

RESOLUTION NO. 73-10-18

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE MASTER AGREEMENT WITH GRANICUS, LLC FOR THE UPGRADE OF THE OFFICIAL WEBSITE OF THE TOWN OF LAKE PARK; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida (hereinafter "Town") is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town is empowered to enter into contractual arrangements with public agencies, private corporations or other persons; and

WHEREAS, the Town Commission has determined that it is in the best interest of the Town of Lake Park ("Town") and its citizens that the official website of the Town be upgraded to one that is intuitive, customer friendly and compliant with best practices including ADA compliance; and

WHEREAS, the Town has received a proposal from Granicus LLC ("Granicus") for the upgrade of the Town's official website; and

WHEREAS, the Town staff recommends that the Town enter into the Master Agreement with Granicus for the upgrade of the Town's official website; and

WHEREAS, the Town Commission has reviewed the Master Agreement between the Town and Granicus for the upgrade of the official website of the Town and believes that it is in the best interest to enter into such Master Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AS FOLLOWS:

Section 1. The whereas clauses are true and correct and are incorporated herein.

Section 2. The Town Commission hereby authorizes and directs the Mayor to execute the Master Agreement, a copy of which is attached hereto and incorporated herein as **Exhibit A**, with Granicus LLC for the upgrade of the Town's official website.

Section 3. This Resolution shall become effective immediately upon adoption.

The foregoing Resolution was offered by Commissioner Michaud who moved its adoption. The motion was seconded by Commissioner Flaherty and upon being put to a roll call vote, the vote was as follows:

| | AYE | NAY |
|---------------------------------|--------------|--------------|
| MAYOR MICHAEL O'ROURKE | <u> / </u> | <u> — </u> |
| VICE-MAYOR KIMBERLY GLAS-CASTRO | <u> / </u> | <u> — </u> |
| COMMISSIONER ERIN FLAHERTY | <u> / </u> | <u> — </u> |
| COMMISSIONER ANNE LYNCH | <u> / </u> | <u> — </u> |
| COMMISSIONER ROGER MICHAUD | <u> / </u> | <u> — </u> |

The Town Commission thereupon declared the foregoing Resolution NO. 73-10-18 duly passed and adopted this 17 day of October, 2018.

TOWN OF LAKE PARK, FLORIDA


BY: 
MICHAEL O'ROURKE
MAYOR

ATTEST:


VIVIAN MENDEZ
TOWN CLERK



Approved as to form and legal sufficiency:

BY: 
THOMAS J. BAIRD
TOWN ATTORNEY

Master Subscription Agreement

This Master Subscription Agreement ("**Agreement**") is entered into and effective as of the date of contract execution by and between Town of Lake Park, FL ("**Customer**") and Granicus, LLC, a Minnesota Limited Liability Company d/b/a Granicus ("**Granicus**"). Customer and Granicus may each be referred to herein as "Party" or collectively as "Parties".

- 1. Definitions.** In addition to terms defined elsewhere in this Agreement, the following terms shall have the meaning specified:

"Agreement Term" means the total time covered by the Initial Term and all Extension Terms for each Order, SOW or Exhibit under this Agreement, further specified in Section 7.1.

"Exhibit" means any exhibit referenced herein and attached hereto.

"Extension Term" any term that increases the length of the Initial Term of this Agreement.

"Fees" mean the fees charged by Granicus for the Granicus Products and Services as identified on each Order, SOW or Exhibit and, unless otherwise stated in each Order, SOW or Exhibit, invoiced upon commencement of the Order Term.

"Granicus Products and Services" means the products and services made available to Customer pursuant to this Agreement, which may include Granicus products, services, application software accessible for use by Customer on a subscription basis ("SaaS"), Granicus professional services, content from any professional services or other required equipment components ("Required Hardware"), as specified in each Order, SOW or Exhibit.

"Initial Term" shall have the meaning specified in the Order, SOW or Exhibit between Granicus and Customer for the first duration of performance that Customer has access to Granicus Products and Services.

"Order" means a written order, proposal, or purchase document in which Granicus agrees to provide and Customer agrees to purchase specific Granicus Products and Services.

"Order Term" shall mean the then-current duration of performance identified on each Order, SOW or Exhibit, for which Granicus has committed to provide, and Customer has committed to pay for, Granicus Products and Services.

"Statement of Work" or "SOW" means a written order, proposal, or purchase document that is signed by both Parties and describes the Granicus Products and Services to be provided and/or performed by Granicus. Each Order, SOW or Exhibit shall describe the Parties' performance obligations and any assumptions or contingencies associated with the implementations of the Granicus Products and Services, as specified in each Order, SOW or Exhibit placed hereunder.

"Support" means the ongoing support and maintenance services performed by Granicus related to the Granicus Products and Services as specified in each Order, SOW or Exhibit placed between the Parties.

2. Ordering and Scope

- 2.1. Ordering Granicus Products and Services.** The Parties may execute one or more Order, SOW or Exhibit related to the sale and purchase of Granicus Products and Services. Each Order, SOW or Exhibit will generally include an itemized list of the Granicus Products and Services as well as the Order Term for such Granicus Products and Services. Each Order, SOW or Exhibit must, generally, be signed by the

Parties; although, when a validly-issued purchase order by Customer accompanies the Order, SOW or Exhibit, then the Order, SOW or Exhibit need not be executed by the Parties. Each Order, SOW or Exhibit dated on or after the Effective Date shall be governed by this Agreement regardless of any pre-printed legal terms on each Order, SOW or Exhibit, and by this reference is incorporated herein.

2.2. Support. Basic support related to standard Granicus Products and Services is included within the fees paid during the Order Term. Granicus may update its Support obligations under this Agreement, so long as the functionality purchased by Customer is not materially diminished.

2.3. Future Functionality. Customer acknowledges that any purchase hereunder is not contingent on the delivery of any future functionality or features.

2.4. Cooperative Purchasing. To the extent permitted by law and approved by Customer, the terms of this Agreement and set forth in one or more Order, SOW or Exhibit may be extended for use by other municipalities, school districts and governmental agencies upon execution of an addendum or other signed writing setting forth all of the terms and conditions for such use. The applicable fees for additional municipalities, school districts or governmental agencies will be provided by Granicus to Customer and the applicable additional party upon written request.

3. Use of Granicus Products and Services and Proprietary Rights

3.1. Granicus Products and Services. The Granicus Products and Services are purchased by Customer as subscriptions during an Order Term specified in each Order, SOW or Exhibit. Additional Granicus Products and Services may be added during an Order Term as described in Section 2.1.

3.2. Permitted Use. Subject to the terms and conditions of this Agreement, Granicus hereby grants during each Order Term, and Customer hereby accepts, solely for its internal use, a worldwide, revocable, non-exclusive, non-transferrable right to use the Granicus Products and Services to the extent allowed in the relevant Order, SOW or Exhibit (collectively the "Permitted Use"). The Permitted Use shall also include the right, subject to the conditions and restrictions set forth herein, to use the Granicus Products and Services up to the levels limited in the applicable Order, SOW or Exhibit.

3.2.1. Data Sources. Data uploaded into Granicus Products and Services must be brought in from Customer sources (interactions with end users and opt-in contact lists). Customer cannot upload purchased contact information into Granicus Products and Services without Granicus' written permission and professional services support for list cleansing.

3.2.2. Content. Customer can only use Granicus Products and Services to share content that is created by and owned by Customer and/or content for related organizations provided that it is in support of other organizations but not as a primary communication vehicle for other organizations that do not have a Granicus subscription. Any content deemed inappropriate for a public audience or in support of programs or topics that are unrelated to Customer, can be removed or limited by Granicus.

3.2.3. Granicus Communications Suite Subscriber Information

3.2.3.1. Data Provided by Customer. Data provided by Customer and contact information gathered through Customer's own web properties or activities will remain the property of Customer ("Direct Subscriber"), including any and all personally identifiable information (PII). Granicus will not release the data without the express written permission of Customer, unless required by law.

3.2.3.2. Data Obtained through the Granicus Advanced Network

3.2.3.2.1. Granicus offers a SaaS product, known as the Communications Cloud, that offers Direct Subscribers recommendations to subscriber to other Granicus customer's digital communication (the "Advanced Network"). When a Direct Subscriber signs up through

one of the recommendations of the Advanced Network, that subscriber is a "Network Subscriber" to the agency it subscribed to through the Advanced Network.

3.2.3.2.2. Access to the Advanced Network is a benefit of the GovDelivery Communications Cloud subscription with Granicus. Network Subscribers are available for use only on the GovDelivery Communications Cloud while Customer is under an active GovDelivery Communications Cloud subscription. Network Subscribers will not transfer to Customer upon termination of any Granicus Order, SOW or Exhibit. Customer shall not use or transfer any of the Network Subscribers after termination of its Order, SOW or Exhibit placed under this Agreement. All information related to Network Subscribers must be destroyed by Customer within 15 calendar days of the Order, SOW or Exhibit placed under this Agreement terminating.

3.2.3.2.3. Opt-In. During the last 10 calendar days of Customer's Order Term for the terminating Order, SOW or Exhibit placed under this Agreement, Customer may send an opt-in email to Network Subscribers that shall include an explanation of Customer's relationship with Granicus terminating and that the Network Subscribers may visit Customer's website to subscribe to further updates from Customer in the future. Any Network Subscriber that does not opt-in will not be transferred with the subscriber list provided to Customer upon termination.

3.2.4. Advertising. Granicus Products and Services shall not be used to promote products or services available for sale through Customer or any third party unless approved in writing, in advance, by Granicus. Granicus reserves the right to request the details of any agreement between Customer and a third party that compensates Customer for the right to have information included in Content distributed or made available through Granicus Products and Services prior to approving the presence of Advertising within Granicus Products and Services.

3.3. Restrictions. Customer shall not:

- 3.3.1.** Access or use any portion of Granicus Products and Services, except as expressly allowed by this Agreement or each Order, SOW or Exhibit placed hereunder;
- 3.3.2.** Disassemble, decompile, or otherwise reverse engineer all or any portion of the Granicus Products and Services;
- 3.3.3.** Use the Granicus Products and Services for any unlawful purposes;
- 3.3.4.** Export or allow access to the Granicus Products and Services in violation of U.S. laws or regulations;
- 3.3.5.** Except as expressly permitted in this Agreement, subcontract, disclose, rent, or lease the Granicus Products and Services, or any portion thereof, for third party use; or
- 3.3.6.** Modify, adapt, or use the Granicus Products and Services to develop any software application intended for resale which uses the Granicus Products and Services in whole or in part.

3.4. Customer Feedback. Customer hereby grants to Granicus an irrevocable, non-exclusive, perpetual, royalty-free transferrable license, with right to sublicense, to use and incorporate into the Granicus Products and Services any suggestion, enhancement, request, recommendation, correction or other feedback provided by Customer relating to the use of the Granicus Products and Services.

3.5. Required Hardware. For Required Hardware purchased from Granicus by Customer, Granicus will provide to Customer a one (1) year warranty with respect to the Required Hardware. Within the one (1) year warranty period, Granicus shall repair or replace any Required Hardware provided directly from Granicus that fails to function properly due to normal wear and tear, defective workmanship, or defective materials. Required Hardware warranty shall commence on the Effective Date of each applicable Order, SOW or Exhibit.

3.6. Reservation of Rights. Subject to the limited rights expressly granted hereunder, Granicus and/or its licensors reserve all right, title and interest in the Granicus Products and Services, the documentation and resulting product including all related intellectual property rights. Further, no implied licenses are granted to Customer.

4. Payment

4.1. Fees. Customer agrees to pay all fees, costs and other amounts as specified in each Order, SOW or Exhibit. Granicus reserves the right to suspend any Granicus Products and Services should there be a lapse in payment. A lapse in the term of each Order, SOW or Exhibit will require the payment of a setup fee to reinstate the subscription. All fees are exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is Customer's responsibility to provide applicable exemption certificate(s). Unless indicated otherwise in the applicable Order, SOW or Exhibit, the fees shall be invoiced by Granicus and paid by Customer as follows:

4.1.1. Products or Software-as-a-Service Subscriptions. Product and Software-as-a-Service subscription fees are due annually at the beginning of the Term, unless specified otherwise in the Order, SOW or Exhibit, within thirty (30) days of receipt of invoice.

4.1.2. Services. Services supporting Products shall be paid at the beginning of any Order Term or Extended Term, unless specified otherwise in the Order, SOW or Exhibit, within thirty (30) days of receipt of invoice.

4.1.3. Required Hardware. For Required Hardware, delivery is complete once Customer receives Required Hardware components with the configured Granicus Product and Services.

4.2. Disputed Invoiced Amounts. Customer shall provide Granicus with detailed written notice of any amount(s) Customer reasonably disputes within thirty (30) days receipt of invoice for said amount(s) at issue. Granicus will not exercise its rights under 4.1 above if Customer has, in good faith, disputed an invoice and is diligently trying to resolve the dispute. Customer's failure to provide Granicus with notice of any disputed invoiced amount(s) shall be deemed to be Customer's acceptance of the content of such invoice.

4.3. Price Increases. Any price increases not negotiated in advance shall be provided by Granicus to Customer at least thirty (30) days prior to the end of the Order Term. Upon each yearly anniversary during the term of this Agreement (including the Initial Term, all Extended Terms, and all Order Terms), the Granicus Product and Services fees shall automatically increase from the previous term's fees by no more than seven (7) percent per year.

5. Representations, Warranties and Disclaimers

5.1. Representations. Each Party represents that it has validly entered into this Agreement and has the legal power to do so.

5.2. Warranties. Granicus warrants that it takes all precautions that are standard in the industry to increase the likelihood of a successful performance for the Granicus Products and Services; however, the Granicus Products and Services are provided "AS IS" and as available.

5.3. Disclaimers. EACH PARTY HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY NATURE WHATSOEVER WHETHER ORAL AND WRITTEN, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. GRANICUS DOES NOT WARRANT THAT GRANICUS PRODUCTS AND SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE.

6. Confidential Information

6.1. Confidential Information. 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 shall include: (i) Granicus' Products and Services, (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.

Each Receiving Party agrees to receive and hold any Confidential Information in strict confidence. Without limiting the scope of the foregoing, each Receiving Party also agrees: (a) to protect and safeguard the Confidential Information against unauthorized use, publication or disclosure; (b) not to reveal, report, publish, disclose, transfer, copy or otherwise use any Confidential Information except as specifically authorized by the Disclosing Party; (c) not to use any Confidential Information for any purpose other than as stated above; (d) to 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) to 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.

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 of the provisions of this Agreement.

6.2. Exceptions. Confidential Information shall 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.

6.3. Storage and Sending. In the event that Granicus Products and Services will be used to store and/or send Confidential Information, Granicus must be notified in writing, in advance of the storage or sending. Should Customer provide such notice, Customer must ensure that Confidential Information or sensitive information is stored behind a secure interface and that Granicus Products and Services be used only to notify people of updates to the information that can be accessed after authentication against a secure interface managed by Customer. Customer is ultimately accountable for the security and privacy of data held by Granicus on its behalf.

6.4. Return of Confidential Information. Each receiving Party shall return or destroy the Confidential Information immediately, upon written request by the disclosing Party, termination, or expiration of this Agreement; 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.

6.5. Florida's Public Records Act. Granicus acknowledges that the confidentiality provisions of this paragraph are subject to Florida's Public Records Act (the Act). As such, the Customer agrees to

maintain the confidentiality of information provided that it is permitted to do so under any of the exemptions from disclosure as provided for by the Act.

7. Term and Termination

- 7.1. Agreement Term.** The Agreement Term shall begin on the Effective Date and continue through the latest date of the Order Term of each Order, SOW or Exhibit under this agreement, unless otherwise terminated as provided in this Section 7. Each Order, SOW or Exhibit will specify an Order Term for the Granicus Products and Services provided under the respective Order, SOW or Exhibit. Customer's right to access or use the Granicus Products and Services will cease at the end of the Order Term identified within each Order, SOW or Exhibit, unless either extended or earlier terminated as provided in this Section 7. Unless a Party has given written notice to the other Party at least ninety (90) days prior to the end of the Order Term, the Granicus Products and Services will automatically renew for an Extension Term equal in duration to the Initial Term, or the then-current Order Term.
- 7.2. Effect of Termination.** If the Parties agree to terminate this Agreement and an Order, SOW or Exhibit is still in effect at the time of termination, then the terms and conditions contained in this Agreement shall continue to govern the outstanding Order, SOW or Exhibit until termination or expiration thereof. If the Agreement is terminated for breach, then unless otherwise agreed to in writing, all outstanding Orders, SOWs or Exhibits shall immediately terminate as of the Agreement termination date. Unless otherwise stated in this Agreement, in no event shall Customer be entitled to a refund of any prepaid fees upon termination.
- 7.3. Termination for Cause.** The non-breaching Party may terminate this Agreement upon written notice if the other Party is in material breach of this Agreement and fails to cure such breach within thirty (30) days after the non-breaching Party provides written notice of the breach. A Party may also terminate this Agreement immediately upon notice if the other Party: (a) is liquidated, dissolved, or adjudged to be in a state of bankruptcy or receivership; (b) is insolvent, unable to pay its debts as they become due, makes an assignment for the benefit of creditors or takes advantage or any law for the benefit of debtors; or (c) ceases to conduct business for any reason on an ongoing basis leaving no successor in interest. Granicus may, without liability, immediately suspend or terminate any or all Order, SOW or Exhibit issued hereunder if any Fees owed under this Agreement are past due pursuant to Section 4.1.
- 7.4. Rights and Obligations After Termination.** In the event of expiration or termination of this Agreement, Customer shall immediately pay to Granicus all Fees due to Granicus through the date of expiration or termination.
- 7.5. Survival.** All rights granted hereunder shall terminate the latter of the termination or expiration date of this Agreement, or each Order, SOW or Exhibit. The provisions of this Agreement with respect to warranties, liability, and confidentiality shall survive termination of this Agreement and continue in full force and effect.

8. Limitation of Liability

- 8.1. EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES.** UNDER NO CIRCUMSTANCES SHALL GRANICUS BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, 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. FURTHER, GRANICUS SHALL NOT BE LIABLE FOR: (A) ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF CUSTOMER DATA; (B) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (C) LOSS OF BUSINESS; (D) DAMAGES ARISING OUT OF ACCESS TO OR INABILITY TO ACCESS THE SERVICES, SOFTWARE, CONTENT, OR RELATED TECHNICAL SUPPORT; OR

(E) FOR ANY MATTER BEYOND GRANICUS' REASONABLE CONTROL, EVEN IF GRANICUS HAS BEEN ADVISED OF THE POSSIBILITY OF ANY OF THE FOREGOING LOSSES OR DAMAGES.

8.2. LIMITATION OF LIABILITY. IN NO INSTANCE SHALL EITHER PARTY'S LIABILITY TO THE OTHER PARTY FOR DIRECT DAMAGES UNDER THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR OTHERWISE) EXCEED THE FEES PAID BY CUSTOMER FOR THE GRANICUS PRODUCTS AND SERVICES DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM FOR DIRECT DAMAGES. NEITHER PARTY MAY INSTITUTE AN ACTION IN ANY FORM ARISING OUT OF NOR IN CONNECTION WITH THIS AGREEMENT MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION HAS ARISEN. THE ABOVE LIMITATIONS WILL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS UNDER SECTION 4 ABOVE.

9. Indemnification

9.1. Indemnification by Granicus. Granicus will defend Customer from and against all losses, liabilities, damages and expenses arising from any claim or suit by a third party unaffiliated with either Party to this Agreement ("Claims") and shall pay all losses, damages, liabilities, settlements, judgments, awards, interest, civil penalties, and reasonable expenses (collectively, "Losses," and including reasonable attorneys' fees and court costs), to the extent arising out of any Claims by any third party that Granicus Products and Services infringe a valid U.S. copyright or U.S. patent issued as of the date of the applicable Order, SOW or Exhibit. In the event of such a Claim, if Granicus determines that an affected Order, SOW or Exhibit is likely, or if the Solution is determined in a final, non-appealable judgment by a court of competent jurisdiction, to infringe a valid U.S. copyright or U.S. patent issued as of the date of the applicable Order, SOW or Exhibit, Granicus will, in its discretion: (a) replace the affected Granicus Products and Services; (b) modify the affected Granicus Products and Services to render it non-infringing; or (c) terminate this Agreement or the applicable Order, SOW or Exhibit with respect to the affected Solution and refund to You any prepaid fees for the then-remaining or unexpired portion of the Subscription Order Term. Notwithstanding the foregoing, Granicus shall have no obligation to indemnify, defend, or hold Customer harmless from any Claim to the extent it is based upon: (i) a modification to any Solution by Customer (or by anyone under Customer's direction or control or using logins or passwords assigned to Customer); (ii) a modification made by Granicus pursuant to Customer's required instructions or specifications or in reliance on materials or information provided by Customer; or (iii) Customer's use (or use by anyone under Customer's direction or control or using logins or passwords assigned to Customer) of any Granicus Products and Services other than in accordance with this Agreement. This Section 9.1 sets forth Customer's sole and exclusive remedy, and Granicus' entire liability, for any Claim that the Granicus Products and Services or any other materials provided by Granicus violate or infringe upon the rights of any third party.

9.2. Indemnification by Customer. Subject to the protections afforded Customer by the Florida Constitution and section 768.28, Fla. Stat. pertaining to sovereign immunity, Customer shall defend, indemnify, and hold Granicus harmless from and against any Claims, and shall pay all Losses, to the extent arising out of or related to (a) Customer's (or that of anyone authorized by Customer or using logins or passwords assigned to Customer) use or modification of any Granicus Products and Services; (b) any Customer content; or (c) Customer's violation of applicable law.

9.3. Defense. With regard to any Claim subject to indemnification pursuant to this Section 9: (a) the Party seeking indemnification shall promptly notify the indemnifying Party upon becoming aware of the Claim; (b) the indemnifying Party shall promptly assume sole defense and control of such Claim upon becoming aware thereof; and (c) the indemnified Party shall reasonably cooperate with the indemnifying Party regarding such Claim. Nevertheless, the indemnified Party may reasonably participate in such defense, at its expense, with counsel of its choice, but shall not settle any such Claim

without the indemnifying Party's prior written consent. The indemnifying Party shall not settle or compromise any Claim in any manner that imposes any obligations upon the indemnified Party without the prior written consent of the indemnified Party.

10. General

- 10.1. Relationship of the Parties.** Granicus and Customer acknowledge that they operate independent of each other. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership, agency, or employee/employer relationship between the Parties for any purpose, including, but not limited to, taxes or employee benefits. Each Party will be solely responsible for the payment of all taxes and insurance for its employees and business operations.
- 10.2. Subcontractors.** Granicus agrees that it shall be responsible for all acts and omissions of its subcontractors to the same extent Granicus would be responsible if committed directly by Granicus.
- 10.3. Headings.** The various section headings of this Agreement are inserted only for convenience of reference and are not intended, nor shall they be construed to modify, define, limit, or expand the intent of the Parties.
- 10.4. Amendments.** This Agreement may not be amended or modified except by a written instrument signed by authorized representatives of both Parties. Notwithstanding the foregoing, Granicus retains the right to revise the policies referenced herein at any time, so long as the revisions are reasonable and consistent with industry practices, legal requirements, and the requirements of any third-party suppliers.
- 10.5. Severability.** To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.
- 10.6. Assignment.** Neither Party may assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations hereunder, either voluntarily or by operation of law, without the prior written consent of the other Party (such consent not to 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. Any assignment or attempted assignment in violation of this Agreement shall be null and void.
- 10.7. No Third-Party Beneficiaries.** Subject to Section 9.6, this Agreement is binding upon, and insures solely to the benefit of the Parties hereto and their respective permitted successors and assigns; there are no third-party beneficiaries to this Agreement.
- 10.8. Notice.** All notices under this Agreement shall: (a) be in writing and shall be addressed to the other Party at the mailing address set forth below, with a copy of any such notice being emailed to the email address set forth below on the same day that the notice is mailed. Either Party may provide the other with notice of a change in mailing or email address in which case the mailing or email address, as applicable, for that Party will be deemed to have been amended. The mailing and email addresses of the Parties are as follows:

| Granicus | |
|----------|-----------|
| ATTN: | Contracts |

| Town of Lake Park, FL | |
|-----------------------|--------------|
| ATTN: | Town Manager |

| | |
|-----------------|---|
| Address: | 408 St. Peter Street Suite 600 Saint Paul, MN 55102 |
| Phone: | (651) 757-4154 |
| Email: | contracts@granicus.com |

| | |
|-----------------|--|
| Address: | 535 Park Avenue Lake Park, FL 33403 |
| Phone: | (561) 881-3300 |
| Email: | |

- 10.9. Force Majeure.** Neither Party shall be in breach of this Agreement solely due to breach caused by circumstances beyond the control and without the fault or negligence of the Party failing to perform. Such causes include but are not limited to acts of God, wars, fires, floods, government regulations, shortage or supplies, acts of terrorism, or strikes.
- 10.10. Choice of Law and Jurisdiction.** This Agreement shall be governed by and interpreted under the laws of the State of Florida, without reference to the State's principles of conflicts of law. The parties expressly consent and submit to the exclusive jurisdiction of the state and federal courts of Palm Beach County, Florida.
- 10.11. Entire Agreement.** This Agreement, together with all Orders, SOWs or Exhibits referenced herein, sets forth the entire understanding of the Parties with respect to the subject matter of this Agreement, and supersedes any and all prior oral and written understandings, quotations, communications, and agreements. Granicus and Customer agree that any and all Orders, SOWs or Exhibits are incorporated herein by this reference. In the event of possible conflict or inconsistency between such documents, the conflict or inconsistency shall be resolved by giving precedence in the following order: (1) the terms of this Agreement; (2) Exhibits (excluding orders) hereto; (3) Orders; and (4) all other SOWs or other purchase documents.
- 10.12. Reference.** Notwithstanding any other terms to the contrary contained herein, Customer grants Granicus the right to use Customer's name and logo in customer lists and marketing materials.
- 10.13. Injunctive Relief.** Granicus is entitled to obtain injunctive relief if Customer's use of Granicus Products and Services is in violation of any restrictions set forth in this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly-authorized representatives on the date of execution below.

Granicus

Town of Lake Park, FL

By: 
(Authorized Signature)

By: 
(Authorized Signature)

Name: Dawn Kubat
(Print or Type Name of Signatory)

Name: Michael O'Rourke
(Print or Type Name of Signatory)

Title: Vice President of Legal

Title: Mayor

Date: 10.25.2018
(Execution Date)

Date: October 17, 2018
(Execution Date)

Attachments:
Exhibit A (Granicus Proposal for the Town of Lake Park, FL)
Exhibit B (Additional Terms for visionLive Plus)

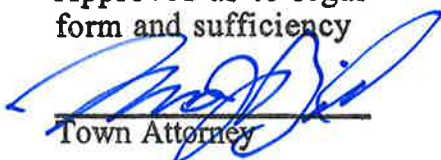
Approved as to legal form and sufficiency

Town Attorney

Exhibit A: Granicus Proposal for the Town of Lake Park, FL

Granicus Contact

Name: Alex Chacon

Phone: +1 5618662449

Email: alex.chacon@granicus.com

Proposal Details

Quote Number: Q-27291

Prepared On: 9/12/2018

Valid Through: 11/30/2018

Pricing

Payment Terms: Net 30

Currency: USD

Period of Performance: The term of the Agreement will commence on the date this document is signed and will continue for 60 months.

One-Time Fees

| Solution | Billing Frequency | Quantity/Unit | One-Time Fee |
|--|-----------------------------------|---------------|--------------------|
| View Template Configuration (GT) | | 1 Hours | \$0.00 |
| Player Template Configuration (GT) | | 1 Hours | \$0.00 |
| Standard Agenda Template Creation/Configuration | | 1 Each | \$0.00 |
| Live Manager Installation (GT) | | 1 Hours | \$0.00 |
| Granicus Video - Online Training | | 1 Hours | \$0.00 |
| Dell SDI Encoder (New) | 50% Up Front 50% Upon Delivery | 1 Each | \$2,568.00 |
| Granicus Encoding Appliance Hardware Configuration (GT) | Upon Delivery | 1 Each | \$875.00 |
| US Shipping Charge C - Large Item | Up Front | 1 Each | \$125.00 |
| Website Development | 50% Up Front 50% Upon Delivery | 1 Each | \$11,432.00 |
| Website Accessibility Training and Consultation - Standard | 50% Up Front 50% Upon Delivery | 1 Each | \$3,500.00 |
| SUBTOTAL: | | | \$18,500.00 |



Annual Fees for New Subscriptions

| Solution | Billing Frequency | Quantity/Unit | Annual Fee |
|---|-------------------|---------------|-------------------|
| Government Transparency Suite | Annual | 1 Each | \$2,568.00 |
| Open Platform Suite | Annual | 1 Each | \$0.00 |
| Granicus Encoding Appliance Software (GT) | Annual | 1 Each | \$1,200.00 |
| visionLive Plus | Annual | 1 Each | <i>Waived</i> |
| SUBTOTAL: | | | \$3,768.00 |

| Remaining Period(s) | Period 1 | Period 2 | Period 3 | Period 4 |
|---|-------------------|-------------------|-------------------|-------------------|
| Government Transparency Suite | \$2,747.76 | \$2,940.10 | \$3,145.91 | \$3,366.12 |
| Open Platform Suite | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Granicus Encoding Appliance Software (GT) | \$1,284.00 | \$1,373.88 | \$1,470.05 | \$1,572.96 |
| visionLive Plus | \$4,000.00 | \$4,200.00 | \$4,410.00 | \$4,631.00 |
| TOTAL: | \$8,031.76 | \$8,513.98 | \$9,025.96 | \$9,570.08 |

Product Descriptions

| Name | Description |
|---|---|
| Granicus Video - Online Training | Granicus Video - Online Training |
| Dell SDI Encoder (New) | Dell Encoder with Osprey SDI Card. Used to pass commands and data from LiveManager that include Start/Stop of webcast, indexing, and document display. Also serves to distribute video and captions to be distributed to the CDN or Performance Accelerator. |
| US Shipping Charge C - | US shipping of a large item |
| Granicus Encoding Appliance Software (GT) | Granicus Encoding Appliance Software (GT) This includes the LiveManager Software solution where webcasts are started/stopped, agendas amended and indexed, votes and attendance recorded, and minutes created. |
| Granicus Encoding Appliance Hardware Configuration (GT) | Remote configuration and deployment of an encoding appliance. |
| Government Transparency Suite | Government Transparency are the live in-meeting functions. Streaming of an event, pushing of documents, indexing of event, creation of minutes. |
| 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. |
| View Template Configuration (GT) | the one-time cost for creating a view page template |
| Player Template Configuration (GT) | player template configuration |
| Standard Agenda Template Creation/ Configuration | creation of a standard agenda template |
| Live Manager Installation (GT) | the installation of LiveManager on a user's computer so they can timestamp agenda items during a meeting. |
| Website Development | <p>Website Development package: Select one of four best practice templates recommended specifically for client implementation, including:</p> <ul style="list-style-type: none"> • Changing the slideshow/hero image • Changing the text on the graphic buttons, but no style modifications • Creating two additional homepage widgets • Incorporating the color scheme of your choice (1 selection) • One round of revisions • 50 pages of content migration • Client staff will be able to log into a weekly new user training session (Individual training sessions available for an additional cost) • Web-based training • 200 pages of Content Migration |
| Website Accessibility Training and Consultation - Standard | <p>Granicus will provide a front-end website design, excluding third-party tools, compliant with WCAG 2.0 upon completion and only to the extent validated by Contractor's accessible content formatting and testing process. This service includes introductory standard training and services on creating and maintaining an accessible website such as:</p> <ul style="list-style-type: none"> • Designing a website in compliance with WCAG 2.0 standards • Test website to WCAG 2.0 standards using automated tool • Develop client's accessibility statement • Training in accessibility-focused CMS functions • Reformat 25 of the agency's pages to comply with WCAG 2.0 standards • Onsite training on web accessibility standards designed for content editors, including standards and how to create compliant content |

Exhibit B: Additional Terms for visionLive Plus

1. **Acceptable Use.** Granicus's visionLive acceptable use policy ("AUP") is posted at www.visioninternet.com/about/legal. Granicus's AUP as such policy may change from time to time.

2. **Website Development Services.** Granicus agrees to provide website development services, as more particularly described in **Addendum A**, in exchange for payment of fees and compliance with the terms and conditions of this Agreement.

2.1. Customer understands and agrees that Granicus will develop website frontend to be compatible with Internet Explorer 11, Microsoft Edge, and the latest released versions of Chrome, Firefox, and Safari at the time of Completion. Website backend will be compatible with Internet Explorer 11, Microsoft Edge and the latest released version of Chrome and Firefox at the time of Completion. Website may not be compatible with previous or future versions. Website backend will be optimized for 1024 x 768 pixels resolution or above. Customer understands and agrees that the website will be developed with Hypertext Markup Language ("HTML"), CSS, JavaScript, and Microsoft ASP.NET ("MS-ASP") interfaced with a database created in Microsoft SQL Server ("MS-SQL"). Customer understands and agrees that the website is developed to run on a Microsoft Windows Server 2012 ("MS-Server"), or later. Responsive Website Design with visionMobile Designer™ mobile browsers will be compatible with the latest released version at the time of Completion of iOS Safari, Android Browser, Google Chrome, and Internet Explorer, but may not be compatible with previous or future versions. Customer is responsible for the costs of all software licensing. All of the web browsers listed in this section, and any others added by Granicus at its discretion are herein referred to collectively as the "**Supported Web Browsers**".

2.2. Granicus will design the website frontend navigation and graphic design to be generally compliant with WCAG 2.0 A. Customer further understands and agrees that content, website backend, and third-party tools may not be compliant with Section 508 or WCAG 2.0.

3. **visionLive™ Subscription Services.** Granicus agrees to provide VCMS Licensing Services, Support Services, and Hosting Services to the Customer in exchange for payment of fees and compliance with the terms and conditions of this Agreement. As used throughout this Agreement, "**VCMS**" shall mean Vision Content Management System™, also known as the Vision Internet Content Management System, VCMT, VCMS and the Vision Content Management Tool.

3.1 **Subscription.** Granicus will provide Customer a subscription to access and use the VCMS.

VCMS Licensing Services include:

- (a) Functional enhancements to VCMS components.
- (b) New VCMS Interactive Components that may be released from time to time by Granicus.
- (c) Bug fixes to the VCMS code.
- (d) Updates to provide compatibility to future versions of Supported Web Browsers within three months of their release. Compatibility with previous versions of Supported Web Browsers is not guaranteed.

VCMS Licensing Services do not include:

- (a) Optional Interactive Components.
- (b) Modules, Programs, or Software Applications.
- (c) Conversion to new platforms.
- (d) Modification of third-party products.
- (e) Compatibility with Customer's third-party products.
- (f) Website design services.
- (g) New Products. Granicus may from time to time release new software with capabilities substantially different from or greater than the VCMS and which therefore do not constitute System Updates or New VCMS Interactive Components.
- (h) All other services not expressly provided for in this Agreement and its applicable Exhibit(s).

3.2. **Support Services.** Support Services is defined as technical support, account management, and education and training for the VCMS; provided, however, Customer does not (1)(a) modify the VCMS or (1)(b) use the VCMS in combination with any third-party system not authorized by Granicus, and (2) maintains a visionLive™ Subscription in accordance with this Agreement. Granicus will provide Support Services to a designated Customer account manager, system administrator or webmaster. Technical support is generally available by email and telephone from 6:00 AM to 6:00 PM Pacific Time, Monday through Friday excluding holidays (“**Business Hours**”), with emergency support available 24 hours a day, 7 days a week. An emergency is defined as Customer’s website being down for more than ten (10) minutes. Support Services also include:

- (a) **Shared Account Manager**
- (b) **Account Management***
 - Account reviews (Health Checks)¹
 - Site analytics report²
 - Graphics site audit³
 - Site improvement credits
- (c) **Education and Training**
 - Training and best practices webinars
 - Access to On-Demand Training Library
 - On-going new feature training (via remote meeting service)
 - Monthly office hours (via remote meeting service)

Site improvement credits⁴ will be available beginning the first year of the Agreement and every year thereafter within the Initial Term. Any unused hours in a given year may be carried over to the following year within the Initial Term. Site improvement credits expire at the end of the Initial Term and will not carry over beyond the Initial Term.

3.3. Unless Customer has retained other Services from Granicus, Customer is solely and exclusively responsible for all services not expressly provided for in this Agreement. Any changes, alterations or modification requested by the Customer to its website and/or intranet may be subject to a fee to be quoted by a Granicus representative at the time of the request. Customer may, at any time, upgrade from its current edition to either a Standard or Plus Edition, as applicable. Customer may not, during the Initial Term (defined below) or any renewal term, downgrade from its current edition to either a Standard or Basic Edition, as applicable. Customer acknowledges that the subscription services may be modified or improved because of the dynamic nature of technology. Granicus may, from time to time, make minor modifications to the subscription services, as a whole or any part thereof. Such minor modifications may be implemented at any time and without notice to Customer. Continued use of the subscription services following any modification shall constitute binding acceptance of the modification.

4. **Subsequent Extra Work/Other Services.** Additional services not initially covered in this Agreement (including the Addendum referenced above) and extra hours will be presented to Customer for approval prior to commencement of work (“**Extra Work**”). Extra Work will be set forth in an amendment to this Agreement signed by the Parties as applicable, and such amendment shall become part of this Agreement when executed by both parties. Such amendment will be billed at Granicus’s then prevailing hourly rates, and may include: Content Migration, Graphic Production, Quality Assurance, Testing, Debugging, Technical Support, Webmaster Services, HTML Programming, Consulting, Project Management, Database Design, Dynamic Programming, Graphic Design, Training, Straight flatbed scanning will be billed per scan. Touch up work to images will be billed at the Graphic Design hourly rate. Customer shall be responsible for any or all additional fees including, without limitation: photography, stock images, illustration, fonts, scanning, software, applications, online promotion, marketing, copy writing, redesign, change orders, mailings, and fees to any third party vendors if applicable. Calls outside of Business Hours for support services unrelated to the website being down for more than ten (10) minutes will be subject to a minimum fee of \$135.

¹ Included with each Advanced Subsite as applicable.

² Included with each Advanced Subsite as applicable.

³ Included with each Advanced Subsite as applicable.

⁴ visionLive Plus subscribers have 20 site improvement credits.

5. Ownership; Limited Licensing of VCMS Intellectual Property.

5.1. Designs. Upon payment in full of the website development fees provided under Addendum A, Granicus grants a non-exclusive, non-transferrable, and perpetual license for Customer to reproduce, modify or create derivative works for its own use, public display, and use any and all of Granicus's copyrights in the homepage layout wireframe, sitemap, draft homepage design concept(s) interior page layouts (collectively, the "**Granicus Designs**") embodied in Customer's website, which are prepared or caused to be prepared by Granicus under this Agreement. The Granicus Designs provided under this Agreement is licensed and not sold. Customer understands and agrees that the Granicus Designs as a whole is an original work of authorship by Granicus and that Granicus shall retain all rights, title, and interests therein. Granicus retains its right to use any web pages developed for the Customer in any of its own promotional materials as examples of its work.

5.2. Vision Content Management System™. Granicus also grants Customer a limited, non-exclusive, and non-transferrable subscription to access and use one instance of the VCMS and Dynamic and Interactive Components of the VCMS to the extent necessary for the Customer's use and operation of its website; provided, Customer does not (1)(a) modify the VCMS or (1)(b) use the VCMS in combination with any third-party system not authorized by Granicus, and (2) maintains a visionLive™ Subscription in accordance with this Agreement. The VCMS provided under this Agreement is not for sale, and Customer understands and agrees that Granicus shall retain all rights, title, and interests in the VCMS, Dynamic and Interactive Components, and any other Granicus intellectual property not provided for in this Section.

5.3. Rights Regarding Content. Each Party warrants that it holds all rights and/or licenses necessary to display all of the images, data, information or other items supplied by such Party and being displayed on the Customer's web pages during the effective period of this Agreement. Granicus agrees that Customer will retain ownership of all information and content (including Customer provided logos and images) owned exclusively by Customer and provided by Customer for use on its website. Customer shall supply all necessary information to Granicus in a timely manner in digital format including without limitation copy, text, audio files, video files, pdf files, photographs, artwork, and preexisting graphics. Granicus is not responsible for content migrated by Customer or any third party. Customer expressly authorizes Granicus to display and/or modify any Customer supplied images, data, information and other items in connection with the services provided herein.

6. VCMS Plus Limited Warranty. Granicus warrants that website development and/or custom programming deliverables will be conveyed to Customer upon transfer of the website to the production server with a public Internet Protocol address ("**Completion**"). All VCMS programming code developed by Granicus is warranted to be free of any material errors or bugs that prevent the code from performing as originally intended ("**Warranted Problem**"); provided, however, Customer does not (1)(a) modify the VCMS or (1)(b) use the VCMS in combination with any third-party system not authorized by Granicus, and (2) maintains a visionLive™ Subscription in accordance with this Agreement. In the event of breach of the limited warranty in this Section, Customer's sole remedy and Granicus's entire liability shall be limited to Granicus's correction of the Warranted Problem. Except as expressly set forth above, GRANICUS MAKES NO GUARANTEE OR WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING OF MERCHANTABILITY OR FITNESS OF THE SERVICES FOR A PARTICULAR PURPOSE WHATSOEVER, AND USE OF THE SERVICES OR ANY INFORMATION THAT MAY BE OBTAINED THERE FROM IS AT CUSTOMER'S OWN RISK AS THE SERVICES ARE PROVIDED TO CUSTOMER ON AN "AS IS" BASIS. In no event, at any time, shall the aggregate liability of Granicus under this Agreement or otherwise exceed the amount of fees paid by Customer to Granicus in the most recent twelve months, and Granicus shall not be responsible for any lost profits or other damages, including direct, indirect, incidental, special, consequential or any other damages, however caused. Granicus does not warrant any connection to, transmission over, nor results of use of, any network connection or facilities provided, nor any third-party applications and software obtained by, for, or on behalf of Customer. Granicus assumes no responsibility for any damages suffered by the Customer, including, but not limited to, server down time, loss of data, loss of business, misdeliveries, delays, non-deliveries, access speed, or service interruptions of any kind. Customer acknowledges that the information available through the interconnecting networks may not be accurate. Granicus has no ability or authority over the material. In addition, Granicus has no liability for the quality, accuracy, or validity of the data/information gathered from the Internet. Use of information gathered through the use of Granicus services is at the risk of the Customer.

7. Non-Granicus Hosting. If Granicus is not providing hosting services then, at Customer's request, Granicus will assist Customer with setting up the website on Customer's server. A flat rate of \$475 for up to four hours of Technical Support will be charged for assistance in setting up the website according to Granicus's Standard Hosting Procedure. Any additional work will be billed at the Technical Support hourly rate.

8. Storage Fees. Websites and/or Granicus-hosted intranets exceeding their storage allowance shall be subject to an additional monthly fee of \$50 per 5 GB increment. Each Advanced Subsite exceeding 10 GB of storage shall be subject to an additional monthly fee of \$50 per 5 GB increment. Each Basic Subsite exceeding 5 GB of storage shall be subject to an additional monthly fee of \$50 per 5 GB increment.

9. Granicus's Mark. Customer agrees that Granicus may place in the website footer an unobtrusive text link reading "Created by Granicus" or the equivalent. Granicus's footer text credit shall always be linked to a Granicus web page.

10. Timing. Estimated times are included for convenience. Actual times will vary depending on Customer interaction and participation. However, the Parties agree to reasonably cooperate with one another in all respects including, if applicable, in the construction and design of the website in a timely manner.

11. Obligations upon Termination. Customer shall permanently delete all copies of the VCMS upon termination of this Agreement. Customer shall have thirty (30) days after termination of this Agreement to export Customer content to its server or systems. At Customer's request, Granicus will assist Customer with exporting Customer content to Customer's server or system, which shall be treated as Extra Work.