



**FIRST AMENDMENT TO SYSTEM AND SERVICES AGREEMENT BETWEEN
BROWARD COUNTY AND DESTINY SOFTWARE, INC.**

This First Amendment (“First Amendment”) is entered into by and between Broward County, a political subdivision of the State of Florida (“County”), and Destiny Software, Inc., a Washington corporation registered to transact business in the State of Florida (“Provider”) (collectively referred to as the “Parties”).

RECITALS

A. The Parties entered into an agreement between Broward County and Destiny Software, Inc., dated September 26, 2017 (“Agreement”), to provide ongoing support and maintenance for the AgendaQuick software currently installed and implemented at the County.

B. The Agreement provided for a one (1) year Initial Term and four (4) optional one-year extension terms. Each of the four (4) optional extension terms were effectively exercised by County. The Parties now desire to amend the Agreement to provide for up to five (5) additional one-year optional renewals and to increase not-to-exceed amounts, such that the Agreement may be extended through September 30, 2027.

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

1. The above Recitals are true and correct and are incorporated herein by reference. All capitalized terms not expressly defined within this First Amendment shall retain the meaning ascribed to such terms in the Agreement.

2. Amendments to the Agreement made pursuant to this First Amendment are indicated herein by use of strikethroughs to indicate deletions and bold/underlining to indicate additions. Except as modified herein, all remaining terms and conditions of the Agreement shall remain in full force and effect.

3. Section 4.1 of the Agreement is amended as follows:

4.1 Term. The Agreement shall become effective on ~~the date it is fully executed by the Parties~~ **October 1, 2017** (the “Effective Date”). The initial term of the Agreement shall be for a period of one (1) year from the Effective Date (the “Initial Term”).

4. Section 4.2 of the Agreement is amended as follows:

4.2 Extensions. County ~~shall have the option to renew~~ **may extend** this Agreement for ~~four (4)~~ **up to nine (9)** additional one (1) year terms (**each an “Extension Term”**) by sending notice of renewal to Provider at least thirty (30) days prior to the expiration of the then-current term. The Purchasing Director is authorized to exercise ~~this renewal~~

~~option~~ **any Extension Term(s), and notice of same to Provider only by electronic mail shall be effective and sufficient.** In the event that unusual or exceptional circumstances, as determined in the sole discretion of the Purchasing Director, render the exercise of an extension not practicable or if no extension is available, and expiration of this Agreement would result in a gap in the provision of services necessary for the ongoing operations of the County, then this Agreement may be extended on the same terms and conditions by the Purchasing Director for period(s) not to exceed six (6) months in the aggregate, provided that any such extension is within the authority of the Purchasing Director or otherwise authorized by the Board.

5. Section 5.1 of the Agreement is amended as follows:

5.1 For the duration of the Agreement, County will pay Provider in accordance with Exhibit B up to the following maximum amount(s):

| Services/Goods | Term | Not-To-Exceed Amount |
|---|--|--|
| Support and Maintenance Services per Exhibit C | Initial Term | \$4,800 |
| Optional renewal <u>Extension</u> Term(s) | Each one (1) year renewal <u>Extension</u> Term | \$4,800/Year 2 \$5,200/Year 3 & 4 \$5,700/Years 5-8 <u>\$6,200/Years 9 & 10</u> |
| | Total for all renewal <u>Extension</u> Term(s) | \$20,900 <u>\$50,400</u> |
| Optional Services | Duration of the Agreement (inclusive of any renewals <u>Extension Term(s)</u> | \$10,000 |
| TOTAL NOT TO EXCEED | | \$35,700 <u>\$65,200</u> |

6. New Sections 14.30, 14.31, 14.32, and 14.33 are added to the Agreement as follows (bold/underlining omitted):

14.30 Verification of Employment Eligibility. Provider represents that Provider 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 Provider violates this section, County may immediately terminate this Agreement for cause and Provider shall be liable for all costs incurred by County due to the termination.

14.31 Prohibited Telecommunications Equipment. Provider represents and certifies that Provider 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. Provider represents and certifies that Provider and all subcontractors shall not provide or use such covered telecommunications equipment, system, or services during the Term.

14.32 Criminal History Screening Practices. If this Agreement is subject to the requirements of Section 26-125(d) of the Code, Provider represents and certifies that Provider will comply with Section 26-125(d) of the Code for the duration of the Term.

14.33 Polystyrene Food Service Articles. Provider 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, Broward County Administrative Code.

7. Exhibit B of the Agreement is replaced in its entirety with the Exhibit B attached hereto, and all references to Exhibit B in the Agreement shall refer to the Exhibit B attached hereto.

8. By January 1 of each year, Provider must submit, and cause each of its subcontractors to submit, an Ownership Disclosure Form (or such other form or information designated by County), available at <https://www.broward.org/econdev/Pages/forms.aspx>, identifying the ownership of the entity and indicating whether the entity is majority-owned by persons fitting specified classifications.

9. In the event of any conflict or ambiguity between this First Amendment and the Agreement, the Parties agree that this First Amendment shall control. The Agreement, as amended herein by this First Amendment, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Agreement as amended in this First Amendment. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

10. Preparation of this First Amendment has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

11. Provider acknowledges that through the date this First Amendment is executed by Provider, Provider has no claims or disputes against County with respect to any of the matters covered by the Agreement.

12. The effective date of this First Amendment shall be the date of complete execution by the Parties.

13. This First Amendment 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.

(The remainder of this page is blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this First Amendment: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 2022, and Destiny Software, Inc., signing by and through its _____, duly authorized to execute same.

COUNTY


ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners


By: _____
Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

By: _____
Mayor
____ day of _____, 2022

Approved as to form by
Andrew J. Meyers
Broward County Attorney
115 South Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

By  _____
Janette M. Smith (Date)
Assistant County Attorney

Digitally signed by Janette M. Smith
Reason: Approved as to legal form
Location: County Attorney's Office
Date: 2022.08.26 13:59:01 -04'00'

By  _____
Rene D. Harrod (Date)
Deputy County Attorney

Digitally signed by Rene D.
Harrod
Reason: Approved as to form
Date: 2022.08.26 09:20:13 -04'00'

JMS
2022-08-05 – Destiny Software, Inc. First Amendment
08/05/2022

FIRST AMENDMENT TO AGREEMENT BETWEEN
BROWARD COUNTY AND DESTINY SOFTWARE, INC.

PROVIDER

Dean
Dickinson
By: _____
Authorized Signer

Digitally signed by Dean Dickinson
DN: cn=Dean Dickinson, o=Destiny
Software, Inc., ou,
email=dean@destinysoftwareinc.com,
c=US
Date: 2022.08.25 08:42:03 -07'00'

Dean Dickinson - Vice President
Print Name and Title

29 day of August, 2022

**Exhibit B
Payment Schedule**

The rates specified below shall be in effect for the entire term of the Agreement, including any renewal term, unless the contrary is expressly stated below. Any goods or services required under this Agreement for which no specific fee or cost is expressly stated in this Payment Schedule shall be deemed to be included, at no extra cost, within the costs and fees expressly provided for in this Exhibit B.

Support and Maintenance Services Fees (per Exhibit C)

| Unit or Term | Invoicing | Annual Fee |
|--------------|---------------------|------------|
| Year 1 | Annually in advance | \$4,800 |
| Year 2 | Annually in advance | \$4,800 |
| Year 3 | Annually in advance | \$5,200 |
| Year 4 | Annually in advance | \$5,200 |
| Year 5 | Annually in advance | \$5,700 |
| Year 6 | Annually in advance | \$5,700 |
| Year 7 | Annually in advance | \$5,700 |
| Year 8 | Annually in advance | \$5,700 |
| Year 9 | Annually in advance | \$6,200 |
| Year 10 | Annually in advance | \$6,200 |

Any travel expenses or fees incurred by Provider under this Agreement shall be the sole responsibility of Provider, unless otherwise expressly stated in this Agreement or applicable Work Authorization.

Optional Services or Additional Software/Licenses

| Description | Unit/Term | Invoicing | Fee |
|--|-----------|--------------------|------------|
| Consulting (including Transition & Disentanglement Services) | Hourly | Monthly in arrears | \$110/hour |
| Additional Training | Hourly | Monthly in arrears | \$75/hour |