

RESOLUTION NO. 17-2465

A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING A LEASE AGREEMENT WITH DELL FINANCIAL SERVICES FOR THE LEASE OF COMPUTER EQUIPMENT IN THE AMOUNT OF \$79,877.52 OVER A THREE-YEAR LEASE TERM; PROVIDING FOR WAIVER OF COMPETITIVE BIDDING; PROVIDING FOR IMPLEMENTATION OF THE LEASE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (“Town”) currently has an aging and outdated computer system which is in need of replacement and upgrades; and

WHEREAS, Dell Financial Services (“Dell”) has proposed to lease computer equipment and products to the Town, as set forth in the Lease Agreement attached hereto as Exhibit “A” (“Lease”); and

WHEREAS, after conducting a good faith review of available sources and negotiation as to price and terms, the Town Manager has recommended that, pursuant to Section 3-12 of the Town Code, it is in the Town's best interest to waive the competitive bidding procedures in order to expeditiously attain the computer equipment from the existing vendor; and

WHEREAS, the Town Commission has determined that it is in the best interests of the Town to replace its computer equipment, and accept the Lease and terms as set forth in Exhibit “A”; and

WHEREAS, pursuant to the Lease, the Town will incur a lease payment of approximately \$2,218.82 per month for a three-year (36 month) lease term for a total cost of \$79,877.52; and

WHEREAS, the cost of the computer equipment Lease was budgeted for Fiscal Year 2017-2018; and

WHEREAS, the Town Commission finds that replacement and lease of the computer equipment is in the best interests of the Town and necessary for efficient Town operations and business.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. Lease Approved. That the Lease, in substantially the form attached hereto as Exhibit "A", is hereby approved, and the Town Manager is hereby authorized to execute the Lease with Dell on behalf of the Town, once approved as to form and legal sufficiency by the Town Attorney.

Section 3. Waiver of Competitive Bidding. That pursuant to Section 3-12 of the Town Code, the competitive bidding procedures of the Town's Purchasing Code are hereby waived for the attainment of the products.

Section 4. Implementation. That the Town Manager and/or his designee is hereby authorized to take any and all action necessary to implement this Resolution and the Lease.

Section 5. Effective Date. That this Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED on this 14th day of November, 2017.

Motion by: Commissioner Karukin,

Second by: Commissioner Gieldinsky.

FINAL VOTE ON ADOPTION

Commissioner Daniel Gielchinsky
Commissioner Michael Karukin
Commissioner Tina Paul
Vice Mayor Barry Cohen
Mayor Daniel Dietch

yes
yes
Absent
yes
yes




Daniel Dietch, Mayor

ATTEST:



Sandra Novoa, MMC, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE TOWN OF SURFSIDE ONLY:**



Weiss Serota Helfman Cole & Bierman
Town Attorney

COPY



TOWN OF SURFSIDE
9293 HARDING AVE
SURFSIDE, FL 33154

Dear Jose Feliz

Thank you for choosing Dell Financial Services for your technology leasing needs. We are enclosing the Lease and the Attachment A for your review. Once you have inspected the documents, please follow the four simple steps listed below:

- Step 1 Provide your Federal Employer Identification (FEI) Number on Page 1 of 5 if your FEIN is not printed.
- Step Sign and Date the YOU/LESSEE section only on Page 2 of 5 and print your NAME and TITLE.
- Step 3 After completing steps 1 through 2, return ALL PAGES to 512-283-9380, excluding AutoPay.
- Step 4 (Optional) For the ease and convenience of AUTOPAY, please complete the enclosed form and return it according to the instructions on the autopay form.

Thanks again for choosing Dell Financial Services. If you have any questions regarding the enclosed documentation, please feel free to contact us.

800-955-3355

*****Helpful Information*****

Lease Related: Your DFS Lease Number is: 001 - 8821553-006
Equipment Related: Your DELL Customer Number is: 15237228

For Dell Inc. equipment support or questions call (888) 560-8324.

View www.Dell.com/Support for Dell order status once your Lease paperwork is complete or call (800) 879-3355

The first invoice you receive once your Lease commences will include your Monthly Rent Payment plus any itemized taxes, fees and shipping charges. Subsequent invoices will only include your Monthly Rent Payments and any other applicable taxes and/or fees.

COPY



Your Dell Customer Number is: 15237228

Company No: 73

THIS LEASE AGREEMENT ("LEASE") SETS FORTH YOUR RESPONSIBILITIES AND OBLIGATIONS WITH REGARD TO YOUR LEASE OF THE PRODUCTS. IF YOU WISH TO ENTER INTO THIS LEASE ELECTRONICALLY, PLEASE FOLLOW THE INSTRUCTIONS PROVIDED. YOUR ELECTRONIC SIGNATURE WILL CONSTITUTE YOUR AGREEMENT TO DO BUSINESS AND RECEIVE ALL RELATED RECORDS ELECTRONICALLY. SAVE AND DOWNLOAD OR PRINT A COPY OF THE LEASE AND ACCOMPANYING E-MAILS AND RETAIN THEM FOR YOUR RECORDS.

THIS LEASE HAS BEEN WRITTEN IN "PLAIN ENGLISH". WHEN WE USE YOU AND YOUR IN THIS LEASE WE MEAN YOU, THE CUSTOMER WHO IS THE LESSEE INDICATED BELOW. WHEN WE USE WE, US AND OUR WE MEAN THE LESSOR, DELL FINANCIAL SERVICES L.L.C.

FULL LEGAL NAME OF LESSEE TOWN OF SURFSIDE		LEASE TERM (MONTHS) 36	MONTHLY RENT PAYMENT^ \$2,131.26 <small>^Subject to Applicable Tax</small>	MONTHLY PERSONAL PROPERTY MGMT FEE^ \$87.56 <small>^Subject to Applicable Tax</small>	COMMENCEMENT DATE
DBA NAME (IF ANY)	TYPE OF BUSINESS Municipality	FINANCING TERMS Product Cost = \$80,698.80 (MONTHLY RENT PAYMENTS ARE DUE AND PAYABLE IN ADVANCE) Total Rent Payments due shall be \$79,877.52			
BILLING ADDRESS: STREET, CITY, STATE, ZIP CODE 9293 HARDING AVE SURFSIDE FL 33154-3009					
PRODUCT LOCATION SEE ATTACHMENT A		GENERAL PRODUCT DESCRIPTION/SUPPLIER SEE ATTACHMENT A			
GUARANTOR (IF ANY)		END OF LEASE PURCHASE OPTION Fair Market Value			

596000434

FEDERAL EMPLOYER IDENTIFICATION #

Step 1. If your FEI number is not pre-printed, you MUST provide it in the box above.

TERMS AND CONDITIONS OF LEASE



1. NO WARRANTIES: WE ARE LEASING THE PRODUCTS TO YOU "AS-IS". YOU ACKNOWLEDGE THAT WE DO NOT MANUFACTURE OR SUPPLY THE PRODUCTS, WE DO NOT REPRESENT THE MANUFACTURER OR SUPPLIER AND YOU HAVE SELECTED THE PRODUCTS AND THE SUPPLIER BASED ON YOUR OWN JUDGMENT. WE MAKE NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING THE MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE PRODUCT OR ANY SERVICES. PROVIDED NO EVENT OF DEFAULT HAS OCCURRED AND IS CONTINUING, WE HEREBY ASSIGN TO YOU FOR THE TERM OF THE LEASE ALL WARRANTIES MADE TO US BY SUPPLIER, MANUFACTURER, AND ANY SERVICE PROVIDER TO YOU, AND YOU AGREE THAT YOU WILL MAKE ALL CLAIMS OF ANY KIND RELATING TO THE PRODUCTS OR SERVICES AGAINST SUCH SUPPLIER, MANUFACTURER, AND/OR SERVICE PROVIDER.

2. ACCEPTANCE; ENTIRE AGREEMENT; DELIVERY; ELECTRONIC SIGNATURES AND RECORDS: BY SIGNING THIS LEASE: (a) YOU ACKNOWLEDGE THAT YOU HAVE RECEIVED, READ, UNDERSTAND AND AGREE TO ALL OF THE TERMS AND CONDITIONS (SECTIONS NUMBERED 1-19, PAGES 1-5) AND ATTACHMENT A OF THIS LEASE; (b) YOU AGREE THAT THIS LEASE IS A NET LEASE AND YOU CANNOT TERMINATE OR CANCEL AND UPON ACCEPTANCE OF THE PRODUCTS YOU HAVE AN UNCONDITIONAL OBLIGATION TO MAKE ALL PAYMENTS UNDER THIS LEASE AND YOU CANNOT WITHHOLD, SETOFF OR REDUCE SUCH PAYMENTS FOR ANY REASON; (c) YOU AGREE THAT THE PRODUCTS WILL BE USED FOR BUSINESS PURPOSES ONLY AND NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES; (d) YOU CONFIRM THAT THE PERSON SIGNING THIS LEASE FOR YOU HAS THE AUTHORITY TO DO SO; (e) YOU AGREE THAT THIS LEASE WILL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO ITS CONFLICTS OF LAWS PRINCIPLES AND TO THE EXTENT APPLICABLE, THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT AND YOU CONSENT TO THE JURISDICTION OF ANY COURT LOCATED WITHIN THAT STATE AND YOU EXPRESSLY WAIVE THE RIGHT TO A TRIAL BY JURY; (f) YOU

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ACKNOWLEDGE AND AGREE THAT THIS LEASE IS SUBJECT TO THE ARBITRATION PROVISIONS SET FORTH IN SECTION 16 AND YOU UNDERSTAND AND AGREE THAT IN ARBITRATION: YOU GIVE UP RIGHTS TO SEEK REMEDIES IN COURT, INCLUDING THE RIGHT TO A JURY TRIAL; YOUR ABILITY TO COMPEL OTHER PARTIES TO PRODUCE DOCUMENTS OR BE EXAMINED IS MORE LIMITED THAN IN A LAWSUIT; AND, YOUR RIGHTS TO APPEAL OR CHANGE ANY ARBITRATION AWARD IN ANY COURT ARE STRICTLY LIMITED; AND (g) YOU CONFIRM THAT THE INFORMATION IN ANY CREDIT APPLICATION, STATEMENT, TRADE REFERENCE OR FINANCIAL REPORT SUBMITTED TO US IS TRUE AND CORRECT AND YOU UNDERSTAND THAT ANY MATERIAL MISREPRESENTATION SHALL CONSTITUTE A DEFAULT UNDER THE LEASE. YOU AGREE TO BE BOUND BY THIS LEASE BY SIGNING IT. SIGNING AND RETURNING THIS LEASE AGREEMENT CONSTITUTES AN OFFER BY YOU TO LEASE THE PRODUCTS DESCRIBED IN ATTACHMENT A. THE LEASE AGREEMENT IS SUBJECT TO ACCEPTANCE BY DELL FINANCIAL SERVICES. DELL FINANCIAL SERVICES MAY ACCEPT THIS LEASE AGREEMENT BY PAYING THE SUPPLIER THE COST OF THE PRODUCTS OR BY AUTHENTICATING THE LEASE AGREEMENT. IF YOU WISH TO ENTER INTO THIS LEASE ELECTRONICALLY, YOUR ELECTRONIC SIGNATURE WILL CONSTITUTE YOUR AGREEMENT TO DO BUSINESS AND RECEIVE ALL RELATED RECORDS ELECTRONICALLY. OTHERWISE, YOU MUST SIGN THIS LEASE BY COMPLETING THE SIGNATURE BOX ON A PRINTED COPY OF THE LEASE AND RETURN IT TO US EITHER BY FACSIMILE TRANSMISSION OR BY U.S. MAIL. IF YOU DELIVER THIS SIGNED LEASE TO US, AND WE DO NOT RECEIVE ALL OF THE PAGES TO THE LEASE, YOU AGREE THAT, EXCEPT FOR ANY PAGES WHICH REQUIRE YOUR SIGNATURE, WE MAY SUPPLY THE MISSING PAGES TO THE LEASE FROM OUR DATABASE WHICH CONFORMS TO THE VERSION NUMBER AT THE BOTTOM OF THE PAGE. YOU ACKNOWLEDGE THAT WE ARE RELYING ON YOUR REPRESENTATION THAT THIS LEASE HAS NOT BEEN ALTERED. YOU FURTHER AGREE THAT, NOTWITHSTANDING ANY RULE OF EVIDENCE TO THE CONTRARY, IN ANY HEARING, TRIAL OR PROCEEDING OF ANY KIND WITH RESPECT TO THIS LEASE, WE MAY PRODUCE A TANGIBLE COPY OF THE LEASE ELECTRONICALLY SIGNED OR TRANSMITTED BY YOU TO US, AND SUCH SIGNED COPY SHALL BE DEEMED TO BE THE ORIGINAL OF THIS LEASE. TO THE EXTENT (IF ANY) THAT THIS LEASE CONSTITUTES CHATTEL PAPER UNDER THE UNIFORM COMMERCIAL CODE ("UCC"), THE AUTHORITATIVE COPY OF THE LEASE SHALL BE THE COPY DESIGNATED BY US OR OUR ASSIGNEE, FROM TIME TO TIME, AS THE COPY AVAILABLE FOR ACCESS AND REVIEW BY YOU AND US OR OUR ASSIGNEE. ALL OTHER COPIES ARE DEEMED IDENTIFIED AS COPIES OF THE AUTHORITATIVE COPY. IN THE EVENT OF INADVERTENT DESTRUCTION OF THE AUTHORITATIVE COPY, OR CORRUPTION OF THE AUTHORITATIVE COPY FOR ANY REASON OR AS THE RESULT OF ANY CAUSE, THE AUTHORITATIVE COPY MAY BE RESTORED FROM A BACKUP OR ARCHIVE COPY, AND THE RESTORED COPY SHALL BECOME THE AUTHORITATIVE COPY. AT OUR OPTION, THIS ELECTRONIC RECORD MAY BE CONVERTED INTO PAPER FORM. AT SUCH TIME, SUCH PAPER COPY WILL BE DESIGNATED OR MARKED AS THE AUTHORITATIVE COPY OF THE LEASE.

NOTICE: (i) DO NOT SIGN THIS LEASE IF IT CONTAINS BLANK SPACES. (ii) YOU ARE ENTITLED TO AN EXACT, COMPLETELY FILLED-IN COPY OF THE LEASE WHEN YOU SIGN IT. (iii) UNDER THE LAW, YOU MAY HAVE THE FOLLOWING RIGHTS, AMONG OTHERS: (A) TO PAY OFF IN ADVANCE THE FULL AMOUNT DUE AND OBTAIN A PARTIAL REFUND OF ANY UNEARNED FINANCE CHARGE; (B) TO REDEEM THE PRODUCTS IF REPOSSESSED FOR A DEFAULT; AND (C) TO REQUIRE UNDER CERTAIN CONDITIONS, A RESALE OF THE PRODUCTS IF REPOSSESSED. Dell Financial Services' California Finance Lender License number is 6037884.

YOU/LESSEE: TOWN OF SURFSIDE		US/LESSOR: (For DFS use only) Dell Financial Services L.L.C. 9 C A		Phone (800) 955-3355 Fax (800) 934-4207 or Fax (512) 246-2028
AUTHORIZED SIGNATURE 		A  Kgm Vodicka, Vice President		use only) REVIEWED By WALTER KUEHNER at 1:43 pm, Nov 09, 2017
PRINT NAME AND TITLE Guillermo Olmedillo, Town Mgr		P DATE 11/15/2017		use only) DATE

Step 2. Please sign and Date the YOU/LESSEE section and print your name and Title.

3. Lease; Acceptance and Commencement; Term; Rent: We agree to lease to you the personal property, and finance for you fees for services (including but not limited to installation and delivery) (the "Services") and software, all as described in Attachment A to this Lease (collectively, the "Products") on the terms and conditions shown in this Lease. With respect to Services, we will only finance one-time charges hereunder. The Products will be deemed irrevocably accepted for purposes of this Lease five (5) days after shipment from the Supplier (the "Acceptance Date"). This Lease will begin on the Commencement Date specified on the first page of this Lease, or if no date is specified, the 1st of the month following the Acceptance Date (the "Commencement Date"). When you receive the Products, you agree to inspect them promptly and advise us if they are not in good working order. If any of the Products are accepted for return by the Supplier pursuant to the relevant Supply Contract (defined below in Section 4) (the "Supplier's Return Policy"), in the time, condition and manner required under the Supplier's Return Policy, we will apply any payment we receive from Supplier as a credit against the amounts owed under this Lease, however, you agree that you shall continue to owe all unpaid amounts. You are responsible for freight charges to deliver and return the Products under the Supplier's Return Policy. Contact Supplier for complete details regarding the Supplier's Return Policy. Dell Inc.'s return policies are available at www.dell.com. If payments are due in arrears, the first Rent payment is due thirty (30) days after the Commencement Date. If payments are due in advance, the first Rent payment is due on the Commencement Date. Added to the first payment of Rent shall be a prorated portion of Rent calculated based on a 30-day month or 90-day quarter (as appropriate) for the period from the Acceptance Date to the Commencement Date. Subsequent payments of Rent are due on the same day each month of the Lease Term (or the following day of the subsequent month if there is no such day). You agree to pay us the Rent for the number of months of the Lease Term stated above. You will make all payments required under this Lease to us at the address we specify in writing. You authorize us to adjust the Rent amount (increase or decrease) listed above based on changes in the actual Product Cost (which is all amounts we have paid or will pay in connection with the purchase, delivery, and installation of the Products, including any trade-up and buyout amounts) provided that any increase in Rent amount will not result in more than a 15% increase to the Rent payment listed above. You agree to allow us to adjust the Rent amount above if the actual Product Cost varies from the Product cost shown above. If any payment of Rent or other amount payable to us is not paid within ten (10) days after the due date, you will pay us a late charge equal to the greater of (i) 1.50 % of the late payment amount or (ii) \$5.00 for each late payment (or if less, the highest amount permitted by applicable law).

4. Selection and Ordering of Products: You select the type and quantity of the Products subject to this Lease. If you have entered into a purchase or supply contract ("Supply Contract") with any Supplier, you assign your rights but not your obligations (other than the obligation to pay for the Products accepted by you under this Lease) effective prior to the passage of title by the Supplier to you.

5. Location; Use; Alterations; Inspection: You will use the Products solely at the Product Location specified above, or if none is specified, at your billing address. Except for temporary relocation of laptop personal computers and other handheld mobile Products, you may not move the Products

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without our prior written consent, which shall not be unreasonably withheld. At your own expense, you will maintain the Products in good repair, condition and functional order (except for ordinary wear and tear) and will use them in compliance with all applicable laws. At your sole discretion, you may purchase a maintenance agreement for the Products from the provider of your choice, self-maintain the Products, or forgo such maintenance agreement altogether; regardless of your choice, you will continue to be responsible for the obligations described in this Section. You will use all software in accordance with the end user license terms of the applicable software license agreement ("License"). You may make additions or improvements to the Products unless the addition or improvement would violate any License, decrease the value of Products, or impair their utility. You may remove any such addition or improvement at the end of the Lease if (i) you repair any damage to Products resulting from the removal; (ii) you restore the Products to their original and functional condition (excluding ordinary wear and tear); and, (iii) the removal does not violate any License or render the Products incapable of use or operation. All additions or improvements not removed will become our property at no cost to us. You agree that, we, our assignees, and agents, may inspect the Products at the premises where the Products are located at any reasonable time with prior notice.

6. Title; Quiet Enjoyment; Personal Property; Filing: Except for software that is subject to a separate License and Services, we are the owner of and will hold title to the Products. You will keep the Products free from any and all liens, encumbrances and claims. So long as you are not in Default under the Lease, we will not interfere with your quiet use and enjoyment of the Products during the Lease Term or any renewal term. Unless the Purchase Option is \$1, you agree that this transaction is intended to be a true lease under UCC Article 2A. However, if this transaction is deemed to be a lease intended for security under UCC Article 9, you grant us a purchase money security interest in all of your rights and interest in and to the Products (including your rights to obtain Services or use any software to the extent not prohibited by your License) and any replacements, substitutions, additions, attachments, and all proceeds thereof. You authorize us to file any financing statements or related filings as we may reasonably deem necessary or appropriate. You agree to pay a one-time Transaction Processing Fee to cover our costs for such filing and other documentation costs.

7. Loss or Damage: From the time the Products are delivered to a carrier for shipment to you until their return to us, you are responsible for any loss, theft, damage to or destruction of the Products ("Loss") from any cause at all, whether or not the Loss is covered by insurance. You are required to make all payments under the Lease even if there is a Loss. You must notify us immediately if there is any Loss. Then at our option, you will either (a) repair the Products so they are in good condition and working order to our satisfaction; or (b) replace the Products with like products in good condition and repair and of the same manufacture and equal or greater capacity and capability, with clear title thereto in us; or (c) pay us the "Stipulated Loss Value" which is the sum of: (i) all Rent payments for all the Products and other amounts past due (plus interest thereon) or currently owed to us under the Lease, including unpaid taxes; (ii) all future Rent payments that would accrue over the remaining Lease Term plus our estimated value of our residual interest of all of the Products at the end of the Lease Term, such sum to be discounted to present value at a discount rate equal to the Two-Year U.S. Treasury Constant Yield Maturity Rate ("Discount Rate") in effect on the date you provide notice of the Loss and (iii) any costs and expenses incurred as a result of this event. Present value may be determined in certain states by the actuarial or Rule of 78's method. When you pay the amount of (c) above to us, we will transfer to you our interest in the Products, "AS-IS-WHERE-IS", without any warranty, express or implied, including warranty of merchantability or fitness for any particular purpose; and the Lease will terminate.

8. Insurance: For the Lease Term set forth above, you will provide and maintain, at your expense, (a) property insurance against the loss or theft of or damage to the Products, for their full replacement value naming us as loss payee and (b) public liability and third party property damage insurance naming us as an additional insured. All insurance shall be in a form and amount and with companies satisfactory to us and will provide that we will be given thirty (30) days written notice before cancellation or material change of the policy. At our request, you will deliver the policies or certificates of insurance to us. If you do not give us evidence of insurance acceptable to us we have the right, but not the obligation, to obtain such insurance covering our interest in the Products for the Lease Term. The cost for such insurance will be an additional amount due from you under the Lease.

9. Taxes: You will pay when due, either directly or to us on demand, all taxes (local, state and federal), fines or penalties which may now or hereafter be imposed or levied upon the Lease and the Products, excluding taxes on our net income. We do not have to contest any taxes, fines or penalties. You agree to pay a personal property tax management fee calculated by us and based on the cost of the annual property tax assessed on the Products during the Lease Term. This fee shall be payable with each installment of Rent.

10. Return: Unless the Lease is renewed or you purchase the Products in accordance with the terms of the Lease, you will immediately deliver the Products (including but not limited to cables, power cords, keys, etc.) in good repair, operable condition and able to qualify for the manufacturer's warranty service (ordinary wear and tear excepted) to any place in the continental United States that we direct. You will remove all proprietary data from the Products prior to return. Upon your return of the Products, you agree that your license with respect to the operating system software terminates and you certify that you will either (i) return all copies of the manuals, printed material, certificates of authenticity and media (the "Operating System Software Kit") or (ii) destroy all copies of the Operating System Software Kit, leaving the original operating system installed and functional. You will pay all expenses for deinstalling, packing and shipping and you will insure the Products for the full replacement value during shipping. You will immediately pay us on demand the costs and expenses of all missing or damaged Products.

11. Purchase Option; Automatic Renewal: If no Default exists under the Lease, you will have the option at the end of the Lease Term to purchase all (but not less than all) of the Products for the amount of the Purchase Option price shown above which, if it is the then Fair Market Value of the Products ("FMV"), will be as determined by us in our reasonable judgment, plus any applicable taxes. If you do not agree with our determination, the FMV will be determined for you at your expense by an independent appraiser selected by us and reasonably approved by you. Unless the Purchase Option price is \$1, you must give us written notice at least ninety (90) days before the end of the Lease Term that you will purchase the Products or that you will return the Products to us. Unless you timely provide such written notice of intent and purchase the Products or return the Products to us on the last day of the Lease Term, this Lease will automatically renew on a continuing month-to-month basis until you give us thirty (30) days notice of return and deliver the Products to us. During such renewal terms, the Rent payment will remain the same. Upon payment in full of the Purchase Option price and any amounts which may be due hereunder, we will transfer to you our interest in the Products, "AS-IS-WHERE-IS", without any warranty, express or implied, including warranty of merchantability or fitness for any particular purpose; and the Lease will terminate.

12. Assignment: YOU MAY NOT ASSIGN, SELL, TRANSFER, OR SUBLEASE THE PRODUCTS OR YOUR INTEREST IN THIS LEASE. We may, without notifying you, sell, assign or transfer the Lease and our rights in the Products. You agree that the transferee will have the same rights and benefits that we have now under this Lease, but not our obligations. The rights of the transferee will not be subject to any claim, defense, or setoff that you may have against us.

13. Default: Each of the following is a default ("Default") under the Lease: (a) you fail to pay any Rent or any other payment within 10 days of its due date; (b) you do not perform any of your obligations under the Lease or in any other agreement with us or with any of our affiliates and this failure continues for 10 days after notice from us; (c) you become insolvent, you dissolve or are dissolved, you assign your assets for the benefit of your creditors or enter voluntarily or involuntarily any bankruptcy or other reorganization proceeding; (d) you or any Guarantor provide us incorrect or untrue information regarding any material matter in connection with your application for credit or entering into this Lease; or (e) if this Lease has been guaranteed by someone other than you, any guarantor of the Lease dies, does not perform its obligations under the Guaranty or becomes subject to one of the events listed in clause (c).

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14. Remedies: If a Default occurs, we may do one or more of the following: (a) we may cancel or terminate the Lease or any agreements that we have entered into with you or withdraw any offer of credit; (b) we may require you to pay us, as compensation for loss of our bargain and not as a penalty, a sum equal to (i) the Stipulated Loss Value calculated under Section 7 plus (ii) any costs and expenses (including breakage fees) incurred as a result of the Default; (c) we may require you to deliver the Products to us as set forth in Section 10; (d) we or our agent may peacefully repossess the Products without court order and you will not make any claims against us for trespass, damages or any other reason and (e) we may exercise any other right at law or in equity. Further, with respect to software and Services, if a Default occurs, you agree upon notice from us to (a) immediately cease using the software and Services, (b) deinstall and delete all copies of the software from any computer systems you own or control or that are used for your benefit, and (c) provide us with a certificate signed by your authorized representative attesting to such cessation of use and maintenance, deinstallation, deletion and destruction. You agree to pay all of our costs of enforcing our rights against you, including reasonable attorneys fees. If we take possession of the Products we may sell or otherwise dispose of the Products, with or without notice, at public or private sale and apply the net proceeds (after we have deducted our costs related to the sale and disposition) to the amounts that you owe us. You agree that if notice of a sale is required by law to be given, 10 days notice will constitute reasonable notice. You will remain responsible for any amounts that are due after we have applied such net proceeds.

15. Indemnity: You are responsible for losses, damages, penalties, claims, costs (including attorneys' fees and expenses), actions, suits and proceedings of every kind, (collectively "Claims") whether based on a theory of strict liability or otherwise caused by or related to this Lease or the Products (including any defects in the Products). You will reimburse us for, and if we request defend us against, any Claims.

16. Arbitration: Either party to this Lease may choose to have any dispute, claim, or controversy arising from or relating to this Lease, any prior agreement or lease between the parties, any application or advertisement related to this Lease or the validity of this arbitration clause or the entire Lease, resolved by binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association. If such rules conflict with this arbitration agreement, however, then the terms of this arbitration agreement shall control. This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act at 9 U.S.C. Section 1, *et seq.* Judgment upon the award rendered may be entered in any court having jurisdiction. Any arbitration award in excess of \$100,000 made pursuant to this arbitration agreement may be appealed by the party against which the award is made. Such appeal will be a de novo arbitration proceeding before three arbitrators. The parties agree and understand that they may choose arbitration instead of litigation to resolve disputes. The parties understand that they have a right or opportunity to litigate disputes in court, but may elect to resolve their disputes through arbitration as provided herein. The parties agree and understand that all disputes arising under case law, statutory law, and all other laws including, but not limited to, all contract, tort, and property disputes, may be subject to binding arbitration in accord with this Lease. No class action or request for relief may be brought under this arbitration agreement. You agree that you shall not have the right to participate in arbitration or in court proceedings as a representative or a member of any class of claimants pertaining to any claim arising from or relating to this Lease. The parties agree and understand that the arbitrator shall have all powers provided by law and this Lease, except for powers limited or prohibited by this Lease. Notwithstanding anything herein to the contrary, we retain an option to use judicial or non-judicial relief to recover the Products or to enforce our security interest in the Products, to enforce the monetary obligation secured by the Products or to foreclose on the Products. Such judicial relief would take the form of a lawsuit. The institution and maintenance of any action for judicial relief in a court to foreclose upon any Products, to obtain a monetary judgment or to enforce this Lease, shall not constitute a waiver of the right of any party to compel arbitration regarding any other dispute or remedy subject to arbitration in this Lease, including the filing of a counterclaim in a suit brought by us pursuant to this provision. **YOU UNDERSTAND AND AGREE THAT IN ARBITRATION: YOU GIVE UP RIGHTS TO SEEK REMEDIES IN COURT, INCLUDING THE RIGHT TO A JURY TRIAL; YOUR ABILITY TO COMPEL OTHER PARTIES TO PRODUCE DOCUMENTS OR BE EXAMINED IS MORE LIMITED THAN IN A LAWSUIT; AND, YOUR RIGHTS TO APPEAL OR CHANGE ANY ARBITRATION AWARD IN ANY COURT ARE STRICTLY LIMITED.**

17. Finance Lease: You agree that if UCC Article 2A applies to this Lease, this Lease will be considered a "finance lease". By signing this Lease you acknowledge that either (1) you have received, reviewed and approved the Supply Contract with the Supplier or (2) we have informed you of the identity of the Supplier, that you may have rights and warranties under the Supply Contract(s) for the Products and you may contact the Supplier of the Products for a description of those rights and warranties. **TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOU HEREBY WAIVE ANY AND ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OR ANY OTHER APPLICABLE LAW WITH RESPECT TO A DEFAULT BY LESSOR UNDER THIS LEASE.**

18. Miscellaneous: You agree that the terms and conditions of this Lease make up the entire agreement between you and us regarding the lease of the Products. Any change in the terms and conditions of the Lease must be in writing and signed by us. You agree, however, that we are authorized, without notice to you, to (i) supply missing information and correct obvious errors in this Lease, and (ii) add or correct serial numbers (or similar identifying information) for the Products in this Lease, on Attachment A and in any related filing or documentation. All of our rights and remedies will survive termination of this Lease. All notices under this Lease will be given in writing and will be considered given when deposited in the U.S. mail, postage prepaid or transmitted electronically, addressed to the respective address specified in writing. Any failure of ours to require strict performance by you or any waiver by us of any provision in this Lease will not be construed as a consent or waiver of any other breach of the same or any provision. If any portion of this Lease is deemed invalid, it will not affect the balance of this Lease. It is the express intent of both of us not to violate any usury laws, or to exceed the maximum amount of time price differential, or interest as applicable permitted to be charged, or collected under applicable law. Any such excess payment will be applied to payments under the Lease in inverse order of maturity; any remaining payments will be refunded to you.

19. Products Consisting Solely of Software or Services: This Section 19 applies if the Products described on Attachment A consist exclusively of software, Services, or a combination of both. You agree that this Lease is a financing arrangement providing for your repayment to us of the cost of acquiring the Products from the Supplier (including any provider or seller of Services, licensor or seller of software), plus all other amounts that become due and owing under the terms of this Lease. For the purposes of this Lease and your obligations hereunder, the Products are deemed satisfactorily delivered and accepted by you upon the earlier of delivery from such Supplier or our payment to such Supplier for the cost of acquiring the Products. As security for your obligations under this Lease, you grant us a first-priority security interest in all of your rights and interest in and to the Products (including your rights to use software and obtain Services) and all proceeds thereof (including without limitation any refunds with respect to the software or Services financed hereunder ("Refund") that you receive or have a right to receive), free and clear of all security interests, liens or encumbrances. If you are entitled to a Refund from the Supplier (including any provider or seller of Services, licensor or seller of software), you authorize us to deliver a copy of this Lease to the Supplier as evidence of your consent to our collection and receipt of the Refund directly. Nothing in this Lease shall obligate us to pursue your Refund rights (if any) or modify, excuse or limit your obligations under this Lease, which you acknowledge and agree are absolute and unconditional. We shall apply any such Refund actually received by us against the next scheduled Rent payment(s) and all other amounts owed under this Lease. You agree that you shall owe any unpaid amounts remaining under this Lease after application of the Refund. Upon our written instructions following a Default, you agree to (a) immediately cease using the software and Services, (b) deinstall, delete and destroy all copies of the software from any computer systems owned or controlled by you or used for your benefit, and (c) provide us with a certificate signed by your authorized representative attesting to such cessation of use, maintenance, deinstallation, deletion and destruction. Notwithstanding anything in this Lease to the contrary and only if this Section 19 applies, the Stipulated Loss Value you may be required to pay upon a Default shall equal the

LEASE NO: 001 - 8821553-006

sum of (i) all Rent payments for all the Products and other amounts past due (plus interest thereon) or currently owed to us under the Lease, including unpaid taxes; (ii) all future Rent payments that would accrue over the remaining Lease Term, discounted to present value at the Discount Rate and (iii) any costs and expenses incurred as a result of the Default. As the Products financed hereunder are solely software or Services, you agree that (i) any language herein pertaining to our ownership of the Products and (ii) the following provisions of this Lease shall not apply: Section 5 (in so far as it purports to vest in us ownership of improvements or additions to Products); Section 10 (Return); Section 11 (Purchase Option; Automatic Renewal); Section 14 (in so far as it purports to provide us with a right to sell, lease, or otherwise dispose of the Products consisting of Licenses or Services that would violate the underlying License or Services agreement). You acknowledge that all remaining terms and conditions of this Lease shall apply. Unless an uncured Default exists, this Lease and our interest and rights in the Products shall terminate at the expiration of the Lease Term; provided, however, that such termination shall not affect your obligations accruing prior to the termination.



Attachment A

Company No: 73

Attached hereto and made a part hereof Lease No: 001 - 8821553-006 between DELL FINANCIAL SERVICES L.L.C. as Lessor and TOWN OF SURFSIDE as Lessee

Product Location
9293 Harding Ave
SURFSIDE, FL
33154-3009

General Product Description/Supplier/Quantity
Quote #3000018324053.1

Description	Quantity
OptiPlex 3050 SFF	56
Dell 24 Monitor – E2417H	56
Dell USB SoundBar AC511	56

All other terms and conditions of the Lease shall remain unchanged.



AUTOPAY AUTHORIZATION FORM

This is New Autopay Request Change to Existing Information Cancellation (Please complete Sections 1 and 3)

With this service you have the option of continuing to receive a monthly invoice
 Yes, please continue to send a monthly invoice No, I do not require a monthly invoice

All fields are mandatory

SECTION 1: DELL FINANCIAL SERVICES LEASE CONTRACT AND/OR LOAN ACCOUNT INFORMATION

Name on Dell Lease or Loan Account: _____
(Note: Name on Dell Lease or Loan Account must match with the 'Name on Bank Account' in Section 2)

Please list the 13 digit Lease Contract and/or Loan Account number(s) that you would like to authorize on the AutoPay service. For additional Lease Contracts and/or Loan Accounts, please use a separate sheet to list all Lease and/or Loan Account numbers. Please note that future contracts will require an additional authorized AutoPay form.

<input type="text"/>	<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	<input type="text"/>

Contact Name: _____ Phone: _____
 Email Address: _____
(Note: In order to receive confirmation of autopay setup, please provide an email address)

SECTION 2: BANKING INFORMATION (The bank account must be a commercial account)

Name on Bank Account: _____

Bank Routing Number*:

Bank Account Number*:

* Please see example below for location of routing and account numbers on voided check. Note that routing numbers starting with 5 are not valid.

SECTION 3: SIGNATURE (must be an authorized signer on bank account)

This AutoPay service is established solely for your convenience and is offered at no additional cost to you. You authorize Dell Financial Services L.L.C., its agents and assigns (collectively "DFS"), to initiate debit entries in the bank account identified above for amounts due and owing under the Lease/Loan(s), including rental, applicable taxes, shipping charges, and in case of a default, the full amount due under the Lease/Loan. You represent and warrant to DFS that the above account is a commercial account established in connection with your business and not for personal, family or household purposes. You remain responsible for making payments to DFS if the funds cannot be automatically debited from your bank account. In addition, if funds are not available when a payment is due, you agree to pay DFS any late charges due under the Lease/Loan as well as any expenses incurred for every unsuccessful debit attempt. The transactions made pursuant to this authorization form are initiated through the Automated Clearing House. These services may be cancelled or modified by DFS at any time without notice. **THIS AUTHORIZATION WILL REMAIN IN FULL FORCE AND EFFECT UNTIL YOU PROVIDE WRITTEN NOTICE OF ITS CANCELLATION TO DFS, AFFORDING DFS AND YOUR BANK A REASONABLE OPPORTUNITY TO ACT.**

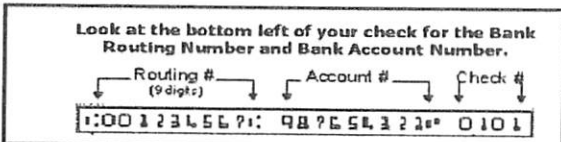
PRINTED NAME _____ TITLE: _____

SIGNATURE: _____ DATE: _____

If you received this AutoPay form with your new Lease/Loan Agreement, please return the completed form along with your other Lease/Loan documents via fax or mail, as instructed by your DFS representative. **PLEASE DO NOT EMAIL THE COMPLETED FORM.** Otherwise, please return this completed form and copy of a voided check to our Autopay Department per the instructions below:

BY FAX (for faster activation)
 Dell Financial Services AutoPay
 Customer Service
 Fax# 512-283-1854

BY MAIL
 Dell Financial Services AutoPay
 P.O. Box 81577
 Austin, TX 78708-1577



Copy of a voided check must accompany this form

You should retain a copy of this form for your records.

Revision: 7/25/2013

PUBLIC EDUCATION, STATE AND LOCAL GOVERNMENT RIDER

This Rider supplements the provisions of Lease No. **001-8821553-006** ("Lease") between you and us as identified below. This Rider is an integral part of the Lease. Capitalized terms used in this Rider that are not defined will have the meanings specified in the Lease. If there is any conflict between the Lease and this Rider, then this Rider will control and prevail.

1. **Funding Intent:** You reasonably believe that sufficient funds can be obtained to make all Rent payments and other payments during the Lease Term. You agree that your Chief Executive or Administrative Officer (or your administrative officer that has the responsibility of preparing the budget submitted to your governing body, as applicable) will provide appropriate funding for such payments in your annual budget request submitted to your governing body. If your governing body chooses not to appropriate funds for such payments, you agree that your governing body will evidence such nonappropriation by omitting funds for such payments due during the applicable fiscal period from the budget that it adopts. We agree that your obligation to make Rent payments under the Lease will be a current expense and will not be interpreted to be a debt in violation of applicable law or constitutional limitations or requirements. Nothing contained in the Lease will be interpreted as a pledge of your general tax revenues, funds or moneys.

2. **Nonappropriations of Funds:** If (a) sufficient funds are not budgeted or appropriated and budgeted by your governing body in any fiscal period for Rent payments or other payments and (b) you have exhausted all funds legally available for such payments, due under the Lease, then you will give us written notice and the Lease will terminate as of the last day of your fiscal period for which funds for Rent payments are available. Such termination is without any expense or penalty, except for the portions of the Rent payments and those expenses associated with your return of the Products in accordance with paragraph 10 of the Lease for which funds have been budgeted or appropriated or are otherwise legally available.

3. **Essential Use:** You represent that the use of the Products are essential to your proper, efficient and economic operation and that you shall be the only entity to lease, operate and use the Products.

4. **Choice of Law:** Regardless of any conflicting provision in the Lease, THE LEASE WILL BE GOVERNED BY THE LAWS OF THE STATE IN WHICH YOU ARE LOCATED.

5. **Authority and Authorization:** You represent and agree that: (a) you are a state or a political subdivision or agency of a state; (b) the entering into and performance of the Lease is authorized under your state laws and Constitution and does not violate or contradict any judgment, law, order or regulation, or cause any default under any agreement to which you are a party; (c) you have complied with all public bidding requirements and, where necessary, have properly presented the Lease for approval and adoption as a valid obligation on your part; and (d) you have sufficient appropriated funds or other moneys available to pay all amounts due under the Lease for your current fiscal period. Upon our request, you agree to provide us with an opinion of counsel as to clauses (a) through (d) above, an incumbency or municipal certificate, and other documents that we request in a form satisfactory to us.

Lessee: **TOWN OF SURFSIDE**

Lessor: Dell Financial Services I I C

By: _____
 Name and Title: Guillermo Omedillo
 Date: November 15, 2017

By: _____
 Name and Title: Kim Vodicka, Vice President
 Date: _____

REVIEWED
 By WALTER KUEHNER at 1:41 pm, Nov 09, 2017

CERTIFICATION

I _____, a resident of _____, in the State of _____, DO HEREBY

(Certifier) _____ (City) _____ (State) _____
 CERTIFY that I am the _____ of the Lessee identified above, which is a educational, state or political
 (Title)

subdivision or agency, duly organized and under the laws of the State of _____, that I have custody of the
 (State)

records of the Lessee, and, as of the date set forth below, _____ is the _____
 (Name of Above Signature) (Title of Above Signature)
 of Lessee and is duly authorized to execute and deliver in the name of and on behalf of Lessee, the Lease (including this Rider) and all related documents.

IN WITNESS WHEREOF, I have hereto set my hand and affixed this seal of Lessee this _____ day of _____, 20____.
 (Day) (Month)

-seal-

Certifier's Signature: _____

Dell - Internal Use - Confidential

Dell - Internal Use - Confidential