



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** October 19, 2023

**From:** John Swiecki, Community Development Director

**Subject:** Short Term Rental Program Implementation

### SUPPLEMENTAL REPORT

#### Community Goal/Result

Safe Community - Residents and visitors will experience a sense of safety

Economic Development - Brisbane will work with the businesses and residents to provide for economic vitality/diversity

#### Purpose

For the City Council to consider a one-year renewal of the City's current agreement with Granicus (Host Compliance) to provide short term rental (STR) monitoring and permitting services and provide direction regarding other implementation issues pertaining to transient occupancy tax (TOT) collection.

#### Recommendation

That the City Council:

1. authorize the City Manager to execute a one-year extension with Granicus to continue providing STR monitoring and permitting services.
2. Provide direction regarding the penalties for failure to remit required TOT.
3. Provide direction for City staff to explore the feasibility of collecting revenues on rental stays exceeding 30 days in length that advertise of short term rental type platforms

#### Background

The attached October 5 City Council report was prepared to authorize a one-year extension of the City's current agreement with Granicus to provide short term rental (STR) monitoring and permitting services. Prior to the October 5 meeting, questions were raised by City Council members regarding the collection of TOT from STRs. While the Granicus scope of work does not directly cover the issues raised, the matter was continued to tonight's meeting to allow for a comprehensive discussion of matters related to STR program implementation, including TOT collection.

#### Discussion

The first issue was a question of how TOT is collected from STRs and what are the implications if STR operators fail to remit TOT as required. Under current procedures, STR operators are

required to remit TOT quarterly, and they are given 30 days from the end of the quarter to make the required payments. For example for the quarter that ended on September 30, the operators have until October 30 to make payments. Payments can be made through Granicus or directly to the City of Brisbane. All STR permit holders received an email reminder quarterly to remit their TOT. Staff originally envisioned using the annual STR permit renewal process to verify that TOT payment was current, and failure to comply would be grounds for permit non-renewal. Staff recognizes that this approach does not ensure timely TOT payment and starting at the end of October staff will undertake a quarterly review to ensure that all active STRs have remitted TOT.

In regard to the related question of what happens if operators fail to remit TOT as required, BMC Section 3.24.080 addresses this situation. Specifically it sets forth a 10% penalty for delinquent payments, with an additional 10% penalty if payments are delinquent more than 30 days. There are also provisions for an additional 25% penalty if it is determined that nonpayment is a result of fraud. Failure to collect and remit TOT timely are also grounds for suspension, revocation and/or non-renewal of an STR permit. Staff believes this structure provides adequate incentives for compliance, but the City Council has the discretion to direct staff to explore amendments to these provisions it deems appropriate.

Councilmembers have also expressed concerns that stays longer than 30 days but which are advertised on short term rental platforms such as Airbnb or VRBO are not subject to TOT and questioned if there are ways for the City to recoup revenues from such rentals. For example, BMC Section 5.20.035 establishes a daily business license tax on hotels and other places designed for occupancy by transients. Although this fee would likely apply to some rental situations exceeding 30 days but not to the typical kind of residential month to month tenancies, the amount of the tax, because it is based on a daily basis, would not generate significant revenue as does TOT. If the City Council wishes to pursue whether some type of taxing structure for these types of rental situations should be explored, it should direct staff to research and report back.

### **Fiscal Impact**

The cost of renewing the service agreement through December 2024 would be \$11,430.37 to retain the current scope of services. The agreement cost in 2021 was \$11,247.00 and \$10,682.24 in 2022 (the 24/7 Hotline service was removed then). Since June 2021, the City has cumulatively collected approximately \$15,000 in TOT from STRs, with about \$3,700 collected this fiscal year. In each of the previous two fiscal years, the City collected an average of \$5,750 in TOT per year.

### **Measure of Success**

Successful implementation of the City's STR Ordinance by permitting STRs consistent with the City's ordinance, eliminating unpermitted STRs and generating and collecting TOT.

**Attachments**

October 5, 2023 City Council Report

*John Swiecki*

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John Swiecki, Community Development Director

*Clay Holstine*

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Clay Holstine, City Manager



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** October 5, 2023

**From:** John Swiecki, Community Development Director

**Subject:** Contract Renewal with Granicus (Host Compliance) - Short Term Rental Monitoring and Permitting

### **Community Goal/Result**

Safe Community - Residents and visitors will experience a sense of safety

Economic Development - Brisbane will work with the businesses and residents to provide for economic vitality/diversity

### **Purpose**

For the City Council to consider a one-year renewal of the City's current agreement with Granicus (Host Compliance) to provide short term rental (STR) monitoring and permitting services.

### **Recommendation**

That the City Council authorize the City Manager to execute a one-year extension with Granicus to continue providing STR monitoring and permitting services.

### **Background**

The City of Brisbane adopted an ordinance which took effect in summer 2020 permitting STRs subject to a number of operational and performance standards. In early 2021 the City entered into a contract with a vendor (Host Compliance, now Granicus) to automate the STR permit process and monitor STR activity on multiple listing sites, allowing the City to initiate code enforcement as needed and pursue the collection of transient occupancy tax (TOT). Lastly, the City Council passed an ordinance, pursuant to SB 60, to increase the fines for STRs operating in violation of the City's regulations on November 18, 2021.

### **Discussion**

The current agreement with Granicus ends in December 2023 and it is proposed the agreement be extended for an additional 12 months, through December 2024. The system has been in place for two years and staff is generally accepting of its performance, although Granicus' customer service and certain aspects of the system can be challenging. While staff is supportive of extending the agreement an additional year, we will be exploring if the software for the planned electronic permit system upgrade may be able to perform some of the functions currently performed by Granicus, such as permitting and registration. This may have implications on future agreement extensions with Granicus.

Below is a summary of STR activity since the system has been active:

- 12 STRs with active listings were originally identified in June 2021 and the latest data from September 2023 identified four STR units with active listings, the same as reported last year.
- Since October 2021, the City of Brisbane has averaged 4-6 active STR units at any given time. The number varies as new and/or potential units and listings are first identified by Granicus, some of which may be outside city limits or unverified by the system.
- There are no code enforcement cases at the time of the writing of this staff report.
  - A total of four code enforcement complaints have been investigated and resolved in 2023.
  - No STR citations have been issued in 2023.
- The City currently has four active STR permits.
  - Two STR permit applications were approved in 2022, three more in 2023, and renewed an existing STR operating permit in 2023.

Choosing not to extend the agreement would require the City to either find another vendor or transfer enforcement responsibilities to the City's Code Enforcement Officer. Staff received a solicitation from another private firm that provides STR rental monitoring services and included a cost estimate in the range of \$8,000-\$13,000 annually. Staff sees no benefit in considering a change in vendor at this time.

**Fiscal Impact**

The cost of renewing the service agreement through December 2024 would be \$11,430.37 to retain the current scope of services. The agreement cost in 2021 was \$11,247.00 and \$10,682.24 in 2022 (the 24/7 Hotline service was removed then). Since June 2021, the City has cumulatively collected approximately \$15,000 in TOT from STRs, with about \$3,700 collected this fiscal year. In each of the previous two fiscal years, the City collected an average of \$5,750 in TOT per year.

**Measure of Success**

Successful implementation of the City's STR Ordinance by permitting STRs consistent with the City's ordinance, eliminating unpermitted STRs and generating and collecting TOT.

**Attachments**

Granicus Proposal - STR Rental Permitting and Monitoring

*John Swiecki*  
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 John Swiecki, Community Development Director

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 Clay Holstine, City Manager

## Granicus Proposal for Brisbane, CA

### ORDER DETAILS

**Prepared By:** Antonio Magadan  
**Phone:**  
**Email:** antonio.magadan@granicus.com  
**Order #:** Q-299249  
**Prepared On:** 29 Aug 2023  
**Expires On:** 28 Dec 2023

### ORDER TERMS

**Currency:** USD  
**Payment Terms:** Net 30 (Payments for subscriptions are due at the beginning of the period of performance.)  
**Period of Performance:** 12/29/2023 - 12/28/2024

## PRICING SUMMARY

The pricing and terms within this Proposal are specific to the products and volumes contained within this Proposal.

Renewing Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
Address Identification	Annual	62 Rental Listings	\$3,194.24
Mobile Permitting & Registration	Annual	1 Each	\$5,724.50
Compliance Monitoring	Annual	43 Rental Units	\$1,108.11
Rental Activity Monitoring	Annual	43 Rental Units	\$1,403.52
Tax Collection	Annual	1 Each	\$0.00
<b>SUBTOTAL:</b>			<b>\$11,430.37</b>

## PRODUCT DESCRIPTIONS

Solution	Description
Address Identification	Ongoing monitoring of 60+ Short Term Rental websites including major platforms Airbnb, VRBO, HomeAway, Booking.com, FlipKey, & Expedia. Our machine learning will deduplicate all known Listings into unique Rental Units, where our identification team will provide owner contact information for further enforcement. This product includes:- Ongoing monitoring of all listings in your jurisdiction <ul style="list-style-type: none"> <li>- Updating listing activity and details every 3-5 days</li> <li>- Screenshot activity of every listing</li> <li>- Deduplication of listings into unique Rental Units</li> <li>- Activity dashboard and map to monitor trends and breakdown of compliance</li> </ul>
Mobile Permitting & Registration	Mobile-enabled online forms and back-end systems for streamlining the registration/licensing/permitting of individual short-term rental hosts. These registration forms and workflows include:- Parcel Number lookup and validation <ul style="list-style-type: none"> <li>- E-Signatures</li> <li>- ACH, Debit, and Credit Payments exclusively powered by Stripe.com</li> <li>- Registration Number &amp; Certificate creation</li> <li>- Document Upload</li> <li>- Renewals</li> <li>- Email confirmation</li> <li>- Admin approval &amp; denial</li> </ul>
Compliance Monitoring	Compliance monitoring provides up-to-date information for each identified Rental Unit and its compliance status. We configure your compliance definition specific to your jurisdiction rules and ordinances in order to provide up-to-date compliance status of each identified Rental Unit. Additionally, this product will:- Allow your team to send letters to non-compliant properties 24/7 <ul style="list-style-type: none"> <li>- Configure letter templates with your branding and letterhead</li> <li>- Add as many letter sequences as you need for escalation</li> <li>- Monitor properties that become compliant after letter enforcement</li> </ul>
Rental Activity Monitoring	Ongoing monitoring of Short Term Rental listings for signs of rental activity including historical revenue estimates & occupancy. Coupled with our Tax Collection product, users can also compare historical revenue estimates to actual reported revenue to identify those that may be underreporting and underpaying sales tax (i.e. TOT).



Solution	Description
Tax Collection	Tax Collection can be built as a separate mobile-enabled form or coupled with Mobile Permitting & Registration in one single portal allowing your users to:- Report revenue monthly, quarterly, or annually and pay sales tax due (i.e TOT) - Remind users when they are registering for a permit/license to also report any back taxes - Collect ACH, Debit, and Credit Payments exclusively powered by Stripe.com

## TERMS & CONDITIONS

- This quote, and all products and services delivered hereunder are governed by the terms located at <https://granicus.com/legal/licensing>, including any product-specific terms included therein (the "License Agreement"). If your organization and Granicus has entered into a separate agreement or is utilizing a contract vehicle for this transaction, the terms of the License Agreement are incorporated into such separate agreement or contract vehicle by reference, with any directly conflicting terms and conditions being resolved in favor of the separate agreement or contract vehicle to the extent applicable.
- If submitting a Purchase Order, please include the following language: The pricing, terms and conditions of quote Q-299249 dated 29 Aug 2023 are incorporated into this Purchase Order by reference and shall take precedence over any terms and conditions included in this Purchase Order.
- This quote is exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is the responsibility of Brisbane, CA to provide applicable exemption certificate(s).
- Any lapse in payment may result in suspension of service and will require the payment of a setup fee to reinstate the subscription.
- The terms and conditions set forth in the Agreement effective are incorporated herein by reference.

## BILLING INFORMATION

<b>Billing Contact:</b>		<b>Purchase Order Required?</b>	[ <input type="checkbox"/> ] - No [ <input type="checkbox"/> ] - Yes
<b>Billing Address:</b>		<b>PO Number:</b> <i>If PO required</i>	
<b>Billing Email:</b>		<b>Billing Phone:</b>	

**If submitting a Purchase Order, please include the following language:**

*The pricing, terms, and conditions of quote Q-299249 dated 29 Aug 2023 are incorporated into this Purchase Order by reference and shall take precedence over any terms and conditions included in this Purchase Order.*

## AGREEMENT AND ACCEPTANCE

By signing this document, the undersigned certifies they have authority to enter the agreement. The undersigned also understands the services and terms.

Brisbane, CA	
<b>Signature:</b>	
<b>Name:</b>	
<b>Title:</b>	
<b>Date:</b>	