

Infovision Hosting, Support and Maintenance Agreement



Infovision Software, Inc.
P.O. Box 234, Carlsbad, CA 92108-0234
Phone: 800-849-1655 Fax: 815-642-8541
Web: www.infovisionsoftware.com

Attention: Mr. Rox Burhans

Customer: Town of Indian Trail (CLIENT)

Contract No: 8387

We agree to the Infovision Hosting, Support and Maintenance Agreement as outlined below and accept the proposed charges, support options, and product listing in accordance with the Infovision Hosting, Support and Maintenance Terms & Conditions.

Accepted by Client

Name _____

Signature _____

Title **Town Manager**

Date _____

Accepted by Infovision Software, Inc.

Name _____

Signature _____

Title _____

Date
(Effective Date) _____

Infovision Hosting, Support and Maintenance Terms & Conditions

1. SCOPE OF AGREEMENT

Infovision Software will provide CLIENT with the standard software hosting, support and maintenance services at stated rates as from the date of installation, and renewal each year thereafter.

2. DURATION OF AGREEMENT

This agreement commences on the effective date and will continue until terminated by CLIENT. CLIENT cannot terminate this contract while there is any amount owing to Infovision Software. When and if Client terminates this Agreement, Infovision will be required to return all of Client's data stored on the Company's servers hosted in-house or in Infovision's data center or any other locations. Furthermore, upon termination Infovision agrees to assist the Client in transitioning to another provider without business interruption.

3. SOFTWARE HOSTING, SUPPORT AND MAINTENANCE

Items included as part of this Software Hosting, Support and Maintenance agreement include:

- (a) Access to CLIENT's data using the Evolve Planning modules listed in Appendix A
- (b) Backup of Client's data nightly and a weekly offsite backup
- (c) Management of Client's database to ensure efficient operation
- (d) Security of the hosting environment and Client's data

SQL Server

- 1. Database runs on Infovision servers.
- 2. Nightly database backup stored on AIS cloud drives.
- 3. AIS replicates cloud drives in San Diego and Phoenix hosting centers.
- 4. Infovision transfers backups to off-site Infovision server ftp site.
- 5. Indian Trail would have ftp login to pull nightly backup.
- 6. Infovision keeps 5 nightly backups of data on AIS cloud drive.

Uploaded Documents

- 1. Documents stored on AIS cloud drive.
- 2. Infovision does monthly off-site backup to Infovision ftp server.
- 3. Indian Trail would have ftp login to pull documents.

Security

- 1. Infovision manages hosting environment via vpn.

2. All websites are ssl (https)
3. FTP transfer is ssl (sftp)
4. Data center pdfs are attached.
5. AIS provides encryption and security on cloud storage.

(e) Annual updates of the licensed software for the applications purchased will be provided to the CLIENT and installed and configured by Infovision without further charge.

(f) Telephone and Email support to assist with queries and problem resolutions

(g) Infovision shall ensure the software functions in its intended manner without disruption. In the event access to the Infovision Software is disrupted for any reason not attributed to the Client, the disruption shall not exceed 48-hours.

(h) Access to Infovision Internet Home Page, including access to latest software downloads.

Infovision Software will answer telephone and email inquiries made by the CLIENT during the period from 8 am to 7 pm CST/CDT Monday to Friday excluding Public Holidays and directly related to the operation of the Infovision Software and Brava Reader programs. Additionally, Infovision Software will carry out any necessary technical investigation and correction of any errors reported to it in writing during the term of this agreement. In the event of an emergency, Infovision will provide support to CLIENT outside of the above noted days of the week and hours of the day at a billable rate of \$1,200 per-day subject to submittal of suitable billing documentation and pre-approval by Client. CLIENT will be able to contact Infovision during afterhours using the provided emergency contact information.

(i) Access to all data stored by Infovision on behalf of the Client will be provided to Client by a direct FTP log in system that is accessible to the Client at any time. All data (with exception of documents and other attachments) will be maintained in a Structured Query Language (SQL) format and Infovision shall provide all the necessary information or data for Client to recreate the Infovision database. All non-SQL data files (i.e. documents, permits, construction plans, images files, etc) shall be coded in a manner where Client will be able to directly connect them to the corresponding SQL data.

(J) Infovision will treat all financial, statistical, personnel and other data related to the business of the Client with care and discretion in order to maintain its absolute confidentiality. Under no circumstances shall the Infovision disclose any financial, statistical and/or personnel data related to the Client without the express permission of the Client.

4. SERVICES

Infovision will perform all services in a manner and according to the standards observed by a competent practitioner of the profession in which Infovision is engaged. All deliverables will be prepared in a manner that conforms to the standards of quality normally observed by a person in Infovision's profession.

5. CHARGES AND PAYMENT

All prices quoted are firm, provided always that:

(a) CLIENT does not pay excise, sales and use taxes of any kind.

(b) All fees shall be paid within thirty (30) days of invoice date. In addition to the fees listed herein, CLIENT shall reimburse Infovision Software for all reasonable travel and living expenses incurred by Infovision Software in rendering all services subject to submittal of suitable documentation of expenses to Client. Expenses in excess of \$500 in any calendar month must be preapproved by Client.

(c) After notice, past due amounts owing from CLIENT shall bear interest at the rate of one (1%) per month. If delinquent payments should occur for a period exceeding six months, CLIENT shall reimburse Infovision Software for all reasonable costs incurred (including actual attorneys' fees not to exceed 15%) in collecting past due amounts owed by CLIENT. Alternatively, Infovision Software may, at its sole option, suspend CLIENT's service if CLIENT is more than 120 days past due in the payment of amounts owed pursuant to this Agreement.

(d) All payments shall be in U.S. Dollars.

(e) Annual software hosting, support and maintenance costs will be measured from the Go Live date of each module.

(f) Costs for the first year are at the annual contract price for in APPENDIX A. Annually thereafter, such costs may be adjusted upward of the previous year's cost by up to 3% subject to submittal of suitable justification documentation. Infovision shall give Client written notice of possible increases before April 1st to enable increases to be incorporated into Client budget.

(g) Any additional fees shall be subject to written approval by Client prior to additional services being performed or charges incurred.

6. CLIENT'S RESPONSIBILITIES

CLIENT is responsible for maintaining adequate internet connectivity to their site(s). After the initial implementation CLIENT is responsible for ensuring that each person, working on behalf of CLIENT and who is using the Licensed Program, is adequately trained in all aspects of the Licensed Software utilized by that person. For any users requiring the Brava viewer technology, a Windows based PC with Internet Explorer browser is required.

7. INSTALLATION OF NEW RELEASES

New releases (updates) of the Licensed Software supplied by Infovision Software should be installed within 6 months from date of availability. Infovision will not support releases in excess of one year from published date. Infovision will provide release notes, a test environment, and will install the release at a mutually agreed upon date.

8. WARRANTY

Any warranty is in lieu of all other conditions or warranties in respect of the software, express or {00329577.DOCX V. T082.016091;}

implied, statutory or otherwise. Infovision warrants that its products will conform to its documentation and meet generally acceptable commercial standards.

9. INDEMNIFICATION

Infovision warrants it is the developer and owner of the Evolve software technology. Infovision shall indemnify, defend, release and hold CLIENT harmless from any third party suit or third party claim (including all attorney fees) arising from Client's use of the software.

10. FORCE MAJEURE

Neither party will be responsible for any failure to perform hereunder due to unforeseen circumstances or due to causes beyond the non-performing party's reasonable control, including, without limiting the generality of the foregoing, acts of God, war, riot, embargoes, acts of government, catastrophe, fire, flood, accidents, strikes, shortages of transportation, fuel, energy, labor or material acts of a public enemy.

11. LIMITATION OF LIABILITY

With respect to claims between Infovision Software and Client, Infovision Software's total liability for any software or service provided pursuant to or arising out of this Agreement, including but not limited to liability arising out of, resulting from or in any way related to contract, tort, breach of warranty, intellectual property infringement or otherwise, shall not in any event exceed the total fees paid by CLIENT with respect to this Agreement. Neither Infovision Software nor its licensors shall be liable for loss of profits, indirect, special, incidental, or consequential damages. This provision shall survive the termination of this Agreement or any amendment thereto.

12. ASSIGNMENT

Neither party hereto shall be entitled to assign that party's rights and obligations under this Agreement without the express written agreement of the other party, such agreement not to be unreasonably withheld.

13. SEVERABILITY

Any provision of this Agreement, which is prohibited by law or is unenforceable will be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

14. ENUREMENT

This Agreement will enure to the benefit of and be binding upon the parties and their respective successors and assignees.

15. MODIFICATION

This Agreement may not be modified except in writing by an authorized signatory of each party.

16. NOTIFICATION

All notices under this Agreement shall be in writing and delivered by overnight delivery service or certified mail, return receipt requested, to the address specified above. Either party may change its address by providing notice in accordance with this Section.

17. GOVERNING LAW

This Agreement, its execution, interpretation and performance, shall be governed by and construed in accordance with the laws of the State of North Carolina. Any controversy or claim arising out of or in any way related to this Agreement or the relationship established by it, or the alleged breach thereof, whether at common law, in contract, in tort, or under statute, shall be governed by the laws of the State of North Carolina. Legal proceedings involving any such controversy or claim may be instituted only in the General Courts of Justice in Union County, North Carolina, and the Parties hereby irrevocably consent to the jurisdiction of such court over their persons and waive any defense based on improper or inconvenient venue or lack of personal jurisdiction.

18. ENTIRE AGREEMENT

These terms and conditions and any attachments constitute the entire understanding between the parties relating to Infovision Software's provision of Support. CLIENT's acceptance of these terms and conditions is deemed to occur upon CLIENT's signature, payment or upon Infovision Software's provision of Support.

19. Authority

Each party represents that they have taken all necessary action to authorize the execution, delivery, and performance of this Agreement and have the authority to execute, deliver and perform this Agreement and all the transactions contemplated hereby.

APPENDIX A
 Infovision Services Cost Schedule

PRODUCT/SERVICE		
DESCRIPTION	COMMENTS	PRICE
Annual Software Hosting, Support and Maintenance:		
Plan Tracking and Development Management		\$4,800
Permitting		3,000
Code Enforcement and Complaint Tracking		2,200
Brava Viewer		210
Total Software Hosting, Support and Maintenance Fee		\$10,210
Provides 500GB of data storage		

Infovision Software License Agreement



Infovision Software, Inc.
P.O. Box 234, Carlsbad, CA 92108-0234
Phone: 800-849-1655 Fax: 815-642-8541
Web: www.infovisionsoftware.com

Attention: Mr. Rox Burhans

Customer: Town of Indian Trail (CLIENT)

Contract No: 5385

We agree to the Infovision License Agreement as outlined below and accept the proposed charges and product listing in accordance with the Infovision Software License Terms & Conditions.

Accepted by Client

Name _____

Signature _____

Title _____ **Town Manager**

Date _____

Accepted by Infovision Software, Inc.

Name _____

Signature _____

Title _____

Date
(Effective Date) _____

Infovision Software License Terms & Conditions

1. SCOPE OF AGREEMENT

Infovision Software grants to CLIENT a non-exclusive site license to use the Infovision software for its purposes throughout its organization and for its citizens and contract service providers. Infovision provides its documentation as a description of the software and its functionality to serve as a reference point for this agreement. This is included as Appendix B.

There is no individual user fee, except for the third party Brava viewer technology. Use is limited to the Client Organization. The software can be used for all staff of the Town and all clients such as developers, contractors, builders, tradesmen and citizens under the terms of the site license.

2. DURATION OF AGREEMENT

This agreement commences on the effective date and will continue until terminated by CLIENT or notice that CLIENT no longer uses the software. CLIENT cannot terminate this contract while there is any amount owing to Infovision Software. When and if Client terminates this Agreement, Infovision will be required to return all of Client's data stored on the Company's servers hosted in-house or in Infovision's data center or any other locations to the Client. Furthermore, Infovision agrees to assist the Client to make the transition without business interruption.

3. CHARGES AND PAYMENT

There are no licensing costs as these are included in the SAAS pricing in Appendix A of the Hosting, Support and Maintenance Agreement with the exception of the Brava Viewer licenses, as referenced in Appendix A.

4. CLIENT'S RESPONSIBILITIES

CLIENT is responsible for maintaining adequate internet connectivity to their site(s). After the initial implementation CLIENT is responsible for ensuring that each person, working on behalf of CLIENT and who is using the Licensed Program, is adequately trained in all aspects of the Licensed Software utilized by that person. For any users requiring the Brava viewer technology, a Windows based PC with Internet Explorer browser is required.

5. SOFTWARE LICENSE

Infovision Software strictly reserves copyright and confidentiality over its licensed software. CLIENT shall not make the Software programs available to others, other than their customers for access to the Public Web Portal. CLIENT may not transfer any rights under this agreement without the written permission of Infovision Software.

6. WARRANTY

Any warranty is in lieu of all other conditions or warranties in respect of the software, express or implied, statutory or otherwise. Infovision warrants that its products will conform to its documentation and meet generally acceptable commercial standards.

7. INDEMNIFICATION

Infovision warrants it is the developer and owner of the Evolve software technology. Infovision shall indemnify, defend, release and hold CLIENT harmless from any third party suit or third party claim (including all attorney fees) arising from Client's use of the software.

8. FORCE MAJEURE

Neither party will be responsible for any failure to perform hereunder due to unforeseen circumstances or due to causes beyond the non-performing party's reasonable control, including, without limiting the generality of the foregoing, acts of God, war, riot, embargoes, acts of government, catastrophe, fire, flood, accidents, strikes, shortages of transportation, fuel, energy, labor or material acts of a public enemy.

9. LIMITATION OF LIABILITY

With respect to claims between Infovision and Client, Infovision Software's total liability for any software or service provided pursuant to or arising out of this Agreement, including but not limited to liability arising out of, resulting from or in any way related to contract, tort, breach of warranty, intellectual property infringement or otherwise, shall not in any event exceed the total fees paid by CLIENT with respect to this Agreement. Neither Infovision Software nor its licensors shall be liable for loss of profits, indirect, special, incidental, or consequential damages. This provision shall survive the termination of this Agreement or any amendment thereto.

10. ASSIGNMENT

Neither party hereto shall be entitled to assign that party's rights and obligations under this Agreement without the express written agreement of the other party, such agreement not to be unreasonably withheld.

11. SEVERABILITY

Any provision of this Agreement, which is prohibited by law or is unenforceable will be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

12. ENUREMENT

This Agreement will enure to the benefit of and be binding upon the parties and their respective successors and assignees.

13. MODIFICATION

This Agreement may not be modified except in writing by an authorized signatory of each party.

14. NOTIFICATION

All notices under this Agreement shall be in writing and delivered by overnight delivery service or certified mail, return receipt requested, to the address specified above. Either party may change its address by providing notice in accordance with this Section.

15. GOVERNING LAW

This Agreement, its execution, interpretation and performance, shall be governed by and construed in accordance with the laws of the State of North Carolina. Any controversy or claim arising out of or in any way related to this Agreement or the relationship established by it, or the alleged breach thereof, whether at common law, in contract, in tort, or under statute, shall be governed by the laws of the State of North Carolina. Legal proceedings involving any such controversy or claim may be instituted only in the General Courts of Justice in Union County, North Carolina, and the Parties hereby irrevocably consent to the jurisdiction of such court over their persons and waive any defense based on improper or inconvenient venue or lack of personal jurisdiction.

16. ENTIRE AGREEMENT

These terms and conditions and any attachments constitute the entire understanding between the parties relating to Infovision Software's provision of Support. CLIENT's acceptance of these terms and conditions is deemed to occur upon CLIENT's signature, payment or upon Infovision Software's provision of Support.

17. AUTHORITY

Each party represents that they have taken all necessary action to authorize the execution, delivery, and performance of this Agreement and have the authority to execute, deliver and perform this Agreement and all the transactions contemplated hereby.

APPENDIX A

Infovision Software License Cost Schedule

DESCRIPTION	COMMENTS
Software:	
Code Enforcement and Complaint Tracking	Included in Hosting
Project Management and Review	Included in Hosting
Permitting and Licensing	Included in Hosting
Inspections	Included in Hosting
Public Web Portal	Included in Hosting
Brava Viewer (7 Seats)	\$1,015 (one time fee)

Infovision Software Services Agreement



Infovision Software, Inc.
P.O. Box 234, Carlsbad, CA 92108-0234
Phone: 800-849-1655 Fax: 815-642-8541
Web: www.infovisionsoftware.com

Attention: Mr. Rox Burhans

Customer: Town of Indian Trail (CLIENT)

Contract No: 8386

We agree to the Infovision Services Agreement as outlined below and accept the charges in accordance with the Infovision Services Terms & Conditions.

Accepted by Client

Name _____

Signature _____

Title **Town Manager**

Date _____

Accepted by Infovision Software, Inc.

Name _____

Signature _____

Title _____

Date
(Effective Date) _____

Infovision Services Terms & Conditions

1. SCOPE OF AGREEMENT

Infovision Software will provide the listed services in a professional manner. Infovision Software will provide its services within the scope of the Statement of Work included in this agreement as Appendix B. Infovision provides its documentation as a description of the software and its functionality to serve as a reference point for this agreement. This is included as Appendix B.

2. DURATION OF AGREEMENT

This agreement commences on the effective date and will continue until the Statement of Work is completed.

3. SERVICES:

Infovision will perform all services in a manner and according to the standards observed by a competent practitioner of the profession in which Infovision is engaged. All deliverables will be prepared in a manner that conforms to the standards of quality normally observed by a person in Infovision's profession.

It is the responsibility of the CLIENT to select suitable staff to provide detailed requirements and be trained. For any training held at the CLIENT premises, the CLIENT will permit Infovision staff to use its equipment for the training of the CLIENT staff.

4. CHARGES AND PAYMENT

All prices quoted are firm, provided always that:

(a) CLIENT does not pay excise, sales and use taxes of any kind; or

Excepting invoices that are due upon execution of this Agreement, all fees shall be paid within thirty (30) days of invoice date.

(b) After notice, past due amounts owing from CLIENT shall bear interest at the rate of one (1%) per month. If delinquent payments should occur for a period exceeding six months, CLIENT shall reimburse Infovision Software for all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts owed by CLIENT. Alternatively, Infovision Software may, at its sole option, suspend CLIENT's service if CLIENT is more than 120 days past due in the payment of amounts owed pursuant to this Agreement.

(c) All payments shall be in U.S. Dollars.

(d) Specific modules to be implemented and the associated individual payment include those in the table in Appendix A. Charges associated with each module will be invoiced after the Go Live date of each module. Note, the modules may be implemented in an order different than the one shown below, subject to approval by Client. Services will be invoiced as incurred.

(e) CLIENT shall reimburse Infovision Software for all necessary, reasonable travel and living expenses incurred by Infovision Software in rendering all services in connection with this contract subject to submittal of suitable documentation of expenses to Client. Expenses in excess of \$500 in any calendar month must be preapproved by Client.

(f) Any additional fees shall be subject to written approval by Town prior to additional services being performed or charges incurred.

5. INSTALLATION

Infovision will be responsible for the setup of the Client's instance on its hosted server environment. If the Braver viewer technology is licensed, Infovision will install it on the Client's PC's. Infovision will also be responsible for installing all updates, patches, and any other updates to the Infovision and Brava Reader Software.

6. CLIENT'S RESPONSIBILITIES

CLIENT is responsible for completing all the tasks assigned to them in the Appendix B Statement of Work. The tasks are to be performed in a timely manner.

Client will create a "punch list" 30 days after "go-live" of nonconformance issues to be corrected. Final acceptance takes place upon Client acceptance that the "punch list" items have been corrected. The Client agrees to be reasonable in its list.

The 30 Day Punch List will not include any items not specifically mentioned in the Infovision Software description in Section 1 above and agreed upon prior to corrections commencing.

7. FORCE MAJEURE

Neither party will be responsible for any failure to perform hereunder due to unforeseen circumstances or due to causes beyond the non-performing party's reasonable control, including, without limiting the generality of the foregoing, acts of God, war, riot, embargoes, acts of government, catastrophe, fire, flood, accidents, strikes, shortages of transportation, fuel, energy, labor or material acts of a public enemy.

8. LIMITATION OF LIABILITY

With respect to claims between Infovision and Client, Infovision Software's total liability for any software or service provided pursuant to or arising out of this Agreement, including but not limited to liability arising out of, resulting from or in any way related to contract, tort, breach of warranty, intellectual property infringement or otherwise, shall not in any event exceed the total fees paid by CLIENT with respect to this Agreement. Neither Infovision Software nor its licensors shall be liable for loss of profits, indirect, special, incidental, or consequential damages. This provision shall survive the termination of this Agreement or any amendment thereto.

9. FACILITIES AND EQUIPMENT

CLIENT will provide Infovision the following documents, access, facilities, services and site information:

- a) Access to files and documents, which are a product of the system to be replaced or generated by the Program(s).
- b) Information relative to CLIENT's access devices and web access on which the Program must run or with which the Program must interact.
- c) Personnel, facilities, equipment and time for training, installation and other services to be performed by Infovision Software.

10. ASSIGNMENT

Neither party hereto shall be entitled to assign that party's rights and obligations under this Agreement without the express written agreement of the other party, such agreement not to be unreasonably withheld.

11. SEVERABILITY

Any provision of this Agreement, which is prohibited by law or is unenforceable will be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

12. ENUREMENT

This Agreement will enure to the benefit of and be binding upon the parties and their respective successors and assignees.

13. MODIFICATION

This Agreement may not be modified except in writing by an authorized signatory of each party.

14. NOTIFICATION

All notices under this Agreement shall be in writing and delivered by overnight delivery service or certified mail, return receipt requested, to the address specified above. Either party may change its address by providing notice in accordance with this Section.

15. GOVERNING LAW

This Agreement, its execution, interpretation and performance, shall be governed by and construed in accordance with the laws of the State of North Carolina. Any controversy or claim arising out of or in any way related to this Agreement or the relationship established by it, or the alleged breach thereof, whether at common law, in contract, in tort, or under statute, shall be governed by the laws of the State of North Carolina. Legal proceedings involving any such controversy or claim may be instituted only in the General Courts of Justice in Union County, North Carolina, and the Parties hereby irrevocably consent to the jurisdiction of such court over their persons and waive any defense based on improper or inconvenient venue or lack of personal jurisdiction.

16. ENTIRE AGREEMENT

These terms and conditions and any attachments constitute the entire understanding between the parties relating to Infovision Software's provision of Support. CLIENT's acceptance of these terms and conditions is deemed to occur upon CLIENT's signature, payment or upon Infovision Software's provision of Support.

17. AUTHORITY

Each party represents that they have taken all necessary action to authorize the execution, delivery, and performance of this Agreement and have the authority to execute, deliver and perform this Agreement and all the transactions contemplated hereby.

APPENDIX A

Infovision Services Cost Schedule

PRODUCT/SERVICE		
DESCRIPTION	COMMENTS	PRICE
Services:		
Plan Tracking and Development Management		\$5,600
Permitting (Existing Basic Permit)		1,600
Code Enforcement and Complaint Tracking		2,800
Out of pocket expenses applied locally. Mileage from Charleston and accommodation only. No airfares.		
Total Services Fee (one time fee):		\$10,000