



City of Emeryville

CALIFORNIA

PROFESSIONAL SERVICES CONTRACT

THIS PROFESSIONAL SERVICES CONTRACT (“Contract”) is effective as of _____ (the “Effective Date”), by and between **THE CITY OF EMERYVILLE**, a municipal corporation, (“City”) and **GRANICUS, LLC**, a Minnesota Limited Liability Company (“Contractor”), individually referred to as a “Party” and collectively as the “Parties”.

WITNESSETH THAT

WHEREAS, the City desires to engage Contractor for providing a citizen-focused website and providing OpenForms; and

WHEREAS, the City desires to engage Contractor for providing a replacement agenda management software system; and

WHEREAS, the City finds that specialized knowledge, skills, and training are necessary to render the services necessary to do the work contemplated under this Contract; and

WHEREAS, the City has determined that the Contractor is qualified by training and experience to render such services; and

WHEREAS, the Contractor desires to provide such services; and,

WHEREAS, the public interest will be served by this Contract; and

NOW, THEREFORE, the Parties hereto do mutually agree as follows:

1. SCOPE OF SERVICES AND TERMINATION DATE

1.1 Project Description

A complete project description is set forth in the Scope of Work, attached hereto as **Exhibit A** and incorporated herein by this reference.

1.2 Services

The services to be completed under this Contract (“Services”) are described in the Scope of Work set forth in **Exhibit A**. The Services shall be performed in accordance with terms, conditions, and specifications set forth herein. To the extent there is a conflict between the Scope of Work, and the terms, conditions, and specifications set forth herein, the terms, conditions, and specifications set forth herein shall govern.

FOR CITY USE ONLY

Contract No.		CIP No.	
Resolution No.		Project No.	

1.3 Schedule and Completion Date

The Services to be provided by Contractor under this Contract shall commence on the Effective Date and shall continue through the end of the then current billing term, and will continue for an additional four (4) years thereafter. The Parties may, by mutual, written consent, extend the term of this Contract.

1.4 Licensing and Permitted Use

Contractor and its licensors own all IP Rights in the products. Contractor Products (“Products”) shall mean the online or cloud subscription services, on premise software, and embedded software licensed to City, and hardware components purchased by City under this Contract. City and its authorized users have no right, title or interest in the Products other than the license rights expressly granted herein. All rights not expressly granted in the Products are reserved by Contractor or its licensors.

Contractor Products and Services are purchased by City as subscriptions. Contractor hereby grants and City hereby accepts, solely for its internal use, a worldwide, revocable, non-exclusive, non-transferrable right to use Contractor Products and Services during the term of this Contract. Contractor reserves all right, title and interest in Contractor Products and Services, the documentation and resulting product including all related intellectual property rights. No implied licenses are granted to City. Contractor name, logo, and the product names are trademarks of Contractor, and no right or license is granted to use them. City assigns to Contractor any suggestion, enhancement, request, recommendation, correction or other feedback provided by City relating to the use of Contractor Products and Services. City shall not: (i) Misuse any Contractor resources or cause any disruption, including but not limited to, the display of adult content, advertisements, solicitations, or mass mailings to individuals who have not agreed to be contacted; (ii) Use any process, program, or tool for gaining unauthorized access to the systems, networks, or accounts of third parties; (iii) Use Contractor Products and Services in a manner in which system or network resources are unreasonably denied to third parties; (iv) Use the Products and Services as a door or signpost to another server; (v) Access or use any portion of Contractor Products and Services except as expressly allowed by this Contract; (vi) Disassemble, decompile, or otherwise reverse engineer all or any portion of Contractor Products and Services; (vii) Use Contractor Products and Services for any unlawful purposes; (viii) Export or allow access to Contractor Products and Services in violation of U.S. laws or regulations; (ix) subcontract, disclose, rent, or lease Contractor Products and Services, or any portion thereof, for third party use; or (x) Modify, adapt, or use Contractor Products and Services to develop any software application intended for resale which uses Contractor Products and Services in whole or in part.

City can only use Products to share content that is created by or owned by City and/or content for affiliated organizations, provided that use by City for affiliated organizations is in support only, and not as a primary communication vehicle for such organizations that do not have their own license to the Products. “Content” means any material or data: (i) displayed or published on City’s website; (ii) provided by City to Contractor to perform the Services; or (iii) uploaded into Products. Contractor is not responsible for

any Content used, uploaded or migrated by City or any third party. City grants Contractor a limited, non-exclusive right during the Term to access and use the Content to provide the Products and Services. Content does not include user feedback related to the Products or Services, which Contractor is free to use without any further permission or consideration to City. In addition, Content does not include data generated by use of the Products, including system data and data derived from Content in an aggregated and anonymized form, which may be used by Contractor for any and all business purposes including diagnostics and system and product improvements.

Each Party retains its rights in its pre-existing intellectual property.

For the Services, Contractor grants City a non-exclusive, non-transferable, royalty-free, perpetual license to use the “Deliverables” on behalf of and for the benefit of City independently and with Contractor Products. “Deliverable(s)” means any computer software, written documentation, reports or materials developed by Contractor specifically for City pursuant to an Order. Contractor retains all right, title and interest to the Deliverables except for those rights expressly granted to City and reserves all rights not otherwise expressly granted herein.

1.5 Warranty

The Services will be performed in a professional and workmanlike manner in accordance with generally accepted industry standards for the software consulting industry. Contractor will use reasonable commercial efforts to complete the Services in accordance with all material specifications or any Contractor written documentation. If the Services fail to comply with this warranty during the “Warranty Period,” which is the thirty (30) day period following completion of the Services, City will promptly notify Contractor in writing specifying in reasonable detail any alleged non-conformities in the Services. Upon receipt of notice and a determination that the Services did fail to comply with this warranty, Contractor will, as City’s sole and exclusive remedy, promptly re-perform any such Services in accordance with the material specifications, Contractor written documentation and this Contract. THE WARRANTIES SET FORTH IN THIS CONTRACT ARE EXCLUSIVE AND CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING OR COURSE OF PERFORMANCE.

2. WORK CHANGES

2.1 City Rights to Change

The City reserves the right to order changes in the Services to be performed under this Contract by altering, adding to or deducting from the Order. All such changes shall be incorporated in amendments executed by the Contractor and the City. Such amendments shall specify the changes ordered and any necessary adjustment of compensation and completion time.

2.2 Additional Work Changes

Any work added to the Order by an amendment shall be executed under all the applicable conditions of this Contract. No claim for additional compensation or extension of time shall be recognized unless contained in an amendment duly executed on behalf of the City and the Contractor.

2.3 City Manager Execution

The City Manager has authority to execute without further action of the Emeryville City Council, any number of amendments so long as their total effect does not materially alter the terms of this Contract or increase the total amount to be paid under this Contract, as set forth in Section 3.2 below.

3. COMPENSATION AND METHOD OF PAYMENT

3.1 Compensation for Services Performed

City agrees to pay the Contractor for the Services as specified in each Order. Annual fees are due upfront at the beginning of each annual term. Services fees and one-time fees are due according to the billing frequency specified in each Order. Compensation for Services shall be paid to the Contractor upon receipt and approval by the City of invoices setting forth in detail the Services performed and costs incurred. Any disputed amounts will be identified in writing to Contractor within the payment period or be deemed accurate and payable. The City shall pay the Contractor within forty-five (45) days after receipt of the invoice by City Staff.

3.2 Total Compensation Amount

The total amount paid under this Contract as compensation for Services performed and reimbursement for costs incurred shall not, in any case, exceed **TWO HUNDRED THIRTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$235,000.00)**, except as outlined in Section 2.3 above. The compensation for Services performed shall be as set forth in **Exhibit A**. Reimbursement for costs incurred shall be limited as follows. Long distance telephone and telecommunications, facsimile transmission, normal postage and express mail charges, photocopying and microcomputer time shall be at cost. Supplies and outside services, transportation, lodging, meals and authorized subcontracts shall be at cost plus no more than a 10% administrative burden. Automobile mileage shall be no more than the current deductible rate set by the Internal Revenue Service.

4. COVENANTS OF CONTRACTOR

4.1 Assignment of Contract

The Contractor covenants and agrees not to assign or transfer any interest in, nor delegate any duties of this Contract, without the prior express written consent of the City which shall not to be unreasonably withheld. As to any approved subcontractors, the

Contractor shall be solely responsible for reimbursing them and the City shall have no obligation to them.

4.2 Responsibility of Contractor and Indemnification of City

Except to the extent caused by the sole negligence or willful misconduct of the City, Contractor shall indemnify, defend, and hold harmless City and City's members, officers, agents, employees and volunteers, from and against any and all third party claims, losses, liabilities, nature and description, damages to tangible property, injury (including without limitation injury to or death of an employee of Contractor or subcontractors as well as any claim by any employee, agent, Contractor or independent contractor hired or employed by Contractor that such persons or individuals are entitled to any benefit otherwise provided to employees of the City, including coverage under the California Public Employee Retirement System), costs and reasonable expenses of any kind, whether actual, alleged or threatened, including, without limitation, damages, court costs, reasonable attorneys' fees, litigation expenses, and fees of expert contractors or expert witnesses incurred in connection therewith and the costs of investigation, caused by the negligence, recklessness, or willful misconduct of Contractor, any subcontractor, anyone directly or indirectly employed by them or anyone that they control. This obligation to indemnify and defend the City, its members, officers, agents, employees and volunteers shall survive termination of this Contract.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction, Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

TO THE EXTENT PERMITTED BY LAW, NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, EXCEPT FOR CITY'S OBLIGATIONS TO PAY AMOUNTS DUE UNDER EXHIBIT A, OR CONTRACTOR'S LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM ITS NEGLIGENCE, RECKLESSNESS OR WILLFUL MISCONDUCT, IN NO EVENT WILL EITHER PARTY'S MAXIMUM AGGREGATE LIABILITY FOR ALL CLAIMS ARISING IN CONNECTION WITH THIS CONTRACT (WHETHER IN CONTRACT OR TORT OR OTHERWISE) EXCEED THE LESSER OF TWO TIMES (2X) THE FEES PAYABLE BY CITY FOR CONTRACTOR PRODUCTS AND SERVICES OR FIVE HUNDRED THOUSAND DOLLARS (\$500,000 USD). NEITHER PARTY WILL BE RESPONSIBLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, OR LOST PROFITS, SALES, OR GOODWILL, HOWEVER CAUSED. THIS SECTION WILL SURVIVE THE TERMINATION OF THIS CONTRACT. NEITHER PARTY MAY INSTITUTE AN ACTION IN ANY FORM ARISING OUT OF OR IN CONNECTION WITH THIS

CONTRACT MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION HAS ARISEN.

4.3 Independent Contractor

The Contractor hereby covenants and declares that it is engaged in an independent business and agrees to perform the Services as an independent contractor and not as the agent or employee of the City. The Contractor agrees to be solely responsible for its own matters relating to the time and place the Services are performed; the instrumentalities, tools, supplies and/or materials necessary to complete the Services; hiring of contractors, agents or employees to complete the Services; and the payment of employees, including compliance with Social Security, withholding and all other regulations governing such matters. The Contractor agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of this Contract.

4.4 Insurance

Contractor shall not commence Services under this Contract until it has provided evidence satisfactory to the City that it has secured all insurance required under **Exhibit B**, attached hereto and incorporated herein by this reference. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under **Exhibit B**. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Contract for cause.

4.5 Records, Reports and Audits

4.5.1 Records

- A. Records shall be established and maintained by the Contractor in accordance with requirements prescribed by the City with respect to all matters covered by this Contract. Except as otherwise authorized, such records shall be maintained for a period of three years from the date that final payment is made under this Contract. Furthermore, records that are the subject of audit findings shall be retained for three years or until such audit findings have been resolved, whichever is later.
- B. All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.

4.5.2 Reports and Information

Upon reasonable advance written notice and request, the Contractor shall furnish to the City any and all statements, records, reports, data and information related to matters covered by this Contract in the form requested by the City.

4.5.3 Audits and Inspections

Upon reasonable advance written notice and request, and during normal business hours, there shall be made available to the City for examination all records with respect to all matters covered by this Contract. The Contractor will permit the City to audit, examine, and make excerpts or transcripts from such records, and to audit all contracts, invoices, materials, data relating to all matters covered by this Contract.

4.6 Conflicts of Interest

The Contractor covenants and declares that, other than this Contract, it has no holdings or interests within the City of Emeryville, nor business holdings, contracts or agreements with any official, employee or other representative of the City. For the duration of this Contract, in the event the Contractor or its principals, agents or employees acquire such a holding, interest, contract, or agreement within the City of Emeryville or with any official, employee or representative of the City in the future, the Contractor will immediately notify the City of such holding, interest, contract, or agreement in writing.

4.7 Confidentiality

It is expected that one Party may disclose to the other Party certain information which may be considered confidential or trade secret information (“Confidential Information”) by that Party. Subject to required disclosures under the California Public Records Act or any other applicable laws, Confidential Information may include: (i) non-public information if it is clearly and conspicuously marked as “confidential” or with a similar designation at the time of disclosure; or (ii) non-public information of a Party if it is identified as confidential or proprietary before, during, or promptly after presentation.

Subject to required disclosures under the California Public Records Act and any other applicable laws, each Party agrees to shall exercise reasonable precautions to prevent the unauthorized disclosure and use of information whether deemed confidential or not. If a Party is required to disclose records in response to a public records request, court order, administrative agency or governmental body order, or subpoena, summons or other legal process, that Party shall promptly (and prior to such disclosure) notify the other Party in writing of such demand in accordance with Section 16. If the other Party objects to disclosure of a record(s), that Party shall seek a court order from a court of competent jurisdiction prohibiting the first Party from disclosing the record(s) objected to within the applicable time required by the first Party to disclose the record.

Each Party shall return the Confidential Information upon written request by the other Party.. City understands and agrees that it may not always be possible to completely

remove or delete all Confidential Information from Contractor's databases without some residual data.

4.8 Discrimination Prohibited

The Contractor covenants and agrees that in performing the Services required under this Contract, the Contractor shall not discriminate against any person on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, national origin or ancestry, age or disability, except as provided in section 12940 of the Government Code.

4.9 Licenses, Certifications and Permits

The Contractor covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of the Contractor by any and all national, state, regional, county, city or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Services contracted for under this Contract. All work performed by Contractor under this Contract shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily expected of competent professionals.

4.10 Key Personnel

Upon execution of this Contract, Contractor shall assign a Project Manager for the successful prosecution of the Services due to their unique expertise and depth and breadth of experience. There shall be no change in Contractor's Project Manager or members of the project team without the City's approval. Contractor recognizes that the composition of this team was instrumental in the City's decision to award the work to Contractor and that compelling reasons for substituting these individuals must be demonstrated for the City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section shall constitute a material breach of Contractor's obligations under this Contract and shall be grounds for termination.

4.11 Authority to Contract

The Contractor covenants and declares that it has obtained all necessary approvals of its board of directors, stockholders, general partners, limited partners or similar authorities to simultaneously execute and bind Contractor to the terms of this Contract, if applicable.

4.12 Ownership of Work

[Intentionally omitted].

4.13 City Labor Requirements

4.13.1 Compliance

At the Effective Date, compliance with the City's living wage ordinance is **required** / **not required** for this Contract. If this Contract provides for compensation to

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Contractor of \$25,000 or more within a single fiscal year for providing Services to the City, then Contractor shall comply with the requirements of the City's Living Wage Ordinance set forth in [Chapter 31 of Title 5 of the Emeryville Municipal Code](#), unless (i) Contractor is a governmental entity, (ii) this Contract is subject to a higher prevailing wage rate as defined in the California Labor Code, or (iii) this Contract is subject to federal or state laws or regulations that would preclude the application of the City's laws.

4.13.2 Applicability

Compliance with the Living Wage Ordinance, if applicable, shall be required during the term of the Contract for all employees of Contractor who perform at least twenty-five percent (25%) of the work arising from this Contract, unless said employees are otherwise exempt from the application of the Living Wage Ordinance pursuant to [Section 5-31.08 of the Emeryville Municipal Code](#). Contractor shall promptly provide to the City documents and information verifying compliance with the requirements of the Living Wage Ordinance within ten (10) working days following a written request for such documentation and information from the City.

4.13.3 Non-Compliance

Failure to comply with the Living Wage Ordinance provides that a person claiming a violation thereof may bring an action against Contractor for back pay, reinstatement and compensatory damages, as well as a penalty up to three times the amount of damages for a willful violation, plus reasonable attorney's fees and costs. In addition, the City may terminate the Contract and pursue any other remedies available to the City, including debarment, for violations of the Living Wage Ordinance.

4.13.4 Living Wage

Contractor shall notify each of its affected employees with regards to wages that are required to be paid pursuant to this Contract. "Living Wage" means no less than **\$18.00 PER HOUR** (which is [subject to increase annually on July 1st](#) to reflect the twelve-month average increase to the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Metropolitan Statistical Area for the preceding year from May to April, not to exceed three percent (3%) in any one year) including wages and health benefits. If employer contributions for health benefits are not paid on an hourly basis, the employer must demonstrate to the City the hourly value of such benefits in order to receive credit for such payments to covered employees.

4.13.5 Minimum Wage and Paid Sick Leave

In addition to the Living Wage Ordinance, the Contractor may be required to comply with the [City's Minimum Wage, Paid Sick Leave, and Other Employment Standards Ordinance](#), as set forth in [Chapter 37 of Title 5 of the Emeryville Municipal Code](#), to the extent it is applicable.

4.14 California Labor Requirements

4.14.1 Prevailing Wage Requirements

Contractor is aware of the requirements of [California Labor Code](#) Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects (“Prevailing Wage Laws”). If the Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

4.14.2 Registration

If the Services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Contract and require the same of any subcontractors, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

4.14.3 Labor Compliance Oversight

This Contract may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor’s performance of Services, including any delay, shall be Contractor’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

4.14.4 Workers' Compensation

Pursuant to the requirements of section 1860 of the [California Labor Code](#), Contractor will be required to secure the payment of workers' compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. By signing this Contract, Contractor certifies the following:

"I am aware of the provisions of section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

4.14.5 Event of Default

Failure by Contractor to comply with any provision of this Section shall constitute a default of this Contract and shall be grounds for termination as provided in this Contract.

5. **TERMINATION**

- A. The City shall have the right to terminate this Contract for convenience for any reason whatsoever by providing written notice thereof at least ninety (90) calendar days in advance of the termination date. Either Party may terminate this Contract by written notice if the other Party commits a material breach of this Contract and fails to cure such breach within thirty (30) days after receipt of such notice, or an additional period of time as agreed to by the Parties.
- B. All termination notice periods triggered pursuant to written notice shall begin to run from the date of the United States Postal Service postmark.
- C. Upon termination, City shall provide for payment to the Contractor for Services rendered and expenses incurred prior to the termination date. City will have thirty (30) days from the expiration date of a subscription to extract or download any Content stored in the Products. Contractor has no obligation to retain any Content after such thirty (30)-day period nor is Contractor responsible for extracting the data on City's behalf absent separate written agreement and the payment of additional fees.
- D. Upon receipt of a termination notice the Contractor shall: (1) promptly discontinue all Services affected, unless the notice directs otherwise.
- E. Both Parties will return or destroy any Confidential Information of the other Party in its possession, and certify upon request to the other Party of compliance with the foregoing.
- F. Notwithstanding anything to the contrary, this Contract is subject to immediate termination in the event the City Council does not appropriate sufficient funds for this Contract.

- G. The rights and remedies of the City and the Contractor provided in this Section are in addition to any other rights and remedies provided under this Contract or at law or in equity.

6. NO PERSONAL LIABILITY

No member, official or employee of the City shall be personally liable to the Contractor or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Contractor or successor or on any obligation under the terms of this Contract.

7. ENTIRE AGREEMENT

This Contract constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Contract not contained in this Contract shall be valid or binding. This Contract may be modified or amended only by a written document signed by representatives of both Parties with appropriate authorization.

8. SUCCESSORS AND ASSIGNS

Subject to the provisions of this Contract regarding assignment, this Contract shall be binding on the heirs, executors, administrators, successors and assigns of the respective Parties.

9. APPLICABLE LAW AND ATTORNEY'S FEES; VENUE

If any action at law or in equity is brought to enforce or interpret the provisions of this Contract, the rules, regulations, statutes and laws of the State of California will control. The prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which said party may be entitled. The exclusive venue for any legal action taken pursuant to this Contract shall be the State of California Superior Court for the County of Alameda or the United States District Court for the Northern District of California.

10. SEVERABILITY

The caption or headnote on articles or sections of this Contract are intended for convenience and reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Contract nor in any way affect this Contract. Should any article(s) or section(s), or any part thereof, later be deemed unenforceable by a court of competent jurisdiction, the remainder of this Contract shall remain in full force and effect to the extent possible.

11. BUSINESS TAX CERTIFICATE

Prior to commencement of the Services to be provided hereunder, Contractor shall apply to the City of Emeryville Finance Department for a business tax certificate, pay the applicable business tax and maintain said business tax certificate during the term of this Contract, as provided in Article 1 of Chapter 1 of Title 3 of the Emeryville Municipal Code.

12. NOTICES

12.1 Communications Relating to Daily Activities

All communications relating to the day-to-day activities of the work and invoices shall be exchanged between **Michael Parenti** for the City and **Mike Schultz** for the Contractor:

CITY	CONTRACTOR
Michael Parenti, IT Director Phone No: 510-450-7803 E-Mail : mparenti@emeryville.org	Mike Schultz Phone No: 619-980-9546 E-Mail : mike.schultz@granicus.com

12.2 Official Notices

All other notices, writings or correspondence as required by this Contract shall be directed to the City and the Contractor, respectively, as follows:

CITY	CONTRACTOR
Michael Parenti, IT Director 1333 Park Avenue Emeryville, California 94608 Phone No: 510-450-7803 E-Mail : mparenti@emeryville.org <i>with a copy to:</i> April Richardson, City Clerk 1333 Park Avenue Emeryville, California 94608 Phone No: 510-596-4372 E-Mail : april.richardson@emeryville.org	Greg Ek, Manager Contracts 1152 15 th Street NW, Suite 800 Washington, DC 20005 Phone No: 800-314-0147 E-Mail : greg.eck@granicus.com

13. COUNTERPARTS

This Contract may be signed in counterparts, each of which shall constitute an original. It is expressly agreed that each Party to this Contract shall be bound by its own telecopied, scanned, electronic or digital signature and shall accept the telecopied, scanned, electronic or digital signature of the other Party to this Contract.

14. NO THIRD-PARTY BENEFICIARIES

Except to the extent expressly provided for herein, there are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

15. NON-EXCLUSIVITY

City reserves right to employ other contractors in connection with the Services covered under this Contract.

16. ASSIGNMENT OR TRANSFER

[Intentionally omitted].

17. WAIVER

The City's failure to enforce any provision of this Contract or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

18. OTHER REQUIREMENTS

Compliance with terms and conditions set forth in **Exhibit C** is **required** / **not required** for this Contract. Contractor shall also fully and adequately comply with the provisions included in **Exhibit C** ("Other Requirements") when attached hereto and incorporated herein by reference ("Other Requirements"). With respect to any conflict between such Other Requirements and the terms of this Contract and/or the provisions of state law, **Exhibit C** shall control.

SIGNATURES ON FOLLOWING PAGE

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19. SIGNATURE PAGE TO PROFESSIONAL SERVICES CONTRACT

IN WITNESS WHEREOF the City and the Contractor have executed this Contract, which shall become effective as of the date first written above.

Approved As To Form:

DocuSigned by:
John Kennedy
2C034D03DB55487...

City Attorney

Dated: **CITY OF EMERYVILLE**

City Manager

Dated: **GRANICUS, LLC**

01/26/2024

DocuSigned by:
Greg Eck
71FB6CB5D848403... (Signature)
Greg Eck, Manager Contracts

<i>Attach: W-9 Form</i>	<i>Attach: Business License Certificate</i>
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