

**ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VIRGINIA 22201**

CONTRACT AWARD COVERPAGE

GRANICUS, LLC	<u>DATE ISSUED:</u>	6/23/2020
403 ST. PETER STREET	<u>CURRENT REFERENCE NO:</u>	20-747-EP
SUITE 600		MAINTENANCE AND RELATED
ST. PAUL, MN 55102	<u>CONTRACT TITLE:</u>	SUPPORT SERVICES FOR THE LAND AND VITALS SYSTEM

THIS IS A NOTICE OF CONTRACT AWARD AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.

The contract documents consist of the terms and conditions of AGREEMENT No. 20-747-EP including any attachments or amendments thereto.

EFFECTIVE DATE: JULY 1, 2020

EXPIRES: JUNE 30, 2021

RENEWALS: (4) ADDITIONAL 12-MONTH PERIODS FROM JULY 1, 2021 TO JUNE 30, 2025

COMMODITY CODE(S): 92045

LIVING WAGE: N

PROFESSIONAL SERVICES: N

ATTACHMENTS:

CONTRACT 20-747-EP

EMPLOYEES NOT TO BENEFIT:

NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.

VENDOR CONTACT: MIKE BATTAGLIA

VENDOR TEL. NO.: (703) 787-7775 EXT. 1802

EMAIL ADDRESS: MIKE.BATTAGLIA@GRANICUS.COM

COUNTY CONTACT: CHRISTINA DIETRICH

COUNTY TEL. NO.: (703) 228-4378

EMAIL ADDRESS: CDIETRICH@ARLINGTONVA.US

PURCHASING DIVISION AUTHORIZATION

Meloni Hurley_____

Title: Assistant Purchasing Agent_____

Date: 6/23/2020_____

**ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VA 22201**

AGREEMENT NO. 20-747-EP

THIS AGREEMENT is made, on the date of execution by the County, between **Granicus, LLC, 408 St. Peter Street, Suite 600, St. Paul, MN 55102** ("Contractor"), a Minnesota corporation, authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia ("County"). The County and the Contractor, for the consideration hereinafter specified, agree as follows:

1. CONTRACT DOCUMENTS

The "Contract Documents" consist of:

- This Agreement
- Exhibit A – Master Subscription Agreement
- Exhibit B – Statement of Work
- Exhibit C – Contract Pricing

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement will prevail over the other Contract Documents, and the remaining Contract Documents will be complementary to each other. If there are any conflicts, the most stringent terms or provisions will prevail.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either party has made any representation or promise with respect to the parties' agreement that is not contained in the Contract Documents. The Contract Documents may be referred to below as the "Contract" or the "Agreement".

2. SCOPE OF WORK

The Contractor agrees to perform the services described in the Contract Documents (the "Work"). As detailed in the "Scope of Work" (Exhibit A), the primary purpose of the Work is to provide maintenance and related support services for the Land and Vitals System. It will be the Contractor's responsibility, at its sole cost, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents limits the Contractor's responsibility to manage the details and execution of the Work.

3. PROJECT OFFICER

The performance of the Contractor is subject to the review and approval of the County Project Officer, who will be appointed by the Director of the Arlington County department or agency requesting the Work under this Contract.

4. CONTRACT TERM

Time is of the essence. The Work will commence on July 1, 2020 and must be completed no later than June 30, 2021 ("Initial Contract Term"), subject to any modifications provided in the Contract Documents. Upon satisfactory performance by the Contractor the County may, through issuance of a Notice of Renewal, authorize continuation of the Agreement under the same contract prices for not more than four (4) additional 12-month periods, from June 1, 2021 to June 30, 2025 (each a "Subsequent Contract Term"). The Initial Contract Term and any Subsequent Contract Term(s) are together the "Contract Term".

5. CONTRACT AMOUNT

The County will pay the Contractor in accordance with the terms of the Payment section below and of Exhibit C for the Contractor's completion of the Work as required by the Contract Documents. The Contractor will complete the Work for the total amount specified in this section ("Contract Amount").

The County will not compensate the Contractor for any goods or services beyond those included in Exhibit A unless those additional goods or services are covered by a fully executed amendment to this Contract. Additional services will be billed at the rates set forth in Exhibit C unless otherwise agreed by the parties in writing.

6. PAYMENT

The Contractor must submit invoices to the County's Project Officer, who will either approve the invoice or require corrections. Each invoice must certify that the invoice submitted is a true and accurate accounting of the work performed and goods and/or services provided and must be signed and attested to by the Contractor or authorized designee. The County will pay the Contractor within forty-five days (45) after receipt of an invoice on an annual, upfront basis. The number of the County Purchase Order pursuant to which goods or services have been delivered or performed must appear on all invoices.

7. REIMBURSABLE EXPENSES

The County will not reimburse the Contractor for any expenses under this Contract. The amount in Exhibit C includes all costs and expenses of providing the services described in this Contract.

8. PAYMENT OF SUBCONTRACTORS

The Contractor is obligated to take one of the two following actions within seven days after receipt of payment by the County for work performed by any subcontractor under this Contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or
- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment, with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Contract, interest will accrue at the rate of 1% per month.

The Contractor must include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

9. NO WAIVER OF RIGHTS

The County's approval or acceptance of or payment for any goods or services under this Contract will not waive any rights or causes of action arising out of the Contract.

10. NON-APPROPRIATION

All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia ("Board"). In the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.

11. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR

This Contract does not obligate the County to purchase a specific quantity of items or services during the Contract Term. Any quantities that are included in the Contract Documents are the present expectations of the County for the period of the Contract; and the County is under no obligation to buy that or any amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The County may require more goods and/or services than the estimated annual quantities, and any such additional quantities will not give rise to any claim for compensation other than at the unit prices and/or rates in the Contract.

The County does not guarantee that the Contractor will be the exclusive provider of the goods or services covered by this Contract. The items or services covered by this Contract may be or become available under other County contract(s), and the County may determine that it is in its best interest to procure the items or services through those contract(s).

12. COUNTY PURCHASE ORDER REQUIREMENT

County purchases are authorized only if the County issues a Purchase Order in advance of the transaction, indicating that the ordering County agency has sufficient funds available to pay for the purchase. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense. The County will not be liable for payment for any purchases made by its employees that are not authorized by the County Purchasing Agent.

13. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED

During the performance of its work pursuant to this Contract:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age or disability or on any other basis prohibited by state law. The Contractor agrees to post in conspicuous places, available to

employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- B. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation will be deemed sufficient for meeting the requirements of this section.
- C. The Contractor will state in all solicitations or advertisements for employees that it places or causes to be placed that such Contractor is an Equal Opportunity Employer.
- D. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 ("ADA"), which prohibits discrimination against individuals with disabilities in employment and mandates that disabled individuals be provided access to publicly and privately provided services and activities.
- E. The Contractor must include the provisions of the foregoing paragraphs in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

14. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

In accordance with §2.2-4311.1 of the Code of Virginia, as amended, the Contractor must not during the performance of this Contract knowingly employ an unauthorized alien, as that term is defined in the federal Immigration Reform and Control Act of 1986.

15. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR

During the performance of this Contract, the Contractor must: (i) provide a drug-free workplace for its employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violating such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "workplace" means the site(s) for the performance of the work required by this Contract.

16. TERMINATION

Either Party may terminate this Contract at any time as follows: (1) for cause, if the non-terminating Party is in breach or default of a material provision of this Contract; or (2) for the County's convenience.

Upon receipt of a notice of termination from the County, the Contractor must not place any further orders or subcontracts for materials, services or facilities; must terminate all vendors and subcontracts, except as are necessary for the completion of any portion of the Work that the County did not terminate; and must immediately deliver all documents related to the terminated Work to the County.

Any purchases that the Contractor makes after the notice of termination will be the sole responsibility of the Contractor, unless the County has approved the purchases in writing as necessary for completion of any portion of the Work that the County did not terminate.

If any court of competent jurisdiction finds a termination for cause by the County to be improper, then the termination will be deemed a termination for convenience.

A. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE

1. Termination for Unsatisfactory Performance. If either Party determines that the other has failed to materially adhere to the terms of this Contract, then the terminating Party will give the other Party written notice of such failure(s) and the opportunity to cure them within thirty (30) days or any other period specified by the terminating Party ("Cure Period"). If the non-terminating Party fails to cure within the Cure Period, the terminating Party may terminate the Contract for failure to provide satisfactory performance by providing written notice with a termination date. The Contractor must submit any request for termination costs, with all supporting documentation, to the County Project Officer within 30 days after the expiration of the Cure Period. The County may accept or reject the request for termination costs, in whole or in part, and may notify the Contractor of its decision within a reasonable time.

In the event of termination by the County for failure to perform satisfactorily, the Contractor must continue to provide its services as previously scheduled through the termination date, and the County must continue to pay all fees and charges incurred through the termination date.

2. Termination for Breach or Default. If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination will be immediate after notice of termination to the Contractor (unless the County provides for an opportunity to cure), and the Contractor will not be permitted to seek termination costs.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt the notice of the termination.

B. TERMINATION FOR THE CONVENIENCE OF THE COUNTY

The County may terminate this Contract in whole or in part whenever the Purchasing Agent determines that termination is in the County's best interest. The County will give the Contractor at least sixty (60) days' advance notice in writing. The notice must specify the extent to which the Contract is terminated and the effective termination date. The Contractor will be entitled to termination costs, plus any other reasonable amounts that the parties might negotiate; but no amount will be allowed for anticipatory profits.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt of the notice of the termination.

17. INDEMNIFICATION

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless and indemnify the County and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards and commissions (collectively the "County

Indemnitees”) from and against any and all claims made by third parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorneys’ fees), charges, liability, demands or exposure resulting from, arising out of or in any way connected with the Contractor’s acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys’ fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

18. INTELLECTUAL PROPERTY INDEMNIFICATION

The Contractor warrants and guarantees that in providing services under this Contract neither the Contractor nor any subcontractor is infringing on the intellectual property rights (including, but not limited to, copyright, patent, mask and trademark) of third parties.

If the Contractor or any of its employees or subcontractors uses any design, device, work or material that is covered by patent or copyright, it is understood that the Contract Amount includes all royalties, licensing fees, and any other costs arising from such use in connection with the Work under this Contract.

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless, and indemnify the County Indemnitees, as defined above, from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys’ fees), charges, liability or exposure for infringement of or on account of any trademark, copyright, patented or unpatented invention, process or article manufactured or used in the performance of this Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys’ fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

19. OWNERSHIP OF WORK PRODUCT

This Contract does not confer on the Contractor any ownership rights or rights to use or disclose the County’s data or inputs.

All work product, in any form, that results solely and exclusively from this Contract is the property of the County and must be provided or returned to the County upon completion, termination, or cancellation of this Contract. The Contractor will not use or allow others to use the work product for any purpose other than performance of this Contract without the written consent of the County.

The work product is confidential, and the Contractor may neither release the work product nor share its contents. The Contractor will refer all inquiries regarding the status of any work product to the Project Officer or to his or her designee. At the County’s request, the Contractor will deliver all work product, including hard copies of electronic files, to the Project Officer and will destroy all electronic files.

The Contractor must include the provisions of this section as part of any contract or agreement related to this Contract into which it enters with subcontractors or other third parties.

The provisions of this section will survive any termination or cancellation of this Contract.

20. CONFIDENTIAL INFORMATION

The Contractor and its employees, agents and subcontractors will hold as confidential all County information obtained under this Contract. Confidential information includes, but is not limited to, nonpublic personal information; personal health information (PHI); social security numbers; addresses; dates of birth; other contact information or medical information about a person; and information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans and expertise. The Contractor must take reasonable measures to ensure that all of its employees, agents and subcontractors are informed of and abide by this requirement.

21. ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its proposal was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor; and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

22. COUNTY EMPLOYEES

No Arlington County employee may share in any part of this Contract or receive any benefit from the Contract that is not available to the general public.

23. FORCE MAJEURE

Neither party will be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to a fire, riot, rebellion, natural disaster, war, act of terrorism or act of God that is beyond the control of the party and that makes performance impossible or illegal, unless otherwise specified in the Contract.

24. AUTHORITY TO TRANSACT BUSINESS

The Contractor must, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the entire term of this Contract. Otherwise, the Contract is voidable at the sole option of and with no expense to the County.

25. RELATION TO COUNTY

The Contractor is an independent contractor, and neither the Contractor nor its employees or subcontractors will be considered employees, servants or agents of the County. The County will not be responsible for any negligence or other wrongdoing by the Contractor or its employees, servants or agents. The County will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes or Social Security tax or for any other benefits. The County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation.

26. ANTITRUST

The Contractor conveys, sells, assigns and transfers to the County all rights, title and interest in and to all causes of action under state or federal antitrust laws that the Contractor may have relating to this Contract.

27. AUDIT

The Contractor must retain all books, records and other documents related to this Contract for at least five years after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within 30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

28. ASSIGNMENT

The Contractor may not assign, transfer, convey or otherwise dispose of any award or any of its rights, obligations or interests under this Contract without the prior written consent of the County. Notwithstanding the foregoing, Contractor may assign its rights under this Contract in full without the County's prior written consent in the event of any successor or assign that acquires all, or substantially all, of the Contractor's business by means of a merger, acquisition, stock purchase, asset purchase, or otherwise.

29. AMENDMENTS

This Contract may not be modified except by written amendment executed by persons duly authorized to bind the Contractor and the County.

30. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES

Nothing in this Contract waives any provision of the Arlington County Purchasing Resolution, which is incorporated herein by reference, or any applicable County policy.

31. DISPUTE RESOLUTION

All disputes arising under this Agreement or concerning its interpretation, whether involving law or fact and including but not limited to claims for additional work, compensation or time, and all claims for alleged breach of contract must be submitted in writing to the Project Officer as soon as the basis for the claim arises. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than 60 days after the final payment. The time limit for a final written decision by the County Manager is 30 days. Procedures concerning contractual claims, disputes, administrative appeals and protests are contained in the Arlington County Purchasing Resolution. The Contractor must continue to work as scheduled pending a decision of the Project Officer, County Manager, County Board or a court of law.

32. APPLICABLE LAW, FORUM, VENUE AND JURISDICTION

This Contract is governed in all respects by the laws of the Commonwealth of Virginia; and the jurisdiction, forum and venue for any litigation concerning the Contract or the Work is in the Circuit Court for Arlington County, Virginia, and in no other court.

33. ARBITRATION

No claim arising under or related to this Contract may be subject to arbitration.

34. NONEXCLUSIVITY OF REMEDIES

All remedies available to the County under this Contract are cumulative, and no remedy will be exclusive of any other at law or in equity.

35. NO WAIVER

The failure to exercise a right provided for in this Contract will not be a subsequent waiver of the same right or of any other right.

36. SEVERABILITY

The sections, paragraphs, clauses, sentences, and phrases of this Contract are severable; and if any section, paragraph, clause, sentence or phrase of this Contract is declared invalid by a court of competent jurisdiction, the rest of the Contract will remain in effect.

37. ATTORNEY'S FEES

In the event that the County prevails in any legal action or proceeding brought by the County to enforce any provision of this Contract, the Contractor will pay the County's reasonable attorney's fees and expenses.

38. SURVIVAL OF TERMS

In addition to any statement that a specific term or paragraph survives the expiration or termination of this Contract, the following sections also survive: INDEMNIFICATION; INTELLECTUAL PROPERTY INDEMNIFICATION; RELATION TO COUNTY; OWNERSHIP OF WORK PRODUCT; AUDIT; COPYRIGHT; DISPUTE RESOLUTION; APPLICABLE LAW AND JURISDICTION; ATTORNEY'S FEES; AND CONFIDENTIAL INFORMATION.

39. HEADINGS

The section headings in this Contract are inserted only for convenience and do not affect the substance of the Contract or limit the sections' scope.

40. AMBIGUITIES

The parties and their counsel have participated fully in the drafting of this Agreement; and any rule that ambiguities are to be resolved against the drafting party does not apply. The language in this Agreement is to be interpreted as to its plain meaning and not strictly for or against any party.

41. NOTICES

Unless otherwise provided in writing, all legal notices and other communications required by this Contract are deemed to have been given when either (a) delivered in person; (b) delivered by an agent, such as a delivery service; or (c) deposited in the United States mail, postage prepaid, certified or registered and addressed as follows:

TO THE CONTRACTOR:

Dawn Kubat (Legal Department)
Granicus, Inc.
408 St. Peter Street
Suite 600
Saint Paul, MN 55102
Phone: (651) 757-4154
Email: dawn.kubat@granicus.com

FOR PROJECT INFORMATION

Mike Battaglia, General Manager GovRecords
Granicus, Inc.
552 Fort Evans Road, Ste. 312
Leesburg, VA 20176
Phone: (703) 787-7775 ext. 1802
Email: mike.battaglia@granicus.com

TO THE COUNTY:

FOR PROJECT INFORMATION

Christina Dietrich, Project Officer
Arlington County, VA
1425 N. Courthouse Road, Suite 6100
Arlington, VA 22201
Phone: 703-228-4378
Email: cdietrich@arlingtonva.us

FOR CONTRACT INFORMATION

Meloni Hurley, Assistant Purchasing Agent
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201
Phone: 703-228-3431
Email: mhurley1@arlingtonva.us

42. ARLINGTON COUNTY BUSINESS LICENSES

The Contractor must comply with the provisions of Chapter 11 (“Licenses”) of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this Contract, the Contractor must contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060.

43. NON-DISCRIMINATION NOTICE

Arlington County does not discriminate against faith-based organizations.

44. LIMITED ENGLISH PROFICIENCY

The Contractor must comply with Executive Order 13166, Title VI of the Civil Rights Act of 1964 and make reasonable efforts to ensure that as part of the services that it provides, adequate communication services, including interpretation and translation, are available to persons who have limited English proficiency. If such services are not included in the Contract's scope of services and pricing, the Contractor will use a County-contracted service provider, and the County will pay the fees.

45. INSURANCE REQUIREMENTS

Before beginning work under the Contract or any extension, the Contractor must provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force at a minimum the coverage below. The Contractor must maintain this coverage until the completion of the Contract or as otherwise stated in the Contract Documents. All required insurance coverage must be acquired from insurers that are authorized to do business in the Commonwealth of Virginia, with a rating of "A-" or better and a financial size of "Class VII" or better in the latest edition of the A.M. Best Co. Guides.

- a. Workers Compensation - Virginia statutory workers compensation (W/C) coverage, including Virginia benefits and employer's liability with limits of \$100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b. Commercial General Liability - \$1,000,000 per occurrence, with \$2,000,000 annual aggregate covering all premises and operations and including personal injury, completed operations, contractual liability, independent contractors, and products liability. The general aggregate limit must apply to this Contract. Evidence of contractual liability coverage must be typed on the certificate.
- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).
- d. Miscellaneous Error and Omissions - \$1,000,000 per occurrence/claim
- e. Cyber Insurance - \$1,000,000 per occurrence/aggregate
- f. Additional Insured – The County and its officers, elected and appointed officials, employees and agents must be included as additional insureds on all policies except workers compensation and automotive and professional liability; and the additional insured endorsement must be typed on the certificate.
- g. Cancellation - If there is a material change or reduction in or cancellation of any of the above coverages during the Contract Term, the Contractor must notify the Purchasing Agent immediately and must, with no lapse in coverage, obtain replacement coverage that is consistent with the terms of this Contract. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- h. Claims-Made Coverage - Any "claims made" policy must remain in force, or the Contractor must obtain an extended reporting endorsement, until the applicable statute of limitations for any claims has expired.
- i. Contract Identification - All insurance certificates must state this Contract's number and title.

The Contractor must disclose to the County the amount of any deductible or self-insurance component of any of the required policies. With the County’s approval, the Contractor may satisfy its obligations under this section by self-insurance for all or any part of the insurance required, provided that the Contractor can demonstrate sufficient financial capacity. In order to do so, the Contractor must provide the County with its most recent actuarial report and a copy of its self-insurance resolution.

The County may request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible and may require a lower deductible; that funds equal to the deductible be placed in escrow; a certificate of self-insurance; collateral; or another mechanism to guarantee the amount of the deductible and ensure protection for the County.

The County’s acceptance or approval of any insurance will not relieve the Contractor from any liability or obligation imposed by the Contract Documents.

The Contractor is responsible for the Work and for all materials, tools, equipment, appliances and property used in connection with the Work. The Contractor assumes all risks for direct and indirect damage or injury to the property used or persons employed in connection with the Work and for of all damage or injury to any person or property, wherever located, resulting from any action, omission, commission or operation under the Contract or in connection in any way whatsoever with the Work. The Contractor’s insurance shall be the primary non-contributory insurance for any work performed under this Contract.

The Contractor is as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons whom the Contractor employs directly.

46. COUNTERPARTS

This Agreement may be executed in one or more counterparts and all of such counterparts shall together constitute one and the same instrument. Original signatures transmitted and received via facsimile or other electronic transmission, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall be effective as delivery of a manually executed original counterpart.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

GRANICUS, LLC.

AUTHORIZED DocuSigned by:
SIGNATURE: Meloni Hurley
534895882496484...

NAME: MELONI HURLEY
TITLE: ASSISTANT PURCHASING AGENT

DATE: 6/23/2020

AUTHORIZED DocuSigned by:
SIGNATURE: Dawn Kubat
FD6BA1A020524D8...

NAME: Dawn Kubat
TITLE: VP of Legal

DATE: 6/23/2020

EXHIBIT A
Master Subscription Agreement

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

“Granicus Products and Services” means the products and services made available to Customer pursuant to this Master Services Agreement (“MSA”), which may include Granicus products and services accessible for use by Customer on a subscription basis (“Software-as-a-Service” or “SaaS”), Granicus professional services, content from any professional services or other required equipment components or other required hardware, as specified in the SOW.

“Order Term” means the then-current duration of performance identified on each Purchase Order, for which Granicus has committed to provide, and Customer has committed to pay for, Granicus Products and Services.

“Statement of Work” or **“SOW”** means the document that describes the Granicus Products and Services to be provided and/or performed by Granicus.

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

2. **Use of Granicus Products and Services and Proprietary Rights**

2.1. Permitted Use. Subject to the terms and conditions of this MSA, Granicus hereby grants during each 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 SOW (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 SOW.

2.1.1. 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.

2.1.2. Passwords. Passwords are not transferable to any third party. Customer is responsible for keeping all passwords secure and all use of the Granicus Products and Services accessed through Customer’s passwords.

2.1.3. 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.

2.1.3.1.1. Disclaimers. Any text, data, graphics, or any other material displayed or published on Customer’s website must be free from violation of or infringement of copyright, trademark, service mark, patent, trade secret, statutory, common law or proprietary or intellectual property rights of others. Granicus is not responsible for content migrated by Client or any third party.

2.1.4. 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 and review 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.

2.1.5. Granicus Subscriber Information for Communications Cloud Suite only

2.1.5.1.1. 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.

2.1.5.1.2. Data Obtained through the Granicus Advanced Network

2.1.5.1.3. Granicus offers a SaaS product, known as the Communications Cloud, that offers Direct Subscribers recommendations to subscribe 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.

2.1.5.1.4. 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 this Agreement. Customer shall not use or transfer any of the Network Subscribers after termination of this Agreement. All information related to Network Subscribers must be destroyed by Customer within 15 calendar days of this Agreement's termination.

2.1.5.1.5. Opt-In. During the last 10 calendar days of Term, 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.

2.2. Restrictions. Customer shall not:

2.2.1. Misuse any Granicus resources or cause any disruption, including but not limited to, the display of pornography or linking to pornographic material, advertisements, solicitations, or mass mailings to individuals who have not agreed to be contacted;

2.2.2. Use any process, program, or tool for gaining unauthorized access to the systems, networks, or accounts of other parties, including but not limited to, other Granicus customers;

2.2.3. Customer must not use the Granicus Products and Services in a manner in which system or network resources are unreasonably denied to other Granicus clients;

2.2.4. Customer must not use the Services as a door or signpost to another server.

- 2.2.5.** Access or use any portion of Granicus Products and Services, except as expressly allowed by this Agreement;
 - 2.2.6.** Disassemble, decompile, or otherwise reverse engineer all or any portion of the Granicus Products and Services;
 - 2.2.7.** Use the Granicus Products and Services for any unlawful purposes;
 - 2.2.8.** Export or allow access to the Granicus Products and Services in violation of U.S. laws or regulations;
 - 2.2.9.** 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
 - 2.2.10.** 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.
- 2.3. Customer Feedback.** Customer assigns to Granicus any suggestion, enhancement, request, recommendation, correction or other feedback provided by Customer relating to the use of the Granicus Products and Services. Granicus may use such submissions as it deems appropriate in its sole discretion.
- 2.4. 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. The Granicus name, the Granicus logo, and the product names associated with the services are trademarks of Granicus or its suppliers, and no right or license is granted to use them.

3. Warranties and Disclaimers

- 3.1. 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.
- 3.2. Disclaimers.** EXCEPT AS PROVIDED IN SECTIONS 5.2 ABOVE, 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.

4. Limitation of Liability

- 4.1. 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.

- 4.2. LIMITATION OF LIABILITY.** EXCEPT FOR CUSTOMER'S BREACH OF SECTION 3.3, 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 TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM FOR DIRECT DAMAGES. GRANICUS SHALL NOT BE RESPONSIBLE FOR ANY LOST PROFITS OR OTHER DAMAGES, INCLUDING DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR ANY OTHER DAMAGES, HOWEVER CAUSED.
- 4.3. Injunctive Relief.** Granicus may seek injunctive relief if Customer's use of Granicus Products and Services is in violation of any restrictions set forth in this MSA.

Exhibit B

Statement of Work

The following products and services are supported under this Agreement, as detailed in Exhibit A, the Master Service Agreement (“MSA”):

- a) New Purchases. The MSA covers all products and services that are purchased through a County Purchas Order that specifically references this Agreement and where the products and services are explicitly identified as covered under this Agreement.
- b) Existing Supported Components. The following existing system products and services are to be covered by this agreement:
 - AiLis (Cashiering, Data Entry, Scanning and Admin modules)
 - ROAM (Rapid Online Access Method)
 - eACCEPT
 - Image back scanning and integration.

Any existing component that is not explicitly identified shall not be covered by this Agreement.

Granicus shall provide, upon request, all updates and enhancements to the existing products deployed by the County released by the Contractor during the term of the Agreement.

Arlington County may also require system enhancements to improve functionality and/or ease of use. These enhancements may include system design and development work, user testing, implementation in the County’s production environment, and training.

Prior to performing any work on any requested enhancement, Granicus agrees to provide a written statement of work and cost estimate to the Clerk or his designee. Any such work that is outside of this SOW will require a contract amendment.

Granicus shall upon the request, provide technical support, including remote assistance and advice, related to the operation, best practices, and use of the Supported Software by Customer. Remote assistance and advice is provided over the telephone or through e-mail correspondence. Remote assistance and advice is intended to provide general assistance and guidance related to the everyday usage and maintenance of the system.

The technical support hours and fees for engagement are outlined in Exhibit C to this Agreement, in Section 2.



Granicus Proposal for Arlington County VA

Granicus Contact

Name: Brent Blankenship

Phone:

Email: brent.blankenship@granicus.com

Proposal Details

Quote Number: Q-108496

Prepared On: 6/22/2020

Valid Through: 6/30/2020

Pricing

Payment Terms: Net 45 (Payments for subscriptions are due at the beginning of the period of performance.)

Currency: USD

Period of Performance: 7/1/2020 - 6/30/2021

Contract End Date: 6/30/2025

Annual Fees for Renewing Subscriptions

Solution	Billing Frequency	Quantity/Unit	Annual Fee
Land and Vitals System Maintenance (Enterprise)	Annual	1 Each	\$47,127.69
SUBTOTAL:			\$47,127.69

Remaining Period(s)				
Solution(s)	7/1/2021 - 6/30/2022	7/1/2022 - 6/30/2023	7/1/2023 - 6/30/2024	7/1/2024 - 6/30/2025
Land and Vitals System Maintenance (Enterprise)	\$48,777.16	\$50,484.36	\$52,251.31	\$54,080.11
SUBTOTAL:	\$48,777.16	\$50,484.36	\$52,251.31	\$54,080.11

Product Descriptions

Name	Description
Land and Vitals System Maintenance (Enterprise)	Land & Vitals - Enterprise Maintenance Option

PRICING ASSUMPTIONS

Below are pricing and payment assumptions that underly this Agreement.

- 1. Maintenance.** All services to be provided under this Agreement shall be referred to as the “Principal Period of Maintenance” and provided between the hours of 7:30 AM to 5:00 PM Central Time, Monday through Friday (excluding holidays). Service coverage required outside of these hours is defined as “Emergency Maintenance” and may be undertaken by Granicus for a fee as outlined below.
 - 1.1.** \$200.00 per hour (in 15-minute increments) for services required outside of the Principal Period of Maintenance
 - 1.2.** \$150.00 per hour within the Principal Period of Maintenance for the following:
 - 1.2.1.** Repair or damage resulting from malfunction of external electrical power, air conditioning, water damage, fire damage, burglary, theft, vandalism, civil commotion, war, or accident.
 - 1.2.2.** Remediation of problems caused by use of software not covered by this Agreement or improper computer network operation and control by Customer.
 - 1.2.3.** Any maintenance that is the result of DML or DDL updates to any Granicus databases (primary or replicated) that are not executed by Granicus personnel, or have not been previously authorized in writing by Granicus personnel to be executed.
 - 1.2.4.** After the first 50 hours, which will be provided for not extra charge, \$175.00 per hour (blended rate) any alterations of the then-existing functionality of the Software as required to comply with state statute changes or state agency rules and requirements (collectively, “Statutory Changes”). Granicus will make every attempt to complete the changes as quickly as possible but will require that a minimum of sixty (60) days be allowed for completion of Statutory Changes. Granicus also reserves the right to charge the hourly rate of \$175.00 for any new functionality required to be added to the Software to comply with the Statutory Changes.
- 2. Miscellaneous.** Any on-site maintenance required to upgrade to a new Version of the Software or to add a new Application is subject to service and travel (as required) and will be subject to additional costs. Any additional costs will be agreed to by the parties and documented in an amendment to this agreement before the costs are incurred.

PROJECT ASSUMPTIONS

Below are standard project assumptions that underly this Agreement.

- 1. Training.** Granicus agrees to provide instruction to 1 - 3 Customer personnel in the operation of the system, as a standard part of the System Update or deployment of a new version at mutually agreeable times prior to system installation, for purposes of familiarization with new features, functions, and operations. The Customer shall ensure that all personnel to be trained are made available at the same time for such training. .
 - 1.1.** The Customer shall prepare a training facility and provide remote access to the designated servers and workstations in the facility no later than one month prior to commencement of training. The Customer will be responsible for configuring all hardware involved including servers, workstations, scanners, barcode printers, check endorsers, network, and other peripheral devices.
 - 1.2.** The Customer shall provide Granicus access to the training facilities for the purpose of installing the system software prior to commencement of training.

- 2. Documentation.** Granicus agrees to provide to the Customer electronic copies of all training manuals and other printed materials, and updated versions thereof, related to the deployed products identified in the SOW and any upgrades to those products.. All Granicus supplied documentation shall be considered proprietary to Granicus.

- 3. Software Updates and Maintenance.**
 - 3.1.** Granicus will provide Software Updates via remote installation. Customer is required to provide a VPN connection to Granicus for remote access.
 - 3.2.** Granicus has the option of deferring Software Maintenance pursuant to this Agreement should Customer delay installation of any new update of the Software by Granicus.
 - 3.3.** Granicus will provide Software updates, which include corrections to known Software issues. A minimum of two (2) weeks' notice will be given for such Software updates. Granicus is not responsible for maintaining any third-party software required by the system.
 - 3.4.** New Versions of the Software or additional Applications not already purchased by Customer will not be considered part of this Agreement (unless otherwise agreed by Granicus in its sole discretion). Customer may purchase new Software Versions and Applications at negotiated prices by amendment to this agreement.
 - 3.5.** Granicus shall provide telephone, facsimile, and electronic mail Software Maintenance for problems associated with the routine use and operation of the Software.
 - 3.6.** Customer shall provide a Virtual Private Network (VPN) connection for Granicus to use to perform maintenance during the principal period of maintenance.
 - 3.7.** Customer shall provide Granicus with the names of up to two (2) representatives who with Granicus's acknowledgement, shall have access to Granicus's telephone advice service. The representatives may be changed with written notice by Customer to Granicus.

4. Customer Responsibilities.

- 4.1.** Customer shall notify Granicus of any Software problem together with complete information concerning the failure, as soon as possible after the problem has been recognized.
- 4.2.** Customer agrees that no external devices can be connected to any Granicus owned hardware without written permission from Granicus.
- 4.3.** Customer will provide Granicus with the following:
 - 4.3.1.** Access to the Software and computer(s) on which it resides via VPN access;
 - 4.3.2.** Access to and use of all information necessary to service the Software;
 - 4.3.3.** Customer shall be responsible for the maintenance of adequate backup procedures for files, as Granicus will not be responsible for loss of or altered files, data or programs;
and
 - 4.3.4.** Customer agrees to provide an installation environment which meets the specifications of the computer on which the Software is running.