



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.25.

5/23/2023

Subject:

Approval, Re: Memorandum of Understanding between Brevard County and external governmental agencies to publish legal notices and advertisements on the Brevard County website.

Fiscal Impact:

\$125 per legal advertisement to cover costs, including manpower, software and invoicing.

Dept/Office:

Communications / SCGTV

Requested Action:

It requested that the Board approve the Memorandum of Understanding and authorize the County Manager to execute the Memorandum of Understanding on behalf of the Board of County Commissioners.

Summary Explanation and Background:

Staff has prepared a Memorandum of Understanding between Brevard County and external governmental agencies (municipalities, Charter Offices, School Board, etc) to publish legal notices and advertisements on the Brevard County website as allowed and authorized under HB7049. The Memorandum of Understanding establishes terms and a rate structure for public notifications, and authorizes the County Manager to sign these MOUs on behalf of the Board of County Commissioners.

Clerk to the Board Instructions:



May 24, 2023

MEMORANDUM

TO: Don Walker, Communications and Space Coast Government Television Director

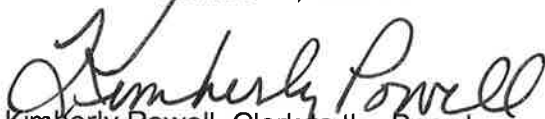
RE: Item F.25., Approval of the Memorandum of Understanding (MOU) between Brevard County and External Governmental Agencies to Publish Legal Notices and Advertisements on the Brevard County Website

The Board of County Commissioners, in regular session on May 23, 2023, approved the MOU between Brevard County and external governmental agencies to publish legal notices and advertisements on the Brevard County website; and authorized the County Manager to execute the MOU on behalf of the Board of County Commissioners.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/sm

cc: County Manager
Finance
Budget

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor:		2. Amount:	
3. Fund/Account #:		4. Department Name:	
5. Contract Description: Memorandum of Understanding - Posting of Legal Notices on Publicly Accessible Website			
6. Contract Monitor: Don Walker		8. Contract Type:	
7. Dept/Office Director: Don Walker		INTERGOVT/LOCAL ☐	
9. Type of Procurement: Select from pull down:		☐	

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

APPROVAL

COUNTY OFFICE	YES	NO	SIGNATURE
User Agency	☒	☐	
Purchasing	☐	☐	
Risk Management	☐	☐	
County Attorney	☐	☐	

SECTION III - REVIEW AND APPROVAL TO EXECUTE

APPROVAL

COUNTY OFFICE	YES	NO	SIGNATURE
User Agency	☒	☐	Don Walker Digitally signed by Don Walker Date: 2023.05.16 15:19:14 -04'00'
Purchasing	☐	☐	
Risk Management	☒	☐	<i>Summer K. Wyllie-Vill</i> Digitally signed by Wyllie-Vill, Summer Date: 2023.05.17 15:49:24 -04'00'
County Attorney	☒	☐	Esseesse, Alexander Digitally signed by Esseesse, Alexander Date: 2023.05.16 15:23:44 -04'00'

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ☒
Department Information	☐
Department	☐
Program	☐
Contact Name	☐
Cost Center, Fund, and G/L Account	☐
Vendor Information (SAP Vendor #)	☐
Contract Status, Title, Type, and Amount	☐
Storage Location (SAP)	☐
Contract Approval Date, Effective Date, and Expiration Date	☐
Contract Absolute End Date (No Additional Renewals/Extensions)	☐
Material Group	☐
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	☐
"Right To Audit" Clause Included in Contract	☐
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	☐

MEMORANDUM OF UNDERSTANDING
BETWEEN BREVARD COUNTY, FLORIDA, AND

POSTING OF LEGAL NOTICES ON PUBLICLY ACCESSIBLE WEBSITE

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into the date of last signature below, by and between BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (the "County") and _____

_____ (the
"Governmental Agency").

RECITALS:

WHEREAS, Governor DeSantis signed into law Chapter 2022-103, Laws of Florida, which, among other things, allows certain legal notices to be published on a "publicly accessible website"; and

WHEREAS, in order for such notices to be published online, a "publicly accessible website" either means the County's official website or other private website designated by the County for the publication of legal notices that is accessible via the internet; and

WHEREAS, the County has determined that a designated private website is the most effective and efficient way of allowing such notices to be posted in accordance with Chapter 50, Florida Statutes (the "Website"); and

WHEREAS, the Governmental Agency understands that it is solely responsible for determining which legal notices must legally be published and what timeframes apply to such postings; and

WHEREAS, the parties find that entering into this agreement serves a public purpose and will allow citizens to more easily search for legal notices, while providing a wider range of readership to the public thereby allowing for greater public participation.

NOW, THEREFORE, the parties hereto mutually agree to the following terms and conditions:

1. **RECITALS.** The above recitals are true and correct, and incorporated herein by this reference.

2. **TERM.** The term of this MOU shall run from the date of last signature below through January 1st, 2024 (the "Initial Term"). Following the Initial Term, this MOU shall automatically renew for consecutive one (1) year periods, unless either party provides the other with a termination notice in writing at least thirty (30) days in advance.

3. **OBLIGATIONS OF GOVERNMENTAL AGENCY.**

- A. The Governmental Agency is responsible for ensuring its legal notices are received by the County at least two (2) business days in advance of the time needed for publication. For example, if the notice must be published on Friday, then the notice must be received by the County by 9:00 am on Wednesday.
- B. The Governmental Agency has determined that posting notices on the Website is a cost-effective alternative to posting notices in the newspaper.
- C. Ensure the appropriate link to the Website is available on the Governmental Agency's webpage.
- D. Designate a liaison to monitor user access management. The Governmental Agency will need to identify personnel that are authorized to submit notices onto the Website. It is the Governmental Agency's sole responsibility to ensure this list is up-to-date to ensure no unauthorized notices are published.
- E. The Governmental Agency is responsible for all issues relating to first-class mail, including, but not limited to, mailing requested notices and maintaining any applicable mailing registry.
- F. Include any necessary link(s) on the Governmental Agency's homepage to ensure the Website is accessible.

4. **OBLIGATIONS OF THE COUNTY.**

- A. Once the Governmental Agency has prepared and submitted the notice for posting, the County will post the notice on the Website.

5. **COSTS.** The Governmental Agency shall be responsible for making the following payments:

- A. A flat fee of \$125.00 shall be assessed for **each** notice that is posted on the Website during the Initial Term. This amount is subject to change for each additional renewal year. The County will provide the Governmental Agency written notice at least fifteen (15) days in advance of such price adjustment, which shall take effect on the anniversary of each renewal period.
- B. Affidavits are included in the \$125.00 fee. The Website host will provide any necessary affidavits.
- C. Updates to any notice prior to publication can be made by the Governmental Agency at no additional charge. However, once posted, any updates to a published notice will be considered a new notice and will cost \$125.00. If a posting error is caused by the County, then the cost to publish shall be waived.
- D. Invoices will be sent by the County every three (3) months and must be paid within 45 days.
- E. The flat fee of \$125.00 will be reviewed by the County prior to January 1st of each renewal year. The County shall provide notice of any cost adjustments in writing to the Governmental Agency.

6. **LIABILITY; INSURANCE.**

- A. Neither party, nor its respective officers, employees, or agents, shall assume any liability for the acts, omissions, or negligence of the other party, or the other party's officers, employees, or agents.
- B. The parties agree that nothing contained herein shall be construed or interpreted as a waiver of sovereign immunity or statutory limitations of liability under Section 768.28, Florida Statutes, by either party.
- C. Each party shall acquire and maintain throughout the term of this MOU such liability insurance as required to respond to its obligations under this MOU and Section 768.28, Florida Statutes.

7. **ASSIGNMENT.** Neither party shall enter into any agreement with third parties to delegate any or all of the rights or responsibilities in this MOU without the prior written approval of the other party.

8. **ATTORNEY'S FEES; GOVERNING LAW; VENUE; WAIVER OF JURY TRIAL.**
The parties agree:

A. In the event of any legal action between the parties arising out of this MOU, each party shall bear its own attorney's fees and costs.

B. This MOU, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

C. Venue for any legal action brought by either party to interpret, construe, or enforce this MOU shall be in a court of competent jurisdiction in and for Brevard County, Florida.

D. EACH PARTY AGREES TO WAIVE ITS RIGHT TO A JURY TRIAL AND ANY TRIAL SHALL BE NON-JURY.

9. **ENTIRETY OF AGREEMENT.** This MOU, including any attached exhibits, riders, and/or addenda, sets forth the entire agreement between the parties. This MOU shall not be modified unless it is in writing and executed by the authorized representative of each respective party.

10. **TERMINATION.** This MOU may be terminated at any time with at least thirty (30) days advanced written notice ("Termination Period"). The existing notices that have been paid for shall remain available on the Website for public viewing.

11. **NOTICE.** Notice under this MOU shall be by written notice and sent via certified mail to the following representatives:

FOR THE COUNTY

Brevard County Manager
2725 Judge Fran Jamieson Way
Suite C-301
Viera, FL 32940

FOR THE GOVERNMENTAL AGENCY

[INSERT CONTACT AND ADDRESS]

12. **INTERPRETATION.** Both Parties have had the opportunity to consult with legal counsel and to participate in the drafting of this MOU. Consequently, this MOU

shall not be more strictly or more harshly construed against either party as the drafter.

13. **SEVERABILITY.** If a court of competent jurisdiction finds any sentence, provision, paragraph, or section of this MOU void or unenforceable, the remaining parts of this MOU shall continue to full force and effect as though such sentence, provision, paragraph, section had been omitted from this MOU. The Parties shall use their best efforts to rehabilitate and replace the unenforceable provision or provisions of this MOU with lawful terms and conditions approximating the original intent of the Parties.
14. **FURTHER ASSURANCES.** Each Party, without further consideration, shall take such action, execute and deliver such documents as the other may reasonably request to correct or effectuate the purpose of this MOU.
15. **HEADINGS AND CAPTIONS.** All headings and captions herein contained are for the convenience of the parties, and may not be used to define, interpret, or construe any provision of this MOU.
16. **AUDIT RIGHTS AND PUBLIC RECORDS.** Both parties agree and understand to comply with the requirements of Chapter 119, Florida Statutes, pertaining to public records.
17. **COUNTERPARTS AND AUTHORITY.** This MOU may be executed in counterparts all of which, taken together, shall constitute one and the same MOU. Each party represents that the person signing on its behalf has been fully authorized by all required action to sign on behalf of and to bind that party to the obligations stated herein.

IN WITNESS WHEREOF, the parties, through their authorized representatives,
have hereunto set their hands and seals on the day and year last written below.

WITNESS

BREVARD COUNTY, FLORIDA

By: _____
Frank Abbate, County Manager

WITNESS

GOVERNMENTAL AGENCY

By: _____
Name, Title