

AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN

THE CITY OF NEW ORLEANS

AND

GRANICUS, INC.

THIS AGREEMENT, dated JUNE 29, 2012, 2012 is between Granicus, Inc. ("Granicus"), a California Corporation represented by Ed Roshitsh, its President, and the City of New Orleans, through the Council of the City of New Orleans, herein represented by the City Council President, Jacquelyn Brechtel Clarkson, (collectively referred to herein as the "Parties").

WHEREAS, Granicus has developed and designed software tools to organize and manage agenda preparation, document management, meetings management, and streaming and archiving videos; and

WHEREAS, The City of New Orleans desires to (i) purchase the Granicus Solution which will facilitate streaming and distribution of live and archived digital media content, (ii) engage Granicus to integrate its Granicus Solution onto the City Council of New Orleans' existing website and onto the City of New Orleans' existing website, and (iii) contract with Granicus to administer the Granicus Solution through a Managed Services/Managed Hardware Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual Agreements, covenants, representations and warranties herein contained, the Parties hereto agree as follows:

**1. Granicus Solution; Installation; Maintenance; Payment.**

**1.1 Scope of Work and Pricing.**

(a) The Parties hereto agree that the scope of work and pricing are contained within Granicus' proposal entitled *Agenda Preparation, Document Management, Meetings Management, Streaming Video and Archiving for the City of New Orleans*, which is attached hereto and made part hereof as Exhibit B (hereinafter referred to as the "Proposal").

(b) In addition to the scope of work and pricing contained within the Proposal, the Parties hereto agree to the following terms and conditions as stated herein.

## **1.2 Installation of Granicus Solution.**

(a) Granicus shall have the following obligations in connection with the installation of the Granicus Solution:

(i) integrate and test the Granicus Solution, including, if necessary, installing and loading any necessary software and hardware;

(ii) conduct twenty-one days of training and project management for the City Council and Committees, City Planning Commission, Alcoholic Beverage Control (ABO) Board, Neighborhood Conservation District Committee (NCDC), including document approval training for the Mayor's Office, City Planning and Board of Zoning Adjustments (BZA), Department of Finance, Chief Administrative Office (CAO), City Attorney's Office, City Council's Offices, Historic District Landmarks Commission (HDLC), and New Orleans Historic District Landmarks Commission (NOHDLC); and

(iii) conduct five days of training and project management, including training on current operations of the Granicus system; and five days of training and project management of the new Legislative Management Suite for the New Orleans Historic District Landmarks Commission (NOHDLC), the Historic District Landmarks Commission (HDLC), and Board of Zoning Adjustments (BZA);

(b) The City of New Orleans shall have the following obligations in connection with the installation of the Granicus Solution:

(i) provide physical space at the site locations that is appropriate and sufficient for the Granicus Solution, including a controlled access area for the computers and associated hardware, equipment and accessories; and

(ii) compensate all costs related to the installation and deployment of the Granicus Solution as described in the Proposal.

(iii) compensate all Managed Services/Managed Hardware payments as described in Section 1.5.

## **1.3 Site Preparation.**

(a) The City of New Orleans shall provide such materials as may reasonably be necessary to post warnings and other disclaimers at appropriate intervals around the various site locations within the venue where live audio and video streaming will take place.

(b) The City of New Orleans shall be responsible for maintaining such warnings and disclaimers and for ensuring that patrons are fully informed regarding the locations and times when such audio and video streaming will

occur.

#### 1.4 Maintenance of Equipment and Schedule.

(a) The Parties hereto agree that the maintenance of hardware stated within this Agreement and the Proposal are attached hereto and made part hereof as Exhibit C. Granicus shall offer continuous customer support to the City of New Orleans and shall be dedicated to ensuring that the City of New Orleans is completely satisfied with Granicus products and services. Granicus staff shall be available to the City of New Orleans twenty-four (24) hours a day, three-hundred and sixty-five (365) days a year, via the customer support lines. Service response times are not to exceed four (4) hours after a call is placed, which call will be expedited based on the severity of the problem. All support numbers are listed at the end of this Agreement.

#### 1.5 Payment

(a) **Compensation:** For the scope of work and pricing requirements stated within this Agreement and the Proposal, attached hereto and made part hereof as Exhibit B, the City of New Orleans' obligation to compensate Granicus and/or any subcontractors hereunder shall not at any time exceed the compensation, in aggregate, of One Hundred Ten Thousand Seven Hundred Twenty Five Dollars and Zero Cents (\$110,725.00), itemized as follows:

(i) Initial Payment Installment: For the scope of work and final pricing as stated in Section 1.5(a), the City of New Orleans shall pay Granicus as follow:

a. Upon execution of this Agreement, the City of New Orleans agrees to pay Granicus the sum of \$ 24,200.00.

(ii) Costs for the monthly Managed Hardware, including three (3) new encoders, as stated within the Proposal, shall not exceed \$825.00 per month for the term of this agreement, plus a one-time shipping cost of \$375.00;

(iii) Costs for the monthly Managed Services, including additional meeting bodies and the upfront costs associated with the same, as stated within the Proposal, are as follows:

a. Costs for the Legislative Management Suite MMS with Approval Tracking System and Dynamic Legislative Research Portal shall not exceed \$1130.00 per month;

b. Costs for the Open Platform Suite MMS with API and SDK, On-Demand Mobile Streaming in H. 264, Unlimited Archiving and

Bandwidth, and Agenda Items Indexed to the Audio/Video shall not exceed \$315.00 per month;

- c. Costs for the Government Transparency Suite MMS with iLegislate Native iPad Agenda App, Advanced Keyword Search, Live Meeting Indexing, and Linked Agenda shall not exceed \$570.00 per month;
  - d. Costs for the MediaVault Performance Accelerator shall not exceed \$270.00 per month;
  - e. Costs for the Meeting Efficiency Suite and VoteCast Solution for 5 Meeting Bodies with Live and Automated Minutes Annotation, MS Word Plug-In, PDF Linked Minutes, and VoteCast Stations and Meeting Display shall not exceed \$1865.00 per month;
    - i. The cost for three additional meeting bodies for the Meeting Efficiency Suite shall not exceed \$810.00 per month.
    - ii. Additional bodies added by the City of New Orleans for streaming only shall incur no additional cost.
  - f. Costs for Page Views shall not exceed \$192.00 per month;
- (iv) Optional Software Modules for which the City may purchase at a later date from Granicus includes the following:
- a. Costs for the Initial Project Startup Professional Services shall not exceed \$41,800, based on the amount of resources described in Section 1, Installation of Granicus Solution. Costs for additional professional services, including the training, project management, and system configuration of additional boards, commissions and committees and transitional training after deployment, as stated within the Proposal, shall not exceed \$1600.00 per day;
  - b. Costs for additional custom development of web templates, including view page development, shall not exceed \$6150.00, and is based on custom development cost of \$550.00 per meeting body if required;
  - c. Should the City decide to implement the Citizen Participation Suite MMS, the cost shall not exceed \$300.00 per month;

- d. Should the City decide to implement Citizen Participation, the cost for Set-Up with Installation, Configuration and Training Services shall not exceed \$1500.00;
- e. Should the City decide to implement Training Management Suite MMS, the cost shall not exceed \$650.00 per month;
- f. Should the City decide to implement Training Management Suite the cost for Set-Up with Installation, Configuration and Training Services shall not exceed \$1700.00;
- g. Should the City decide to implement Mobile Encoder MMS the cost shall not exceed \$517.00 per month;
- h. Should the City decide to implement Mobile Encoder the cost for Set-Up with one day of on-site training shall not exceed \$2,455.00.

**(b) Costs for Additional Meeting Bodies and increased Training Beyond the Original Term of the Agreement:**

- (i) Should the City of New Orleans decide to extend this Agreement beyond its original term, the City's obligation to compensate Granicus and/or any subcontractors for training services shall be at the same rate contemplated under the original agreement.

**(c) Invoices:** For any and all payments, Granicus shall submit detailed invoices to the City itemizing the amounts due and requesting payment of same.

- (i) Granicus agrees to provide the City of New Orleans with a detailed monthly invoice for services rendered and the City of New Orleans agrees to pay the monthly fees to Granicus by the first day of the month one (1) month in advance of services.
- (ii) Notwithstanding the foregoing and providing that this Agreement is executed by the parties by June 30, 2012, the City of New Orleans will receive Monthly Managed Service Fees ("MMS") on the additional upgrade services being purchased at no cost to the City until January 1, 2013. Discounted billing for Monthly Managed Services will start after deployment has been completed. The City of New Orleans will be responsible to pay the Monthly Managed Service fees in full starting January 1, 2013. Billing for this

period starts on December 15, 2012. Up-front costs are not affected by this promotion. Monthly Managed Service Fees on the City's current services are not affected by this promotion.

## **1.6 Managed Services**

- (a) Granicus agrees to provide the City of New Orleans unlimited live and on-demand hosting, storage, distribution, backups, systems monitoring and bandwidth necessary for the City of New Orleans to broadcast its content to the Internet in accordance with the Granicus Managed Services defined in the Proposal.
- (b) The City of New Orleans agrees to purchase hosting, storage, and bandwidth necessary for the City of New Orleans to broadcast its content to the Internet in accordance with the Granicus Managed Services defined in the Proposal.
- (c) In the event of a cancellation of Managed Services by City of New Orleans within twelve (12) months of the "Live" date, the City of New Orleans will be responsible for paying the amount due for the remainder of the first year. Granicus shall send a detailed invoice of services rendered to: Clerk of Council, Peggy Lewis, City Hall, 1300 Perdido Street, Suite 1E09, New Orleans, Louisiana 70113.

## **2. Use of Granicus Software.**

### **2.1 Use.**

Granicus agrees to provide City of New Orleans with a revocable, non-transferable and non-exclusive license to access the Granicus Software listed in the attached Proposal; and grants City of New Orleans a revocable, non-sublicensable, non-transferable and non-exclusive right to use the Granicus Software. The Granicus Software is proprietary to Granicus, and protected by intellectual property laws and international intellectual property treaties. City of New Orleans' access to and use of the Granicus Software is licensed and not sold. City of New Orleans will be responsible for any applicable costs and taxes associated with City of New Orleans' use of the Services, or use of the Services through City of New Orleans' account.

## **3. Content Provided To Granicus, Inc.**

### **3.1 Responsibility for Content.**

The City of New Orleans 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 City of New Orleans shall not provide to Granicus or permit to be provided to Granicus, 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. Ownership; Intellectual Property Rights & Security.**

##### **4.1 Content Ownership.**

The City of New Orleans 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 Granicus 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.

Notwithstanding the foregoing, Granicus acknowledges that any Content provided under this Agreement is the property of the Content Provider or its licensors and that Granicus has no right in any of the Content except those expressly granted by this Agreement.

##### **4.2 Trademark Ownership and License.**

(a) The City of New Orleans shall retain all right, title and interest in and to its Trademarks, including any goodwill associated therewith, subject to the limited license granted to Granicus pursuant to Section 4.2 hereof.

(b) Granicus shall retain all right, title and interest in and to the Granicus Trademarks, including any goodwill associated therewith, subject to the limited license granted to the City of New Orleans pursuant to Section 4.2 hereof.

(c) Each party grants to the other a non-exclusive, non-transferable (other than as provided in Section 1.6 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.

(d) 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.

#### **4.3 Security of Data.**

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

### **5. Confidential Information & Ownership.**

#### **5.1 Disclosure.**

Except to the extent necessary as contemplated by this Agreement or as required by public records law, each party agrees not to disclose any Confidential Information to any person and agrees to use its best efforts to prevent inadvertent disclosure of any Confidential Information to any person. Without limiting the generality of the preceding sentence, each party agrees to treat the Confidential Information of the other party with at least the degree of care that such party treats similar information of its own. Each party may disclose such Confidential Information to a court or other governmental authority to the extent that such disclosure is required by governmental order or by law; provided that the receiving party shall (i) notify the disclosing party in writing of such required disclosure as soon as reasonably possible prior to such disclosure, specifying in detail the reasons why such disclosure is required, (ii) use its commercially reasonable efforts at its expense to cause such disclosed Confidential Information to be treated by such governmental authority as trade secrets and as confidential, and (iii) use its commercially reasonable efforts at its expense to obtain such other protective orders and protections with respect thereto as the disclosing party may reasonably request.

#### **5.2 Use.**

Each party agrees not to use any Confidential Information for any purpose whatsoever except to the extent necessary as contemplated by this Agreement. Each party agrees not to disclose the Confidential Information to any of its Representatives except those who are required to have the Confidential Information in connection with such purpose and then only if such Representative is either subject to a written confidentiality Agreement that would cover the confidential treatment of the Confidential Information or otherwise subject to fiduciary obligations of confidentiality that would cover



the confidential treatment of the Confidential Information.

**5.3 Termination of Confidentiality Obligations.**

The obligations of this Section 5 shall terminate with respect to any particular portion of the Confidential Information when receiving party can prove by appropriate documentation that such Confidential Information (a) was previously known to the receiving party as shown by the receiving party's files at the time of disclosure thereof, (b) was already in the public domain at the time of the disclosure thereof, or (c) entered the public domain through no action of the receiving party subsequent to the time of the disclosure thereof.

**6. Disclaimer of Warranty; Limitation Of Liability.**

**6.1 Disclaimer of Warranty.**

EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY IN CONNECTION WITH THE SUBJECT MATTER OF THIS AGREEMENT AND HEREBY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES REGARDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**6.2 Limitation of Liability.**

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION LOST PROFITS OR LOST SAVINGS), WHETHER BASED IN CONTRACT, TORT OR OTHERWISE, REGARDLESS OF WHETHER THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**6.3 Duty to Indemnify City Against Loss.**

To the fullest extent permitted by law, Granicus shall protect, defend, indemnify and hold harmless City, its agents, elected officials and employees (collectively, the "Indemnified Parties") from and against all claims, actions, liabilities, losses (including, without limitation, economic losses) and costs, arising out of or related to (a) any actual or alleged act or omission in the performance of the Services by Granicus or any subcontractor or (b) any act outside the scope of the Services by Granicus or any subcontractor. By way of illustration—not limitation, Granicus' obligation to indemnify City shall extend to the following, provided that such claims arise out of or relate to the performance of the Services by Granicus: (i) personal injury claims, (ii) property damage or loss claims, (iii) fines or sanctions resulting from violations

of any law, statute, ordinance, rule, regulation or intellectual property rights by Granicus, and (iv) liens, claims or actions made by Granicus, any subcontractor or any employees thereof under workers compensation acts, disability benefits acts, other employee benefit acts or any statutory bar.

**6.4 Limit on Duty to Indemnify.**

Notwithstanding anything to the contrary herein, Granicus shall not be required to indemnify the Indemnified Parties for any loss that results from the gross negligence or willful misconduct of any of the Indemnified Parties, provided that Granicus or any subcontractor did not contribute to such gross negligence or willful misconduct.

**6.5 Independent Duty to Defend.**

Granicus specifically acknowledges and agrees that it has an immediate and independent obligation to, at City's option, (a) defend City from or (b) reimburse City for its costs incurred in the defense of: any claim that actually or potentially falls within Section 5, even if the allegations are or may be groundless, false or fraudulent. This obligation shall remain in full force and effect even if Granicus is ultimately absolved from liability.

**7. Term and Termination.**

**7.1 Duration:**

The services to be provided under the terms of this Agreement shall begin on the date above and shall end December 31, 2012. It is understood and acknowledged by all signers to this Agreement that work described under these terms is to be accomplished during the time period specified herein. The terms, conditions and duration of this Agreement may be modified by an executed, written amendment to this Agreement.

**7.2 Extension:**

This Agreement may be extended at the option of the City, provided that funds are allocated by the Council of the City of New Orleans and the extension of the Agreement facilitates the continuity of services provided herein. This Agreement may be extended by the City on an annual basis for no longer than five (5) one year periods.

**7.3 Cancellation:**

Either party to this contract may terminate the Agreement at any time during the term of the Agreement by giving the other party written notice of said intention to terminate at least thirty (30) days before the date of termination.

#### **7.4 Obligations Upon Termination.**

Upon any termination of this Agreement, the following shall apply:

- (a) The Parties shall remain responsible for any payments that have become due and owing as of the effective date of termination.
- (b) The provisions of Sections 5 and 6 hereof (together with all other provisions that reasonably may be interpreted as surviving termination of this Agreement) shall survive termination of this Agreement and continue in full force and effect.
- (c) Except as provided in Section 6 hereof, no party shall have any liability upon any termination of this Agreement.

7.5 City has the right to keep any purchased hardware, provided that City removes and/or uninstalls any Granicus Software on such hardware. However, if City has received hardware as part of a Granicus Open Platform Suite solution ("Open Platform Hardware"), Client understands that upon termination of this Agreement, City shall immediately return the Open Platform Hardware to Granicus. The Open Platform Hardware must be returned within thirty (30) days of termination, and must be in substantially the same condition as when originally shipped, subject only to normal wear and tear.

#### **8. Miscellaneous.**

##### **8.1 Assignment; Successors and Assigns.**

Neither this Agreement nor any rights or obligations herein may be assigned by either of parties, by operation of law or otherwise, without the written consent of the other party; provided, however, that, without the consent of the City of New Orleans, Granicus may assign this Agreement in connection with a merger, consolidation, assignment, sale or other disposition of substantially all of the assets or business relating to the portion of the Granicus' operations that is the subject of this Agreement. This Agreement shall be binding on and inure to the benefit of the Parties hereto and their heirs, legal representatives, successors and permitted assigns.

##### **8.2 Amendment and Waiver.**

This Agreement may be amended, modified, waived or canceled only in writing signed by each of the Parties hereto or, in the case of a waiver, by the party waiving compliance. No failure or delay by either party in exercising any right or remedy under this Agreement shall waive any provision of this Agreement nor shall any single or partial exercise by either party of any right or remedy under this Agreement preclude either of them from otherwise or further exercising these rights or remedies or any other rights or remedies granted by any law or any other document.

**8.3 Governing Law.**

This Agreement shall be construed and enforced in accordance with the laws of the State of Louisiana, excepting its conflict of laws provisions.

Exclusive Jurisdiction and Venue. For all claims arising out of or related to this Agreement, Granicus hereby consents and yields to the exclusive jurisdiction and venue of the Civil District Court for the Parish of Orleans and expressly waives any (A) pleas of jurisdiction based upon Granicus' residence and (B) right of removal to federal court based upon diversity of citizenship.

**8.4 Construction.**

Wherever possible, each provision of this Agreement shall be interpreted so that it is valid under applicable law. If any provision of this Agreement is to any extent invalid under applicable law in any jurisdiction, that provision shall still be effective to the extent it remains valid. The remainder of this Agreement also shall continue to be valid, and the entire Agreement shall continue to be valid in other jurisdictions.

**8.5 Counterparts.**

This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute one and the same instrument.

**8.6 Entire Agreement.**

This Agreement supersedes all previous and contemporaneous oral negotiations, commitments, writing, and understandings among the Parties hereto concerning the matters in this Agreement.

**8.7 Notices.**

All notices and other communications required or permitted under this Agreement must be in writing and must be hand delivered or sent by registered first-class mail, postage prepaid or by overnight courier service. Such notices or other communications shall be effective upon receipt if hand delivered, and ten (10) business days after mailing (or, for overnight courier, the number indicated in the mailing instructions) if sent, in the case of the City of New Orleans, to the address set forth below and, in the case of Granicus to its principal executive offices to the attention of the Chief Executive Officer, or at such other address for a party as may be specified by like notice.

**8.8 Specific Performance; Remedies Cumulative.**

The Parties acknowledge that a breach of this Agreement shall result in irreparable and continuing damage and cannot be adequately compensated for by money damages and agree that specific performance is an appropriate remedy for any breach or threatened breach hereof. Accordingly, in addition to any other remedies available to a party at law, in equity or by statute, the Parties (a) consent to the issuance of any injunctive relief or the enforcement of other equitable remedies against it (without bond or other security) to compel performance of any of the terms of this Agreement, and (b) waive any defenses thereto, including without limitation, the defenses of failure of consideration, breach of any other provision of this Agreement, and availability of relief in damages. All remedies, whether under this Agreement, provided by law, or otherwise, shall be cumulative and not alternative.

### **8.9 Equal Employment Opportunity.**

In all hiring or employment made possible by, or resulting from this contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable, affirmative action will be taken to ensure that the Granicus employees are treated during employment without regard to their race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry.

### **8.10 Assignability.**

Granicus shall not assign any interest in this Agreement and shall not transfer any interest in the same without prior written consent of the City of New Orleans.

### **8.11 Conflict of Interest.**

In the interest of ensuring that efforts of Granicus do not conflict with the interests of the City, and in recognition of Granicus' responsibility to the City, Granicus agrees to decline any offer of employment if its independent work on behalf of the City is likely to be adversely affected by the acceptance of such employment. The initial determination of such a possibility rests with Granicus.. It is incumbent upon Granicus to notify the City and provide full disclosure of the possible effects of such employment on Granicus' independent work in behalf of the City. Final decision on any disputed offers of other

employment for Granicus shall rest with the City.

**8.12 Acknowledgment of Exclusion Of Worker's Compensation Coverage.**

Granicus herein expressly agrees and acknowledges that it is an independent contractor as defined in R.S. 23:1021 (6) and as such, it is expressly agreed and understood between the Parties hereto, in entering into this services Agreement, that the City of New Orleans shall not be liable to Granicus for any benefits or coverage as provided by the Workmen's Compensation Law of the State of Louisiana, and further, under the provisions of R.S. 23:1034 anyone employed by Granicus shall not be considered an employee of the City for the purpose of Worker's Compensation coverage.

**8.13 Acknowledgment of Exclusion Of Unemployment Compensation Coverage.**

Granicus herein expressly declares and acknowledges that it is an independent contractor, and as such is being hired by the City under this Agreement for hire as noted and defined in R.S. 23:1472 (E), and therefore, it is expressly declared and understood between the Parties hereto, in entering into this services Agreement, or Agreement for hire, and in connection with unemployment compensation only, that:

- a. Granicus has been and will be free from any control or direction by the City over the performance of the services covered by this contract; and
- b. Services to be performed by Granicus are outside the normal course and scope of the City's usual business; and
- c. Granicus has been independently engaged in performing the services listed herein prior to the date of this Agreement

Consequently, neither Granicus nor anyone employed by Granicus shall be considered an employee of the City for the purpose of unemployment compensation coverage, the same being hereby expressly waived and excluded by the Parties hereto.

**8.14 Waiver of Sick And Annual Leave Benefits.**

It is expressly agreed and understood between the Parties entering into this services Agreement that Granicus, acting as an independent agent, shall not receive any sick and annual leave benefits from the City of New Orleans.

**8.15 Solicitation.**

Granicus has not employed or retained any company or person, other than a

bona fide employee working solely for them, to solicit or secure the subject contract. Granicus has not paid or agreed to pay any person, other than a bona fide employee working for them, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the subject contract.

#### **8.16 Audit and Other Oversight.**

Granicus agrees to abide by all provisions of City Code §2-1120, including but not limited to City Code §2-1120(12), which requires the Contractor to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests shall constitute a material breach of the contract. In signing this contract, the Contractor agrees that he is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

#### **8.17 Subcontracts.**

Any and all subcontracts entered into by Granicus relating to work under this contract shall be approved in advance by motion of the City Council of New Orleans. The Council may require information on ownership interests in the subcontractor prior to approval of the subcontractor's retention. Granicus shall incorporate by reference in all subcontracts the provisions of this Article and shall require all subcontractors to comply with such provisions. Granicus' failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

#### **8.18 Convicted Felons.**

Granicus agrees to comply with Section 2-8(c) of the Code of the City of New Orleans. No principal, member or officer of Granicus has, within the preceding five years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

### **9. Definitions.**

In addition to the capitalized terms otherwise defined herein, the following additional capitalized terms shall have the meanings set forth below, unless the context clearly otherwise requires:

- 9.1** *Confidential Information* shall mean all business, technical and other information (including without limitation, all product, services, financial, marketing, engineering, research and development information, product specifications, technical data, data sheets, programs, software, inventions, processes, know-how, chip designs, mask works, designs, drawings and any other documentation), disclosed from time to time by the disclosing party to the receiving party, directly

or indirectly in any manner whatsoever (including without limitation, in writing, orally, electronically, in all types of disks, diskettes, computer memory or storage or other media, or by drawings or inspection of physical items, and whether or not modified or merged into other materials); provided, however, that the term "Confidential Information" shall not include the Content that is intended to be published on the Website.


- 9.2 *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, the City of New Orleans to Granicus.
- 9.3 *Granicus Solution* shall mean the product specified in Agenda Preparation, Document Management, Meetings Management, Streaming Video and Archiving for the City of New Orleans' proposal henceforth identified as Proposal hereto, attached hereto and made part hereof as Exhibit B.
- 9.4 *Equipment* shall mean the hardware components of the Granicus Solution.
- 9.5 *Proposal* shall mean the document which specifies the Products or Services the City of New Orleans chooses to utilize from Granicus.
- 9.6 *Software* shall mean all software included with the Granicus Solution including but not limited to the web application used to administer streaming media.
- 9.7 *Intellectual Property Rights* shall mean all right, title and interest in and to any and all intellectual property rights throughout the world, including, without limitation, any and all patents, patent applications, copyrights, copyright applications, moral rights, trademarks, trade secret rights, rights to know-how, inventions and algorithms, and any and all similar or equivalent rights throughout the world.
- 9.8 *Representatives* shall mean the officers, directors, employees, agents, attorneys, accountants, financial advisors and other representatives of a party.
- 9.9 *Trademarks* shall mean, with respect to each party to this Agreement, all trademarks, trade names and logos of such party listed on Exhibit A attached hereto and any other trademarks, trade names and logos that such party may specify in writing to the other party from time to time.
- 9.10 *Managed Services* shall mean monthly fees paid to Granicus by City of New Orleans for unlimited bandwidth usage associated with live and archived Internet streaming, data storage, distribution, backups, systems monitoring and Granicus Solution maintenance and monitoring.
- 9.11 *Live* shall mean the time at which "Managed Services" are activated and monthly billing begins.



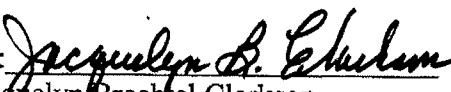
- 9.12 *Revocable* shall mean that City of New Orleans' right to use or access the media management software shall be annulled because City of New Orleans has either discontinued their use of a Granicus Managed Services program, failed to pay any Granicus fees for more than 30 days, or breached the terms of this Agreement.
- 9.13 *Managed Hardware* shall mean the following including but not limited to robust support for hardware, O/S, and applications; 7x24x265 phone, chat and email support from certified experts; and escalation management.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

GRANICUS, INC.

By:   
Ed Roshitsh  
President  
568 Howard St., Suite 300  
San Francisco, CA 94105

CITY OF NEW ORLEANS

By:   
Jacquelyn Brechel Clarkson  
President, New Orleans City Council  
City Hall, Room 2W40  
1300 Perdido Street  
New Orleans, LA 70112

**FORM AND LEGALITY APPROVED:**

  
Law Department, City of New Orleans

Granicus, Inc. Support Information

*Address:*

Granicus, Inc.  
600 Harrison Street, Suite 120  
San Francisco, CA 94105

*Phone:*

Direct (5:00am to 6:00pm Pacific time): 415-357-3618  
Toll Free (5:00am to 6:00pm Pacific time): 877-889-5495  
On-call Technical Support (available 24 hours, 7 days a week): 415-655-2414

*Web:*

Site: [www.granicus.com/csp](http://www.granicus.com/csp)  
Email: [customercare@granicus.com](mailto:customercare@granicus.com)

Primary Contact Person

Bobbi Jo Price

Direct: 415-357-3618  
Fax: 415-618-0201

Email: [bobbijop@granicus.com](mailto:bobbijop@granicus.com)

New Orleans Contract Contact

Peggy Lewis  
Clerk of Council  
City Hall  
1300 Perdido Street, Suite 1E09  
New Orleans, Louisiana 70113

**EXHIBIT A**

Granicus Registered Trademarks ®



Granicus logo as a mark

Granicus Trademark Names ™

OutCast™  
MediaManager™  
MediaVault™  
StreamReplicator™  
MobileEncoder™  
MinutesMaker™

City of New Orleans Trademarks

## EXHIBIT B

Attached hereto as Exhibit B is the scope of work and pricing are contained within Granicus' proposal entitled *Agenda Preparation, Document Management, Meeting Management, Streaming Video and Archiving for the City of New Orleans*, which is referenced in this Agreement as the "Proposal".

## EXHIBIT C

### HARDWARE EXHIBIT

**THIS HARDWARE EXHIBIT** is entered into by Granicus and Client, as an attachment to the Service Agreement between Granicus and Client, for the hardware components of the Granicus Solution (the "Hardware") provided by Granicus to Client. This exhibit is an additional part of the Service Agreement and is incorporated therein by reference. Capitalized terms used but not defined in this exhibit have the meanings given in the Service Agreement.

1. **Price.** The price for the Hardware shall be the price specified in the Proposal.
2. **Delivery.** Any scheduled ship date quoted is approximate and not the essence of this exhibit. Granicus will select the shipment method unless otherwise mutually agreed in writing. Granicus retains title to the Hardware. Granicus retains title to and ownership of all Granicus Software installed by Granicus on the Hardware, notwithstanding the use of the term "sale" or "purchase."
3. **Acceptance.** Use of the Hardware by Client, its agents, employees or licensees, or the failure by Client to reject the Hardware within thirty (30) days following delivery of the Hardware, constitutes Client's acceptance. Client may only reject the Hardware if the Hardware does not conform to the applicable written specifications.
4. **Service Response Time.** For Hardware issues requiring replacement, Granicus shall respond (via written acknowledgment) to the request made by the Client within twenty-four (24) hours. If confirmed by Granicus that Hardware requires replacement, Granicus will deliver replacement hardware directly to the Client after such confirmation via overnight shipping. The Hardware and software will be configured to the original specs of the client. Once the Hardware is received Client's responsibilities will include:
  - a. Mount server on client rack (if applicable)
  - b. Connecting original network cables.
  - c. Connecting original audio and video cables (if applicable).
5. **DISCLAIMER OF WARRANTIES.** NOTWITHSTANDING THE MAINTENANCE PROVIDED UNDER SECTION 7 BELOW, GRANICUS DISCLAIMS ANY AND ALL EXPRESS, IMPLIED OR STATUTORY WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, OF MERCHANTABILITY AND AGAINST INFRINGEMENT, WITH RESPECT TO THE HARDWARE. NO PERSON IS AUTHORIZED TO MAKE ANY WARRANTY OR REPRESENTATION ON BEHALF OF GRANICUS.
6. **LIMITATION OF LIABILITY.** GRANICUS SHALL NOT BE LIABLE FOR CONSEQUENTIAL, EXEMPLARY, INDIRECT, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES ARISING OUT OF OR RELATING TO THIS EXHIBIT

INCLUDING WITHOUT LIMITATION LOSS OF PROFIT, WHETHER SUCH LIABILITY ARISES UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY OR OTHERWISE, EVEN IF GRANICUS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGE COULD HAVE BEEN REASONABLY FORESEEN. IN NO EVENT WILL GRANICUS' LIABILITY TO CLIENT ARISING OUT OF OR RELATING TO THIS EXHIBIT EXCEED THE AMOUNT OF THE PRICE PAID TO GRANICUS BY CLIENT FOR THE HARDWARE.

7. **Managed Hardware.** In the event of malfunction for Managed Hardware provided by Granicus, Granicus Hardware that is maintained as part of a managed Open Platform service will be repaired or replaced as part of the managed services for a minimum of three (3) years and will continue as long as Client is current with Client's monthly subscription payment. The key features of the Managed Hardware are as follows:

- Robust support for hardware, O/S, and applications
- 7x24x365 phone, chat and email support from certified experts
- In the event of Hardware failure, Granicus will deliver overnight replacement hardware directly to the Client.

Escalation management. Granicus provides the above mentioned services under Client's acknowledgment that all Granicus tools, and systems will be installed by the manufacturer chosen by Granicus within the Managed Hardware, provided to the client. These software tools have been qualified by Granicus to allow the highest level of service for the client. While it is Granicus' intention to provide all Clients with the same level of customer care and warranty, should the Client decline these recommended tools, certain levels of service and warranty may not be guaranteed.

8. **Purchased Hardware Warranty.** For Hardware purchased from Granicus by Client, Granicus will provide to Client any warranty provided by the manufacturer with respect to the Hardware. Granicus shall repair or replace any Hardware provided directly from Granicus that fails to function properly due to normal wear and tear, defective workmanship, or defective materials as long as such Hardware is then under the manufacturer's warranty.

9. **Use of Non-Approved Hardware.** The Granicus platform is designed and rigorously tested based on Granicus-approved Hardware. In order to provide the highest level of support, Granicus requires the use of Granicus-approved Hardware in your solution. While it is Granicus' intention to provide all clients with the same level of customer care and continuous software upgrades, Granicus does not make any guarantees whatsoever in the event Client uses non-approved hardware.

10. **Client Changes to Managed Hardware Prohibited.** In the event changes are made by Client to the managed hardware without the approval of Granicus, Granicus may charge Client a one-time fee of two hundred fifty (\$250.00) dollars to restore the system back to standard settings. Such changes may include, but are not limited to: operating system level


changes; third party software installations; changes to Granicus software, and/or configurations; and/or changes to third party system and/or network monitoring tools.

*[end of Hardware Exhibit]*

**MOTION**

**NO. M-12-201**

**CITY HALL: JUNE 28, 2012**

**BY:  COUNCILMEMBERS GUIDRY, HEAD AND HEDGE-MORRELL**

**WHEREAS**, Council Rule 45 establishes a competitive selection process for the selection of professional services to the City Council; and

**WHEREAS**, on August 4, 2011, the City Council adopted Motion M-11-340, determining that professional services were required to provide a turn key, comprehensive, scalable and flexible agenda preparation and document management system plus an internet video streaming and meetings management solution for New Orleans and directing its staff to issue a Request for Proposal (RFP) to begin the competitive selection process established by Council Rule 45; and

**WHEREAS**, a Request for Proposal for Agenda Preparation, Document Management, Meetings Management, Streaming Video and Archiving for the City of New Orleans was issued on August 15, 2011; and

**WHEREAS**, by the deadline for the receipt of responses to the Request for Proposals, responses were received from four (4) companies, namely Granicus, Inc., SIRE, IQM2, and Provox; and

**WHEREAS**, as required by Council Rule 45, the Staff Selection Review Committee convened and submitted a written evaluation of the aforesaid four (4) responses to the Request for Proposals; and

**WHEREAS**, the Council Cable, Telecommunications, and Technology Committee, at its January 23, 2012 meeting, considered the evaluations of the Staff Selection Review Committee and recommended to the full Council that it authorize that a professional services contract be entered into with Granicus, Inc. to provide Agenda Preparation, Document Management, Meetings Management, Streaming Video and Archiving for the City of New Orleans; and

**WHEREAS**, Council Staff, Council Advisors and Representatives of Granicus, Inc. have clarified the details of the Granicus, Inc. proposal relative to Agenda Preparation, Document Management, Meetings Management, Streaming Video and Archiving for the City Council of New



Orleans and have negotiated terms for a contract to be given further consideration by the members of the Cable, Telecommunications and Technology Committee, and the City Council; and

**WHEREAS**, that process has culminated with a finalized contract for Agenda Preparation, Document Management, Meetings Management, Streaming Video and Archiving for the City of New Orleans prepared by The Media Revolution, Inc. and Aaron, PLC after negotiations relative to terms and pricing in the amount of \$110,725.00; and

**WHEREAS**, in connection with the implementation of the Agenda Preparation, Document Management, Meetings Management, Streaming Video and Archiving for the City of New Orleans it is necessary to purchase through state contract twenty-five (25) iPads in the amount of \$15,725.00; and

**WHEREAS**, funding is in place in the City Council's budget to purchase through state contracts twenty-five (25) iPads, and for a contract with Granicus, Inc. consistent with the final negotiated term of the contract; and

**WHEREAS**, the City Council would like to move forward with Granicus, Inc.'s agreement for Agenda Preparation, Document Management, Meetings Management, Streaming Video and Archiving for the City of New Orleans, and the purchase of twenty-five (25) iPads through state contract; now, therefore

**BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS**, That in accordance with Council Rule 45, the Council selects Granicus, Inc., to provide Agenda Preparation, Document Management, Meetings Management, Streaming Video and Archiving for the City of New Orleans through a professional services contract authorized after competitive selection, and the President of the Council is authorized to sign a contract with Granicus, Inc. for an initial period from June 30, 2012 until December 31, 2012 in an amount not to exceed

\$110,725.00 (including design, configuration, implementation, training, and managed service fees); and

**BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS,** That the contract may be extended at the option of the Council, on an annual basis for no longer than five one-year periods, provided funds are allocated by the New Orleans City Council and the extension of the contract facilitates the continuity of services provided; and

**BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS,** That the contract shall be circulated in accordance with the normal process and the City Council Rules.

**BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS,** That the Director of Finance is hereby authorized to disperse to the Clerk of Council an amount not to exceed \$15,725.00 upon presentation of its invoice in proper form and amounts for the purchase of twenty-five (25) iPads in connection with the implementation of the contract with Granicus, Inc.

THE FOREGOING MOTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF AND RESULTES AS FOLLOWS:

YEAS:        Bajoie, Clarkson, Gisleson Palmer, Guidry, Head,  
               Hedge-Morrell, Johnson - 7

NAYS:        0

ABSENT:     0

AND THE MOTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED  
TO BE TRUE AND CORRECT COPY

  
CLERK OF COUNCIL

# CITY OF NEW ORLEANS TAX CLEARANCE AUTHORIZATION

According to Section 2-8 of the Code of the City of New Orleans, Louisiana 1995, the City may not enter into or make payments under a contract, grant or cooperative endeavor agreement with any person, corporation, or entity delinquent in City taxes. This form supplies the needed tax clearance. This clearance is issued without prejudice to any tax liabilities discovered by audit.

**Please refer to the instructions on the back of this form**

BUSINESS NAME:

**Granicus, Inc.**

OWNER'S NAME:

**N/A**

TYPE OF BUSINESS:

**Stream Media/Cloud Service Provider**

BUSINESS ADDRESS:

**600 Harrison Street Suite 120**

**San Francisco, CA 94107**

MAILING ADDRESS:

**600 Harrison Street Suite 120**

**San Francisco, CA 94107**

CONTACT TELEPHONE:

**415-357-3618**

FAX NUMBER:

E-MAIL ADDRESS:

**finance@granicus.com**

**Ed Roshifsh**

**President**

PRINT NAME:

TITLE:

AUTHORIZED SIGNATURE:




DATE SIGNED: **6/22/12**

I certify that I have the authority to execute this form with respect to the tax matters covered and that the above is true and correct. The City of New Orleans is authorized to inspect and/or receive confidential tax information.

**BUREAU OF REVENUE (Room 1W15)**

This clearance covers Occupational License and Sales/Use taxes.

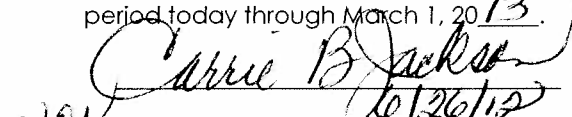
I hereby assert that after review of the taxpayer's records of this date that the taxpayer **IS NOT** delinquent in any taxes owed to the city. This clearance covers the period today through March 1, 20**13**. The above clearance may be revoked for failure to pay sales tax.

  
 COLLECTOR OF REVENUE      **6-26-12**  
 DATE  
 for Romy S. SAMUEL

**BUREAU OF TREASURY (Room 1W37)**

This clearance covers Ad Valorem taxes for Real Estate and Business Property taxes.

I hereby assert that after review of the taxpayer's records of this date that the taxpayer **IS NOT** delinquent in any taxes owed to the city. This clearance covers the period today through March 1, 20**13**.

  
 TREASURY CHIEF      **6/26/12**  
 DATE

I attest that the taxpayer named above is **not** delinquent in any taxes owed to the city.

  
 DIRECTOR OF FINANCE      **6/26/12**  
 DATE

Clearance Good Thru

**MAR 0 1 2013**

Tom Schedler  
Secretary of State

State of Louisiana  
Secretary of State

**COMMERCIAL DIVISION**  
225.925.4704



Fax Numbers  
225.932.5317 (Admin. Services)  
225.932.5314 (Corporations)  
225.932.5318 (UCC)

Name	Type	City	Status
GRANICUS, INC.	Business Corporation (Non-Louisiana)	SAN FRANCISCO	Active

**Business:** GRANICUS, INC.  
**Charter Number:** 36765142 F  
**Registration Date:** 6/6/2008

**State Of Origin:**

**Domicile Address**

600 HARRISON ST. SUITE 120  
SAN FRANCISCO, CA 94107

**Mailing Address**

600 HARRISON ST. SUITE 120  
SAN FRANCISCO, CA 94107

**Principal Business Office**

600 HARRISON ST. SUITE 120  
SAN FRANCISCO, CA 94107

**Registered Office in Louisiana**

3867 PLAZA TOWER DR., 1ST FLOOR  
BATON ROUGE, LA 70816

**Principal Business Establishment in Louisiana**

3867 PLAZA TOWER DR., 1ST FLOOR  
BATON ROUGE, LA 70816

### Status

**Status:** Active  
**Annual Report Status:** In Good Standing  
**Qualified:** 6/6/2008  
**Last Report Filed:** 5/8/2012  
**Type:** Business Corporation (Non-Louisiana)

### Registered Agent(s)

**Agent:** INCORP SERVICES, INC.  
**Address 1:** 3867 PLAZA TOWER DR., 1ST FLOOR  
**City, State, Zip:** BATON ROUGE, LA 70816  
**Appointment Date:** 6/6/2008

### Officer(s)

**Additional Officers:** No

**Officer:** TOM SPENGLER  
**Title:** President  
**Address 1:** 568 HOWARD ST. STE. 300  
**City, State, Zip:** SAN FRANCISCO, CA 94105

<b>Officer:</b>	EMERY JONES
<b>Title:</b>	Secretary
<b>Address 1:</b>	568 HOWARD ST. STE. 300
<b>City, State, Zip:</b>	SAN FRANCISCO, CA 94105
<b>Officer:</b>	ED ROSHITSH
<b>Title:</b>	Officer
<b>Address 1:</b>	568 HOWARD ST. STE. 300
<b>City, State, Zip:</b>	SAN FRANCISCO, CA 94105

### Amendments on File

No Amendments on file



**MINUTES OF A MEETING OF THE BOARD OF DIRECTORS  
OF  
GRANICUS, INC.**

**October 27, 2011**

A meeting of the Board of Directors (the “**Board**”) of GRANICUS, INC., a California corporation (the “**Company**”), was held on October 27, 2011, at 9:00 a.m. at the Company’s principal office located at 600 Harrison Street in San Francisco, California.

Directors Attending: Peter Arrowsmith  
Wendy Beecham  
Gary Read  
Matt Emery  
Tom Spengler  
Emery Jones

Others Present: Ed Roshitsh – President, Presenter  
Javier Muniz – CTO, Observer  
Katherine Johnson – Secretary of the Meeting

All parties could hear one another.

**CALL TO ORDER**

Mr. Spengler called the meeting to order, announced that a quorum of members of the Board was participating and that the meeting, having been duly convened, was ready to proceed with business. Ms. Johnson acted as the secretary of the meeting.

**WELCOME AND AGENDA REVIEW**

Mr. Spengler presented the Board with an overview of the agenda.

...

**BOARD DISCUSSION AND APPROVAL ITEMS**

Mr. Spengler led the Board through a general discussion of each of the approval items below.

#### **AMENDMENT TO BYLAWS**

After discussion and upon motion duly made by Mr. Arrowsmith and seconded by Ms. Beecham, the Board duly adopted the following resolution:

**RESOLVED**, that the Company's Bylaws are amended as set forth in the Amendment to Bylaws, in substantially the form below:

"Effective as of October 27, 2011, Article 5.16 of the Company's Bylaws were amended in their entirety to read as follows: "5.16 Powers to bind the Corporation: While all Officers and Directors have the implied authority to negotiate and represent the Corporation, only the Chairman of the Board, Vice Chairman, Chief Executive Officer and/or President have the power to sign an agreement or contract that would bind the Corporation."

#### **ELECTION OF OFFICER**

After discussion and upon motion duly made by Mr. Arrowsmith and seconded by Ms. Beecham, the Board duly adopted the following resolution:

**RESOLVED**, that Ed Roshitsh is elected to the office of President of the Company, to report to the Company's Chief Executive Officer, to serve until his successor is duly elected, unless he resigns, is removed from office or is otherwise disqualified from serving as an officer of the Company, to take his office immediately upon such election;

**RESOLVED FURTHER**, that the only authority that Mr. Roshitsh, in his role as President of the Company, shall have, subject to the control of the Board, is the power to sign agreements and contracts that would bind the Company; and

**RESOLVED FURTHER**, that Mr. Roshitsh, in his role as President of the Company, shall have such other powers and duties as may be prescribed by the Board as necessary to carry out the functions of the running of the day to day operations of the Company.

...

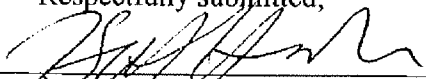
#### **NEXT BOARD MEETING**

The Board determined that the next Board meeting shall be on November 18, 2011 at 9:00 a.m. via teleconference.


**ADJOURNMENT**

There being no further business to be brought before the Board, upon motion duly made, seconded and unanimously approved, the meeting was adjourned.

Respectfully submitted,

  
\_\_\_\_\_  
Katherine Johnson  
Secretary of the Meeting

**APPROVED:**

  
\_\_\_\_\_

Tom Spengler

Chairman of the Board and CEO