

**PERSONAL SERVICES CONTRACT**

County of Nevada, California

This Personal Services Contract is made between the COUNTY OF NEVADA (herein "County"), and

**Granicus, Inc.**

(herein "Contractor"), wherein County desires to retain a person or entity to provide the following services, materials and products generally described as follows:

(§1) **Managed Services for Tools to Increase Public Engagement in Local Government**

**SUMMARY OF MATERIAL TERMS**

(§2) **Maximum Contract Price:** \$27,000  
(§3) **Contract Beginning Date:** 7/1/2015      **Contract Termination Date:** 6/30/2016  
(§4) **Liquidated Damages:** \$0

**INSURANCE POLICIES**

Designate all required policies:

		Req'd	Not Req'd
(§6) <b>Commercial General Liability</b>	(\$1,000,000)	<u>  x  </u>	<u>      </u>
(§7) <b>Automobile Liability</b>	(\$ 300,000) Personal Auto	<u>      </u>	<u>  x  </u>
	(\$1,000,000) Business Rated	<u>  x  </u>	<u>      </u>
	(\$1,000,000) Commercial Policy	<u>      </u>	<u>  x  </u>
(§8) <b>Worker's Compensation</b>		<u>  x  </u>	<u>      </u>
(§9) <b>Errors and Omissions</b>	(\$1,000,000)	<u>      </u>	<u>  x  </u>

**LICENSES**

Designate all required licenses:

(§14) n/a

**NOTICE & IDENTIFICATION**

(§26) <b>Contractor:</b> Granicus, Inc. 707 17th Street, Suite 4000 Denver, CO 80202 Contact Person: Anita Henestrosa (415) 967-5577 e-mail: <a href="mailto:Anita.Henestrosa@granicus.com">Anita.Henestrosa@granicus.com</a>	<b>County of Nevada:</b> 950 Maidu Avenue Nevada City, California 95959  Contact Person: Diana Carolan IS Manager (530) 265-7100 e-mail: <a href="mailto:Diana.carolan@co.nevada.ca.us">Diana.carolan@co.nevada.ca.us</a>
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**Contractor is a:** (check all that apply)

Corporation:	<u>  x  </u> Calif.,	<u>      </u> Other,	<u>      </u> LLC,	<u>      </u> Non-profit
Partnership:	<u>      </u> Calif.,	<u>      </u> Other,	<u>      </u> LLP,	<u>      </u> Limited
Person:	<u>      </u> Indiv.,	<u>      </u> Dba,	<u>      </u> Ass'n	<u>      </u> Other

**EDD:** Independent Contractor Worksheet Required:        Yes   x   No

**HIPAA:** Schedule of Required Provisions (Exhibit D):        Yes   x   No

**ATTACHMENTS**

Designate all required attachments:

	Req'd	Not Req'd
<b>Exhibit A: Schedule of Services</b> (Provided by Contractor)	<u>  x  </u>	<u>      </u>
<b>Exhibit B: Schedule of Charges and Payments</b> (Paid by County)	<u>  x  </u>	<u>      </u>
<b>Exhibit C: Schedule of Changes</b> (Additions, Deletions & Amendments)	<u>  x  </u>	<u>      </u>
<b>Exhibit D: Schedule of HIPAA Provisions</b> (Protected Health Information)	<u>      </u>	<u>  x  </u>

### Terms

Each term of this Contract below specifically incorporates the information set forth in the Summary at page one (1) above as to each respective section (§) therein, as the case may be.

### Services

#### 1. **Scope of Services:**

Contractor shall provide all of the services, materials and products (herein "Services") generally described in **Exhibit "A"**, according to a performance schedule, if applicable, as set forth in said exhibit (herein "Performance Schedule") . If requested, Contractor agrees to serve as an expert witness for County in any third party action or proceeding arising out of this Contract.

### Payment

#### 2. **Charges and Payments:**

The charges (herein "Charges") for furnishing the aforesaid Services under this Contract are set forth in **Exhibit "B"**, including, if applicable, hourly rates, unit pricing, and expense, mileage and cost limits. Said Charges shall be presented monthly by invoice, and shall be due within thirty (30) days of receipt unless payment is otherwise set forth in said **Exhibit "B"**, and shall remain in effect for the entire term of this Contract, and any extension hereof. In no event will the cost to County for Services to be provided under this Contract, including direct non-salary expenses, exceed the **Maximum Contract Price** set forth at §2, page one (1), above.

### Time for Performance

#### 3. **Contract Term:**

This Contract shall commence on the **Contract Beginning Date** set forth at §3, page one (1), above. All Services required to be provided by this Contract shall be completed and ready for acceptance no later than the **Contract Termination Date** set forth at §3, page one (1), above.

#### 4. **Liquidated Damages:**

County and Contractor agree that damages to County due to delays in timely providing Services in accordance with the aforesaid Performance Schedule and Contract Termination Date are impractical and difficult to ascertain. Therefore, if §4 at page one (1) hereof shall indicate a daily amount as **Liquidated Damages**, County shall have the right to assess said daily sum, not as a penalty, but as and for damages to County due to delays in providing Services not in accordance with the said Performance Schedule, or later than the Contract Termination Date (herein "Delay"). Liquidated Damages shall be offset against amounts owing to Contractor, including retention sums.

To the extent that any Delay is a result of matters or circumstances wholly beyond the control of Contractor, County may excuse said Liquidated Damages; provided however, that County may condition such excuse upon Contractor having given prompt notice to County of such delay immediately by telephone and thereafter by written explanation within a reasonable time. The time for Contractor's performance shall be extended by the period of delay, or such other period as County may elect.

#### 5. **Time of the Essence:**

Time is of the essence with respect to Contractor's performance under this Contract. Delay in meeting the time commitments contemplated herein will result in the assessment of liquidated damages, if indicated at §4 at page one (1), hereof. If Liquidated Damages are not so indicated, damages shall be as otherwise provided by law.

### Insurance

#### 6. **Commercial General Liability Insurance:** (County Resolution No. 90674)

If §6 at page one (1) hereof shall indicate a **Commercial General Liability** insurance policy is required, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:

- (i) Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount indicated at said §6;

- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and other insurance maintained by the County of Nevada shall be excess only and not contributing with Contractor's insurance;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

**7. Automobile Liability Insurance:** (County Resolution No. 90676)

If §7 at page one (1) hereof shall require either a Business Rated or a Commercial Automobile Liability insurance policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:

- (i) Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount indicated at said §7;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and other insurance maintained by the County of Nevada shall be excess only and not contributing with Contractor's insurance;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

If §7 at page one (1) hereof shall require a Personal Auto policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance in such amounts as required by law, evidenced by a certificate of insurance, or other proof acceptable to County.

**8. Worker's Compensation:** (County Resolution No. 90674)

If §8 at page one (1) hereof shall indicate a **Worker's Compensation** insurance policy is required, Contractor shall maintain said policy as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

Before commencing to utilize employees in providing Services under this Contract, Contractor warrants that it will comply with the provisions of the California Labor Code, requiring Contractor to be insured for worker's compensation liability or to undertake a program of self-insurance therefor.

**9. Errors and Omissions:**

If §9 at page one (1) hereof shall indicate **Errors and Omissions** insurance is required, Contractor shall maintain either a professional liability or errors & omissions policy in the minimum amount indicated, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

**10. Miscellaneous Insurance Provisions:** (County Resolution No. 90675)

All policies of insurance required by this Contract shall remain in full force and effect throughout the life of this Contract and shall be payable on a "per occurrence" basis unless County specifically consents to "claims made" coverage. If the County does consent to "claims made" coverage and if Contractor changes insurance carriers during the term of this Contract or any extensions hereof, then Contractor shall carry prior acts coverage.

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by County, its officers, agents and/or employees, shall be excess only and not contributing with insurance required or provided under this agreement.

At all times, Contractor shall keep and maintain in full force and effect throughout the duration of this Contract, policies of insurance required by this Contract which policies shall be issued by companies with a Best's Rating of B+ or higher (B+, B++, A-, A, A+ or A++), or a Best's Financial Performance Rating (FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be issued by companies approved by the County Risk Manager. In the event the Best's Rating or Best's FPR shall fall below the rating required by this paragraph, Contractor shall be required to forthwith secure alternate policies which comply with the rating required by this paragraph, or be in material breach of this Contract.

Failure to provide and maintain the insurance policies (including Best's ratings), endorsements, or certificates of insurance required by this Contract shall constitute a material breach of this agreement (herein "Material Breach"); and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both. (See §13, ¶2, below, as these provisions additionally apply to subcontractors.)

**11. Indemnity:**

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify, defend and hold harmless the County and its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) which result from the negligent act, willful misconduct, or error or omission of Contractor, except such loss or damage which was caused by the sole negligence or willful misconduct of County or its officers, officials, employees, agents and volunteers.

**Personal Services**

**12. Contractor as Independent:**

In providing services herein, Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as agents or employees of County.

**13. Assignment and Subcontracting:**

Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Contract are personal to the Contractor and may not be transferred, subcontracted, or assigned without the prior written consent of County. Contractor shall not substitute nor replace any personnel for those specifically named herein or in its proposal without the prior written consent of County.

Contractor shall cause and require each transferee, subcontractor and assignee to comply with the insurance provisions set forth herein at §§6, 7, 8, 9 and 10, to the extent such insurance provisions are required of Contractor under this Contract. Failure of Contractor to so cause and require such compliance by each transferee, subcontractor and assignee shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

**14. Licensing and Permits:**

Contractor warrants (i) Contractor is qualified and competent to provide all Services under this contract; (ii) Contractor and all employees of Contractor hold all necessary and appropriate licenses therefor, including those licenses set forth at §14, page one (1) hereof; and, (iii) Contractor shall obtain, and remain in compliance with, all permits necessary and appropriate to provide said Services. Contractor shall cause said licenses and permits to be maintained throughout the life of this Contract. Failure to do so shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

**Public Contracts**

**15. Prevailing Wage and Apprentices:**

To the extent made applicable by law, performance of this contract shall be in conformity with the provisions of California Labor Code, Division 2, Part 7, Chapter 1, commencing with Section 1720 relating to prevailing wages which must be paid to workers employed on a public work as defined in Labor Code §§ 1720, et seq.; and shall be in conformity with Title 8 of the California Code of Regulations §§ 200 et seq., relating to apprenticeship. Contractor shall comply with the provisions thereof at the

commencement of Services to be provided herein, and thereafter during the term of this Contract. A breach of the requirements of this section shall be deemed a material breach of this contract. A copy of the relevant prevailing wage as defined in Labor Code §1770 et seq. is on file with the Department of Transportation, County of Nevada, 950 Maidu Avenue, Nevada City, California 95959. Copies will be provided upon request.

**16. Accessibility (County Resolution No. 00190):**

It is the policy of the County of Nevada that all County services, programs, meetings, activities and facilities shall be accessible to all persons, and shall be in compliance with the provisions of the Americans With Disabilities Act and Title 24, California Code of Regulations. To the extent this Contract shall call for Contractor to provide County contracted services directly to the public, Contractor shall certify that said direct Services are and shall be accessible to all persons.

**17. Nondiscriminatory Employment:**

In providing Services hereunder, Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status or disability. This policy does not require the employment of unqualified persons.

**18. Prior Nevada County Employment (County Resolution No. 03-353):**

Effective July 22, 2003, it is the policy of the County of Nevada that former members of the Board of Supervisors, a former CEO, or a former Purchasing Agent, for a period of twelve (12) months following the last day of employment, shall not enter into any relationship wherein that former employee or former Board member receives direct remuneration from a legal entity that, during the last twelve (12) months of said employment or Board member's service, entered into a contract with, or received a grant from the County of Nevada. Provided however, that this prohibition shall not apply to any employee that did not personally approve a contract with or grant to said legal entity during the last twelve (12) months of said employment, and shall not apply when the Board of Supervisors did not approve a contract with or grant to said legal entity during the last twelve (12) months of said Board member's service.

A violation of this policy shall subject Contractor to all of the remedies enumerated in said resolution and as otherwise provided in law, which remedies shall include but not be limited to injunctive relief, cancellation and voiding of this contract by County, a return of grant money, a cause of action for breach of contract, and entitlement to costs and reasonable attorney fees in any action based upon a breach of contract under this provision.

**19. Cost Disclosure:**

In accordance with Government Code Section 7550, should a written report be prepared under or required by the provisions of this Contract, Contractor agrees to state in a separate section of said report the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of said report

**Default and Termination**

**20. Termination:**

A Material Breach of this Contract pursuant to the terms hereof or otherwise, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to immediately suspend payments hereunder, or terminate this contract, or both, **without notice**.

If Contractor fails to timely provide in any manner the services materials and products required under this Contract, or otherwise fails to promptly comply with the terms of this Contract, or violates any ordinance, regulation or other law which applies to its performance herein, County may terminate this Contract by giving **five (5) days written notice** to Contractor.

Either party may terminate this Contract for any reason, or without cause, by giving **thirty (30) calendar days written notice** to the other, which notice shall be sent by registered mail in conformity with the notice provisions, below. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract. Contractor shall be excused for failure to perform services herein if such performance is prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.

County, upon giving **sixty (60) calendar days written notice** to Contractor, shall have the right to terminate its obligations under this Contract at the end of any fiscal year if the County or the State of

California, as the case may be, does not appropriate funds sufficient to discharge County's obligations coming due under this contract.

### Miscellaneous

**21. Books of Record and Audit Provision:**

Contractor shall maintain complete records relating to this Contract for a period of five (5) years from the completion of Services hereunder. Said records shall include but not be limited to bids and all supporting documents, original entry books, canceled checks, receipts, invoices, payroll records including subsistence, travel and field expenses, together with a general ledger itemizing all debits and credits

Contractor shall permit County to audit said records as well as such related records of any business entity controlled by Contractor. Said audit may be conducted on Contractor's premises or at a location designated by County, upon fifteen (15) days notice. Contractor shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charged of five percent (5%) or more of the Maximum Contract Price.

**22. Intellectual Property:**

All original photographs, diagrams, plans, documents, information, reports, computer code and all recordable media together with all copyright interests thereto (herein "Intellectual Property"), which concern or relate to this Contract and which have been prepared by, for or submitted to Contractor, shall be the property of County, and upon fifteen (15) days demand therefor, shall be promptly delivered to County without exception. Provided however, for personal purposes only and not for commercial, economic or any other purpose, Contractor may retain a copy of Contractor's work product hereunder.

**23. Entire Agreement:**

This Contract represents the entire agreement of the parties, and no representations have been made or relied upon except as set forth herein. This Contract may be amended or modified only by written, fully executed agreement of the parties.

**24. Jurisdiction and Venue:**

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.

**25. Compliance with Applicable Laws:**

The Contractor shall comply with any and all federal, state and local laws, codes, ordinances, rules and regulations which relate to, concern or affect the Services to be provided by this Contract.

**26. Notices:**

This Contract shall be managed and administered on County's behalf by the department and the person set forth at §26, page one (1) of this Contract, and all invoices shall be submitted to and approved by this Department. In addition to personal service, all notices may be given to County and to Contractor by first class mail addressed as set forth at said §26 Said notices shall be deemed received the fifth (5th) day following the date of mailing or the earlier date of personal service, as the case may be.

**27. Authority:**

All individuals executing this Contract on behalf of Contractor represent and warrant that they are authorized to execute and deliver this Contract on behalf of Contractor.

**IN WITNESS WHEREOF**, the parties have executed this Contract effective on the Beginning Date, above.

**GRANICUS, INC:**

**COUNTY OF NEVADA:**

\_\_\_\_\_  
Jason Fletcher  
Chief Executive Officer

\_\_\_\_\_  
Honorable Edward C. Scofield  
Chair, Board of Supervisors

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Attest: \_\_\_\_\_  
Patterson-Hunter  
Clerk of the Board

**EXHIBIT "A"**  
**SCHEDULE OF SERVICES**

1. Summary

Contractor will provide ongoing managed services for Media Manager; Media Vault; Outcast Encoder; Open Platform and Government Transparency Suite; Legislative Management Suite, Meeting Efficiency and Citizen Participation Suite as described in Contractor's proposals dated November 6, 2008; April 13, 2012; and April 30, 2013 and incorporated herein by reference. Licensing for use of these systems shall include the Cities of Nevada City and Grass Valley. Any services provided to the Cities for project set up, training, implantation, or related support services shall be governed by separate agreements between Contractor and the respective Cities.

2. Maintenance of Software

Contractor shall offer continuous customer support to the County and shall be dedicated to ensuring that the County is completely satisfied with Contractor's products and services. Contractor staff shall be available to the County twenty four (24) hours a day, three hundred sixty five (365) days a year, via the customer support lines. Contractor will be available at the following contact information:

- a) Telephone Numbers. Support staff may be reached from 5:00 AM to 5:00 PM Pacific time at (415) 357-3618 or toll-free at (877) 889-5495. After hours or in case of a technical support emergency, the support staff may be reached at (415) 637-0520, twenty-four (24) hours a day, seven (7) days a week.
- b) Internet and Email Contact Information. The website for Granicus, Inc. is <http://www.granicus.com>. Online support information is available at <http://www.granicus.com/service/solarch.html>. Emails may be sent to the support staff at [support@granicus.com](mailto:support@granicus.com).
- c) Mailing Address. Mail may be sent to the support staff at Granicus, Inc. headquarters, located at 707 17<sup>th</sup> Street Suite 4000, Denver, CO 80202.

3. Responsibility for Content

The County shall have sole control and responsibility over the determination of which data and information shall be included in the Content that is to be transmitted, including, if applicable, the determination of which cameras and microphones shall be operational at any particular time and at any particular location. The County shall not provide to Contractor, nor permit to be provided to Contractor, any Content that (a) infringes or violates any third parties' Intellectual Property Rights, rights of publicity or rights of privacy, (b) contains any defamatory material, or (c) violates any federal, state, local or foreign laws, regulations or statutes.

4. Maintenance Services/Response Times. Contractor represents and warrants that all maintenance services and response times for service will be in accord with the levels and response times set forth below:

- a) Level I: Emergency. Level I problems are total failures of the system or frequent intermittent failure such that the County cannot consistently rely upon the quality and level of services agreed to by the parties hereto.

Contractor will respond to all Level I problems within one (1) hour of notification by the Client of occurrence.

- b) Level II: Urgent. Level II problems are non-emergency issues that the County believes need to be addressed within twenty-four (24) hours. Typically, this includes video files not uploading, document template configuration changes, and other time-sensitive issues.



Contractor will respond to all Level II problems within twenty-four (24) hours of notification by the Client of occurrence.

- c) Level III: Non-urgent. Level III problems are typically feature requests or non-time-sensitive issues.

Contractor will respond to all Level III problems within three (3) days of notification by the County of occurrence.

A response by Contractor means that a Contractor customer advocate or technical support engineer will respond directly to the County via phone or e-mail with (a) an assessment of the issue, (b) an estimated time for resolution, and (c) notice that they will be actively working to resolve the issue. Notification shall be the documented time that the County either calls or e-mails Contractor to notify them of an issue or the documented time that Contractor notifies County there is an issue.

For hardware issues requiring replacement, Contractor shall respond to the request made by the County within twenty-four (24) hours. Hardware service repair or replacement will occur within seventy-two (72) hours of the request by the County, not including the time it takes for the part to ship and travel to the County. The County shall grant Contractor or its representatives access to the equipment for the purpose of repair or replacement at reasonable times. Contractor will keep the Client informed regarding the timeframe and progress of the repairs or replacements.

Up-Time Guarantee. Granicus, Inc. represents and warrants a 99.9% up-time guarantee for its hosted services. Granicus, Inc. will provide notification of any system-wide outages within one hour from the time the issue was first recognized.

Scheduled Maintenance. Scheduled maintenance of the Granicus Solution will not be counted as downtime, and will only take place between 8:00 PM and 3:00 AM Pacific time on a Saturday or Sunday. Granicus, Inc. will clearly post that the site is down for maintenance and the expected duration of the maintenance. Granicus, Inc. will provide the Client with at least two (2) days prior notice for any scheduled maintenance. All system maintenance will only be performed during these times, except in the case of an emergency. In the case that emergency maintenance is required, the Client will be provided as much advance notice as possible.

- 5. Penalties. For failure to respond to a Level III problem in timely manner: one (1) day of managed service. Level II: one (1) day of managed service per hour past the twenty-four (24) hour response time required. Level I: one (1) day of managed service per hour past the response time required.

**EXHIBIT "B"**  
**SCHEDULE OF CHARGES AND PAYMENTS**

Support and Managed Service Fees:

- 1) Media Manager/Media Vault  
\$1,000 per month

Bill to: Julie Patterson-Hunter  
Clerk of the Board of Supervisors  
950 Maidu Avenue  
Nevada City, CA 95959

- 2) Legislative Management Suite (Legistar), Meeting Efficiency, Citizen Participation Suite (including eComment and Speak Up), Open Platform and Transparency Suite  
\$1,250 per month

Bill to: IGS Accounting  
County of Nevada  
950 Maidu Avenue  
Nevada City, CA 95959  
[igsadmin@co.nevada.ca.us](mailto:igsadmin@co.nevada.ca.us)

Contractor will invoice County on a quarterly basis at the beginning of the quarter for which the billed services will be provided.

County agrees to pay all invoices from Contractor within thirty (30) days of receipt of invoice. Arrangements may be made for payment by electronic funds transfer if requested by Contractor.

## EXHIBIT "C"

### SCHEDULE OF CHANGES

(Amendments and Additions to Contract)

22. **Intellectual Property.** Paragraph 22 of this Contract is deleted in its entirety.
28. Contractor agrees to provide County with a revocable, nontransferable and non-exclusive account to access the Media Management Software; and grants County a revocable, non-sublicensable, non-transferable and non-exclusive right to use the Media Management Software. The Media Management Software is proprietary to Contractor, and protected by intellectual property laws and international intellectual property treaties. County's access to, and use of the Media Management Software is licensed and not sold. County will be responsible for any applicable costs and taxes associated with County's use of the Services, or use of the Services through County's account.
29. OWNERSHIP; INTELLECTUAL PROPERTY RIGHTS & SECURITY
- a. "Content" Defined. "Content" shall mean any and all documents, graphics, video, audio, images, sounds and other content that is streamed or otherwise transmitted or provided by, or on behalf of, County to Contractor.
- b. Content Ownership. The County shall own all right, title and interest in and to all Content on a worldwide basis, including, without limitation, all Intellectual Property Rights relating thereto, (i) with respect to Content captured by cameras or microphones at the venue, at the time such Content is so captured and prior to the time it is transmitted to the computer at the venue and (ii) with respect to all other Content, at the time such Content is transmitted or otherwise provided to Contractor pursuant to this Agreement. To the extent that any such Content is protectable by copyright, such Content shall be deemed to be "works made for hire" under the copyright laws of the United States.
- c. Trademark Ownership and License.
- i. The County shall retain all right, title and interest in and to its Trademarks, including any goodwill associated therewith, subject to the limited license granted to Contractor pursuant to Section 4.2 hereof.
- ii. Contractor shall retain all right, title and interest in and to the Granicus, Inc. Trademarks, including any goodwill associated therewith, subject to the limited license granted to the County herein.
- iii. Each party grants to the other a non-exclusive, non-transferable (other than as provided in Section 6.1 hereof), limited license to use the other party's Trademarks as is reasonably necessary to perform its obligations under this Agreement, provided that any promotional materials containing the other party's trademarks shall be subject to the prior written approval of such other party, which approval shall not be unreasonably withheld.
- iv. Neither party shall use the other party's Trademarks in a manner that disparages the other party or its products or services, or portrays the other party or its products or services in a false, competitively adverse or poor light. Each party shall comply with the other party's requests as to the use of the other party's Trademarks and shall avoid any action that diminishes the value of such Trademarks.
- d. Security of Data

Contractor will take commercially reasonable efforts to protect and control access to County Content. However, Contractor makes no guarantee and assumes no liability for the security of any of County's Content or other data provided to Contractor, including any of County's Content or data placed on any servers including "secure servers." County will be responsible for the creation and protection of username and password. In no event shall Contractor be liable for any direct, indirect or other damages arising out of any breach of security or otherwise.

30. Warranty Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, GRANICUS'S SERVICES, SOFTWARE AND DELIVERABLES ARE PROVIDED "AS IS" AND GRANICUS EXPRESSLY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, AND FITNESS FOR A PARTICULAR PURPOSE. GRANICUS DOES NOT WARRANT THAT ACCESS TO OR USE OF ITS SOFTWARE OR SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. IN THE EVENT OF ANY INTERRUPTION, GRANICUS'S SOLE OBLIGATION SHALL BE TO USE COMMERCIALY REASONABLE EFFORTS TO RESTORE ACCESS.
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County Counsel