

## AMENDMENT TO THE AGREEMENT

THIS AGREEMENT AMENDMENT (this "Amendment") is agreed to this [REDACTED] day of [REDACTED], 2020 ("Effective Date") by and between CivicPlus, LLC, d/b/a CivicPlus ("CivicPlus") and City of Ann Arbor, MI ("Client") (jointly, "Parties") and shall be effective as of the date set forth above.

### RECITALS

WHEREAS, Client entered into the Online Registration and Servicing Agreement dated November 2016 for the use of the software registration system, with Cirillian, Inc. dba Rec1 (the "Agreement");

WHEREAS, CivicPlus acquired Rec1 and all customers, contracts and obligations on December 30, 2016, and has since been providing all services under the Agreement to Client;

WHEREAS, thus far CivicPlus has maintained the Agreement's original payment terms, yet the cost of providing the services, maintenance, upgrades and service providers associated with the software has increased; and

WHEREAS, CivicPlus and Client have agreed to alter certain terms as set forth in the Agreement by this written instrument duly executed by the Parties, the modification of terms as specified in this Amendment.

NOW, THEREFORE, the Parties hereto mutually agree for good and valuable consideration, the receipt and adequacy of which is hereby agreed as follows:

1. "CivicPlus" shall hereby replace any mention of "Rec1" throughout the Agreement.
2. CivicPlus is shifting Client from a monthly billing cycle to an annual licensing subscription fee, to be paid once annually, on each anniversary of the Agreement signing date, as set forth in this Amendment.
3. Client's Annual Service Fee shall be in the amount of \$32,388, to be billed on the Agreement's next renewal term following the Effective Date of this Amendment.
4. The Annual Service Fee, which includes without limitation hosting, support and maintenance services, shall be subject to a 5% annual increase beginning in the third year of service following this Amendment.
5. Section 5(a) and 5(b) of the Agreement are deleted; the Annual Service Fee noted in this Amendment shall replace the fees described in those sections.
6. Section 18 is deleted and replaced with the following:

"From the Effective Date, CivicPlus shall maintain technology/professional liability insurance policy with a minimum limit of \$3,000,000 per aggregate, including coverage for:

- i. Network security/data protection liability insurance (also called "cyber liability") covering liabilities for financial loss resulting or arising from acts, errors, or omissions, in rendering technology/professional services;
- ii. Violation or infringement of any right of privacy, including breach of security and breach of security/privacy laws, rules or regulations globally, now or hereinafter constituted or amended;
- iii. Data theft, damage, unauthorized disclosure, destruction, or corruption, including without limitation, unauthorized access, unauthorized use, identity theft, theft of personally identifiable information or confidential corporate information in whatever form, transmission of a computer virus or other type of malicious code; and participation in a denial of service attack on third party computer systems;
- iv. Loss or denial of service;
- v. Cyber liability insurance policy with coverage for cardholder data breaches (including coverage for PCI DSS fines and penalty); and
- v. No cyber terrorism exclusion;"

7. Section 21 is added to read:

"Where applicable with respect to the CivicPlus Software that takes or processes card payment data, CivicPlus is solely responsible for the security of cardholder data (as that term is defined in the Payment Card Industry Data Security Standards ("PCI DSS")) that CivicPlus possesses, including functions relating to storing, processing, and transmitting of the cardholder data. CivicPlus affirms that, as of the date of this Amendment, Civic Plus complies with



**City of Ann Arbor, MI**

applicable PCI DSS requirements. Upon Client's request, CivicPlus shall supply, at its sole cost and expense, the current status of its PCI DSS compliance program in the form of an Attestation of Compliance, and in the event of any change in its status, will comply with applicable notice requirements. If CivicPlus discovers that unauthorized access has been gained to Client's cardholder data, CivicPlus, then subject to applicable data privacy laws as the data custodian, shall notify Client as promptly as commercially practicable under the circumstances and, if required as the data custodian, shall notify affected individuals/entities in accordance with applicable law. CivicPlus shall also reasonably cooperate with Client and relevant governmental authorities in investigating such incident. CivicPlus shall provide Client with a detailed description of the incident, the cardholder data accessed, and the identity of affected individuals. CivicPlus shall investigate the incident and, if the results of such investigation evidence CivicPlus is at fault for the incident, shall take appropriate reasonable steps to identify, mitigate, and prevent the effects of such unauthorized access, including notification of any affected consumers as required under applicable law.

- 8. CivicPlus reserves the right (but not the obligation) to audit Client once every 12 months to determine Client's actual transaction processing volume ("Actual Processing Volume"). In the event Client's Actual Processing Volume increases from prior year's Actual Processing Volume, CivicPlus will notify client within 30 days of the audit of the Actual Processing Volume and the applicable increase in the Annual Fees resulting from such Actual Processing Volume. The increase in the Annual Fees shall be implemented the first of the month following the notice.
- 9. Notwithstanding anything to the Contrary in the Agreement, Client: shall have no duty to indemnify or hold CivicPlus harmless; and acknowledges that this agreement is non-exclusive.
- 10. The parties agree that signatures on this Amendment may be delivered electronically in lieu of an original signature and agree to treat electronic signatures as original signatures that bind them to this Amendment. This Amendment may be executed and delivered by facsimile and upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.
- 11. All other terms and conditions of the Agreement, not modified herein, shall remain in full force and effect.

**Acceptance**

We, the undersigned, agreeing to the conditions specified in this Amendment, understand and authorize the provision of services outlined in this Amendment.

<b>Client</b>	<b>CivicPlus</b>
By: _____ Christopher Taylor, Mayor DATE: _____	By: _____
By: _____ Jacqueline Beaudry, City Clerk	Name: _____
By: _____ Derek Delacourt, Service Area Admin.	Title: _____
By: _____ Tom Crawford, Interim City Administrator	Date: _____
By: _____ Stephen Postema, City Attorney	