director or authorized purchasing representative must provide the following information. If more space is needed, please attach additional page(s).

1. A description of the proposed purchase and the benefit of the purchase to the Agency.

We recommend signing a Professional Services Contract with Nexmill, Inc. to provide Information Technology consulting and related services. Doing so would ensure that one competent vendor with a demonstrated high level of service would be responsible for a wide variety of technical and consulting issues as well as providing access to computer equipment at a very competitive price.

2. The reason why the requested product/service is the only product/service that meets Agency's requirements, and why competing products and/or services are not available. (Example: The products will be incorporated into existing equipment and use of competing equipment will void the product warranty.)

While the Riviera Beach CRA is a relatively small office, we have a wide variety of technology requirements. These include but are not limited to setup and maintenance of: Windows Small Business Server environment, Exchange Server email, Blackberry Enterprise Server, WickSoft mobility software, Sprint phones, remote email access methods, wireless technology, website technologies, Quickbooks accounting, etc. The CRA also occasionally requires assistance in evaluating other technologies for office implementation including phone systems, multifunction copiers, and "cloud" based services (backup, collaboration, etc.). Increasingly, these systems interact with each other, the IT infrastructure, affect business processes, and thus, require expertise in all technical and business areas. This is especially true when trying to resolve issues involving multiple vendors or technologies.

To minimize expenditures, both capital and ongoing maintenance, it is highly beneficial to use one competent vendor to ensure responsibility and accountability. Also, when computer purchases are needed, it is important to get the best deal on hardware and software. Business experience is also important as the computing infrastructure must work with and enhance the business processes.

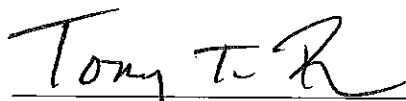
3. The reason why only the requested vendor can provide the product and/or service(s). (Example: Service directly from the manufacturer is required to prevent voiding the current warranty.)

Nexmill, Inc. has demonstrated that they have the needed wide variety of technical and business skills to address individual issues as well as provide broad guidance based on the overall

environment. Through their individual business experience and corporate experience with other clients in many fields, they bring best practices and many “lessons learned” to the CRA environment. Issues are handled correctly the first time with minimal time spent, and at a very attractive cost. They are particularly good at resolving integration issues between multiple vendors as their experience is broad and they understand how things can and need to work together.

They also offer, given their relationship at a high level with Dell, excellent pricing on hardware/software as well as quick access to high level Dell management to resolve support or service issues.

Nexmill has also demonstrated a very high level of service and offers unusually good availability after hours and on weekends and does not charge a premium for this.



Executive Director/Agency's Authorized Signature