

## ADDENDUM TO PROPOSAL AND MASTER SUBSCRIPTION AGREEMENT

This Addendum (“this Addendum”) amends that certain Proposal and Master Subscription Agreement referenced therein by and between the **City of Boynton Beach, FL** (hereinafter referred as “City”) and **Granicus, LLC.**, a foreign limited liability corporation (hereinafter referred to as “GRANICUS”) entered into contemporaneously herewith and effective thereon, as follows:

For purposes of this Addendum, the Agreement shall mean and include this (I) Addendum, (II) The Master Subscription Agreement and all exhibits attached thereto; and (III) the Proposal (hereinafter collectively referred to as “Agreement”).

The purpose of this Addendum is to incorporate new content into the Agreement between the City and GRANICUS. To the extent that any of the terms or conditions contained in this Addendum may contradict or conflict with any of the terms or conditions contained in the Agreement, and any other attachments provided to City, as applicable, the terms of this Addendum shall take precedence over all of the foregoing.

Effective as of the effective date of the Agreement, the following sections shall be added to the Agreement:

1. Limitation of Liability. Notwithstanding any provision of the Agreement or this Addendum, City shall not be liable or responsible to GRANICUS beyond the monetary limits and amounts specified in Ch. 768.28, Fla. Stat., as amended, regardless of whether said liability be based in tort, contract, indemnity or otherwise; and in no event shall City be liable to GRANICUS for punitive or exemplary damages or for lost profits or consequential damages. In no instance shall GRANICUS’ liability under the Agreement or this Addendum exceed the fees paid by the City for the GRANICUS products and services during the six (6) months immediately preceding the date the City provides written notice to GRANICUS of a claim for damages.
2. Attorneys’ Fees. In the event of litigation which arises out of, or pertains to, or relates to the Agreement or this Addendum, or the breach thereof, or the services provided herein, or the standard of performance herein required, each party shall be responsible for its own attorney’s fee.
3. Compliance with Laws. GRANICUS shall comply with all statutes, laws, ordinances, rules, regulations and lawful orders of the United States of America, State of Florida, City of Boynton Beach and of any other public authority, which may be applicable to this Agreement.
4. Disputed Payments. The City shall not be charged any costs, fees, charges, or expenses for payments amounts which have been disputed by the City within thirty (30) day from the date of invoice until such time as a resolution has occurred between the parties for the disputed payments or portions thereof.
5. Public Records. The City of Boynton Beach is public agency subject to Chapter 119, Florida Statutes, notwithstanding any agreement to maintain Confidential Information. GRANICUS shall comply with Florida’s Public Records Law. Specifically, GRANICUS shall:

Keep and maintain public records required by the City to perform the service;

Upon request from the City's custodian of public records, provide the City with a copy of the

requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, Fla. Stat., or as otherwise provided by law;

Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and, following completion of the contract, GRANICUS shall destroy all copies of such confidential and exempt records remaining in its possession after GRANICUS transfers the records in its possession to the City; and

Upon completion of the contract, GRANICUS shall transfer to the City, at no cost to the City, all public records in GRANICUS's possession. All records stored electronically by GRANICUS must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

The failure of GRANICUS to comply with the provisions set forth in this Article shall constitute a Default and Breach of this Agreement, for which, the City may terminate the Agreement.

**IF GRANICUS HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO GRANICUS'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT**

**CRYSTAL GIBSON, CITY CLERK  
100 EAST OCEAN AVENUE  
BOYNTON BEACH, FLORIDA, 33435  
561-742-6061  
[GIBSONC@BBFL.US](mailto:GIBSONC@BBFL.US)**

6. Records and Audit. City reserves the right to audit the records of GRANICUS relating to this Agreement any time during the performance and term of the Agreement and for a period of three (3) years after termination of the Agreement. If required by City, GRANICUS shall agree to submit to an audit by an independent certified public and review the records of GRANICUS at any and all times during normal business hours during the term of this Agreement.

GRANICUS shall preserve and make available for inspection by City personnel, or by personnel duly authorized by City, computer data and other records related to the services provided under this Agreement. The records will be made available during normal business hours upon twenty-four (24) hours notice by the City.

7. Scrutinized Companies.

GRANICUS agrees to:

- a. Comply with Section 287.135, Florida Statutes, which prohibits agencies from contracting with companies for goods or services of any amount that are on the Scrutinized Companies that Boycott Israel List or that are participating in a boycott of Israel; or One million dollars or more if, at the time of bidding, GRANICUS is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has business operations in Syria. The boycott Israel list is created pursuant to 215.4725, Florida Statutes and the Sudan and Iran lists are created pursuant to section 215.473, Florida Statutes.
  - b. As the person authorized to sign on behalf of GRANICUS, I hereby certify that GRANICUS is not participating in a boycott of Israel, on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or that it does not have business operations in Syria. I understand and agree that pursuant to section 287.135, Florida Statutes, the submission of a false certification; or being placed on the Scrutinized Companies that Boycott Israel List, or engaging in a boycott of Israel; or being placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or engaging in business operations in Syria will be cause for the City to terminate this Agreement at the option of the City. In addition, GRANICUS may be subject to civil penalties, attorney's fees, and/or costs.
8. Choice of Law. This Agreement shall be governed by the laws of the State of Florida and venue shall be in Palm Beach County without regard to its conflicts of law. The parties hereby agree that in the event of any litigation between them, such proceeding shall be brought exclusively in the courts of the State of Florida, County of Palm Beach or the Federal District Court with subject matter jurisdiction and encompassing the County of Palm Beach, Florida. Each party hereby irrevocably consents and submits to the jurisdiction of, and venue in, the aforementioned courts, and further waives any claim that a proceeding brought therein has been brought in an inconvenient forum.
9. Conflict of Interest. GRANICUS covenants that no person under its employ who presently exercises any functions or responsibilities in connection with this agreement has any personal financial interests, direct or indirect, with city. GRANICUS further covenants that, in the performance of this agreement, no person having such conflicting interest shall be employed, any such interests, on the part of GRANICUS or its employees, must be disclosed in writing to City. GRANICUS is aware of the conflict of interest laws of the State of Florida, Chapter 112, Florida Statutes (2019), as amended, agrees that it will fully comply in all respects with terms of said laws. GRANICUS warrants that it has not employed or retained any person employed by City to solicit or secure this agreement and that it has not offered to pay, paid, or agreed to pay, any public official or person employed by city any fee, commission, percentage, brokerage fee or gift of any kind, contingent upon or resulting from the award of this privilege.
10. Ethics Disclosure. GRANICUS warrants that no elected official, officer, agent or employee of the City has financial interest directly or indirectly in this contract or the compensation to be paid under it, and further, that no city employee who acts in the City of Boynton Beach as

a “purchasing agent” as defined by §112.312(20), Florida Statutes, nor any elected or appointed officer of the City of Boynton Beach, nor any spouse or child of such purchasing agent employee or elected or appointed officer, is a partner, officer director, or proprietor of GRANICUS, and further, that no such city employee purchasing agent, city elected or appointed officer, or the spouse or child of any of them, alone or in combination, has a material interest in GRANICUS. Material interest means direct or indirect ownership of more than five (5) percent of the total assets or capital stock of GRANICUS.

#### 11. Indemnity.

GRANICUS shall indemnify and hold harmless City, and its elected and appointed officers, the officers, directors, employees, agents and other consultants of each of them, from and against any and all claims, fines, fees, liabilities, damages, losses and costs, including, but not limited to, reasonable attorney’s fees, to the extent directly caused by the gross negligence, recklessness, or intentional wrongful misconduct of GRANICUS and other persons employed or utilized by GRANICUS in the performance of this Agreement.

GRANICUS agrees to indemnify, defend, save and hold harmless the City, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every name and description that may be brought against City, its officers, agents and employees, on account of any claims, fees, royalties, or costs for any invention or patent or for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation.

This indemnity includes but is not limited to claims attributable to bodily injury, sickness, disease or death, or to injury or destruction of tangible property, including the Work itself, and including the loss of use resulting therefrom.

Payment of any amount due pursuant to the foregoing indemnity shall, after receipt of written notice by GRANICUS from the City that such amount is due, be made by GRANICUS prior to the City being required to pay same, or in the alternative, the City, at the City’s option, may make payment of an amount so due and GRANICUS shall promptly reimburse the City for same, together with interest thereon at the statutory rate from the date of receipt by GRANICUS of written notice from the City that such payment is due. GRANICUS agrees, at GRANICUS’ expense, after written notice from the City, to defend any action against the City that falls within the scope of this indemnity, or the City, at the City’s option, may elect not to accept such defense and may elect instead to secure its own attorney to defend any such action and the reasonable costs and expenses of such attorney incurred in defending such action shall be payable by GRANICUS. Additionally, if GRANICUS, after receipt of written notices from the City, fails to make any payment due hereunder to the City, GRANICUS shall pay any reasonable attorney's fees or costs incurred by the City in securing any such payment from GRANICUS.

Nothing contained herein is intended nor shall it be construed to waive the City’s rights and immunities under the common law or Florida Statute §768.28 as amended from time to time. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist in the City’s favor.

12. Termination for Non-Appropriation of Funds. Notwithstanding any other provision of this Agreement, the City shall not be obligated for GRANICUS' performance hereunder or by any provision of this Agreement during any of the City's future fiscal years unless and until the City Commission appropriates funds for this Agreement in the City's Budget, or any amendment thereto, for each such future fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of September 30 of the last fiscal year for which funds were appropriated. The City shall notify the GRANICUS in writing of any such non-allocation of funds at the earliest possible date.
13. Nondiscrimination and Equal Opportunity Employment. During the performance of this agreement, GRANICUS shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin.
14. Convicted Vendor List. GRANICUS represents to City that it is not a person or affiliate as defined in §287.133, Florida Statutes, which has been placed on the convicted vendor list maintained by the Florida Department of Management Services following a conviction for a public entity crime. GRANICUS acknowledges and agrees that it may not submit a bid on a contract to provide any goods or services to the City, may not submit a bid on a contract with the City for the construction or repair of any public building or public work, may not submit bids on leases of real property with the City, may not be awarded an opportunity to perform work as a GRANICUS, supplier, subcontractor or GRANICUS under a contract with the City, and may not transact business with the City in an amount set forth in §287.017, Florida Statutes, for Category Two for a period of THIRTY-SIX (36) months from the date of being placed on the convicted vendor list.
15. Non-exclusivity. The services provided pursuant to the Agreement shall be non-exclusive.
16. Consideration Adequate. The parties acknowledge that there is adequate consideration to enforce each and every provision of the Agreement.
17. Modification. Except as specifically amended or modified herein, the terms and provisions of the Agreement remain unchanged. No future amendment, modification to the Agreement shall affect the terms and conditions contained in this Addendum without specific reference to this Addendum and approved by both parties, in writing.
18. Tax Exempt. GRANICUS and City agree that City is a tax exempt entity and not subject to the payment of taxes under the Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals effective as of the effective date of the Agreement.

**CITY OF BOYNTON BEACH**

**GRANICUS, LLC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

REVIEWED AND APPROVED BY:

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James A. Cherof, City Attorney