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**Background and Policy Issues:** The Palm Beach County League of Cities, represented by the Executive Director, met with the County Administrator to express a desire from various Cities to recommend to the County to implement the publicly accessible website. The Administrator directed staff to do further research and present a recommendation. A cross-departmental team was convened to consider this legislation and its effect on County operations. It was concluded that utilizing a publicly accessible website will reduce overall costs to the County while increasing efficiencies as staff will have greater control in directly placing public notices on the website, and, revisions, if required, will be very timely. Two hosting options were considered; (a) in-house developed, hosted and maintained by County ISS department and accessible to other governmental agencies or (b) outsourced through a third party. The outsourcing option was deemed the most efficient and cost-effective approach. The agreement with CivicPlus includes for:

- County entering into an agreement with CivicPlus to host the website;
- County negotiating the rates to be paid by each participating entity;
- Each participating entity executing an inter-local agreement with the County;
- CivicPlus issues an "Order" outlining the rates and terms to the participating entity;
- Each participating entity makes direct payments to CivicPlus;
- Each participating entity will be wholly responsible for entering and managing their public notices;
- CivicPlus will train all participating agencies

**AGREEMENT BETWEEN PALM BEACH COUNTY AND CIVICPLUS, LLC, FOR COUNTY DESIGNATED PUBLICLY ACCESSIBLE WEBSITE FOR PUBLICATION OF LEGAL NOTICES**

This Agreement ("Agreement") is made and entered by and between Palm Beach County, a political subdivision of the State of Florida by and through its Board of County Commissioners ("County"), and CivicPlus, LLC, a Kansas limited liability company ("Contractor") (each a "Party" and collectively referred to as the "Parties").

**RECITALS**

A. During the 2022 legislative session, the Florida Legislature enacted House Bill 7049, which created Section 50.0311, Florida Statutes.

B. Effective January 1, 2023, Section 50.0311, Florida Statutes, authorizes a local governmental agency to publish legal notices under specified conditions on a publicly accessible website, owned or designated by the applicable county, instead of in a print newspaper.

C. Pursuant to Section 50.0311, Florida Statutes, County has designated CivicPlus, LLC, as County's publicly accessible website ("Website") for publication of notices and advertisements ("Publications"), subject to the terms and conditions set forth herein.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE 1. DEFINITIONS**

- 1.1. **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.
  - 1.2. **Board** means the Board of County Commissioners of Palm Beach County, Florida.
  - 1.3. **Code** means the Palm Beach County Code of Ordinances.
  - 1.4. **Contract Administrator** means the Director of Records, Tax, & Treasury, the Assistant Director of Records, Tax, & Treasury, or such other person designated by the Director of Records, Tax, & Treasury in writing.
  - 1.5. **Governmental Agency(ies)** has the meaning ascribed in Section 50.0311, Florida Statutes.
  - 1.6. **Notices** means the publication of text or other information pursuant to an Order issued by a Governmental Agency under this Agreement.
  - 1.7. **Purchasing Director** means County's Director of Purchasing.
  - 1.8. **Services** means all work required of CivicPlus, LLC, under this Agreement, including without limitation all deliverables, consulting, training, project management, other services
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specified in the Scope of Services attached as Exhibit A, and any Services procured under this Agreement pursuant to an Order.

1.9. **Subcontractor** means an entity or individual providing Services to County through CivicPlus, LLC. The term "Subcontractor" includes all subconsultants.

## ARTICLE 2. EXHIBITS

<b>Exhibit A</b>	<b>Scope of Services</b>
<b>Exhibit B</b>	<b>Rates</b>
<b>Exhibit C</b>	<b>Minimum Insurance Coverages</b>
<b>Exhibit D</b>	<b>Order Form</b>
<b>Exhibit E</b>	<b>Form Participation Agreement</b>
<b>Exhibit F</b>	<b>ETS Security Requirements</b>
<b>Exhibit G</b>	<b>Form Proof of Publication</b>

## ARTICLE 3. SCOPE OF SERVICES, TRAINING, AND METHOD OF ORDERING

3.1. Services Description. CivicPlus, LLC, will provide a publicly accessible website ("Website") that complies with the requirements of Exhibit A and such additional Services as Palm Beach County may order through an appropriate Order (as defined herein). The Website will provide on-demand access to an unlimited number of users, and concurrent users, support an unlimited number of submitted Notices, and offer 24/7 access. CivicPlus, LLC, shall provide all necessary software, licensing, maintenance, and training required to deliver access to the Website for each Governmental Agency that issues an Order, and to provide public access to all Notices posted on the Website. CivicPlus, LLC, will ensure that the Website complies with all applicable Florida and federal laws, including without limitation, the relevant provisions of Chapter 50, Florida Statutes, and the Americans with Disabilities Act, 42 U.S.C. § 12101. Notwithstanding the foregoing, CivicPlus, LLC, shall not be liable for any non-compliant content of Notices, provided by County, published on the Website by or at the request of any Governmental Agencies.

3.2. Method of Ordering Services. A Governmental Agency may select the type, amount, and timing of Services pursuant to an order ("Order") in substantially the form attached as Exhibit D executed by Palm Beach County. Prior to accepting an Order, CivicPlus, LLC, shall ensure the applicable Palm Beach County has a Participation Agreement (sample form attached as Exhibit E) executed by County and Governmental Agency. If a Governmental Agency has a Participation Agreement executed by County, CivicPlus, LLC, shall accept all Orders issued by that Governmental Agency. CivicPlus, LLC, shall not provide any Services to a Governmental Agency pursuant to this Agreement until a Participation Agreement is on file executed by County and that Governmental Agency. For each Order accepted by CivicPlus, LLC, pursuant to this Section 3.3, CivicPlus, LLC, shall perform all Services specified therein; each Order is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks that are such an inseparable part of the work described that exclusion would render performance by CivicPlus, LLC, impractical, illogical, illegal, or unconscionable.

3.3. CivicPlus, LLC, may continually develop, alter, deliver, and provide to the Governmental Agencies ongoing innovation to the Services, in the form of new features and functionalities. CivicPlus, LLC, reserves the right to modify the Services from time to time, provided the Services continue to provide at least the minimum functionality stated in Exhibit A. Any modifications or improvements to the Services will be provided to the Governmental Agencies at no additional charge.

#### **ARTICLE 4. TERM AND TIME OF PERFORMANCE**

4.1. Term. This Agreement begins on the date it is fully executed by the Parties ("Effective Date") and continues for a period of two (2) years ("Initial Term"), unless otherwise terminated or extended as provided in this Agreement. The Initial Term, Extension Term(s), and any Additional Extension as defined in this article are collectively referred to as the "Term."

4.2. Extensions. County may extend this Agreement for up to three (3) additional twelve (12) month terms (each an "Extension Term") on the same rates, terms, and conditions stated in this Agreement by sending notice to CivicPlus, LLC, at least thirty (30) days prior to the expiration of the then-current term. The Purchasing Director is authorized to exercise any Extension Term(s), and notice of same to CivicPlus, LLC, only by electronic mail shall be effective and sufficient.

4.3. Additional Extension. If unusual or exceptional circumstances, as determined in the sole discretion of the Purchasing Director, render the exercise of an Extension Term not practicable, or if no Extension Term remains available and expiration of this Agreement would, as determined by the Purchasing Director, result in a gap in Services deemed necessary by County, then the Purchasing Director may extend this Agreement for period(s) not to exceed three (3) months in the aggregate ("Additional Extension") on the same rates, terms, and conditions as existed at the end of the then-current term. The Purchasing Director may exercise the Additional Extension by written notice to CivicPlus, LLC, at least thirty (30) days prior to the end of the then-current term stating the duration of the Additional Extension. The Additional Extension must be within the authority of the Purchasing Director or otherwise authorized by the Board.

4.4. Fiscal Year. The continuation of this Agreement beyond the end of any County fiscal year is subject to both the appropriation and the availability of funds pursuant to Chapter 129 and, if applicable, Chapter 212, Florida Statutes.

4.5. Time of the Essence. Time is of the essence for CivicPlus, LLC,'s performance of the duties, obligations, and responsibilities required by this Agreement. Notwithstanding the foregoing, CivicPlus, LLC, shall only be liable or responsible for delays or failures of performances caused by the action or inaction of CivicPlus, LLC.

#### **ARTICLE 5. RATES AND COMPENSATION**

5.1. Rates. The rates for the Services to be provided to Governmental Agencies pursuant to executed Orders under this Agreement are set forth in Exhibit B (Rates).

5.2. Method of Billing and Payment. Payment shall be made by the Governmental Agency issuing the Order, and only for Services actually purchased pursuant to that Order, which amount shall be accepted by CivicPlus, LLC, as full compensation for all such Services.

5.2.1. Unless otherwise stated in Exhibit B, CivicPlus, LLC, must submit invoices no more often than once annually, no more than ninety (90) days prior to end of the current Order term. Invoices shall identify the Order for which Services are being invoiced. Invoices shall require payment in forty-five (45) days.

5.2.2. CivicPlus, LLC, must pay Subcontractors and suppliers within fifteen (15) days after receipt of payment for such subcontracted work or supplies. CivicPlus, LLC, agrees that if it withholds an amount as retainage from Subcontractors or suppliers, it will release such retainage and pay same within fifteen (15) days after receipt of payment of retained amounts. Failure to pay a Subcontractor or supplier in accordance with this subsection shall be a material breach of this Agreement, unless CivicPlus, LLC, demonstrates to Contract Administrator's satisfaction that such failure to pay results from a bona fide dispute with the Subcontractor or supplier and, further, CivicPlus, LLC, promptly pays the applicable amount(s) to the Subcontractor or supplier upon resolution of the dispute. CivicPlus, LLC, shall include requirements substantially similar to those set forth in this subsection in its contracts with Subcontractors and suppliers.

5.2.3. CivicPlus, LLC, will be solely responsible for invoicing each Governmental Agency directly for the Services. County will not have any obligation, financial or otherwise, to either pay CivicPlus, LLC, for services provided to any Governmental Agency or to assist CivicPlus, LLC, in obtaining payment from a Governmental Agency procuring Services from CivicPlus, LLC, pursuant to this Agreement.

5.3. Reimbursable Expenses. CivicPlus, LLC, shall not be reimbursed for any expenses it incurs unless expressly provided for in this Agreement.

5.4. Subcontractors. CivicPlus, LLC, shall invoice Subcontractor fees only in the actual amount paid by CivicPlus, LLC,, without markup or other adjustment.

5.5. Overcharges. If an audit reveals overcharges of any nature by CivicPlus, LLC, in excess of five percent (5%) of the total amount billed in the invoice where the overcharge occurred, CivicPlus, LLC, must refund the overbilled amount within forty-five (45) days after demand.

## **ARTICLE 6. REPRESENTATIONS AND WARRANTIES**

6.1. Representation of Authority. CivicPlus, LLC, represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of CivicPlus, LLC, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that CivicPlus, LLC, has with any third party or violates Applicable Law. CivicPlus, LLC, further represents and warrants that execution of this Agreement is within CivicPlus, LLC,'s legal powers, and each

individual executing this Agreement on behalf of CivicPlus, LLC, is duly authorized by all necessary and appropriate action to do so on behalf of CivicPlus, LLC, and does so with full legal authority.

6.2. Solicitation Representations. CivicPlus, LLC, represents and warrants that all statements and representations made in CivicPlus, LLC,'s proposal, bid, or other supporting documents submitted to County in connection with the solicitation, negotiation, or award of this Agreement, including during the procurement or evaluation process, were true and correct when made and are true and correct as of the date CivicPlus, LLC, executes this Agreement, unless otherwise expressly disclosed in writing by CivicPlus, LLC.

6.3. Contingency Fee. CivicPlus, LLC, represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for CivicPlus, LLC, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

6.4. Truth-In-Negotiation Representation. CivicPlus, LLC,'s compensation under this Agreement is based upon its representations to County, and CivicPlus, LLC, certifies that the wage rates, factual unit costs, and other information supplied to substantiate CivicPlus, LLC,'s compensation, including without limitation those made by CivicPlus, LLC, during the negotiation of this Agreement, are accurate, complete, and current as of the date CivicPlus, LLC, executes this Agreement. CivicPlus, LLC,'s compensation may be reduced by County, in its sole discretion, to correct any inaccurate, incomplete, or noncurrent information provided to County as the basis for CivicPlus, LLC,'s compensation in this Agreement.

6.5. Public Entity Crime Act. CivicPlus, LLC, represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. CivicPlus, LLC, further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CivicPlus, LLC, has been placed on the convicted vendor list.

6.6. Discriminatory Vendor and Scrutinized Companies Lists; Countries of Concern. CivicPlus, LLC, represents that it has not been placed on the "discriminatory vendor list" as provided in Section 287.134, Florida Statutes, and that it is not a "scrutinized company" pursuant to Sections 215.473 or 215.4725, Florida Statutes. CivicPlus, LLC, represents and certifies that it is not, and for the duration of the Term will not be, ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes. CivicPlus, LLC, represents that it is, and for the duration of the Term will remain, in compliance with Section 286.101, Florida Statutes.

6.7. Claims Against Contractor. CivicPlus, LLC, represents and warrants that there is no action or proceeding, at law or in equity, before any court, mediator, arbitrator, governmental or other board or official, pending or, to the knowledge of CivicPlus, LLC, threatened against or affecting CivicPlus, LLC,, the outcome of which may (a) affect the validity or enforceability of this Agreement,



(b) materially and adversely affect the authority or ability of CivicPlus, LLC, to perform its obligations under this Agreement, or (c) have a material and adverse effect on the consolidated financial condition or results of operations of CivicPlus, LLC, or on the ability of CivicPlus, LLC, to conduct its business as presently conducted or as proposed or contemplated to be conducted.

6.8. Verification of Employment Eligibility. CivicPlus, LLC, represents that CivicPlus, LLC, and each Subcontractor have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If CivicPlus, LLC, violates this section, County may immediately terminate this Agreement for cause and CivicPlus, LLC, shall be liable for all costs incurred by County due to the termination.

6.9. Warranty of Performance. CivicPlus, LLC, represents and warrants that it possesses the knowledge, skill, experience, and financial capability required to perform and provide all Services and that each person and entity that will provide Services is duly qualified to perform such Services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render Services. CivicPlus, LLC, represents and warrants that the Services shall be performed in a skillful and respectful manner, and that the quality of all Services shall equal or exceed prevailing industry standards for the provision of such services.

6.10. Prohibited Telecommunications Equipment. CivicPlus, LLC, represents and certifies that CivicPlus, LLC, and all Subcontractors do not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. CivicPlus, LLC, represents and certifies that CivicPlus, LLC, and all Subcontractors shall not provide or use such covered telecommunications equipment, system, or services during the Term.

6.11. Breach of Representations. CivicPlus, LLC, acknowledges that County is materially relying on the representations, warranties, and certifications of CivicPlus, LLC, stated in this article, and County shall be entitled to exercise any or all of the following remedies if any such representation, warranty, or certification is untrue: (a) recovery of damages incurred; (b) termination of this Agreement without any further liability to CivicPlus, LLC,; (c) set off from any amounts due CivicPlus, LLC, the full amount of any damage incurred; and (d) debarment of CivicPlus, LLC.

#### **ARTICLE 7. INDEMNIFICATION**

CivicPlus, LLC, shall indemnify, hold harmless, and defend County, each Governmental Agency, and all of County's and each Governmental Agency's current, past, and future officers, agents, and employees (collectively, "Indemnified Party") from and against any and all third-party causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part by any breach of this Agreement by CivicPlus, LLC, or any

intentional, reckless, or negligent act or omission of CivicPlus, LLC, its officers, employees, or agents, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). If any Claim is brought against an Indemnified Party, CivicPlus, LLC, shall, upon written notice from County, defend each Indemnified Party with counsel satisfactory to County. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

#### **ARTICLE 8. INSURANCE**

8.1. Throughout the Term, CivicPlus, LLC, shall, at its sole expense, maintain the minimum insurance coverages stated in Exhibit C in accordance with the terms and conditions of this article. CivicPlus, LLC, shall maintain insurance coverage against claims relating to any act or omission by CivicPlus, LLC, its agents, representatives, employees, or Subcontractors in connection with this Agreement. Palm Beach County reserves the right at any time to review and adjust the limits and types of coverage required under this article.

8.2. CivicPlus, LLC, shall ensure that "Palm Beach County" and each Governmental Agency that issues an Order is listed and endorsed as an additional insured as stated in Exhibit C on all policies required under this article.

8.3. No more than fifteen (15) days following commencement of Services, as may be requested by County, CivicPlus, LLC, shall provide County with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required in this article. If and to the extent requested by County, CivicPlus, LLC, shall provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after County's request.

8.4. CivicPlus, LLC, shall ensure that all insurance coverages required by this article remain in full force and effect without any lapse in coverage throughout the Term and until all performance required by CivicPlus, LLC, has been completed, as determined by Contract Administrator. CivicPlus, LLC, or its insurer shall provide notice to County of any cancellation or modification of any required policy at least thirty (30) days prior to the effective date of cancellation or modification, and at least ten (10) days prior to the effective date of any cancellation due to nonpayment, and shall concurrently provide County with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s).

8.5. All required insurance policies must be placed with insurers or surplus line carriers authorized to conduct business in the State of Florida with an A.M. Best rating of A- or better and a financial size category class VII or greater, unless otherwise approved by County's Risk Management Division in writing.

8.6. If CivicPlus, LLC, maintains broader coverage or higher limits than the insurance requirements stated in Exhibit C, County shall be entitled to all such broader coverages and higher limits. All required insurance coverages shall provide primary coverage and not require contribution from any County insurance, self-insurance, or otherwise, which shall be in excess of and shall not contribute to the required insurance provided by CivicPlus, LLC.

8.7. CivicPlus, LLC, shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in Exhibit C and submit to County for approval at least fifteen (15) days prior to the Effective Date or commencement of Services. CivicPlus, LLC, shall be solely responsible for and shall pay any deductible or self-insured retention applicable to any claim against County. County may, at any time, require CivicPlus, LLC, to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. CivicPlus, LLC, agrees that any deductible or self-insured retention may be satisfied by either the named insured or County, if so elected by County, and CivicPlus, LLC, agrees to obtain same in endorsements to the required policies.

8.8. Unless prohibited by the applicable policy, CivicPlus, LLC, waives any right to subrogation that any of CivicPlus, LLC,'s insurers may acquire against County, and agrees to obtain same in an endorsement of CivicPlus, LLC,'s insurance policies.

8.9. CivicPlus, LLC, shall require that each Subcontractor maintains insurance coverage that adequately covers the Services provided by that Subcontractor on substantially the same insurance terms and conditions required of CivicPlus, LLC, under this article. CivicPlus, LLC, shall ensure that all such Subcontractors comply with these requirements and that "Palm Beach County" is named as an additional insured under the Subcontractors' applicable insurance policies. CivicPlus, LLC, shall not permit any Subcontractor to provide Services unless and until all applicable requirements of this article are satisfied.

8.10. If any of the policies required under this article provide claims-made coverage: (1) any retroactive date must be prior to the Effective Date; (2) the required coverage must be maintained after termination or expiration of the Agreement for at least the duration stated in Exhibit C; and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the Effective Date, CivicPlus, LLC, must obtain and maintain "extended reporting" coverage that applies after termination or expiration of the Agreement for at least the duration stated in Exhibit C.

#### **ARTICLE 9. TERMINATION**

9.1. Termination for Cause. This Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) business days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may be terminated for cause by County for reasons including, but not limited to, CivicPlus, LLC,'s failure to suitably or continuously perform the Services in a manner calculated to meet or accomplish the objectives in this Agreement, or repeated submission (whether negligent or intentional) for payment of false or incorrect bills or invoices.

Unless otherwise stated in this Agreement, termination for cause may be by the County Administrator, the County representative expressly authorized under this Agreement, or the County representative (including any successor) who executed the Agreement on behalf of County. If County erroneously, improperly, or unjustifiably terminates this Agreement for cause, such termination shall be deemed a termination for convenience pursuant to Section 9.2

effective thirty (30) days after such notice was provided and CivicPlus, LLC, shall be eligible for the compensation provided in Section 9.2 as its sole remedy.

9.2. Termination for Convenience; Other Termination. This Agreement may also be terminated for convenience by the County with at least thirty (30) days advance written notice to CivicPlus, LLC. CivicPlus, LLC, acknowledges that it has received good, valuable, and sufficient consideration for County's right to terminate this Agreement for convenience including in the form of County's obligation to provide advance notice to CivicPlus, LLC, of such termination in accordance with this section. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances if the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If this Agreement is terminated by County pursuant to this section, CivicPlus, LLC, shall be paid for any Services performed through the termination date specified in the written notice of termination, and County shall have no further obligation to pay CivicPlus, LLC, for Services under this Agreement.

9.3. Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the County Administrator to protect the public health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

9.4. In addition to any termination rights stated in this Agreement, County shall be entitled to seek any and all available contractual or other remedies available at law or in equity.

9.5. Termination of Orders.

9.5.1. Termination of Orders for Cause. An Order may be terminated for cause by CivicPlus, LLC, or by the applicable Governmental Agency if the party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved party identifying the breach. An Order may be terminated for cause by Governmental Agency for reasons including, but not limited to, CivicPlus, LLC,'s failure to suitably or continuously perform the Services in a manner calculated to meet or accomplish the objectives in an Order, or repeated submission (whether negligent or intentional) for payment of false or incorrect bills or invoices.

9.5.2. Termination of Orders for Reasons Other than Cause. An Order may also be terminated by CivicPlus, LLC, or by the applicable Governmental Agency with at least sixty (60) days advance written notice to the other party. The terminating party acknowledges that it has received good, valuable, and sufficient consideration for the other party's right to terminate an Order for convenience including in the form of the other party's obligation to provide advance notice of such termination in accordance with this section. If an Order is terminated by Governmental Agency pursuant to this section, CivicPlus, LLC, shall be paid for any Services performed through the termination date specified in the written notice of termination, CivicPlus, LLC, will provide a pro rata refund of any prepaid annual fees for the terminated Services that were not provided, excluding any

Implementation Fee which is non-refundable, and Governmental Agency shall have no further obligation to pay CivicPlus, LLC, for Services under that Order.

9.5.3. Notice of termination of an Order shall be provided in accordance with the "Notices" section of this Agreement to the addresses listed on the Order.

#### **ARTICLE 10. EQUAL EMPLOYMENT OPPORTUNITY**

10.1. No Party may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. CivicPlus, LLC, shall include the foregoing or similar language in its contracts with all Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

10.2. By January 1 of each year, CivicPlus, LLC, must submit, and cause each Subcontractor to submit, an Ownership Disclosure Form (or such other form or information designated by County), available <http://www.pbcgov.org/oebo>, identifying the ownership of the entity and indicating whether the entity is majority-owned by persons fitting specified classifications.

#### **ARTICLE 11. MISCELLANEOUS**

##### **11.1. Contract Administrator Authority.**

11.1.1. County Contract Administrator. The Contract Administrator is authorized to coordinate and communicate with CivicPlus, LLC, to manage and supervise the performance of this Agreement. CivicPlus, LLC, acknowledges that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise materially modify the Scope of Services except as expressly set forth in this Agreement or, to the extent applicable, in the Palm Beach County Procurement Code. Unless expressly stated otherwise in this Agreement or otherwise set forth in the Code or the Palm Beach County Administrative Code, the Contract Administrator may exercise ministerial authority in connection with the day-to-day management of this Agreement. The Contract Administrator may also approve in writing minor modifications to the Scope of Services that do not increase the total cost to County or waive any rights of County.

11.1.2. Governmental Agency Contract Manager. Governmental Agency may appoint a Contract Manager that is authorized to coordinate and communicate with CivicPlus, LLC, to manage and supervise the performance of its Order(s). CivicPlus, LLC, acknowledges that the Governmental Agency Contract Manager has no authority to modify this Agreement, and only has authority over Order(s) issued by that Governmental Agency and not over Order(s) issued by any other Governmental Agency.

11.2. Public Records. Notwithstanding anything else in this Agreement, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119, Florida Statutes, shall not constitute a breach of this Agreement. If CivicPlus, LLC, is acting on behalf of County as stated in Section 119.0701, Florida Statutes, CivicPlus, LLC, shall:

11.2.1. Keep and maintain public records required by County to perform the Services;

11.2.2. Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;

11.2.3. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of this Agreement and after completion or termination of this Agreement if the records are not transferred to County; and

11.2.4. Upon expiration of the Term or termination of this Agreement, transfer to County, at no cost, all public records in possession of CivicPlus, LLC, or keep and maintain public records required by County to perform the services. If CivicPlus, LLC, transfers the records to County, CivicPlus, LLC, shall destroy any duplicate public records that are exempt or confidential and exempt. If CivicPlus, LLC, keeps and maintains the public records, CivicPlus, LLC, shall meet all requirements of Applicable Law for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

If CivicPlus, LLC, receives a request for public records regarding this Agreement or the Services, CivicPlus, LLC, must immediately notify the Contract Administrator in writing and provide all requested records to County to enable County to timely respond to the public records request. County will respond to all such public records requests.

CivicPlus, LLC, must separately submit and conspicuously label as "RESTRICTED MATERIAL – DO NOT PRODUCE" any material (a) that CivicPlus, LLC, contends constitutes or contains its trade secrets under Chapter 688, Florida Statutes, or (b) for which CivicPlus, LLC, asserts a right to withhold from public disclosure as confidential or otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (collectively, "Restricted Material"). In addition, CivicPlus, LLC, must, simultaneous with the submission of any Restricted Material, provide a sworn affidavit from a person with personal knowledge attesting that the Restricted Material constitutes trade secrets or is otherwise exempt or confidential under Florida public records laws, including citing the applicable Florida statute and specifying the factual basis for each such claim. Upon request by County, CivicPlus, LLC, must promptly identify the specific applicable statutory section that protects any particular document. If a third party submits a request to County for records designated by CivicPlus, LLC, as Restricted Material, County shall refrain from disclosing such material unless otherwise ordered by a court of competent jurisdiction, authorized in writing by CivicPlus, LLC,, or the claimed exemption is waived. Any failure by CivicPlus, LLC, to strictly comply with

the requirements of this section shall constitute CivicPlus, LLC's waiver of County's obligation to treat the records as Restricted Material. CivicPlus, LLC, must indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to nondisclosure of Restricted Material in response to a third-party request.

**IF CIVICPLUS, LLC HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CIVICPLUS LLC,'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE PUBLIC AFFAIRS DEPARTMENT AT 561-355-6680, recordsrequest@pbcgov.org, 301 N. OLIVE AVENUE, WEST PARM BEACH FL, 33401.**

11.3. Audit Rights and Retention of Records. County and Governmental Agency shall have the right to audit the books, records, and accounts of CivicPlus, LLC, and all Subcontractors that are related to this Agreement. CivicPlus, LLC, and all Subcontractors shall keep such books, records, and accounts as may be necessary to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, CivicPlus, LLC, and all Subcontractors shall make same available in written form at no cost to County or Governmental Agency. CivicPlus, LLC, shall provide County and Governmental Agency with reasonable access to CivicPlus, LLC's, facilities, and County or Governmental Agency shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement.

CivicPlus, LLC, and all Subcontractors shall preserve and make available, at reasonable times within Palm Beach County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for at least three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. This article shall survive any dispute or litigation between the Parties, and CivicPlus, LLC, expressly acknowledges and agrees to be bound by this article throughout the course of any dispute or litigation with County. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County). CivicPlus, LLC, hereby grants County the right to conduct such audit or review at CivicPlus, LLC,'s place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice. CivicPlus, LLC, shall make all such records and documents available electronically in common file formats or via remote access if, and to the extent, requested by County.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this section reveals overpricing or overcharges to County of any nature by CivicPlus, LLC, in excess of five percent (5%) of the total contract billings reviewed by County, in addition to making adjustments for the overcharges, CivicPlus, LLC, shall pay the reasonable cost of County's audit. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of County's findings to CivicPlus, LLC.

CivicPlus, LLC, shall ensure that the requirements of this section are included in all agreements with all Subcontractor(s).

11.4. Independent Contractor. CivicPlus, LLC, is an independent contractor of County, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing Services, neither CivicPlus, LLC, nor its agents shall act as officers, employees, or agents of County. CivicPlus, LLC, shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

11.5. Regulatory Capacity. Notwithstanding the fact that County is a political subdivision with certain regulatory authority, County's performance under this Agreement is as a Party to this Agreement and not in its regulatory capacity. If County exercises its regulatory authority, the exercise of such authority and the enforcement of Applicable Law shall have occurred pursuant to County's regulatory authority as a governmental body separate and apart from this Agreement, and shall not be attributable in any manner to County as a Party to this Agreement.

11.6. Sovereign Immunity. Except to the extent sovereign immunity may be deemed waived by entering into this Agreement or an Order, nothing herein is intended to serve as a waiver of sovereign immunity by County or a Governmental Agency nor shall anything included herein be construed as consent by County or a Governmental Agency to be sued by third parties in any matter arising out of this Agreement.

11.7. Third-Party Beneficiaries. Any Governmental Agency that has executed a Participation Agreement and an Order is expressly made a third-party beneficiary of this Agreement with full power and authority to enforce this Agreement to the same effect as if it had expressly been made a party hereto. Other than a Governmental Agency with an executed Participation Agreement and at least one Order, neither CivicPlus, LLC, nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.8. Notice and Payment Address. Unless otherwise stated herein, for notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). Payments shall be made to the noticed address for CivicPlus, LLC. Addresses may be changed by the applicable Party giving notice of such change in accordance with this section.

FOR COUNTY:

Board of County Commissioners  
Palm Beach County Finance Dept.  
P. O. Box 4036  
West Palm Beach, FL 33402-4036  
Email address: [payables@mypalmbeachclerk.com](mailto:payables@mypalmbeachclerk.com)



FOR CONTRACTOR:

CivicPlus, LLC

Attn: Contract Manager

302 S. 4<sup>th</sup> Street, Ste 500

Manhattan, KS 66502

Email address: [contracts@civicplus.com](mailto:contracts@civicplus.com)

11.9. Assignment. All Subcontractors must be expressly identified in this Agreement or otherwise approved in advance and in writing by County's Contract Administrator. Except for approved subcontracting, neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by CivicPlus, LLC, without the prior written consent of the County. Any assignment, transfer, encumbrance, or subcontract in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit County to immediately terminate this Agreement, in addition to any other remedies available to County at law or in equity. The county reserves the right to condition its approval of any assignment, transfer, encumbrance, or subcontract upon further due diligence and an additional fee paid to the County to reasonably compensate it for the performance of any such due diligence.

11.10. Conflicts. Neither CivicPlus, LLC, nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CivicPlus, LLC's, loyal and conscientious exercise of judgment and care related to its performance under this Agreement. During the Term, none of the CivicPlus, LLC's officers or employees shall serve as an expert witness against County in any legal or administrative proceeding in which they or CivicPlus, LLC, is not a party unless compelled by legal process. Further, such persons shall not give sworn testimony or issue a report or writing as an expression of such person's expert opinion that is adverse or prejudicial to the interests of the County in connection with any such pending or threatened legal or administrative proceeding unless compelled by legal process. The limitations of this section shall not preclude the CivicPlus, LLC, or any persons in any way from representing themselves, including giving expert testimony in support of such representation in any action or in any administrative or legal proceeding. If the CivicPlus, LLC, is permitted pursuant to this Agreement to utilize Subcontractors to perform any Services required by this Agreement, CivicPlus, LLC, shall require such Subcontractors, by written contract, to comply with the provisions of this section to the same extent as CivicPlus, LLC.

11.11. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term. County's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

11.12. Compliance with Laws. CivicPlus, LLC, and the Services must comply with all Applicable Laws, including, without limitation, the Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of any applicable grant agreements.

11.13. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement, and the balance of this Agreement shall remain in full force and effect.

11.14. Joint Preparation. This Agreement has been jointly prepared by the Parties, and shall not be construed more strictly against either Party.

11.15. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days unless otherwise expressly stated. Any reference to approval by County shall require approval in writing unless otherwise expressly stated.

11.16. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement, or any Order, and any provision within an article or section of this Agreement, the article or section shall prevail and be given effect.

11.17. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

11.18. Amendments. Unless expressly authorized herein, no modification, amendment, or alteration of any portion of this Agreement is effective unless contained in a written document executed with the same or similar formality as this Agreement and by duly authorized representatives of County and CivicPlus, LLC.

11.19. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and

contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Agreement are contained herein.

11.20. Payable Interest.

11.20.1. Payment of Interest. Unless prohibited by Applicable Law, Governmental Agency shall not be liable for interest to CivicPlus, LLC, for any reason, whether as prejudgment interest or for any other purpose, and CivicPlus, LLC, waives, rejects, disclaims, and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement.

11.20.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by Governmental Agency under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under Applicable Law, one quarter of one percent (0.25%) simple interest (uncompounded).

11.21. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

11.22. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

11.23. Use of County Name or Logo. CivicPlus, LLC, shall not use County's name or logo in marketing or publicity materials without prior written consent from the Contract Administrator.

11.24. Drug-Free Workplace. If required under Section 21.23(f), Palm Beach County Administrative Code, or Section 287.087, Florida Statutes, CivicPlus, LLC, certifies that it has and will maintain a drug-free workplace program throughout the Term.

11.25. Polystyrene Food Service Articles. CivicPlus, LLC, shall not sell or provide for use on County property expanded polystyrene products or food service articles (e.g., Styrofoam), unencapsulated expanded polystyrene products, or single-use plastic straws or stirrers, as set forth in more detail in Section 27.173, Palm Beach County Administrative Code.

11.26. Additional Security Requirements. CivicPlus, LLC, shall comply with the ETS Security Requirements attached hereto as Exhibit F, which shall be applicable to the Website and all Services provided pursuant to Orders issued under this Agreement.

11.27. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL AUDIT REQUIREMENTS. Pursuant to Palm Beach County Code, Section 2-421 - 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to review past, present and proposed COUNTY contracts, transactions, accounts, and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the COUNTY, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, F.S., in the same manner as a second degree misdemeanor.

11.28. CRIMINAL HISTORY RECORDS CHECK ORDINANCE  
CivicPlus, LLC, CivicPlus, LLC's employees, subcontractors of CivicPlus, LLC and employees of subcontractors shall comply with Palm Beach County Code, Section 2-371 - 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), for unescorted access to critical facilities ("Critical Facilities") or criminal justice information facilities ("CJI Facilities") as identified in Resolutions R2013-1470 and R2015-0572, as amended. CivicPlus, LLC is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, CivicPlus, LLC acknowledges that its Agreement price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the COUNTY.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement:

PALM BEACH COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Mayor authorized to execute same by Board action on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, and CivicPlus, LLC, signing by and through its \_\_\_\_\_ duly authorized to execute same.

COUNTY

PALM BEACH COUNTY, by and  
through its County Commissioners

By: \_\_\_\_\_  
Gregg Weiss, Palm Beach County Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 2023

By: Anne Helfant 9/15/23  
Anne Helfant (Date)  
Senior Assistant County Attorney  
Legal Sufficiency

By: [Signature]  
Archie Satchell (Date)  
Chief Information Officer  
Terms and Conditions

**AGREEMENT BETWEEN PALM BEACH COUNTY AND CIVICPLUS, LLC, FOR COUNTY DESIGNATED PUBLICLY ACCESSIBLE WEBSITE FOR PUBLICATION OF LEGAL NOTICES**

CONTRACTOR

**CIVICPLUS, LLC**

By: Amy Vikander  
Authorized Signer

Amy Vikander, Senior VP of Customer Success  
Print Name and Title

28 day of June, 2023

WITNESS:

By: Pj Devine  
Signature

Phillip Devine  
Print Name of Witness

**Exhibit A**  
**Scope of Services**

CivicPlus, LLC, shall provide a Website utilizing its CivicPlus Optimize Product, which shall include the following:

Quantity	Product Name	Description	Product Type
1.00	Process Automation Premium Package	Process Automation Premium Package	Renewable
1.00	Forms & Apps	Forms & Apps	Renewable
1.00	Data Manager Module	Data Manager Module	Renewable
1.00	OB Connectors, PA	OB Connectors, PA	Renewable
1.00	Workflow & Approvals Module	Workflow & Approvals Module	Renewable
1.00	Process Automation	CivicPlus, LLC,'s team will document process workflow and work with Governmental Agencies to build, configure, and style the Website.	One-time

CivicPlus, LLC, shall submit final Website design and layout to County's Contract Administrator for approval. Website shall not "go-live" to the public or be useable by Governmental Agencies for publication of Notices until County's Contract Administrator has issued written approval of the final Website design and layout. CivicPlus, LLC, shall be the sole owner of the URL, domain, and Website, and the Parties agree that County is simply designating Website as its publicly accessible website pursuant to this Agreement.

Website Requirements. The Website must provide at least the following functionality:

- a. All text must be machine-readable.
- b. Notices must be searchable by any available criteria, including but not limited to, agency, date of publication, key word, title, and category (e.g., procurement, land use, etc.).
- c. Notices must indicate the date the Notice was first published on the Website.
- d. The Website must offer Governmental Agencies the ability to link procurement notices to external websites.
- e. The Website must be capable of generating an affidavit of proof of publication form consistent with Section 50.041, Florida Statutes, in a form substantially similar to Exhibit G.
- f. The Website must provide the ability to attach a PDF (or other document format) as part of the Notice.

- g. The Website must provide the ability to create templates to facilitate the creation and distribution of specific Notices.
- h. The Website must provide the public the ability to request mail or e-mail notification of the applicable Governmental Agency of any/all Notices published by that Governmental Agency to the Website provide notice to each applicable Governmental Agency of all such requests, and provide the ability for the applicable Governmental Agency to download a registry of the names, addresses, and e-mail addresses of persons who have submitted such requests.
- i. For Notices by e-mail, the Website will autogenerate and send the Notices once published by Governmental Agency. For Notices by first-class mail, the participating Governmental Agency will be responsible for mailing applicable Notices.
- j. The Website must be responsive in design and able to function on desktops, tablets, and mobile web browsers and platforms, including compatibility with Edge, Chrome, Safari, Firefox, and all current browsers on Microsoft (Windows), Google (Chrome, Android), and Apple operating systems, and future web browsers and platforms that may become available.

Training Requirements. CivicPlus, LLC, shall provide a quarterly training session open to all Governmental Agencies that have issued executed a Participation Agreement. As part of this training, CivicPlus, LLC, shall provide updates regarding CivicPlus, LLC,'s product road map, new features, and functionalities. The quarterly training date shall be announced no less than thirty (30) days before the training date. The training(s) may be held at a location within Palm Beach County or online, as designated by CivicPlus, LLC, subject to County approval.

Project Schedule; Go-Live Date. CivicPlus, LLC, shall complete all Website design, configuration, testing, and other required preparatory activity to enable Governmental Agencies access to the Website for the publication of Notices no later than 60 days after the execution of the first Participation Agreement under this Agreement.

Contractor Support.

- a. CivicPlus, LLC, will use commercially reasonable efforts to perform the Services in a manner consistent with applicable industry standards, including maintaining Services availability 24 hours a day, 7 days a week. Governmental Agency will have 24/7 access to the online CivicPlus Help Center (civicplus.help) to review use articles, software best practices, receive maintenance release notes, as well as submit and monitor omni-channel support tickets and access solution specific support contact methods (<https://www.civicplus.help/hc/en-us/requests/new>).
- b. CivicPlus, LLC, provides live support engineers based in the domestic United States to respond to basic questions concerning use and configuration, to diagnose software code-related errors, and proactively identify potential systems issues. CivicPlus, LLC,'s support engineers serve a preliminary function in the agile development process and escalate defects to software developers or architects for remediation. For security purposes,

CivicPlus, LLC's support engineers are not permitted to modify user accounts, and permissions nor distribute access outside of accounts established by means of a support interaction for testing. Governmental Agency delegated Users may receive tutorials and guidance on account modifications but will perform the action themselves.

- c. CivicPlus, LLC's support hours span between the hours of 7 am to 7 pm CST, but may vary by product. Governmental Agency will have 24/7 access to the online CivicPlus Help Center ([civicplus.help](https://www.civicplus.help)) to obtain each product's support hours, review use articles, software best practices, receive maintenance release notes, as well as submit and monitor omni-channel support tickets and access solution specific support contact methods (<https://www.civicplus.help/hc/en-us/requests/new>). After-hours support is available by toll-free phone call only. Non-emergency support requested outside of support hours will be subject to additional fees, such fees will be quoted to Governmental Agency at the time of the request and will be subject to Governmental Agency acceptance and invoiced the next business day following the non-emergency support. CivicPlus, LLC, shall have the sole discretion to determine whether support requests qualify as an emergency, exceed reasonable use or are outside the scope of services outlined in any Order.
- d. If a reported problem cannot be solved during the first support interaction, Governmental Agency will be provided a ticket number that will be used as communication method throughout ticket escalation until a solution is provided. Support service does not include support for errors caused by third party products or applications for which CivicPlus, LLC, is not responsible.

Warranty. CivicPlus, LLC, warrants that the Services and Website will perform substantially in accordance with CivicPlus, LLC's documentation and marketing proposals, and free of any material defect. CivicPlus, LLC, warrants to the Governmental Agency that, upon notice given to CivicPlus, LLC, of any defect in design or fault or improper workmanship, CivicPlus, LLC, will remedy any such defect. CivicPlus, LLC, makes no warranty regarding, and will have no responsibility for, any claim arising out of: (i) a modification of the Services made by anyone other than CivicPlus, LLC, even in a situation where CivicPlus, LLC, approves of such modification in writing; or (ii) use of the Services in combination with a third-party service, web hosting service, or server not authorized by CivicPlus, LLC.



**Exhibit B  
Rates**

The following rates apply to all Orders issued pursuant to this Agreement:

	One-Time Implementation	Annual - Year 1	TOTAL - Year 1
Tier 5: Palm Beach County	\$2,000	\$18,000	\$20,000
Tier 4: Municipality with Population = 90,000 or greater	\$2,000	\$8,000	\$10,000
Tier 3: Municipality with Population = 40,000 - 89,999	\$2,000	\$7,000	\$9,000
Tier 2: Municipality with Population = 10,000 - 39,999	\$2,000	\$6,000	\$8,000
Tier 1: Municipality with Population = 9,999 or fewer	\$2,000	\$5,000	\$7,000
Tier 0: Special District/Non-Municipal/Constitutional Officer	\$2,000	\$5,000	\$7,000

Early Adopter Incentive. Governmental Agencies that execute a Participation Agreement and an Order prior to December 31, 2023, will receive a 100% waiver of one-time implementation fees.

Annual Price Adjustment. The Annual Rates shown in this Exhibit B will increase by 3% annually, beginning on the first anniversary of the Effective Date of this Agreement and each anniversary thereafter.

\*Year 1 means the time period from the Effective Date of this Agreement and continuing for a period of twelve months. Governmental Agencies will be charged the then-current Annual Rate effective as of the date of their Order and each anniversary thereof.

**Exhibit C**  
**Minimum Insurance Requirements**

**ARTICLE - INSURANCE REQUIREMENTS**

The CONTRACTOR shall maintain at its sole expense, in force and effect, at all times during the term of this Contract, at least the insurance coverage and limits (including endorsements) as described herein. Failure to maintain the required insurance shall be considered default of the Contract. The requirements contained herein, as well as COUNTY's review or acceptance of insurance maintained by the CONTRACTOR, are not intended to, and shall not in any manner limit or qualify the liabilities and obligations assumed by the CONTRACTOR under the Contract. The CONTRACTOR agrees to notify the COUNTY at least ten (10) days prior to cancellation, non-renewal or material change to the required insurance coverage. Where the policy allows, coverage and endorsements shall apply on a primary basis and non-contributory basis.

- A. **Commercial General Liability**: The CONTRACTOR shall maintain Commercial General Liability insurance at a limit of liability not less than \$1,000,000 combined single limit for property damage and bodily injury each occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

Additional Insured Endorsement: The Commercial General Liability policy shall be endorsed to include "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents" as an Additional Insured. A copy of the endorsement shall be provided to COUNTY upon request.

- B. **Business Auto Liability**: The CONTRACTOR shall maintain Business Auto Liability insurance at a limit of liability not less than \$500,000 combined single limit for property damage and bodily injury each accident. This requirement may be satisfied by amendment to the Commercial General Liability policy.
- C. **Workers' Compensation Insurance & Employer's Liability**: The CONTRACTOR shall maintain Workers' Compensation & Employer's Liability in accordance with Chapter 440 of the Florida Statutes.
- D. **Cyber Liability/Technology Errors & Omissions**: CONTRACTOR shall maintain Technology Errors & Omissions, or equivalent insurance with coverage for cyber liability and security breach with a limit of liability not less than \$1,000,000 per occurrence, and \$2,000,000 per aggregate. The Parties hereby acknowledge and agree CONTRACTOR shall not be switched to a "Claims-made" basis during the term of this Agreement. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims - made" form.
- E. **Waiver of Subrogation**: Except where prohibited by law, the CONTRACTOR hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required

policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then the CONTRACTOR shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy that includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should the CONTRACTOR enter into such an agreement on a pre-loss basis.

- F. **Certificate(s) of Insurance**: On execution of this contract, renewal, within forty-eight (48) hours of a request by COUNTY, and prior to the expiration of any of the required coverage throughout the term of this Contract, the CONTRACTOR shall deliver to COUNTY, a signed Certificate(s) of Insurance evidencing at least the insurance coverage required by this Contract. The Certificate shall be issued to:

Palm Beach County Board of County Commissioners,

And may be addressed:

c/o Department

Using the address as indicated in the "Notices" article or another address on agreement of the parties.

- G. **Right to Revise or Reject**: COUNTY, by and through its Risk Management Department, reserves the right to reject, review, and, or modify any required insurance, including limits, coverage, or endorsements, throughout the term of this Contract.

**Exhibit D**  
Governmental Agency Order  
CivicPlus, LLC Publicly Accessible Website Agreement

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This Order is between Palm Beach County ("Governmental Agency") and CivicPlus, LLC ("Contractor" or "CivicPlus") pursuant to CivicPlus, LLC's Agreement with Palm Beach County. CivicPlus, LLC, affirms that the representations and warranties in the Agreement are true and correct as of the date this Order is executed by CivicPlus, LLC. In the event of any inconsistency between this Order and the Agreement, the provisions of the Agreement shall govern and control.

**Services to be provided pursuant to this Order:**

**[COMPOSE SIMPLE SUMMARY INCLUDING GO-LIVE DATE]**

The time period for this Order, unless otherwise extended or terminated by either party, is as follows: \_\_\_\_\_.

The total fee for this Order is as follows: \$[ \_\_\_\_\_ ] ("Total Fee"), which is based on the Rates set forth in Exhibit B of the Agreement. The Total Fee shall be invoiced upon complete execution of this Order.

Governmental Agency shall pay CivicPlus, LLC, within forty-five (45) days after receipt of CivicPlus, LLC's proper invoice.

**Additional Terms:**

- a. **Form of Notice.** Governmental Agency shall comply with all applicable requirements, obligations, duties, and procedures set forth in Chapter 50, Florida Statutes ("Notice Requirements"), as may be amended from time to time, relating to any Publications published on the Website. Governmental Agency will be solely responsible for compliance with the Notice Requirements.
- b. **Sovereign Immunity.** Except to the extent sovereign immunity may be deemed waived by entering into this Order, nothing herein is intended to serve as a waiver of sovereign immunity by Governmental Agency nor shall anything included herein be construed as consent by Governmental Agency to be sued by a third party in any matter arising out of this Order.
- c. **Notices.** Any Notices shall be provided in accordance with the "Notices" section of the Agreement at the address for CivicPlus, LLC, listed in the Agreement and the address for Governmental Agency listed in the Participation Agreement.
- d. **Public Records.** The provisions of Section 119.0701 are hereby incorporated as if fully set forth herein. Governmental Agency's public records custodian is as follows:  
\_\_\_\_\_.

Limitation of Liability.

a. CivicPlus' liability arising out of or related to this Order, will not exceed \$300,000, excluding any indemnification obligations set forth in Article 7 of the Agreement.

b. In no event will CivicPlus be liable to Governmental Agency for any consequential, indirect, special, incidental, or punitive damages arising out of or related to this Order.

c. The liabilities limited by Sections (a) and (b) above apply: (a) to liability for negligence; (b) regardless of the form of action, whether in contract, tort, strict product liability, or otherwise; (c) even if Governmental Agency is advised in advance of the possibility of the damages in question and even if such damages were foreseeable; and (d) even if Governmental Agency's remedies fail of their essential purposes. If applicable law limits the application of the provisions of this Limitation of Liability section, CivicPlus' liability will be limited to the maximum extent permissible.

d. Notwithstanding the foregoing, CivicPlus' liability arising out of or related to this Order for the gross negligence of CivicPlus shall not exceed the insurance limits available to CivicPlus at the time such claim is made.

Warranties and Disclaimer.

a. Each person signing this Order, represents and warrants that they are duly authorized and have legal capacity to execute and bind the respective party to the terms and conditions of this Order. Each party represents and warrants to the other that the execution and delivery of the Order and the performance of such Party's obligations thereunder have been duly authorized and that this Order is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

b. CivicPlus warrants that the Services will perform substantially in accordance with the Agreement, documentation, and marketing proposals, and free of any material defect. CivicPlus warrants to the Governmental Agency that, upon notice given to CivicPlus of any defect in design or fault or improper workmanship, CivicPlus will remedy any such defect. CivicPlus makes no warranty regarding, and will have no responsibility for, any claim arising out of: (i) a modification of the Services made by anyone other than CivicPlus, even in a situation where CivicPlus approves of such modification in writing; or (ii) use of the Services in combination with a third-party service, web hosting service, or server not authorized by CivicPlus.

c. EXCEPT FOR THE EXPRESS WARRANTIES IN THE AGREEMENT AND THIS ORDER, CIVICPLUS HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM A PRIOR COURSE OF DEALING.

d. EACH PROVISION OF THIS ORDER THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS ORDER BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY CIVICPLUS TO GOVERNMENTAL AGENCY AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS ORDER.

Ownership and Content Responsibility.

a. Intellectual Property in the software or other original works created by or licensed to CivicPlus, including all software source code, documents, and materials used in the Services

("CivicPlus Property") will remain the property of CivicPlus. CivicPlus Property specifically excludes content provided by the Governmental Agency ("Governmental Agency Content").

Governmental Agency shall not (i) license, sublicense, sell, resell, reproduce, transfer, assign, distribute or otherwise commercially exploit or make available to any third party any CivicPlus Property in any way, except as specifically provided in the applicable Order; (ii) adapt, alter, modify, or make derivative works based upon any CivicPlus Property; (iii) link to the CivicPlus Property software, including "framing" or "mirroring" any CivicPlus Property, in such a manner as to permit administrative access by third party entities other than Governmental Agency (Note: this does not preclude linking to the Website on any Governmental Agency website to permit public access to the Website); (iv) reverse engineer, decompile, disassemble, or otherwise attempt to obtain the software source code to all or any portion of the Services; or (v) access any CivicPlus Property in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions, or graphics of any CivicPlus Property, or (c) copy any ideas, features, functions, or graphics of any CivicPlus Property. The CivicPlus name, the CivicPlus logo, and the product and module names associated with any CivicPlus Property are trademarks of CivicPlus, and no right or license is granted to use them outside of the licenses set forth in this Order.

b. Provided Governmental Agency complies with the terms and conditions herein, CivicPlus hereby grants Governmental Agency a limited, nontransferable, nonexclusive, license to access and use the CivicPlus Property associated with any valid and effective Order, for the term of the respective Order.

c. All CivicPlus helpful information and user's guides for the Services ("Documentation") are maintained and updated electronically by CivicPlus and can be accessed through the CivicPlus "Help Center." CivicPlus does not provide paper copies of its Documentation. Governmental Agency and its Users are granted a limited license to access Documentation, download, and copy the Documentation as needed. Governmental Agency shall not make derivatives of the Documentation.

d. CivicPlus in its sole discretion, may utilize all comments and suggestions, whether written or oral, furnished by Governmental Agency to CivicPlus in connection with its access to and use of the Services (all reports, comments and suggestions provided by Governmental Agency hereunder constitute, collectively, the "Feedback"). Governmental Agency hereby grants to CivicPlus a worldwide, non-exclusive, irrevocable, perpetual, royalty-free right and license to incorporate the Feedback in the CivicPlus products and services.

e. Upon completion of the Initial Implementation and go-live date, Governmental Agency will assume full responsibility for Governmental Agency Content maintenance and administration. Governmental Agency, not CivicPlus, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Governmental Agency Content. Governmental Agency hereby grants CivicPlus a worldwide, non-exclusive right and license to reproduce, distribute and display the Governmental Agency Content as necessary to provide the Services. Governmental Agency represents and warrants that Governmental Agency owns all Governmental Agency Content or that Governmental Agency has permission from the rightful owner to use each of the elements of Governmental Agency Content; and that Governmental Agency has all rights necessary for CivicPlus to use the Governmental Agency Content in connection with providing the Services.

f. At any time during the term of the applicable Order, Governmental Agency will have the ability to download the Governmental Agency Content and export the Governmental

Agency data through the Services. Governmental Agency may request CivicPlus to perform the export of Governmental Agency data and provide the Governmental Agency data to Governmental Agency in a commonly used format at any time, for a fee to be quoted at time of request and approved by Governmental Agency. Upon termination of the applicable Order for any reason, whether or not Governmental Agency has retrieved or requested the Governmental Agency data, CivicPlus reserves the right to permanently and definitively delete the Governmental Agency Content and Governmental Agency data held in the Services thirty (30) days following termination of the applicable Order. During the thirty (30) day period following termination of the Order, regardless of the reason for its termination, Governmental Agency will not have access to the Services.

#### Responsibilities of the Parties.

a. CivicPlus will not be liable for any failure of performance that is caused by or the result of any act or omission by Governmental Agency or any entity employed/contracted on the Governmental Agency's behalf.

b. Governmental Agency is responsible for all activity that occurs under Governmental Agency's accounts by or on behalf of Governmental Agency. Governmental Agency agrees to (a) be solely responsible for all designated and authorized individuals chosen by Governmental Agency ("User") activity, which must be in accordance with this Order; (b) be solely responsible for Governmental Agency content and data; (c) obtain and maintain during the term all necessary consents, agreements and approvals from end-users, individuals, or any other third parties for all actual or intended uses of information, data, or other content Governmental Agency will use in connection with the Services; (d) use commercially reasonable efforts to prevent unauthorized access to, or use of, any User's log-in information and the Services, and notify CivicPlus promptly of any known unauthorized access or use of the foregoing; and (e) use the Services only in accordance with applicable laws and regulations.

c. The Parties shall comply with all applicable local, state, and federal laws, treaties, regulations, and conventions in connection with its use and provision of any of the Services or CivicPlus Property.

d. CivicPlus shall not be responsible for any act or omission of any third-party vendor or service provider that Governmental Agency has selected to integrate any of its Services with.

e. Governmental Agency's use of the Services is subject to the Acceptable Use Policy set forth at <https://www.civicoptimize.civicplus.help/hc/en-us/articles/360046849654-Acceptable-Use-Policy>.

#### Data Security.

a. CivicPlus shall, at all times, comply with the terms and conditions of its Privacy Policy set forth at <https://www.civicplus.com/privacy-policy>. CivicPlus will maintain commercially reasonable administrative, physical, and technical safeguards designed to protect the security and confidentiality of Governmental Agency data. Except (a) in order to provide the Services; (b) to prevent or address service or technical problems in connection with support matters; (c) as expressly permitted in writing by Governmental Agency; or (d) in compliance with our Privacy Policy, CivicPlus will not modify Governmental Agency data or disclose Governmental Agency data, unless specifically directed by Governmental Agency or compelled by law.



Notwithstanding the foregoing, CivicPlus reserves the right to delete known malicious accounts without Governmental Agency authorization.

b. Governmental Agency acknowledges and agrees that CivicPlus utilizes third-party service providers to host and provide the Services and store Governmental Agency data and the protection of such data will be in accordance with such third party's safeguards for the protection and the security and confidentiality of Governmental Agency's data.

c. CivicPlus may offer Governmental Agency the ability to use third-party applications in combination with the Services. Any such third-party application will be subject to acceptance by Governmental Agency. In connection with any such third-party application agreed to by Governmental Agency, Governmental Agency acknowledges and agrees that CivicPlus may allow the third-party providers access to Governmental Agency data as required for the interoperation of such third-party application with the Services. The use of a third-party application with the Services may also require Governmental Agency to agree to a separate agreement or terms and conditions with the provider of the third-party application, which will govern Governmental Agency's use of such third-party application provided that in no event shall any such separate agreement modify or prevail over any conflicting term in this Agreement.

d. In the event of a security breach at the sole fault of the negligence, malicious actions, omissions, or misconduct of CivicPlus, CivicPlus, as the data custodian, will comply will all remediation efforts as required by applicable federal and state law.

*(Signatures appear on the following page.)*

IN WITNESS WHEREOF, the Parties hereto have made and executed this Order, effective as of the date the last party signs this Order.

GOVERNMENTAL AGENCY NAME

ATTEST:

\_\_\_\_\_  
Purchasing Director

\_\_\_\_\_  
Print Name

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

I HEREBY CERTIFY that I have approved this Order as to form and legal sufficiency subject to execution by the Parties:

\_\_\_\_\_  
Senior Assistant County Attorney

**Contractor**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Print/Type Name

**Exhibit E**  
**Form Participation Agreement for Publication of Legal Notices**  
**on County Designated Publicly Accessible Website**

This Form Participation Agreement (“Participation Agreement”) is made and entered into by and between Palm Beach County, a political subdivision of the State of Florida (“County”), and \_\_\_\_\_, a local government existing under the laws of the State of Florida (“Local Government”) (each a “Party,” and collectively the “Parties”).

**RECITALS**

A. During the 2022 legislative session, the Florida Legislature enacted House Bill 7049, which created Section 50.0311, Florida Statutes.

B. Effective January 1, 2023, Section 50.0311, Florida Statutes, authorizes a local governmental agency to publish legal notices under specified conditions on a publicly accessible website, owned or designated by the applicable county, instead of in a print newspaper.

C. Local Government represents that it is a governmental agency as defined in Section 50.0311, Florida Statutes. Local Government desires to utilize County’s designated publicly accessible website for certain required notices and advertisements.

D. Pursuant to Section 50.0311, Florida Statutes, County designated CivicPlus, LLC (“Website”) as County’s publicly accessible website for publication of notices and advertisements (“Publications”).

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The truth and accuracy of each clause set forth above is acknowledged by the Parties.
2. Designation of Website. County has entered into an agreement with Website (“Website Contract”) for Publications. At any time, upon at least ninety (90) days’ prior written notice to Local Government in accordance with the Notices section of this Participation Agreement, County may designate a different entity as County’s publicly accessible website pursuant to Section 50.0311, Florida Statutes. Any such new designation shall be automatically effective upon the date stated in County’s notice without the need for an amendment to this Participation Agreement, and upon the effective date the new website shall be the “Website” for purposes of this Participation Agreement.
3. Utilization of Website. Local Government may utilize the Website for its Publications if and to the extent it elects to do so. Nothing in this Participation Agreement obligates Local Government to utilize the Website for any Publication. However, any utilization of Website by

Local Government for Publications pursuant to Section 50.0311, Florida Statutes, shall be obtained exclusively through the Website Contract and not through any other contract or procurement method. Local Government agrees that no other website is County's designated publicly accessible website, and Local Government agrees it will not take any action to challenge or otherwise attempt to disqualify the designation of Website (or any substitute website pursuant to Section 2 above) as the properly designated website of County pursuant to Section 50.0311, Florida Statutes.

4. Term. The term of this Participation Agreement shall commence upon the date it is fully executed by the Parties ("Effective Date") and shall continue until terminated by either Party as otherwise provided herein.

5. Compliance with Notice Requirements. For the duration of this Participation Agreement, Local Government shall comply with all applicable requirements, obligations, duties, and procedures set forth in Chapter 50, Florida Statutes ("Notice Requirements"), as may be amended from time to time, relating to any Publications published on the Website. County shall have no responsibility for ensuring that Local Government, the Website, or the Publications comply with the Notice Requirements or any other applicable law, rule, or regulation.

6. County Actions are Ministerial. Local Government acknowledges that any and all Publications of Local Government are prepared by Local Government and not by County, and that any and all actions of County in conjunction with or relating to the designation of the Website for use by Local Government are, and shall be construed at all times as, purely ministerial acts.

7. Costs and Payment. Local Government is solely responsible for the timely payment of all fees and costs associated with its Publications and use of the Website. Local Government shall utilize the Website Contract to obtain from Website any applicable services Local Government requires relating to Publications and shall pay Website directly for all such services provided in connection with Publications. Additionally, Local Government shall be solely responsible for payment of any and all mailing costs or other costs associated with the Publications or otherwise incurred relating to the Publications pursuant to Chapter 50, Florida Statutes, including without limitation Section 50.0311(6), Florida Statutes. County shall not be responsible for any fees or costs associated with: (a) use of the Website by Local Government; (b) any Publication; or (c) compliance with Chapter 50, Florida Statutes. Local Government recognizes and agrees that if Local Government fails to timely pay Website, Website may terminate Local Government's access to the Website, and County shall have no liability to Local Government for such termination or lack of access.

8. Sovereign Immunity. Except to the extent sovereign immunity may be deemed waived by entering into this Participation Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by either Party nor shall anything included herein be construed as consent by either Party to be sued by a third party in any matter arising out of this Participation Agreement.

9. Indemnification. Local Government shall indemnify and hold harmless County and all of County's current, past, and future officers, agents, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Participation Agreement, and caused or alleged to be caused, in whole or in part, by any breach of this Participation Agreement by Local Government, or any intentional, reckless, or negligent act or omission of Local Government, its officers, employees, or agents, arising from, relating to, or in connection with this Participation Agreement or any Publication. The obligations of this section shall survive the expiration or earlier termination of this Participation Agreement.

10. Termination. Either Party may terminate this Participation Agreement without cause upon at least ninety (90) days' prior written notice to the other Party. This Participation Agreement may also be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within thirty (30) days after receipt of written notice from the aggrieved Party identifying the breach. In addition, if the publication of electronic notices is determined to be illegal by a court of competent jurisdiction, or if the Florida Legislature modifies Florida law to prohibit utilization of County's designated publicly accessible website for Publications, this Participation Agreement will be deemed automatically terminated upon such finding becoming final or such law becoming effective, as applicable.

11. Notices. In order for a notice to a Party to be effective under this Participation Agreement, notice must be sent via U.S. first-class mail, with a contemporaneous copy sent via e-mail, to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR COUNTY:

Palm Beach County Purchasing Department  
Attn: Purchasing Director  
50 South Military Trail  
West Palm Beach, Florida 33415

FOR LOCAL GOVERNMENT:

Board of County Commissioners,  
Palm Beach County  
Information Systems Services  
Attn: Chief Information Officer  
301 North Olive Avenue, 8<sup>th</sup> Floor  
West Palm Beach, Florida 33401

12. Prior Agreements. This Participation Agreement represents the final and complete understanding of the Parties regarding the subject matter of this Participation Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All

commitments, agreements, and understandings of the Parties concerning the subject matter of this Participation Agreement are contained herein.

13. Assignment. Neither this Participation Agreement nor any term or provision hereof or right hereunder shall be assignable by either Party without the prior written consent of the other Party.

14. Interpretation. The headings contained in this Participation Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Participation Agreement. All personal pronouns used in this Participation Agreement shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein" refer to this Participation Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Participation Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article.

15. Third-Party Beneficiaries. Neither Local Government nor County intends to directly or substantially benefit a third party by this Participation Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Participation Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Participation Agreement.

16. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Participation Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Participation Agreement shall be in the state courts of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida. If any claim arising from, related to, or in connection with this Participation Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court, or the United States Bankruptcy Court, for the Southern District of Florida. **EACH PARTY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS PARTICIPATION AGREEMENT.**

17. Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Participation Agreement and executed on behalf of County and Local Government, respectively, by persons authorized to execute same on their behalf.

18. Representation of Authority. Each individual executing this Participation Agreement on behalf of a Party represents and warrants that they are, on the date they sign this Participation Agreement, duly authorized by all necessary and appropriate action to execute this Participation Agreement on behalf of such Party and that they do so with full legal authority.

19. Counterparts and Multiple Originals. This Participation Agreement may be executed in multiple originals, and may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Participation Agreement.

20. Materiality and Waiver or Breach. Each requirement, duty, and obligation set forth herein was bargained for at arm's-length. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Participation Agreement, and each is, therefore, a material term. Any Party's failure to enforce any provision of this Participation Agreement shall not be deemed a waiver of such provision or modification of this Participation Agreement. A waiver of any breach of a provision of this Participation Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Participation Agreement.

21. Compliance with Laws. Each Party shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Participation Agreement.

(Remainder of this page intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Participation Agreement: PALM BEACH COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Administrator, authorized to execute same by Board action on the \_\_\_\_\_ of \_\_\_\_\_, 2023, and Local Government, signing by and through its \_\_\_\_\_, duly authorized to execute same.

**COUNTY**

PALM BEACH COUNTY, by and through its Board of County Commissioners

By: \_\_\_\_\_  
Purchasing Director

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Approved as to form by  
Palm Beach County  
Attorney  
301 North Olive Avenue, Suite 601  
West Palm Beach, Florida 33401  
561.355.2225

By \_\_\_\_\_  
Anne Helfant (Date)  
Senior Assistant County Attorney

By \_\_\_\_\_  
Archie Satchell (Date)  
Chief Information Officer

SRW  
Notice Website Form Participation Agreement



**FORM PARTICIPATION AGREEMENT FOR PUBLICATION OF LEGAL NOTICES  
ON COUNTY DESIGNATED PUBLICLY ACCESSIBLE WEBSITE**

**LOCAL GOVERNMENT**

LOCAL GOVERNMENT NAME

By: \_\_\_\_\_  
Purchasing Director

\_\_\_\_\_  
Print Name

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

I HEREBY CERTIFY that I have approved this Participation Agreement as to form and legal sufficiency subject to execution by the Parties:

\_\_\_\_\_  
County Attorney

**Exhibit F**  
**ETS Security Requirements – Low Risk**

Solicitation Title:	CivicOptimize Publicly Access Website Designation
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Definitions.

“Equipment” means the hardware being provided by CivicPlus, LLC, under the Agreement.

“Software” means software provided or licensed by CivicPlus, LLC, pursuant to the Agreement or an Order, including software-as-a-service (“SaaS”) products.

“CivicPlus, LLC, Platform” means the web-based platform on which CivicPlus, LLC, provides any SaaS or hosting Services under the Agreement or an Order, including any system or other solution that stores, hosts, or transmits County or Governmental Agency data.

All other capitalized terms not expressly defined within this exhibit shall retain the meaning ascribed to such terms in the Agreement (and if not so defined, then the plain language meaning appropriate to the context in which it is used).

Software Installed in County’s Network. To the extent CivicPlus, LLC, provides any Software to be installed in County’s network, CivicPlus, LLC, must:

- (a) advise County of all versions of any third-party software (e.g., Java, Adobe Reader/Flash, Silverlight) to be installed and support updates for critical vulnerabilities discovered in applicable third-party or open source software;
- (b) ensure that the Software is developed based on industry standards and best practices, including following secure programming techniques and incorporating security throughout the Software-development life cycle;
- (c) develop and maintain the Software to operate on County-supported and approved operating systems and firmware versions;
- (d) mitigate critical or high risk vulnerabilities (as defined by Common Vulnerability and Exposures (CVE) scoring system) to the Software or CivicPlus, LLC, platform within 30 days after patch release, notifying County of proposed mitigation steps to be taken and timeline for resolution if CivicPlus, LLC, is unable to apply a patch to remedy the vulnerability;
- (e) ensure the Software provides for role-based access controls and runs with least privilege access, enables auditing by default for any privileged access or changes, and supports electronic delivery of digitally signed upgrades from CivicPlus, LLC, or the third-party licensor’s website;
- (f) ensure the Software is not within three (3) years from its end of life date and provide County with end-of-life-schedules for all applicable Software;
- (g) support encryption using at a minimum Advanced Encryption Standard 256-bit encryption keys (“AES-256”) or current industry security standards, whichever is higher, for confidential data at rest and use transport layer security (TLS) 1.2 or

- current industry standards, whichever is higher, for data in motion; and
- (h) upon request by County or Governmental Agency, provide an attestation letter identifying date of the most recent security vulnerability testing performed and any vulnerabilities identified and mitigated (must be dated within six (6) months after any major release).

Equipment Leased or Purchased from Contractor. To the extent CivicPlus, LLC, is the Original Equipment Manufacturer (OEM) or an authorized reseller for the OEM for any Equipment provided under this Agreement or an Order, CivicPlus, LLC, must:

- (a) ensure that physical security features to prevent tampering are included in any Equipment provided to County or Governmental Agency and ensure, at a minimum, industry-standard security measures are followed during the manufacture of the Equipment;
- (b) ensure any Equipment provided does not contain any embedded remote-control features unless approved in writing by County's Contract Administrator or Governmental Agency's Contract Manager, as applicable, and disclose any default accounts or backdoors that exist for access to County or Governmental Agency's network;
- (c) shall supply a patch, firmware update, or workaround approved in writing by County's Contract Administrator or Governmental Agency's Contract Manager, as applicable, within thirty (30) days after identification of a new critical or high security vulnerability and notify County or Governmental Agency of proposed mitigation steps taken;
- (d) develop and maintain Equipment to interface with County-supported or Governmental Agency-supported and approved operating systems and firmware versions;
- (e) upon request by County or Governmental Agency, make available any required certifications as may be applicable per compliance and regulatory requirements (e.g., Common Criteria, Federal Information Processing Standard 140);
- (f) ensure the Equipment is not within three (3) years from its end-of-life date at the time of delivery and provide County with end-of-life-schedules for all applicable Equipment;
- (g) (for OEMs only) support electronic delivery of digitally signed upgrades of any applicable Equipment firmware from CivicPlus, LLC,'s or the original Equipment manufacturer's website; and
- (h) (for OEMs only) upon request by County or Governmental Agency, provide an attestation letter identifying date of the most recent security vulnerability testing performed and any vulnerabilities identified and mitigated (must be dated within six (6) months after any major release).

SaaS or Hosting Services. CivicPlus, LLC, must use reasonable efforts to immediately notify County and the applicable Governmental Agency of any information security breach or unauthorized access or modification of County or Governmental Agency data.

**Exhibit G**  
**Form Proof of Publication**

STATE OF FLORIDA  
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared (*name*), who on oath states that he or she is of Palm Beach County, Florida; that the attached copy of advertisement being a (*insert description*) in the matter of (*insert caption*) in the (*insert court*) Court, was published on the publicly accessible website of Palm Beach County, Florida, or in a newspaper by print in the issues of (*insert info*) on (*insert date*).

Affiant further says that the website or newspaper complies with all legal requirements for publication in Chapter 50, Florida Statutes.

Sworn to and subscribed before me by means of  physical presence or  online notarization, this \_\_\_ day of \_\_\_\_\_, 202\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
Commission Expires:  
(*date or apply stamp*)

\_\_\_\_ Personally Known

OR

\_\_\_\_ Produced Identification

Type of Identification Produced: \_\_\_\_\_



**Publication of Advertisements and Public Notices on a Public Accessible Website  
(F.S. 50.0311) - Effective January 1, 2023**

**Summary of the Law**

The Florida legislature enacted legislation, allowing governmental agencies to utilize "publicly accessible websites of the county" to post legally required advertisements under the following conditions:

- If the cost of publishing advertisements and public notices on such websites is less than the cost of publishing advertisements and public notices in a newspaper;
- A governmental agency that uses a website to publish legally required advertisements and public notices shall provide notice at least once per year in a newspaper of general circulation or another publication that is mailed or delivered to all residents and property owners throughout the government's jurisdiction, indicating that property owners and residents may receive legally required advertisements and public notices from the governmental agency by first-class mail or e-mail;
- The governmental agency shall maintain a registry of names, addresses and e-mail addresses of property owners and residents who have requested in writing that they receive legally required advertisements and public notices from the governmental agency by first-class mail or e-mail.
- The Website:
  - Must be in a searchable form;
  - Must indicate date on which the advertisement of public notice was first published on the website;
  - Link to advertisements and public notices published on a publicly accessible website shall be conspicuously placed on the website's homepage or on a page accessible through a direct link from the homepage.
- A governmental agency that has a governmental access channel authorized under s. 610.109 may also include on its governmental access channel a summary of all advertisements and public notices that are published on a publicly accessible website.

**The Review Process**

The Palm Beach County League of Cities, represented by the Executive Director, met with the County Administrator to express a desire from various Cities to recommend to the County to implement the publicly accessible website. The Administrator directed staff to do further research and present a recommendation.

A cross-departmental team was convened to consider this legislation and its effect on County operations. Several questions were posed to the County Attorney's Office and their opinion is provided below.

*Prepared by Dorritt Miller  
Updated July 27, 2023*

**1. What are the “public notices” that can be published on the website?**

The statute provides that any “legally required advertisement” or “public notice” may be published on the county’s website. This is broad enough to encompass notices required by our local ordinances, even if not required by statutes. See § 50.0311(3) (“A governmental agency may use the publicly accessible website of the county in which it lies to publish legally required advertisements and public notices if the cost of publishing advertisements and public notices on such website is less than the cost of publishing advertisements and public notices in a newspaper.”) (emphasis added). § 50.0311(3).

Thus, any legally required notice – by statute, ordinance, or otherwise – can be published on a webpage in accordance with 50.0311. Anything that in the past was published in the newspaper can now be published on the webpage.

**2. Who are “governmental agencies” who can post their notices with the County?**

The county, cities, school board, and special districts are clearly referenced and fall within the scope of the statute.

It is unclear whether constitutional officers fall within the scope of the statute, as they are not specifically referenced. However, if we take into consideration 50.011(2) – which is broader in scope than the current statute – there is an argument that perhaps constitutional officers may indeed utilize the process because certain constitutional officers are referenced therein. See Fla. Stat. 50.011(2) (“Whenever by statute an official or legal advertisement or a publication or notice in a newspaper or on a governmental agency website has been or is directed or permitted . . . for any purpose, **including all legal notices and advertisements of sheriffs and tax collectors**, such legislation, whether existing or repealed, means either of the following: [newspaper] **or a publication on a publicly accessible website under s. 50.0311.**” (emphasis added).

Therefore, the county, cities, the school board, and special districts are within the scope of the statute. It is unclear whether constitutional officers may utilize the process, so it is recommended that interlocal agreements with appropriate limitations of liability and indemnification provisions be obtained for all.

**3. Is the County “required” to allow other governmental agencies access to our webpage?**

The statute says that a governmental agency “may use the publicly accessible website of the county.” 50.0311(3). A “publicly accessible website” means a county’s official website or other private website designated by the county for the publication of legal notices [.]” 50.0311(2) (emphasis added). Therefore, if the county designates a website for legal notices, then governmental agencies “may use the publicly accessible website of the county.” Interlocal agreements with appropriate liability provisions are strongly encouraged.

**4. Can there be a link on PBC website that leads to the advertisements of the governmental agencies?**

The link must be on the county’s website’s homepage. There should also be a link on each governmental agency’s homepage. § 50.0311(7).

**5. With regard to the annual database, is the county responsible for the database or is each governmental agency?**

The requirement to provide annual notice in the newspaper falls on the individual governmental agency responsible for the advertisements (e.g., cities), not the county as the owner of the website. Similarly, the requirement to maintain the registry of residents who have requested to receive notices via mail or email would fall on the individual governmental agencies. The county has these obligations as to the county's public notices.

**Conclusion**

The cross-departmental team is in favor of the County utilizing a publicly accessible website. This move will increase efficiencies as staff will have greater control in directly placing public notices on the website and, revisions, if required, will be very timely. Also, the cost would be lowered (fiscal year 2021/22: Advertising and Legal Ad., was \$238k).

**Implementation Option**

Two hosting options were considered;

- (a) in-house developed, hosted and maintained by PBC ISS department and accessible to other governmental agencies or
- (b) outsourced through a third party.

It was concluded that the outsourced option was the most efficient and cost effective approach.

**Outsourced – third party site option**

CivicPlus, LLC. offers this service and has already entered into an agreement with Broward County to host the public notice website. This outsourced model provides for:

- Palm Beach County enters into an agreement with CivicPlus to host the website;
- Palm Beach County negotiates the rates to be paid by each participating entity;
- Each participating entity enters into an inter-local agreement with the County;
- CivicPlus issues an "Order" outlining the rates and terms to the participating entity, only after a fully executed inter-local agreement has been delivered to CivicPlus;
- Each participant entity makes direct payments to CivicPlus;
- Each participating entity will be wholly responsible for entering and managing their public notices;
- CivicPlus will train all participating agencies

**Cost:**

One-time Implementation - \$2,000 each participant

Annual rate Yr. 1

Palm Beach County - \$18,000

Special districts; non-municipalities/constitutional  
offices and municipalities with pop. under 10K \$ 5,000

**Municipalities:**

Population : 10,000 -39,999 \$ 6,000

Population: 40,000- 89,999 \$ 7,000

Population: 90K or greater \$ 8,000

\*Annual price increase of 3%