

**CITY OF ROUND ROCK AGREEMENT FOR
SOFTWARE SUBSCRIPTION SERVICES RELATED
TO LEGISLATIVE MANAGEMENT SOFTWARE
AND VIDEO STREAMING SERVICES
WITH
GRANICUS, LLC**

THE STATE OF TEXAS

§

CITY OF ROUND ROCK

§

KNOW ALL BY THESE PRESENTS:

§

COUNTY OF WILLIAMSON

§

COUNTY OF TRAVIS

§

THIS AGREEMENT for software subscription services for legislative management software and related services, and for video streaming and related services (the "Agreement"), is made by and between the CITY OF ROUND ROCK, TEXAS, a home-rule municipality with offices located at 221 East Main Street, Round Rock, TX 78664-5299 (the "City") and GRANICUS, LLC., with offices located at 408 Saint Peter Street, Suite 600, Saint Paul, MN 55102 (the "Consultant").

RECITALS:

WHEREAS, Consultant is in the business of developing, licensing, and offering for sale various streaming media solutions specializing in Internet broadcasting, and related support services; and

WHEREAS, City has determined that there is a continued need for the delineated goods and services; and

WHEREAS, City now desires to contract for such professional services with Consultant; and

WHEREAS, the parties desire to enter into this Agreement to set forth in writing their respective rights, duties, and obligations hereunder;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed between the parties as follows:

1.0 EFFECTIVE DATE, DURATION, AND TERM

This Agreement shall be effective on the date it has been signed by each party hereto, and shall remain in full force and effect unless and until it expires by operation of the term stated

herein, or until terminated or extended as provided herein.

The term of this Agreement shall be for thirty-six (36) months commencing December 22, 2021 through December 21, 2024.

2.0 SCOPE OF SERVICES

For purposes of this Agreement, Consultant has issued its “Proposal” for the goods and services required, and such Proposal is designated Exhibit “A” and is attached hereto and incorporated herein by reference for all purposes. This Agreement shall evidence the entire understanding and agreement between the parties and shall supersede any prior proposals, correspondence or discussions. Consultant shall satisfactorily provide all goods, services and deliverables described under the referenced Proposal within the contract term specified herein. Consultant’s undertakings shall be limited to performing services for City and/or advising City concerning those matters on which Consultant has been specifically engaged. Consultant shall perform its services in accordance with this Agreement and in accordance with the referenced Proposal. Consultant shall perform its services in a professional and workmanlike manner.

Consultant shall not undertake work that is beyond the Proposal set forth in Exhibit “A” and herein. However, either party may make written requests for changes to the scope of provided goods and services. To be effective, such change must be negotiated and agreed to in all relevant details, and must be embodied in a valid Supplemental Agreement as described herein.

3.0 LIMITATION TO SCOPE OF SERVICES

Consultant and City agree that the services to be performed and the related goods to be furnished are enumerated in Exhibit “A” and herein, and may not be changed without the express written agreement of the parties as set forth in Section 5.0. Notwithstanding anything herein to the contrary, the parties agree that City retains absolute discretion and authority for all funding decisions, such to be based solely on criteria accepted by City which may be influenced by but not be dependent on Consultant’s work.

4.0 CONTRACT AMOUNT

In consideration for the professional consulting services to be performed by Consultant, and for the related goods, City agrees to pay Consultant an amount not-to-exceed **One Hundred Ten Thousand Seventy-Eight and 17/100 Dollars (\$110,078.17)** for the term of this Agreement. Such payment shall be for goods and services and deliverables as delineated herein and in attached exhibits. The delineated amount is inclusive of reimbursables and expenses such as travel, onsite visit costs, shipping, and the like.

5.0 SUPPLEMENTAL AGREEMENT

The terms of this Agreement may be modified by written Supplemental Agreement hereto, duly authorized by City Council or by the City Manager, if City determines that there has

been a significant change in (1) the scope, complexity, or character of the services to be performed; or (2) the duration of the work. Any such Supplemental Agreement must be executed by both parties within the period specified as the term of this Agreement. Consultant shall not perform any work or incur any additional costs prior to the execution, by both parties, of such Supplemental Agreement. Consultant shall make no claim for extra work done or materials furnished unless and until there is full execution of any Supplemental Agreement, and City shall not be responsible for actions by Consultant nor for any costs incurred by Consultant relating to additional work not directly authorized by Supplemental Agreement.

6.0 INVOICE REQUIREMENTS; TERMS OF PAYMENT

Invoices: To receive payment, Consultant shall prepare and submit detailed progress invoices to City, in accordance with the delineation contained herein, for services rendered. Such invoices for professional services shall track the referenced Proposal, and shall detail the services performed, along with documentation for each service performed. Payment to Consultant shall be made on the basis of the invoices submitted by Consultant and approved by City. Such invoices shall conform to the schedule of services and costs in connection therewith.

Should additional backup material be requested by City relative to service deliverables, Consultant shall comply promptly. In this regard, should City determine it necessary, during the term of this Agreement, Consultants shall make all records and books relating to this Agreement available to City for inspection and auditing purposes.

Payment of Invoices: City reserves the right to correct any error that may be discovered in any invoice that may have been paid to Consultant and to adjust same to meet the requirements of this Agreement. Following approval of an invoice, City shall endeavor to pay Consultant promptly, but no later than the time period required under the Texas Prompt Payment Act described herein. Under no circumstances shall Consultant be entitled to receive interest on payments which are late because of a good faith dispute between Consultant and City or because of amounts which City has a right to withhold under this Agreement or state law. City shall be responsible for any sales, gross receipts or similar taxes applicable to the services, but not for taxes based upon Consultant's net income.

7.0 NON-APPROPRIATION AND FISCAL FUNDING

This Agreement is a commitment of City's current revenues only. It is understood and agreed that City shall have the right to terminate this Agreement at the end of any City fiscal year if the governing body of City does not appropriate funds sufficient to purchase the services as determined by City's budget for the fiscal year in question. City may affect such termination by giving Consultant a written notice of termination at the end of its then-current fiscal year.

8.0 PAYMENT POLICY

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, any payment to be made by City to Consultant will be made within thirty (30) days of the date City receives goods under this Agreement, the date the performance of the services under this Agreement are

completed, or the date City receives a correct invoice for the goods or services, whichever is later. Consultant may charge interest on an overdue payment at the “rate in effect” on September 1 of the fiscal year in which the payment becomes overdue, in accordance with V.T.C.A., Texas Government Code, Section 2251.025(b). This Prompt Payment Policy does not apply to payments made by City in the event:

- A. There is a bona fide dispute between City and Consultant, a contractor, subcontractor, or supplier about the goods delivered or the service performed that causes the payment to be late; or
- B. There is a bona fide dispute between Consultant and a subcontractor or between a subcontractor and its supplier about the goods delivered or the service performed that causes the payment to be late; or
- C. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or
- D. The invoice is not mailed to City in strict accordance with any instruction on the purchase order relating to the payment.

9.0 TERMINATION; DEFAULT

Termination: It is agreed and understood that either party may terminate this Agreement for convenience, upon ninety (90) days’ written notice to the other party, with the understanding that immediately upon receipt of said notice all work being performed under this Agreement shall cease. Consultant shall invoice City for work satisfactorily completed and shall be compensated in accordance with the terms hereof for work accomplished prior to the receipt of said notice of termination. Consultant shall not be entitled to any lost or anticipated profits for work terminated under this Agreement.

Termination of this Agreement shall extinguish all rights, duties, and obligations of City and the terminated party to fulfill contractual obligations. Termination shall not relieve the terminated party of any obligations or liabilities which occurred prior to termination.

Nothing contained in this section shall require City to pay for any work which it deems unsatisfactory or which is not performed in compliance with the terms of this Agreement.

It is agreed and understood that either party may terminate this Agreement by written notice to the other party if the other party materially breaches this Agreement and fails to cure such breach within thirty (30) days after receipt of such notice, or such other time as agreed to in writing by the parties.

Default: Either party may terminate this Agreement, in whole or in part, for default if the party provides the other party with written notice of such default and the other fails to satisfactorily cure such default within thirty (30) business days of receipt of such notice (or a greater time if agreed upon between the parties).

If default results in termination of this Agreement, then City shall give consideration to the actual costs incurred by Consultant in performing the work to the date of default. The cost of the work that is useable to City, the cost to City of employing another firm to complete the useable work, and other factors will affect the value to City of the work performed at the time of default. Nothing contained in this section shall require Consultant to be responsible for the cost to City to employ another firm to complete usable work. Neither party shall be entitled to any lost or anticipated profits for work terminated for default hereunder.

The termination of this Agreement for default shall extinguish all rights, duties, and obligations of the terminating party and the terminated party to fulfill contractual obligations. Termination under this section shall not relieve the terminated party of any obligations or liabilities which occurred prior to termination.

Nothing contained in this section shall require City to pay for any work which it deems unsatisfactory, or which is not performed in compliance with the terms of this Agreement.

10.0 INDEPENDENT CONTRACTOR STATUS

Consultant is an independent contractor, and is not City's employee. Consultant's employees or subcontractors are not City's employees. This Agreement does not create a partnership, employer-employee, or joint venture relationship. No party has authority to enter into contracts as agent for the other party. Consultant and City agree to the following rights consistent with an independent contractor relationship:

- (1) Consultant has the right to perform services for others during the term hereof.
- (2) Consultant has the sole right to control and direct the means, manner and method by which it performs its services required by this Agreement.
- (3) Consultant has the right to hire assistants as subcontractors, or to use employees to provide the services required by this Agreement.
- (4) Consultant or its employees or subcontractors shall perform services required hereunder, and City shall not hire, supervise, or pay assistants to help Consultant.
- (5) Neither Consultant nor its employees or subcontractors shall receive training from City in skills necessary to perform services required by this Agreement.
- (6) City shall not require Consultant or its employees or subcontractors to devote full time to performing the services required by this Agreement.
- (7) Neither Consultant nor its employees or subcontractors are eligible to participate in any employee pension, health, vacation pay, sick pay, or other fringe benefit plan of City.

11.0 CITY'S RESPONSIBILITIES

Full information: City shall provide full information regarding project requirements. City shall have the responsibility of providing Consultant with such documentation and information as

is reasonably required to enable Consultant to provide the services called for. City shall require its employees and any third parties who are otherwise assisting, advising or representing City to cooperate on a timely basis with Consultant in the provision of its services. Consultant may rely upon written information provided by City and its employees and agents as accurate and complete. Consultant may rely upon any written directives provided by City or its designated representative concerning provision of services as accurate and complete.

Required materials: Consultant's performance requires receipt of all requested information reasonably necessary to provision of services. Consultant agrees, within ten (10) days of the effective date of this Agreement, to provide City with a comprehensive and detailed information request list, if any.

License: Subject to the terms and conditions of this Agreement, Consultant hereby grants to City a non-exclusive, non-transferable right and license to use the Consultant Products for its internal purposes during the Term, subject to any additional rights and restrictions set forth in the applicable Order or Statement of Work (SOW). This grant of rights is not a sale of the Consultant Products. Consultant and its third-party providers reserve all rights not expressly granted to City in this Agreement.

Data Sources: City may only upload data related to individuals that originates with or is owned by City. Data purchased from third parties may not be used with the Consultant Products without Consultant's prior written consent and list cleansing services provided by Consultant for an additional fee. Consultant will not sell, use, or disclose any personal information provided by City for any purpose other than performing services subject to this Agreement.

Passwords: Passwords are not transferable to any third party. City is responsible for keeping all passwords secure and all use of the Consultant Products accessed through City's passwords.

Third Party Contractors: City may permit its third-party contractors to access and use the Consultant Products solely on behalf of, and for the benefit of, City, so long as: (i) contractor agrees to comply fully with this Agreement as if it were City; (ii) City remains responsible for each contractor's compliance with this Agreement and any breach thereof; and (iii) all use of the Consultant Products and any metered or transactions includes licenses and use allocated to contractors. All rights granted to any contractor terminate immediately upon conclusion of the services rendered to City that gives rise to such right. Upon termination of such rights, contractor must immediately cease all use of the Consultant Products, un-install and destroy all confidential or proprietary Consultant information in its possession, and City must certify its compliance with this section in writing upon Consultant's request.

Content: "Content" means text, data, graphics, personal information or any other material: (i) displayed or published on City's website; (ii) provided by City to Consultant to perform services; or (iii) uploaded into Consultant Products for use by City or end users of the Consultant Products. City can only use Consultant Products to share Content that is created by or owned by City and/or Content for affiliated organizations provided that use by City for affiliated organizations is in support only, and not as a primary communication vehicle for other organizations that do not have a separate license to a Consultant Product. Consultant is not responsible for any Content used,

uploaded or migrated by City or any third party.

Advertising: Consultant Products will not be used to promote products or services available for sale through City or any third party without Consultant' prior written consent. Upon Consultant' request, City will provide a copy of any agreement between City and a third party that compensates City for the right to have information included in Content distributed or made available through Consultant Products for Consultant review prior to granting such approval.

Restrictions: City will not:

Use or permit any end user to use the Consultant Products to store or display adult content, promote illegal or immoral activities, send or store infringing, obscene, threatening or unlawful or tortious material or disrupt others use of the Consultant Products, network services or network equipment, including unsolicited advertising or chain letters, propagation of computer worms and viruses, or use of the Consultant Products to make unauthorized entry into any other device accessible via the network or Consultant Products;

Use the Consultant Products as a door or signpost to another server;

Disassemble, decompile, reverse engineer or make derivative works of the Consultant Products;

Rent, lease, lend, or host the Consultant Products to or for any third party, or disclose the Consultant Products to any third party except as otherwise permitted in this Agreement or an Order or SOW;

Use the Consultant Products in violation of any applicable law, rule, or regulation, including violation of laws regarding the processing, use, or disclosure of personal information, or violation of any United States export control or regulation, United States embargo, or denied parties prohibitions; or

Modify, adapt, or use the Consultant Products to develop any software application intended for resale which uses or competes with the Consultant Products in whole or in part.

City Feedback: Consultant may use any suggestion, enhancement request, recommendation, correction or other feedback provided by City relating to the Consultant Products or use thereof without need for permission or consent or the payment of fees or attribution to City.

12.0 CONFIDENTIALITY AND MATERIALS OWNERSHIP

It is expected that one party (Disclosing Party) may disclose to the other party (Receiving Party) certain information which may be considered confidential and/or trade secret information ("Confidential Information"). Confidential Information will include: (i) Consultant' Products; (ii) non-public information if it is clearly and conspicuously marked as "confidential" or with a similar designation at the time of disclosure; (iii) non-public information of the Disclosing Party if it is identified as confidential and/or proprietary before, during, or promptly after presentation or communication; and (iv) any information that should be reasonably understood to be confidential or proprietary to the Receiving Party, given the nature of the information and the context in which disclosed.

Subject to applicable law, each Receiving Party will receive and hold any Confidential Information in strict confidence and will: (a) protect and safeguard the Confidential Information against unauthorized use, publication or disclosure; (b) not reveal, report, publish, disclose, transfer, copy or otherwise use any Confidential Information except as specifically authorized by the Disclosing Party; (c) not use any Confidential Information for any purpose other than in performance of this Agreement; (d) restrict access to Confidential Information to those of its advisors, officers, directors, employees, agents, consultants, contractors and lobbyists who have a need to know, who have been advised of the confidential nature thereof, and who are under express written obligations of confidentiality or under obligations of confidentiality imposed by law or rule; and (e) exercise at least the same standard of care and security to protect the confidentiality of the Confidential Information received by it as it protects its own confidential information, but no less than a reasonable degree of care.

If a Receiving Party is requested or required in a judicial, administrative, or governmental proceeding to disclose any Confidential Information, it will notify the Disclosing Party as promptly as practicable so that the Disclosing Party may seek an appropriate protective order or waiver for that instance, unless such notification is prohibited by law or judicial order.

Exceptions. Confidential Information will not include information which: (i) is or becomes public knowledge through no fault of the Receiving Party; (ii) was in the Receiving Party's possession before receipt from the Disclosing Party; (iii) is rightfully received by the Receiving party from a third party without any duty of confidentiality; (iv) is disclosed by the Disclosing Party without any duty of confidentiality on the third party; (v) is independently developed by the Receiving Party without use or reference to the Disclosing Party's Confidential Information; or (vi) is disclosed with the prior written approval of the Disclosing Party.

Storage and Sending. If Consultant Products will be used to store or send Confidential Information, City will notify Consultant in writing, in advance of the storage or sending. If City provides such notice, City will ensure that Confidential Information is stored behind a secure firewall and that Consultant Products be used only to notify people of updates to the information, but that accessing the Confidential Information is permitted only after authentication and access through the secure firewall managed by City.

Return of Confidential Information. Each Receiving Party will return or destroy the Confidential Information immediately upon written request by the Disclosing Party; provided, however, that each Receiving Party may retain one copy of the Confidential Information in order to comply with applicable laws and the terms of this Agreement, and may retain archival copies in strict confidence in accordance with Receiving Party's standard document retention policies for the duration of any retention requirements.

Disclosing Party may be irreparably damaged if the obligations under this Section 5 are not enforced and as such may not have an adequate remedy in the event of a breach by Receiving Party of its obligations hereunder. The parties agree, therefore, that Disclosing Party is entitled to seek, in addition to other available remedies, an injunction restraining any actual, threatened or further breaches of the Receiving Party's obligations under this Section 5 or any other appropriate equitable order or decree.

The parties recognize and understand that City is subject to the Texas Public Information Act and its duties run in accordance therewith.

13.0 WARRANTIES

Consultant warrants that it has the rights necessary to grant to City the license granted in this Agreement, and that it will perform its obligations in a professional and workmanlike manner in accordance with industry standards.

City represents and warrants that all Content is owned or properly licensed by City for use with the Consultant Products or services provided under this Agreement, and that the Content does not infringe or misappropriate the intellectual property, privacy, moral or other rights of any third party.

Disclaimers: EXCEPT AS EXPRESSLY STATED IN THIS SECTION 14.0, THE CONSULTANT PRODUCTS ARE PROVIDED “AS IS” AND CONSULTANT DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. CONSULTANT DOES NOT WARRANT THAT CONSULTANT PRODUCTS WILL MEET CITY’S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE.

14.0 LIMITATION OF LIABILITY

EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES. EXCEPT FOR LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL CONSULTANT BE LIABLE FOR ANY: (I) SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES; OR (II) LOSS OR DAMAGE TO PROFITS, SALES, BUSINESS, GOODWILL OR ANTICIPATED SAVINGS, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

LIMITATION OF LIABILITY. EXCEPT FOR CITY’S OBLIGATION TO PAY FEES DUE, EACH PARTY’S TOTAL LIABILITY, IN TORT (INCLUDING NEGLIGENCE) CONTRACT OR OTHERWISE RELATING TO THIS AGREEMENT AND ANY ORDER OR SOW HERETO, WILL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED THE FEES PAID BY CITY FOR THE CONSULTANT PRODUCTS DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM. NEITHER PARTY MAY INSTITUTE AN ACTION IN ANY FORM ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION HAS ARISEN.

15.0 INDEMNIFICATION

Indemnification by Consultant. Consultant will defend, indemnify and hold City harmless from and against all losses, liabilities, damages and expenses including reasonable attorney fees (collectively, “Losses”) arising from any claim or suit by an unaffiliated third party that the Consultant Products as delivered to City and when used in accordance with this Agreement and the applicable SOW or Order infringes a valid U.S. copyright or U.S. patent issued as of the date of the applicable Order or SOW (a “Claim”).

Consultant will have control of the defense and reserves the right to settle any Claim. City must notify Consultant promptly of any Claim and provide reasonable cooperation to Consultant, upon Consultant’ request and at Consultant’ cost, to defend such Claim. Consultant will not agree to any settlement which requires acknowledgment of fault or an incurred liability on the part of an indemnified party not otherwise covered by this indemnification without indemnified party’s prior consent. City may elect to participate in the defense of any claim with counsel of its choosing at its own expense.

If the Consultant Products are subject to a claim of infringement or misappropriation, or if Consultant reasonably believes the Consultant Products may be subject to such a Claim, Consultant reserves the right, in its sole discretion, to: (i) replace the affected Consultant Products with non-infringing functional equivalents; (ii) modify the affected Consultant Products to render it non-infringing; or (iii) terminate this Agreement or the applicable Order or SOW with respect to the affected Consultant Product and refund to City any prepaid fees for the then-remaining or unexpired portion of the Order or SOW Term.

Consultant will have no obligation to indemnify, defend, or hold City harmless from any Claim to the extent it is based upon: (i) a modification to the Consultant Product by City (or by anyone under City’s direction or control or using logins or passwords assigned to City); (ii) a modification made by Consultant pursuant to City’s required instructions or specifications or in reliance on materials or information provided by City; (iii) combination with the Consultant Products with non-Consultant software or data; or (iv) City’s use (or use by anyone under City’s direction or control or using logins or passwords assigned to City) of any Consultant Products other than in accordance with this Agreement. This section 8 sets forth City’s sole and exclusive remedy, and Consultant’ entire liability, for any Claim that the Consultant Products or any other materials provided by Consultant violate or infringe upon the rights of any third party.

16.0 ASSIGNMENT AND DELEGATION

The parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Neither party may assign any rights or delegate any duties under this Agreement without the other party’s prior written approval, which approval shall not be unreasonably withheld; provided, however, that either Party may assign this Agreement without the other Party’s consent in the event of any successor or assign that has acquired all, or substantially all, of the assigning Party’s business by means of merger, stock purchase, asset purchase, or otherwise.

17.0 LOCAL, STATE AND FEDERAL TAXES

Consultant shall pay all income taxes, and FICA (Social Security and Medicare taxes) incurred while performing services under this Agreement. City will not do the following:

- (1) Withhold FICA from Consultant's payments or make FICA payments on its behalf;
- (2) Make state and/or federal unemployment compensation contributions on Consultant's behalf; or
- (3) Withhold state or federal income tax from any of Consultant's payments.

If requested, City shall provide Consultant with a certificate from the Texas State Comptroller indicating that City is a non-profit corporation and not subject to State of Texas Sales and Use Tax.

18.0 INSURANCE

Vendor shall meet all City of Round Rock Insurance Requirements attached as Exhibit "B" to this Agreement.

19.0 COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES

A. Consultant, its consultants, agents, employees and subcontractors shall use best efforts to comply with all applicable federal and state laws, the Charter and Ordinances of the City of Round Rock, as amended, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies. Consultant shall further obtain all permits, licenses, trademarks, or copyrights required in the performance of the services contracted for herein, and same shall belong solely to City at the expiration of the term of this Agreement.

B. In accordance with Chapter 2271, Texas Government Code, a governmental entity may not enter into a contract with a company for goods and services unless the contract contains written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of a contract. The signatory executing this Agreement on behalf of Consultant verifies Consultant does not boycott Israel and will not boycott Israel during the term of this Agreement.

C. In accordance with 2274, Texas Government Code, a governmental entity may not enter into a contract with a company with at least ten (10) full-time employees for a value of at least One Hundred Thousand and No/100 Dollars (\$100,000.00) unless the contract has provision in the contract verifying that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The signatory executing this Agreement on behalf of Consultant verifies consultant does nothave a practice,

policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and it will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

D. In accordance with 2274, Texas Government Code, a governmental entity may not enter into a contract with a company with at least ten (10) full-time employees for a value of at least One Hundred Thousand and No/100 Dollars (\$100,000.00) unless the contract has provision in the contract verifying that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of this Agreement. The signatory executing this Agreement on behalf of Consultant verifies consultant does not boycott energy companies, and it will not boycott energy companies during the term of this Agreement.

20.0 FINANCIAL INTEREST PROHIBITED

Consultant covenants and represents that Consultant, its officers, employees, agents, consultants and subcontractors will have no financial interest, direct or indirect, in the purchase or sale of any product, materials or equipment that will be recommended or required hereunder.

21.0 DESIGNATION OF REPRESENTATIVES

The City hereby designates the following representative(s) authorized to act in its behalf with regard to this Agreement:

City Clerk
City of Round Rock
221 East Main Street
Round Rock, Texas 78664

22.0 NOTICES

All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

- (1) When delivered personally to recipient's address as stated herein; or
- (2) Three (3) days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated in this Agreement.

Notice to Consultant:

Granicus, LLC.
408 Saint Peter Street
Saint Paul, MN 55102

Notice to City:

City Manager, City of Round Rock
221 East Main Street
Round Rock, TX 78664

AND TO:

Stephan L. Sheets, City Attorney
309 East Main Street
Round Rock, TX 78664

Nothing contained in this section shall be construed to restrict the transmission of routine communications between representatives of City and Consultant.

23.0 APPLICABLE LAW; ENFORCEMENT AND VENUE

This Agreement shall be enforceable in Round Rock, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of Texas.

24.0 EXCLUSIVE AGREEMENT

The terms and conditions of this Agreement, including exhibits, constitute the entire agreement between the parties and supersede all previous communications, representations, and agreements, either written or oral, with respect to the subject matter hereof. The parties expressly agree that, in the event of any conflict between the terms of this Agreement and any other writing, this Agreement shall prevail. No modifications of this Agreement will be binding on any of the parties unless acknowledged in writing by the duly authorized governing body or representative for each party.

25.0 DISPUTE RESOLUTION

City and Consultant hereby expressly agree that no claims or disputes between the parties arising out of or relating to this Agreement or a breach thereof shall be decided by any arbitration proceeding, including without limitation, any proceeding under the Federal Arbitration Act (9 USC Section 1-14) or any applicable state arbitration statute.

26.0 FORCE MAJEURE

Notwithstanding any other provisions hereof to the contrary, no failure, delay or default in performance of any obligation hereunder shall constitute an event of default or breach of this Agreement, only to the extent that such failure to perform, delay or default arises out of causes beyond control and without the fault or negligence of the party otherwise chargeable with failure, delay or default; including but not limited to acts of God, acts of public enemy, civil war,

insurrection, riots, fires, floods, explosion, theft, earthquakes, natural disasters or other casualties, strikes or other labor troubles, which in any way restrict the performance under this Agreement by the parties.

Consultant shall not be deemed to be in default of its obligations to City if its failure to perform or its substantial delay in performance is due to City's failure to timely provide requested information, data, documentation, or other material necessary for Consultant to perform its obligations hereunder.

27.0 SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion of provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion of provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

28.0 GRATUITIES AND BRIBES

City may, by written notice to Consultant, cancel this Agreement without incurring any liability to Consultant if it is determined by City that gratuities or bribes in the form of entertainment, gifts, or otherwise were offered or given by Consultant or its agents or representatives to any City officer, employee or elected representative with respect to the performance of this Agreement. In addition, Consultant may be subject to penalties stated in Title 8 of the Texas Penal Code.

29.0 RIGHT TO ASSURANCE

Whenever either party to this Agreement, in good faith, has reason to question the other party's intent to perform hereunder, then demand may be made to the other party for written assurance of the intent to perform. In the event that no written assurance is given within the reasonable time specified when demand is made, then and in that event the demanding party may treat such failure as an anticipatory repudiation of this Agreement.

30.0 GENERAL AND MISCELLANEOUS

Section Numbers: The section numbers and headings contained herein are provided for convenience only and shall have no substantive effect on construction of this Agreement.

Waiver: No delay or omission by either party in exercising any right or power shall impair such right or power or be construed to be a waiver. A waiver by either party of any of the covenants to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach or of any other covenant. No waiver of discharge shall be valid unless in writing

and signed by an authorized representative of the party against whom such waiver or discharge is sought to be enforced.

Closed Captioning Services: City and Granicus may agree that closed captioning or transcription services will be provided by a third party under this Agreement. In such case, City expressly understands that the third party is an independent contractor and not an agent or employee of Granicus. Granicus is not liable for acts performed by such independent third party.

Multiple Originals: This Agreement may be executed in multiple counterparts, any one of which shall be considered an original of this document; and all of which, when taken together, shall constitute one and the same instrument. City agrees to provide Consultant with one fully executed original.

IN WITNESS WHEREOF, City and Consultant have executed this Agreement on the dates indicated.

CITY OF ROUND ROCK, TEXAS

By: _____
Printed Name: _____
Title: _____
Date Signed: _____

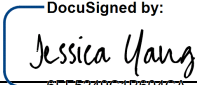
For City, Attest:

By: _____
Meagan Spinks, City Clerk

For City, Approved as to Form:

By: _____
Stephan L. Sheets, City Attorney

GRANICUS, LLC.

By:  _____
Printed Name: Jessica Yang
Title: Senior Manager, Renewals
Date Signed: 12/2/2021



GRANICUS

408 Saint Peter Street, Suite 600
Saint Paul, MN 55102
United States

THIS IS NOT AN INVOICE

Order Form
Prepared for
Round Rock, TX

Granicus Proposal for Round Rock, TX

ORDER DETAILS

Prepared By: Lexi Huhta
Phone:
Email: alexis.huhta@granicus.com
Order #: Q-155248
Prepared On: 09/15/2021
Expires On: 12/21/2021

ORDER TERMS

Currency: USD
Payment Terms: Net 30 (Payments for subscriptions are due at the beginning of the period of performance.)
Current Subscription End Date: 12/21/2021
Initial Order Term End Date: 12/21/2024
Period of Performance: 12/22/2021 - 12/21/2022



PRICING SUMMARY

The pricing and terms within this Proposal are specific to the products and volumes contained within this Proposal.

| Renewing Subscription Fees | | | |
|--|-------------------|---------------|-------------|
| Solution | Billing Frequency | Quantity/Unit | Annual Fee |
| Government Transparency Managed Services Hardware (GT) | Quarterly | 1 Each | \$3,531.00 |
| Open Platform Suite | Quarterly | 1 Each | \$0.00 |
| Government Transparency Suite | Quarterly | 1 Each | \$11,705.80 |
| Legistar | Quarterly | 1 Each | \$19,003.20 |
| SUBTOTAL: | | | \$34,240.00 |



Order Form
Round Rock, TX

FUTURE YEAR PRICING

| Solution(s) | Period of Performance | |
|--|-------------------------|-------------------------|
| | 12/22/2022 - 12/21/2023 | 12/22/2023 - 12/21/2024 |
| Government Transparency Managed Services Hardware (GT) | \$3,778.17 | \$4,042.64 |
| Open Platform Suite | \$0.00 | \$0.00 |
| Government Transparency Suite | \$12,525.21 | \$13,401.97 |
| Legistar | \$20,333.42 | \$21,756.76 |
| SUBTOTAL: | \$36,636.80 | \$39,201.37 |



PRODUCT DESCRIPTIONS

| Solution | Description |
|--|---|
| Government Transparency Managed Services Hardware (GT) | The managed equipment solution offers an encoding appliance that is fully managed and maintained by Granicus. |
| Open Platform Suite | Open Platform is access to MediaManager, upload of archives, ability to post agendas/documents, and index of archives. These are able to be published and accessible through a searchable viewpage. |
| Government Transparency Suite | Government Transparency are the live in-meeting functions. Streaming of an event, pushing of documents, and indexing of events. |
| Legistar | <p>Legistar is a Software-as-a-Service (SaaS) solution that enables government organizations to automate the entire legislative process of the clerk's office. Clerks can leverage Legistar to easily manage the entire legislative process from drafting files, through assignment to various departments, to final approval. Legistar includes:</p> <ul style="list-style-type: none">• Unlimited user accounts• Unlimited meeting bodies and meeting types• Unlimited data storage and retention• Up to one (1) Legistar database• Up to one (1) InSite web portal |



Order Form
Round Rock, TX

TERMS & CONDITIONS

- This quote is exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is the responsibility of Round Rock, TX to provide applicable exemption certificate(s).
- Granicus certifies that it will not sell, retain, use, or disclose any personal information provided by Client for any purpose other than the specific purpose of performing the services outlined within this Agreement.
- Any lapse in payment may result in suspension of service and will require the payment of a setup fee to reinstate the subscription.
- Notwithstanding anything to the contrary, Granicus reserves the right to adjust pricing at any renewal in which the volume has changed from the prior term without regard to the prior term's per-unit pricing.



City of Round Rock Insurance Requirements

1. **INSURANCE:** The Vendor shall procure and maintain at its sole cost and expense for the duration of the agreement or purchase order resulting from a response to the Solicitation/Specification, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work as a result of the solicitation by the successful respondent, its agents, representatives, volunteers, employees or subcontractors.
 - 1.1. Certificates of Insurance and endorsements shall be furnished to the City and approved by the City before work commences.
 - 1.2. The following standard insurance policies shall be required:
 - 1.2.1. General Liability Policy
 - 1.2.2. Automobile Liability Policy
 - 1.2.3. Worker's Compensation Policy
 - 1.3. The following general requirements are applicable to all policies:
 - 1.3.1. Only insurance companies licensed and admitted to do business in the State of Texas shall be accepted.
 - 1.3.2. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
 - 1.3.3. Claims made policies shall not be accepted, except for Professional Liability Insurance.
 - 1.3.4. Upon request, certified copies of all insurance policies shall be furnished to the City.
 - 1.3.5. Policies shall include, but not be limited to, the following minimum limits:
 - 1.3.5.1. Minimum Bodily Injury Limits of \$300,000.00 per occurrence.
 - 1.3.5.2. Property Damage Insurance with minimum limits of \$50,000.00 for each occurrence.
 - 1.3.5.3. Automobile Liability Insurance for all non-owned, and hired vehicles with minimum limits for Bodily Injury of \$100,000.00 each person, and \$300,000.00 for each occurrence, and Property Damage Minimum limits of \$50,000.00 for each occurrence.
 - 1.3.5.4. Statutory Worker's Compensation Insurance and minimum \$100,000.00 Employers Liability Insurance.
 - 1.3.6. Coverage shall be maintained for two years minimum after the termination of the Agreement.
 - 1.4. The City shall be entitled, upon request, and without expense to receive copies of insurance policies and all endorsements thereto and may make reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding either of the parties hereto or the underwriter of any of such policies). Upon such request



by the City, the Vendor shall exercise reasonable efforts to accomplish such changes in policy coverage and shall pay the cost thereof. All insurance and bonds shall meet the requirements of the solicitation specification and the insurance endorsements stated below.

- 1.5. Vendor agrees that with respect to the required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following provisions:
 - 1.5.1. Provide for an additional insurance endorsement clause declaring the Vendor's insurance as primary.
 - 1.5.2. Include the City and its officers, employees, and elected officials as additional insured's,
(as the interest of each insured may appear) as to all applicable coverage.
 - 1.5.3. Reserved.
 - 1.5.4. Remove all language on the certificate of insurance indicating:
 - 1.5.4.1. That the insurance company or agent/broker shall endeavor to notify the City; and,
 - 1.5.4.2. Failure to do so shall impose no obligation of liability of any kind upon the company, its agents, or representatives.
 - 1.5.5. Provide for notice to the City at the addresses listed below by registered mail:
 - 1.5.6. Vendor agrees to waive subrogation against the City, its officers, employees, and elected officials for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance.
 - 1.5.7. Vendor shall notify the City in the event of any change in coverage and shall give such notices not less than thirty days prior notice to the change, which notice shall be accomplished by a replacement Certificate of Insurance.
 - 1.5.8. All notices shall be mailed to the City at the following addresses:

**Assistant City Manager
City of Round Rock
221 East Main
Round Rock, TX 78664-5299**

**City Attorney
City of Round Rock
309 East Main
Round Rock, TX 78664**

2. WORKERS COMPENSATION INSURANCE

- 2.1. Texas Labor Code, Section 406.098 requires workers' compensation insurance coverage for all persons providing services on building or construction projects for a governmental entity.
 - 2.1.1. Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Workers' Compensation Commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or



TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

- 2.1.2. Duration of the project - includes the time from the beginning of the work on the project until the CONTRACTOR'S/person's work on the project has been completed and accepted by the OWNER.
- 2.2. Persons providing services on the project ("subcontractor") in Section 406.096 – includes all persons or entities performing all or part of the services the CONTRACTOR has undertaken to perform on the project, regardless of whether that person contracted directly with the CONTRACTOR and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity, which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- 2.3. The CONTRACTOR shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the CONTRACTOR providing services on the project, for the duration of the project.
- 2.4. The CONTRACTOR must provide a certificate of coverage to the OWNER prior to being awarded the agreement.
- 2.5. If the coverage period shown on the CONTRACTOR'S current certificate of coverage ends during the duration of the project, the CONTRACTOR shall, prior to the end of the coverage period, file a new certificate of coverage with the OWNER showing that coverage has been extended.
- 2.6. The CONTRACTOR shall obtain from each person providing services on a project, and provide to the OWNER:
 - 2.6.1. a certificate of coverage, prior to that person beginning work on the project, so the OWNER will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - 2.6.2. no later than seven (7) calendar days after receipt by the CONTRACTOR, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- 2.7. The CONTRACTOR shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
- 2.8. The CONTRACTOR shall notify the OWNER in writing by certified mail or personal delivery, within ten (10) calendar days after the CONTRACTOR knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.
- 2.9. The CONTRACTOR shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- 2.10. The CONTRACTOR shall contractually require each person with whom it contracts to provide services on a project, to:
 - 2.10.1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements



of Texas Labor Code, Section 401.011(44) for all its employees providing services on the project, for the duration of the project;

- 2.10.2. provide to the CONTRACTOR, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on a project, for the duration of the project;
- 2.10.3. provide the CONTRACTOR, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 2.10.3.1. obtain from each other person with whom it contracts, and provide to the CONTRACTOR:
 - 2.10.3.1.1. a certificate of coverage, prior to the other person beginning work on the project; and
 - 2.10.3.1.2. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project
 - 2.10.3.2. retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;
 - 2.10.3.3. notify the OWNER in writing by certified mail or personal delivery, within ten (10) calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - 2.10.3.4. contractually require each person with whom it contracts, to perform as required by paragraphs (2.1 thru 2.7), with the certificates of coverage to be provided to the person for whom they are providing services.
 - 2.10.3.5. By signing the solicitation associated with the specification, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the Owner that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
 - 2.10.3.6. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the Owner to declare the agreement void if the Contractor does not remedy the breach within thirty (30) calendar days after receipt of notice of breach from the owner