



Amendment Number ~~Four~~THREE
To Contract MA-059-17010305
With Granicus, LLC
FOR

County Clerk and Recorder Services Software Maintenance and Technical Support

This Amendment, hereinafter referred to as “Amendment ~~Three~~Four” is made and entered into upon execution of all necessary signatures between the County of Orange, Clerk-Recorder, a political subdivision of the State of California, hereinafter (“County”) and Granicus, LLC, with a place of business at 408 St Peter, Suite 600, St. Paul, MN 55102, hereinafter (“Contractor”), for County Clerk and Recorder Services Software Maintenance and Technical Support. County and Contractor may be individually referred to as “Party” or collectively referred to as “Parties”.

WHEREAS, County and SouthTech Systems, Inc. executed Contract MA-059-17010305 (referred to as “Contract”), in the amount of \$1,027,725.00 effective February 1, 2017, through January 31, 2022; and

WHEREAS, County, SouthTech Systems, Inc. and Contractor executed an Assignment, Novation and Consent Agreement effective November 9, 2018; and

WHEREAS, Parties executed Amendment Number One to incorporate an Assignment, Novation and Consent Agreement into the Contract wherein Contractor agreed to be bound by all terms and conditions of the Contract, as amended, as if it had been an original signatory to the Contract and to update County’s address as the County relocated to a new address effective September 3, 2019; and

WHEREAS, Parties executed Amendment Number Two to extend the Contract for an additional one (1) year, effective February 1, 2022, through and including January 31, 2023, to allow for completion of Section III.V Additional Work in Attachment A of the Agreement and add one (1) additional year for the Software License and Maintenance with a monetary increase of \$139,683.00 for a new not to exceed amount of \$1,167,408.00; and

WHEREAS, Parties executed Amendment Number Three to the Contract to extend for an additional two (2) year term in the amount of \$500,667.69 with the option to extend for one (1) one additional year for a new not-to-exceed amount of \$1,668,075.69 and modify the terms of Contract.

WHEREAS, Parties now desire to execute Amendment Number Four to the Contract to allow for completion of Section III.V Additional Work in Attachment A of the Agreement and add two (2) additional years for the Software License and Maintenance for the period of February 1, 2025 through and including January 31, 2027, with a monetary increase of \$341,095.77 for a not to exceed amount of \$341,095.77 and a cumulative amount of \$2,009,171.46; and

WHEREAS, County desires to revise Article V. Compliance with Laws, Additional Terms and Condition 10. Conflict of Interest – County Personnel, 11. Conflict of Interest – Contractor’s Personnel, and 24. Notices; and.

NOW THEREFORE, Parties agree to amend the Contract as follows:

1. Article 1, “Term of Contract” shall be amended to read in its entirety as follows:

Term of Contract: ~~The effective date of this~~ Contract shall be effective on February 1, ~~2023~~17, through and including January 31, ~~2025~~7. ~~This contract may be extended upon~~

~~expiration of this term for one year upon mutual agreement of both Parties.~~ The County is not obligated to give reason or notice if it elects not to extend. Extension amendments may require approval of the County Board of Supervisors.

2. Amend Article V. Compliance with Laws to be revised in its entirety and replaced with the following:

Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of the Insurance and Indemnification section, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

Contractor shall remain in compliance and in good standing, maintaining current and active business entity and/or nonprofit registration status, with all applicable federal, state and local registration requirements at the time of execution of the contract through the duration of the term of the Contract, and shall provide annual confirmation of current and active status to County through the term of the Contract.

3. Amend Additional Terms and Conditions 10. Conflict of Interest – County Personnel to be revised in its entirety and replaced with the following:

County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. Contractor shall not, during the period of this Contract, employ any County employee for any purpose.

4. Amend Additional Terms and Conditions 11. Conflict of Interest – Contractor's Personnel to be revised in its entirety and replaced with the following:

Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of County. This obligation shall apply to Contractor, Contractor's officers, directors, employees, agents, and subcontractors associated with accomplishing work and services hereunder. Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of County.

Contractor shall notify County, in writing, of any potential or actual conflicts of interest between Contractor and County that may arise prior to, or during the period of, Contract performance, including, but not limited to, whether any known County public officer's child is an officer or director of, or has an ownership interest of ten (10) percent or more in, Contractor. While Contractor will be required to provide this information without prompting from County any time there is a change regarding conflict of interest, Contractor must also provide an update to County upon request by County.

5. Under Article 24 entitled "Notices" the designated County Contact shall be deleted in its entirety and replaced with the following:

For County: Orange County Clerk-Recorder

Attn: Mike Desai, Project Manager
601 N. Ross Street
Santa Ana, CA 92701
Phone: 714.834.5418

6. Amend Section III.V entitled “Additional Work” of the Agreement to be revised in its entirety and replaced with the following:

V. At the request of the County, Contractor shall provide a quote for Additional Work not called for under the Annual Maintenance portions of this Contract. Contractor must obtain County Project Manager written approval prior to commencing any Additional Work. The Additional Work shall be completed no later than October 1, 2025.

- 2.7. Amend Attachment B, “Contractor Compensation and Payment” shall be amended to ~~increase the “Total Additional Work” amount by \$200,000 and~~ add two (2) additional years of the Software License and Maintenance in an amount of \$146,667.16~~164,780.56~~ for Year 79 and \$176,315.21~~154,000.53~~ for Year 108 for a new not to exceed total increase amount of \$341,095.77~~1,668,075.69~~ for a new cumulative not to exceed in the amount of \$2,009,171.46. A fully revised Attachment B is attached hereto and incorporated herein by this reference.

3. ~~Article H, “Patent/Copyright Materials/Proprietary Infringement” shall be amended to read in its entirety as follows:~~

Patent/Copyright Materials/Proprietary Infringement:

- ~~a. Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in Article III below, it shall indemnify, defend and hold County and County Indemnities harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney’s fees, costs and expenses.~~
- ~~b. Intellectual Property Ownership. Contractor and its licensors own all IP Rights in the Products. County 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.~~
- ~~d) Restrictions. County shall not:~~
- ~~(i) Use or permit any end user to use the Products to store or display adult content, promote illegal or immoral activities, send or store infringing, obscene, threatening or unlawful or tortious material or disrupt others use of the Products, network services or network equipment, including unsolicited advertising or chain letters, propagation of computer worms and viruses, or use of the Products to make unauthorized entry into any other device accessible via the network or Products;~~
- ~~(ii) Use the Products as a door or signpost to another server;~~
- ~~(iii) Disassemble, decompile, reverse engineer or make derivative works of the Products;~~

- ~~(iv) — Rent, lease, lend, or host the Products to or for any third party, or disclose the Products to any third party except as otherwise permitted in this Agreement or an Order or SOW;~~
- ~~(v) — Use the Products in violation of any applicable law, rule, or regulation, including violation of laws regarding the processing, use, or disclosure of personal information, or violation of any United States export control or regulation, United States embargo, or denied or sanctioned parties prohibitions; or~~
- ~~(vi) — Modify, adapt, or use the Products to develop any software application intended for resale which uses or competes with the Products in whole or in part.~~

4. ~~Add Article 25, “Limitation of Liability” as follows:~~

Limitation of Liability:

- ~~a) EXCEPT FOR LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE FOR ANY: (I) SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES; OR (II) LOSS OR DAMAGE TO DATA, LOST PROFITS, SALES, BUSINESS, GOODWILL OR ANTICIPATED SAVINGS, WHETHER AN ACTION IS IN CONTRACT OR TORT (INCLUDING NEGLIGENCE) AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.~~
- ~~b) NOTWITHSTANDING ANY OTHER PROVISION IN THIS CONTRACT, IN NO EVENT WILL EITHER PARTY’S MAXIMUM AGGREGATE LIABILITY FOR ALL CLAIMS ARISING IN CONNECTION WITH THIS CONTRACT (IN TORT (INCLUDING NEGLIGENCE), CONTRACT OR OTHERWISE) EXCEED THE AMOUNT OF FEES PAID BY COUNTY TO CONTRACTOR IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM. THIS LIMITATION SHALL NOT LIMIT OR MODIFY CONTRACTOR’S OBLIGATIONS TO PROVIDE INSURANCE COVERAGE AS SET FORTH UNDER ARTICLE P.~~

5. All terms and conditions contained in this Amendment are incorporated by this reference into the Contract. This Amendment modifies the Contract only as expressly set forth above ~~effective on February 1, 2023~~. This Amendment does not modify, alter or amend the Contract in any other way whatsoever.

****SIGNATURE PAGE TO FOLLOW****

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the dates shown opposite their respective signatures.

GRANICUS, LLC*

Print Name Title

Signature Date

Print Name Title

Signature Date

**Pursuant to California Corporation Code Section 313, if the Contracting Party is a Corporation, signatures of two specific corporate officers are required as further set forth.*

The first corporate officer signature must be one of the following: 1) the Chairman of the Board; 2) the President; 3) any Vice President.

The second corporate officer signature must be one of the following: a) Secretary; b) Assistant Secretary; c) Chief Financial Officer; d) Assistant Treasurer.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County of Orange, a political subdivision of the State of California

Signature Name Title Date

**APPROVED AS TO FORM:
County Counsel**

By _____
Deputy

Date _____

Attachment B

Contractor Compensation and Payment

1. **Compensation:** This is an all-inclusive, firm fixed price contract between County and Contractor for services as specified in Attachment "A", Scope of Work in an amount not to exceed \$2,009,171.461,668,075.69. Contractor acknowledges and agrees that the fixed price includes any and all sales tax.

Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing, labor, shipping, freight, insurance requirements, taxes, and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services and for performance by Contractor of all its duties and obligations hereunder. Contractor shall only be compensated as set forth herein below for products/services delivered in accordance with the Scope of Work. **County shall have no obligation to pay any sum in excess of total Contract amount specified herein unless authorized by amendment in accordance with Paragraphs "C" and "R" of County Contract Terms and Conditions.**

2. **Fees and Charges:** County will pay the following fixed fees in accordance with the provisions of this Contract. Contractor shall perform the requested services as described in Attachment A Scope of Work.

TOTAL NOT TO EXCEED CONTRACT AMOUNT: \$2,009,171.461,668,075.69

Description of Services	Cost For Per Year 9 02/01/25 – 01/31/26	Cost For Year 10 02/01/26 – 01/31/27
Cashiering System Group	\$22,754.00	
Land Records Systems Group	\$34,131.00	
County Clerk Services Systems Group Clerk Docs Maintenance and Support	\$32,090.00 <u>40,505.50</u>	<u>\$43,340.89</u>
CornerStone Maintenance and Support	<u>\$28,721.29</u>	<u>\$30,731.78</u>
Land Docs Maintenance and Support	<u>\$43,081.93</u>	<u>\$46,097.67</u>
Vital Records Systems Group Vital Docs Maintenance and Support	\$41,570.00 <u>52,471.84</u>	<u>\$56,144.87</u>
Total Annual Maintenance and Support Per Year	\$130,545.00 <u>164,780.56</u>	<u>\$176,315.21</u>

Contract Totals Not to Exceed	
Total Annual Maintenance (\$130,545 Annually) – For 02/01/17 - 01/31/22	\$652,725.00
Total Additional Work	\$575,000.00
Annual Maintenance for 02/01/22 – 01/31/23	\$139,683.00
Annual Maintenance for 02/01/23 – 01/31/24	\$146,667.16
Annual Maintenance for 02/01/24 – 01/31/25	\$154,000.53
<u>Annual Maintenance for 02/01/25 – 01/31/26</u>	<u>\$164,780.56</u>
<u>Annual Maintenance for 02/01/26 – 01/31/27</u>	<u>\$176,315.21</u>

Total Contract NTE Amount	\$1,668,075.692,009,171.46
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- 3. Payment Terms – Payment in Advance:** Payment shall be made in advance on a quarterly basis. Invoices are to be submitted to the address specified below. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange. Invoices shall be verified and approved by the County and subject to routine processing requirements. The responsibility for providing an acceptable invoice to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

The County reserves the right to terminate maintenance on individual modules with 30 days advanced notice.

Billing shall cover goods and services not previously invoiced. The Contractor shall reimburse the County of Orange for any monies paid to the Contractor for goods or services not provided or when goods/services provided do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

- 4. Invoicing Instructions:** The Contractor will provide an invoice on the Contractor's letterhead. Each invoice will have a unique number and will include the following information:

- A. Contractor's name and address
- B. Contractor's remittance address
- C. Name of County agency/department
- D. Contract number **MA-059-17010305**
- E. Service Date
- F. Description of Services
- G. Total

Invoices and support documentation are to be forwarded to:

Orange County Clerk-Recorder
Attn: Accounts Payable
601 N. Ross Street
Santa Ana, CA 92701

Email copy of invoice(s) are preferred and may be forwarded to:

To: CRInvoice@rec.ocgov.com

The responsibility for providing an acceptable invoice to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.