

STATE OF TEXAS  
COUNTY OF WALLER

## **AGREEMENT BETWEEN WALLER COUNTY, TEXAS AND XPERNET SERVICES, INC. FOR INFORMATION TECHNOLOGY SERVICES**

This Agreement for professional services ("Agreement") is entered into on the date of the last signature affixed hereto ("Effective Date") by and between Waller County, Texas ("County"), a political subdivision of the State of Texas, and XperNet Services, Inc. ("Contractor"), a Texas corporation (each referred to individually as "Party" and collectively as "Parties").

WHEREAS, County desires to enter into a contract for professional services pursuant to applicable state laws and regulations;

WHEREAS, pursuant to Local Government Code § 262.024(a)(4), the Commissioners Court by order may exempt certain professional services from the competitive bidding requirements of Local Government Code 262;

WHEREAS, the Commissioners Court has determined that information technology services are professional services under Local Government Code § 262.024(a)(4), and ordered that they are exempt from the competitive bidding requirements of Local Government Code 262;

WHEREAS, Contractor provides professional information technology services;

WHEREAS, the County and Contractor have the intent to comply with all applicable laws relative to performance of this Agreement; and

WEHREAS, the County and Contractor desire to enter into this Agreement to clarify and make explicit the rights, duties, and responsibilities between the Parties;

NOW, THEREFORE, the Parties agree that the foregoing is true and correct, and further agree as follows:

### **SECTION 1. AGREEMENT**

- 1.1 **Services to be Provided:** The Contractor shall provide information technology services to the County as provided in, and in accordance with the attached Exhibits A-D. The goal of this Agreement is to ensure efficient and effective information technology ("IT") services that meet the operational needs of the County. Contractor shall perform the services in accordance with this Agreement.
- 1.2 **Contract Documents:** The following documents constitute the "Contract Documents":
  - a. this Agreement;
  - b. the PC & Network Addendum, attached hereto as Exhibit A.
  - c. the Data Backup and Archival Management Addendum, attached hereto as Exhibit B.

- d. the Security Information and Event Management Addendum, attached hereto as Exhibit C
- e. the Mobile Device Management Addendum, attached hereto as Exhibit D

All of the documents referred to in this Section 1.2 are incorporated by reference and made a part of this Agreement for all purposes as though each were written word for word in this Agreement.

In interpreting this Agreement and resolving any ambiguities or conflicts in the Contract Documents, the language of the Agreement shall control over the language of any of the Exhibits.

- 1.3 Additional Terms and Conditions: The terms and conditions in this Agreement apply to this Agreement, and are controlling over any other Contract Document.

## **SECTION 2. DESIGNATED REPRESENTATIVES**

- 2.1 County's Designated Representatives: The County designates NAME as the Designated Representative with regard to the services performed under this Agreement.
- 2.2 Contractor's Designated Representatives: Contractor designates Greg Henry as its Designated Representative with regard to the services performed under this Agreement.
- 2.3 Changes to Designated Representatives: Either Party may change its Designated Representative(s) by providing written notice to the other Party.

## **SECTION 3. CONTRACTOR'S OBLIGATIONS**

- 3.1 Contractor's Performance: Contractor shall begin performance upon the Effective Date. Contractor shall be responsible for conducting its activities in order to achieve the performance of the Agreement. Contractor shall furnish all labor, equipment, fuel, supervision, and any other item or service necessary to provide the IT services in accordance with the terms and conditions of this Agreement.
- 3.2 Conference and Cooperation: Contractor shall confer with the County on an as needed basis to ensure the services are satisfactorily performed, and to make any necessary or requested adjustments. Contractor shall cooperate at all times with the County, and other contractors providing services to the county to maintain maximum efficiency.
- 3.3 Necessary and Qualified Staff: Contractor shall provide necessary staff and equipment to perform the services, and shall be responsible for any cost associated with implementing this Agreement. Contractor agrees to employ, maintain, and assign a sufficient number of competent and qualified personnel to provide the services required by this Agreement. Contractor shall ensure its employees, staff, agents, and representatives perform the services in a safe manner. The County shall not be responsible for any injury incurred or caused by an employee, member of staff, agent, or representative of Contractor during the performance of any service under this Agreement.

- 3.4 Secure Information and Areas: Contractor's personnel may at times have access to secure areas and information. Contractor's personnel shall not access secure information or areas without first obtaining authorization from the responsible County official, officer, or employee. Contractor agrees that its employees and personnel will comply with security measures put in place by the County or County department prior to performing services under this Agreement.
- 3.5 Performance Warranty: Contractor represents and warrants to County that it has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession, and will perform the services in accordance with the highest professional standards. All services will comply with applicable industry standards.
- 3.6 Service Hours: Contractor shall perform the IT services during regular hours of operation, Monday through Friday, beginning at 8:00 a.m. and ending at 5:00 p.m. local time. Requests for support outside of normal business hours will be considered based on the severity of the request and availability of Contractor's staff. Contractor shall provide after-hours support to the Waller County Sheriff's Office to the best of its ability based on and how urgent and critical the need is.
- 3.7 Compliance With Applicable Law: Contractor shall comply with all applicable laws, statutes, ordinances, rules, regulations, standards, codes, and executive orders of the federal, state, and local government, which may affect performance of this Agreement. All vehicle operators shall be appropriately licensed.
- 3.8 Risk of Loss: Contractor shall be responsible for any damage or loss to County property caused by any of its employees, staff, agents, or representatives, including damage or loss caused during any installation work related to IT services.
- 3.9 Third-Party Property Damage: Contractor shall be responsible for any damages or losses it, or any of its employees, staff, agents, or representatives, cause to third-parties in the performance of this Agreement.

#### **SECTION 4. CONTRACT PRICE**

- 4.1 Contract Price: In consideration of the goods and services to be provided by the Contractor under the terms of this Agreement, the County shall pay Contractor a fee for goods actually provided and services actually performed in accordance with the Costs and Charges outlined in each Exhibit. These sums shall be a fixed fee for the complete performance of the services contemplated by this Agreement.
- 4.2 Out-of-Pocket Costs: Any out-of-pocket expenses shall be invoiced to the County with an additional 15% fee added. Out-of-pocket expenses include travel to a location other than a Waller County office. The County will only pay for travel costs in accordance with the Waller County Travel Policy. All invoices for out-of-pocket costs shall include a receipt and proof of payment for the incurred expense.
- 4.3 Invoices: Contractor agrees to provide County with invoices for work on a monthly basis unless otherwise indicated in the relevant exhibit. Out-of-pocket expenses will be invoiced separately, or clearly noted on the regular invoice. In submitting the invoices, Contractor acknowledges and by execution of this Agreement certifies that:
- a. The invoices were carefully reviewed for the services billed;

- b. The billed services were performed in compliance with this Agreement;
  - c. The total amount of the invoice is in compliance with this Agreement; and
  - d. All appropriate and required supporting documentation is attached.
- 4.4 **Payment:** The County agrees to pay Contractor for goods and services in the amount identified in Section 4.1 upon completion of the services, and according to the terms and conditions of this Agreement. The County shall pay all valid invoices in accordance with Texas Government Code Chapter 2251. The County will not pay an invoice in full if there is a dispute about the accuracy of the invoice.
- 4.5 **Right to Withhold Payment:** The County may withhold or nullify the whole or part of any payment to Contractor to such extent as the County deems necessary in the event that:
  - a. Work is not performed in accordance with the Contract Documents, and the defective performance is not remedied as required by the County and in the time frame required by the County;
  - b. Contractor or its employees, staff, agents, or representatives cause damage to County property; or
  - c. There is reasonable evidence that the work cannot be completed within the time specified in this Agreement;
- 4.6 **Right to Setoff:** Notwithstanding anything to the contrary in this Agreement, and without prejudice to any other right or remedy the County has or may have, the County may set off or recoup any amount it owes to Contractor against any amount for which the County determines in good faith that Contractor owes the County.

## **SECTION 5. TERM AND TERMINATION**

- 5.1 **Agreement Term:** The term of this Agreement shall begin on the Effective Date, and continue for a twelve (12) month period, or until otherwise terminated in accordance with Section 5.2. This Agreement shall not automatically renew at the end of the twelve (12) month period.
- 5.2 **Automatic Termination:** This Agreement shall automatically terminate upon complete performance of the terms and conditions of the Agreement by each Party, or otherwise in accordance with its terms.
- 5.3 **Termination for Failure to Perform:** Either Party may terminate this Agreement if the other Party fails to perform in accordance with the terms of this Agreement, provided that the failure to perform is at no fault of the terminating Party. Contractor shall be responsible for any expenses it incurs after the date of termination.
- 5.4 **Termination for Insolvency and Bankruptcy:** The County, in its sole discretion, may immediately terminate this Agreement without notice and without the opportunity to cure if Contractor, or any of its parent or subsidiary business entities responsible for providing services under the Agreement become insolvent or files any petition for bankruptcy.
- 5.5 **Termination for Cause or Convenience:** The County may terminate this Agreement for cause or convenience, and without penalty, by providing written notice to the Contractor in accordance with Section 5.6. The notice must state the reasons for such termination.



Contractor must cease performance of any services immediately upon receiving written notice.

- 5.6 Notice of Termination: The terminating Party shall provide 30 days written notice of termination to the other Party as provided in Section 16.18.
- 5.7 Opportunity to Cure: A Party receiving notice of termination for failure to perform in accordance with the terms of this Agreement shall have the opportunity to cure its failure to perform beginning on the day of its receipt of the written notice, and continuing for thirty (30) calendar days thereafter. The cure, if made, shall be to the terminating Party's satisfaction. If no cure is made, the Agreement will terminate on the date specified in the written termination notice, or if no date is specified, on the thirtieth (30<sup>th</sup>) calendar day after the date of receipt of the notice, unless otherwise agreed by the Parties.
- 5.8 Termination Without Penalty: Contractor shall not be entitled to any damages, whether direct or indirect, should the County choose to exercise its option to terminate.
- 5.9 Prorated Refund: In the event that the County terminates the Contract prior to automatic termination, Contractor shall refund to the County a prorated portion of the Total Fee already paid, if any.

#### **SECTION 6. NO EXCLUSION OR PAYMENT**

- 6.1 No Exclusion or Payment: Contractor understands and agrees that this Agreement does not create an exclusive right for Contractor to provide the services contemplated by this Agreement.

#### **SECTION 7. RECORDS AND AUDITS**

- 7.1 Records and Audits: The County and the Waller County Auditor shall have access to and the right to examine any directly pertinent books, documents, papers, and records of Contractor involving transactions relating to this Agreement. The County shall give Contractor reasonable advance notice of intended inspections or audits. Contractor shall maintain records necessary for the County or the County Auditor to complete an audit, and to comply in all respects with any request by the County or the County Auditor for records and documents for the purpose of performing an audit.

#### **SECTION 8. INTERPRETATION**

- 8.1 Interpretation: This Agreement controls over any other document, proposal, order form, purchase order, terms, or conditions in regard to the services to be performed hereunder. In the event of any disputes over the meaning or application of this Agreement, it shall be interpreted fairly and reasonably, and neither more strongly for nor against either Party.

#### **SECTION 9. SITE INSPECTION AND COORDINATION**

- 9.1 Site Inspection and Coordination: Contractor represents that Contractor is thoroughly acquainted with all matters relating to the performance of this Agreement. All goods and services provided under this Agreement shall be coordinated under, and performed to the satisfaction of the County or the Designated Representative.

**SECTION 10. NO DISCLAIMER OF WARRANTIES**

- 10.1 **No Disclaimer of Warranties:** Contractor shall not disclaim any warranty provided by law. All warranties shall survive the termination of this Agreement.

**SECTION 11. PERMITS; COMPLIANCE WITH LAWS AND REGULATIONS.**

- 11.1 **Permits; Compliance with Laws and Regulations:** Contractor shall possess or obtain any applicable permits required by municipal ordinance, county ordinance, or state or federal law for the performance of the services prior to executing this Agreement. Contractor shall perform its obligations pursuant to this Agreement in accordance with all federal, state, and local statutes, ordinances, laws, regulations, and executive, administrative, and judicial orders applicable to the services to be performed.

**SECTION 12. INDEPENDENT CONTRACTOR.**

- 12.1 **Independent Contractor:** In performing the services under this Agreement, Contractor and its employees are independent contractors. Contractor shall exercise independent judgment in performing its duties under this Agreement, in cooperation with the County, and is solely responsible for setting working hours, scheduling or prioritizing its work flow, and determining how the work is to be performed. No term or provision of this Agreement or act of the Contractor in the performance of this Agreement shall be construed as making Contractor or its employees an agent, servant, or employee of the County in any capacity or form.

**SECTION 13. INDEMNITY.**

- 13.1 **INDEMNITY:** CONTRACTOR, ITS OFFICERS, DIRECTORS, PARTNERS, CONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNS, VENDORS, GRANTEES, AND/OR TRUSTEES (COLLECTIVELY REFERRED TO AS "CONTRACTOR" FOR PURPOSES OF THIS SECTION), AGREE TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE COUNTY AND ITS OFFICERS, OFFICIALS, DEPARTMENT HEADS, REPRESENTATIVES, AGENTS, AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "COUNTY" FOR PURPOSES OF THIS SECTION) FROM ANY AND ALL CLAIMS, DEMANDS, DAMAGES, INJURIES – INCLUDING DEATH – LIABILITIES, AND EXPENSES (INCLUDING ATTORNEY'S FEES AND COSTS OF DEFENSE) ARISING DIRECTLY OUT OF OR RESULTING FROM THE OPERATION OR PERFORMANCE OF CONTRACTOR UNDER THIS AGREEMENT. THE COUNTY WILL NOT ACCEPT LIABILITY FOR INJURIES THAT ARE THE RESULT OF THE NEGLIGENCE, MALFEASANCE, ACTION, OR OMISSION OF CONTRACTOR. CONTRACTOR AGREES TO ACCEPT LIABILITY FOR INJURIES TO ITSELF OR OTHERS CAUSED BY ITS OWN NEGLIGENCE, MALFEASANCE, ACTION, OR OMISSION. THIS INDEMNIFICATION PROVISION IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT BE LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST COUNTY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS,

DAMAGES, ACTIONS, AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONTRACTOR, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, AGREEMENT, OR OTHERWISE.

COUNTY SHALL HAVE THE RIGHT TO APPROVE DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION TO DEFEND AND INDEMNIFY COUNTY HEREUNDER, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY COUNTY IN WRITING. COUNTY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, COUNTY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY COUNTY IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND COUNTY OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY COUNTY PURSUANT TO THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNTY APPROVED DEFENSE COUNSEL WITHIN TEN (10) BUSINESS DAYS OF COUNTY'S WRITTEN NOTICE THAT COUNTY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT, COUNTY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONTRACTOR SHALL BE LIABLE FOR ALL REASONABLE ATTORNEY FEES AND COSTS INCURRED BY COUNTY. CONTRACTOR AND COUNTY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

#### **SECTION 14. INSURANCE REQUIREMENTS**

- 14.1 **Insurance Limits and Required Certificates:** Contractor shall provide the County with certificates of insurance evidencing compliance with the requirements of this Section. The certificates shall indicate the name of XperNet Services, Inc., the name of the insurance company, the policy number, and the term and limits of coverage. The insurance coverage must be with a company authorized to do business in the State of Texas, and shall be of the following types and limits:

- a. Workers Compensation in accordance with the laws of the State of Texas.

- b. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
  - c. Comprehensive general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policy holder.
  - d. Business Automobile Liability coverage for owned, non-owned, and hired vehicles, with minimum limits of not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
- 14.2 Additional Insured: Contractor's insurance policies that cover performance under this Agreement shall name the County as an additional insured.
- 14.3 Certificates of Insurance: Contractor shall provide the County with certificates of such insurance within ten (10) days of the Effective Date, and the certificates shall indicate insurance coverage as of the Effective Date.
- 14.4 No Decrease in Liability: The County's acceptance of the certificates of insurance shall not relieve or decrease Contractor's liability.
- 14.5 No Cancellation or Modification: Contractor shall not cancel or modify the insurance coverages required by this Agreement without providing thirty (30) days written notice to the County. Contractor shall not allow a lapse in the insurance coverage specified in this Agreement during the Term.

## **SECTION 15. ASSIGNMENT**

- 15.1 Assignment: Contractor shall not sell, assign, transfer, or convey this Agreement, in whole or in part, without the prior written consent of the County. The following conditions must be met before any permitted assignment becomes effective: a) Contractor must give written notice of a proposed assignment to the County at least thirty (30) days prior to the effective date of the assignment; b) the assignee must explicitly accept all of Contractor's obligations under this Agreement; c) Contractor must retain its obligations to the County under this Agreement until the assignment is effective; d) the Assignment must be executed by both Contractor and the assignee; e) Contractor must provide the County a fully executed assignment agreement not later than five (5) business days after the assignment is signed, and f) the County provides a signed, written consent to the assignment.

## **SECTION 16. MISCELLANEOUS PROVISIONS**

- 16.1 Recitals: The Recitals are incorporated into this Agreement.
- 16.2 Jurisdiction and Venue: This Agreement is made in and shall be construed according to the laws of the State of Texas, without regard to its conflict of laws provisions. Venue of any court action(s) brought directly or indirectly by reason of this Agreement shall be in a court of competent jurisdiction in Waller County, Texas. This Agreement is made and is to be performed in Waller County, Texas.
- 16.3 Appropriation of Funds: Texas law prohibits the obligation and expenditure of public funds

beyond the fiscal year for which a budget has been approved. Anticipated orders or other obligations that may arise past the end of the current Waller County fiscal year shall be subject to budget approval. Any contract that extends beyond the current Waller County fiscal year is contingent upon the appropriation of funds from the relevant budget and fiscal year. If for any reason funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void on the last day of the current appropriation of funds. Contractor shall be responsible for all expenses occurring after the date of termination.

- 16.4 Right of Review: The County may review and inspect any and all of the services performed by Contractor under this Agreement. The County is granted the right to audit, at the County's election, all of Contractor's records and billings related to the performance of this Agreement as may be reasonably necessary. Contractor agrees to retain such records for a minimum of three (3) years following completion of this Agreement. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Agreement shall be subject to County's rights as may be disclosed by a review under this section.
- 16.5 No Subcontractors: Contractor shall not subcontract any portion of its duties under this Agreement, unless the County has provided prior written consent. In the event that the County provides written consent for a portion of the services to be performed by a subcontractor, the subcontractor must agree to be bound by the terms of this Agreement.
- 16.6 No Waiver: No claim or right arising out of a breach of this Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. The County's failure to require strict performance of any provision of this Agreement does not waive or diminish the County's right thereafter to demand strict compliance with that or any other provision. The County's waiver or failure to exercise in any respect any right provided for in this agreement shall not be deemed a waiver of any further right under this agreement. The County and its employees, officers, and officials do not waive, modify, or alter to any extent any of their defenses, immunities, or remedies.
- 16.7 Force Majeure: Neither Party shall be deemed to have breached any provision of this Agreement as a result of any delay, failure in performance, or interruption of services resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications, or Internet equipment or service, or other catastrophes, or any other occurrences which are reasonably beyond a Party's control. The Parties are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the Part seeking relief under this provision. The Party seeking relief due to force majeure is required to promptly notify the other Party in writing, citing the details of the force majeure event and the relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Agreement has not been terminated. Delay or failure of performance, by either Party to this Agreement, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event. If the Contractor is relieved from performance due to force majeure, the County will also be excused from making payment

to the Contractor during the period of nonperformance. If the Contractor has already received payment from the County for the period of nonperformance, the Contractor shall refund a prorated portion of the payment made by County for the period during which performance is excused.

- 16.8 Severability: If any provision of this agreement is invalid, illegal, or unenforceable under any applicable statute, court decision, or rule of law, it is to that extent to be deemed omitted. In such event, there shall be substituted for such deleted provisions a provision as similar as possible in terms and in effect to such deleted provision that is valid, legal, or enforceable. The remainder of the agreement shall be valid and enforceable to the maximum extent possible.
- 16.9 Entire Agreement: This Agreement, together with all of its exhibits, embodies the complete agreement of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties and relating to matters in this Agreement. The Agreement may not be modified, altered, or amended except by written instrument duly executed by both Parties.
- 16.10 Titles Not Restrictive: The titles assigned to the various sections and paragraphs of this Agreement are for convenience only. Titles shall not be considered restrictive of the subject matter of any part of this Agreement.
- 16.11 Tax Exempt: The County is tax-exempt, and will not pay a tax from which it is exempt. Tax exempt paperwork may be provided upon written request.
- 16.12 Other Expenses: Except as otherwise expressly set forth in this Agreement, each of the parties will bear its own expenses in connection with the performance contemplated by this Agreement.
- 16.13 No Arbitration: A dispute arising under this Agreement shall not be subject to arbitration.
- 16.14 Waiver of Subrogation: Contractor and Contractor's insurance carrier waive any and all rights whatsoever with regard to subrogation against the County as indirect parties to any suit arising out of personal or property damages resulting from Contractor's, its employees', or permitted subcontractors' performance under this Agreement.
- 16.15 No Third-Party Beneficiaries: This Agreement does not inure to the benefit of any third party, except permitted successor or assigns.
- 16.16 Authority to Sign: Signatories to this Agreement represent and warrant that they have the authority to bind the respective parties.
- 16.17 Confidentiality: The County is bound by Texas Government Code Chapter 552, the Public Information Act, and other laws concerning government records. Contractor shall clearly and noticeably mark all confidential information and documents it provides to the County pursuant to this Agreement. The County will make good faith efforts to promptly notify Contractor if any such information is requested in a public information request, subpoena, or other method so Contractor may argue against the release of such information. Contractor recognizes and understands that the final decision as to what information must be disclosed pursuant to the PIA lies with the Texas Attorney General. Contractor further agrees that the County may furnish information acquired through or pursuant to this Agreement and that is requested through the PIA to the Texas Attorney General for a

determination of whether the information must be disclosed. Neither the County, nor any of its officers, or employees shall have any liability or obligation to any party for the disclosure to the public, or to any person or persons, of any items or data furnished to the County by Contractor in reliance on any statute, court opinion, court order, or the advice, decision, or opinion of the Texas Attorney General.

- 16.18 Notices: Notices delivered hereunder shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested. Mailed notices shall be deemed received three (3) business days after the notice is placed in the mail with proper postage paid. Any notice or certification to be provided pursuant to this Agreement shall be delivered to the following persons, unless a substitute representative is designated in writing:

**To County:**

Waller County Judge  
836 Austin Street, Suite 4300  
Hempstead, Texas 77445

**To Contractor:**

Attn: Greg Henry  
PO Box 6505  
Katy, Texas 77491

- 16.19 Non-Solicitation of Employees: Contractor and County agree not to solicit the employees of either party for employment for a period of one hundred and twenty (120) calendar days following termination of the Agreement.


**IN WITNESS WHEREOF**, and in consideration of the mutual covenants and agreements contained herein, the parties hereto mutually enter into this Agreement as of the Effective Date.

**COUNTY**

\_\_\_\_\_  
Carbett "Trey" Duhon, III  
Waller County Judge

Date: \_\_\_\_\_

**CONTRACTOR**

  
\_\_\_\_\_  
Greg Henry  
President

Date: 1/13/26

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Debbie Hollan  
County Clerk



EXHIBIT A

# XperNet<sup>®</sup>

## SERVICES

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Waller County  
PC & Network Addendum  
PROFESSIONAL SERVICES AGREEMENT

### Table of Contents

- A. Scope of Project
- B. Responsibilities of Parties
- C. Schedule of Project
- D. Costs and Charges

# XperNet<sup>®</sup>

## SERVICES

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### Section A

#### SCOPE OF PROJECT

#### Waller County

#### Service Support Addendum

XperNet Services will provide service and support of Waller County's computers and network system. If a service call for support requires the use of parts as a remedy, pricing for such parts is additional and the cost is predetermined as listed in the Costs and Charges section of this Agreement.

This Agreement will allow for services to be performed in the following areas as specified by Waller County, however not limited to those below:

- Private Networks maintenance
- Mobile Device Management and maintenance as approved
- Server Maintenance and support
- E-mail and security maintenance utilizing in-house as well as third-party and/or on-site/cloud appliances
- Management of Data file storage, security, and management systems
- Management of Internet restrictions and firewall maintenance and review
- Management of Individual computer intelligence (security and access through Domain Control)
- Strategic advice as applied to technology needs
- Main Point of contact for ALL technology-oriented providers on behalf of Waller County
- Manage and Maintain updates, service packs/patches as required and necessary utilizing tools and subscriptions provided and paid for by Waller County
- Printer support for printers that are not beyond the manufacturer's support age
- Management and control of Cybersecurity training via electronic means and personal utilizing County Paid third-party software/vendors as required to effectively maintain county employee training
- Backup and Disaster Recovery utilizing County Paid third parties as well as in-house appliances or devices for data residing on servers as approved
- Utilization of Artificial & Automated Intelligence to assess/audit and maintain patches, updates and remote control for support needs utilizing secure third-party software
- Coordinate technology needs for new buildings and new county buildouts and remodels; thus working with the County Construction Manager (this agreement does not include installation tasks or relocation services for such new buildouts and installations)
- Provide Managed Services as required for maintenance and security of technology-based systems.
- Maintain County Budget for IT required items
- Remain as purchasing agent for county vendors related to IT services and hardware when required and requested by Waller County
- Support for Sheriff Dept/TLETS/DPS and secure items as required
- Other IT needs as required and mutually agreed upon.



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## **Section B**

### **Responsibilities of the Parties**

XperNet Services will:

Provide staff to be on-site at Waller County as required, for regular maintenance and support. Support, research and monitoring may be remote at XperNet Services offices as well as county on-site.

Maintain the security of the network systems. Should security or firewall breach occur, XperNet will respond as promptly as possible to the system(s) affected or diagnosed. The affected system(s) will be disconnected from the network, repaired and verified to be operational prior to reconnection. A network security issue or hack may require total disruption of network resources as required before reconnection is obtained. Security within the computing environment is considered a high priority. Therefore monitoring, notification, modification and/or maintenance of security of the system will be considered as required 24 hours a day, 7 days a week. XperNet utilizes third-party CJIS compliant secure software & systems from Connectwise and others to aid in monitoring, ticket creation, patching and remote connectivity.

Provide required resources in the form of labor only to adequately respond to Waller County's needs to service a situation (or as scheduled with Waller County's contact).

Monitor the available software patches offered by software vendors for network and desktop operating systems, virus software and spyware.

Recommend and install software patch updates on a timely basis to ensure that the most current protection software is employed.

Provide the resources required to adequately service and respond to non-critical issues. Calls for new installations, modifications to systems, office moves, etc. must be made by appointment and scheduled whereas resources from both parties can work together.

Provide administration and management for the project to control resources, costs, and ensure that the quality of service is consistent with the intent.

Promptly service all calls.

Acquire on behalf of Waller County, service parts, software, Managed Services and needed security licenses as required (Cost and Charges Section of this Agreement). If XperNet Services cannot acquire a service part, direction will be given to locate and purchase parts required.

Allow Waller County to utilize this Agreement for any support need including installations. Additional approval and mutual agreement is required if additional billing/time is necessary.

Provide Waller County with IT strategy and growth/change consultation as required to review status, plan and prepare for additional growth/changes and IT infrastructure needs.



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Waller County will:

Provide a single point of contact for all calls for administrative and services related issues under this Agreement. The contact person is identified on the signature page of this Agreement.

Provide a safe and effective work environment for XperNet Services' staff to facilitate the project. This is inclusive to proper login ID's to administer and maintain the network systems as well as access to buildings for Waller County.

Provide XperNet the use of, at full cost to Waller County, wireless devices for remote access utilizing current Cell Providers as well as computing tools equal to the current computing environment as required to complete tasks.

Provide payment in full of the amount agreed in the Cost and Charges Section of this Agreement. Furthermore, provide a Purchase Order or approval as required for the instances that require service, security parts or new parts as necessary upon identification of a problem.





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## Section C

### SCHEDULE OF PROJECT

County Holidays and Weekends are not considered standard business days for this Agreement. Therefore, under the time constraints of this Agreement, normal computer repair and response will fall within the hours of 8 a.m. and 5 p.m. Central time. Any requests for support outside of normal business hours (8:00 a.m. and 5:00 p.m. or for longer than 8 hours in one day) may be considered within the severity of the request and availability of XperNet staff. Xpernet agrees to provide after-hours support to the best of its ability to the Sheriff's Department as required based on urgency and criticality of need.

Emergency calls (Server down and entire network malfunction issues) warrant a 4-hour time response and will be considered an emergency event requiring immediate attention.

Notification of a repair in need will warrant (through Waller County's point of contact) XperNet Services engineer to communicate directly with the person in need. The communication will help determine the fault and better prepare the engineer to have the required resources to perform the resolution.

It is expressly understood by both XperNet Services and Waller County that no additional work or services will be performed by XperNet that would result in additional billings outside the Scope of Project contained in Section A of this Agreement without the express request and approval of Waller County. If such an occurrence does exist, XperNet Services cannot invoice nor expect payment without prior approval from Waller County for such services, hardware, software, or otherwise with a definitive amount agreed upon by Waller County.



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## Section D

### Costs and Charges

The cost for XperNet Services to provide the regular maintenance and support services to Waller County is included in the rate. The monthly rate for this Agreement is **\$31,375.00** per month. This rate is inclusive of all labor required under this Agreement. Should a repair in need be resolved remotely from XperNet Services offices, the costs are included under this Agreement. Any out-of-pocket charges/expenses (travel or otherwise) will be invoiced as necessary with an additional 15% fee.

Costs related to traveling to Waller County offices ONLY are included in the monthly rate.

### Project Award and Payment:

Waller County will pay XperNet Services net in advance of each month. XperNet Services will provide a monthly invoice. The billings by XperNet Services to Waller County for reimbursement of parts and supplies required under the terms of this Agreement will be payable within 30 days of invoice date. Costs incurred will be invoiced and payable upon each occurrence pursuant to the approved Purchase Order or Commissioners Court Approval. Expenses, costs, etc., if required, will be billed at XperNet Services actual cost plus no more than 15%. XperNet will provide original purchase/proof of payment/receipt along with invoice for such occurrences.



Waller County  
DATA BACKUP AND ARCHIVAL MANAGEMENT  
Professional Services Addendum

Table of Contents

- A. Scope of Project
- B. Schedule of Project
- C. Costs and Charges

# XperNet<sup>®</sup>

## SERVICES

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### Section A

#### SCOPE OF PROJECT

##### Waller County

##### Service Support Addendum

XperNet Services will provide, supervise and manage Data Backup and Archival of Waller County's data and systems as required to keep data secure, protected and readily available. Data Backup Management is performed as required utilizing a Managed Service Platform subscribed by XperNet Services (currently Axcient technologies) per system, server or required device. The cost is predetermined as listed in the Costs and Charges section of this Agreement.

This Agreement will allow for services to be performed in the following areas:

- Data Backup of required and essential systems maintenance and management
- Data Management and maintenance
- Coordination of backup, archival medium/vendor (currently Axcient)
- Main Point of contact for Data Backup and Archiving providers on behalf of Waller County
- Procurement/Management and Support of backup Services on behalf of Waller County





## **Section B**

### **SCHEDULE OF PROJECT**

County Holidays and Weekends are not considered standard business days for this Agreement. Therefore, under the time constraints of this Agreement, normal computer repair and response will fall within the hours of 8 a.m. and 5 p.m. Central time. Any requests for support outside of normal business hours (8:00 a.m. and 5:00 p.m. or for longer than 8 hours in one day) may be considered within the severity of the request and availability of XperNet staff.

It is expressly understood by both XperNet Services and Waller County that no additional work or services will be performed by XperNet that would result in additional billings outside the Scope of Project contained in Section A of this Agreement without the express request and approval of Waller County. If such an occurrence does exist, XperNet Services cannot invoice nor expect payment without prior approval from Waller County ordering such services, hardware, software, or otherwise with a definitive amount agreed upon by Waller County.



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## Section C

### Costs and Charges

The cost for XperNet Services to provide the regular maintenance and support services to Waller County is included in the rate. The **monthly** rate for this Agreement is as follows:

Road & Bridge: \$485 for protected storage & management

District Attorney: \$2750 for protected storage & mgmt – data remains On-site ONLY due to regulations

County Servers: \$1225 for protected storage & management

Environmental: \$315 for protected storage & management

Sheriff Office 2 Servers: \$1234 - protected storage & mgmt – data remains On-site ONLY due to regulations

Miscellaneous devices/new servers/data: Off-site Storage/Protection: \$1493

Total Per month: \$7582

Any out-of-pocket charges/expenses (travel or otherwise – if required) will be invoiced as necessary with an additional 15% fee. Any costs related to traveling to Waller County offices ONLY are included in the monthly rate.

### Project Award and Payment:

Waller County will pay XperNet Services net in advance of each month. XperNet Services will provide a monthly invoice. Costs of Devices (Servers, Computers, etc) shall solely be at the cost of Waller County



Waller County  
SECURITY INFORMATION AND EVENT MANAGEMENT  
Professional Services Addendum

Table of Contents

- A. Scope of Project
- B. Schedule of Project
- C. Costs and Charges



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## Section A

### **SCOPE OF PROJECT** **Waller County** **Service Support Addendum**

XperNet Services will provide, supervise and manage Security Information and Event Management (SIEM) of Waller County's Networks and Devices as required for security and CJIS Compliance. SIEM will be performed as required utilizing the existing Connectwise MSP portal owned by Xpernet Services per USER LOGIN within the County Network as Managed. The cost is predetermined as listed in the Costs and Charges section of this Agreement.

This Agreement will allow for services to be performed in the following areas:

- Security per LAN connected Device maintenance and management
- Event Monitoring Management and maintenance
- Coordination of reporting requirements in accordance with CJIS regulations
- Main Point of contact for SIEM on behalf of Waller County
- Support for Sheriff Dept and DPS requirements related to CJIS regulations
- Procurement/Management and Support of SIEM systems and components



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## Section B

### SCHEDULE OF PROJECT

County Holidays and Weekends are not considered standard business days for this Agreement. Therefore, under the time constraints of this Agreement, normal computer repair and response will fall within the hours of 8 a.m. and 5 p.m. Central time. Any requests for support outside of normal business hours (8:00 a.m. and 5:00 p.m. or for longer than 8 hours in one day) may be considered within the severity of the request and availability of XperNet staff.

It is expressly understood by both XperNet Services and Waller County that no additional work or services will be performed by XperNet that would result in additional billings outside the Scope of Project contained in Section A of this Agreement without the express request and approval of Waller County. If such an occurrence does exist, XperNet Services cannot invoice nor expect payment without prior approval from Waller County ordering such services, hardware, software, or otherwise with a definitive amount agreed upon by Waller County.



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## Section C

### Costs and Charges

The cost for XperNet Services to provide the regular maintenance and support services to Waller County is included in the rate. The monthly rate for this Agreement is **\$11.50 PER DOMAIN USER**/per month. This rate is inclusive of all labor required under this Agreement as well as the cost of the SIEM Suite; allocated through the Managed Service Provider "Xpernet Services". Any out-of-pocket charges/expenses (travel or otherwise – if required) will be invoiced as necessary with an additional 15% fee. Costs related to traveling to Waller County offices ONLY are included in the monthly rate.

### Project Award and Payment:

Waller County will pay XperNet Services net in advance of each month. XperNet Services will provide a monthly invoice. Costs of Physical equipment needs (if any) shall solely be at the cost of Waller County.

EXHIBIT D

# XperNet<sup>®</sup>

## SERVICES

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Waller County  
MOBILE DEVICE MANAGEMENT  
Professional Services Addendum

### Table of Contents

- A. Scope of Project
- B. Schedule of Project
- C. Costs and Charges





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## Section A

### **SCOPE OF PROJECT** **Waller County** **Service Support Addendum**

XperNet Services will provide, supervise and manage Mobile Device Management (MDM) of Waller County's Mobile devices as required for archival ability. Mobile Device Management is performed as required utilizing IBM MaaS360 Essentials Suite of products per Managed Client (device). The cost is predetermined as listed in the Costs and Charges section of this Agreement.

This Agreement will allow for services to be performed in the following areas:

- Private Mobile Networks maintenance and management
- Mobile Device Management and maintenance
- Coordination of archiving medium/vendor (currently SMARSH)
- Main Point of contact for MDM and Archiving providers on behalf of Waller County
- Support for Sheriff Dept/Priority Mobile connectivity (Currently AT&T FirstNet)
- Procurement/Management and Support of Cellular connected mobile Devices





## **Section B**

### **SCHEDULE OF PROJECT**

County Holidays and Weekends are not considered standard business days for this Agreement. Therefore, under the time constraints of this Agreement, normal computer repair and response will fall within the hours of 8 a.m. and 5 p.m. Central time. Any requests for support outside of normal business hours (8:00 a.m. and 5:00 p.m. or for longer than 8 hours in one day) may be considered within the severity of the request and availability of XperNet staff.

It is expressly understood by both XperNet Services and Waller County that no additional work or services will be performed by XperNet that would result in additional billings outside the Scope of Project contained in Section A of this Agreement without the express request and approval of Waller County. If such an occurrence does exist, XperNet Services cannot invoice nor expect payment without prior approval from Waller County ordering such services, hardware, software, or otherwise with a definitive amount agreed upon by Waller County.



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## Section C

### Costs and Charges

The cost for XperNet Services to provide the regular maintenance and support services to Waller County is included in the rate. The monthly rate for this Agreement is **\$5.56 PER DEVICE**/per month. This rate is inclusive of all labor required under this Agreements well as the cost of IBM's MaasS360 Essentials Suite; allocated through a Managed Service Provider "PAX8". Any out-of-pocket charges/expenses (travel or otherwise – if required) will be invoiced as necessary with an additional 15% fee. Costs related to traveling to Waller County offices ONLY are included in the monthly rate.

### Project Award and Payment:

Waller County will pay XperNet Services net in advance of each month. XperNet Services will provide a monthly invoice. Costs of Devices (Cell Phones, Tablets, Computers, etc) shall solely be at the cost of Waller Countv