

City of Seattle
DEPARTMENT OF NEIGHBORHOODS

FUNDING AGREEMENT

Title: Community Safety De-escalation Services
AGREEMENT NUMBER: DA20GF034

This Agreement is made and entered into by and between the City of Seattle (“the City”), a Washington municipal corporation, through its Department of Neighborhoods, as represented by the Director; Not This Time (“Consultant”), a 501 c3 nonprofit organization authorized to do business in Washington State.

Recitals:

The purpose of this contract is to provide funding support and office space in the community to Not This Time for expertise and support services in de-escalation, community engagement, and alternatives to policing. These services are contracted within the context of community protests against racial injustice and police brutality and public interest in policing reform and community-based interventions.

The contract is exempted from the requirements of a formal advertised competitive selection process per SMC 20.50.090.

In consideration of the terms, conditions, covenants, and performance of the Scope of Work contained herein, the City and Recipient mutually agree as follows:

1. TERM OF AGREEMENT.

The term of this Agreement begins when fully executed by all parties, and ends on December 31, 2020, unless amended by written agreement or terminated earlier under the termination provisions.

2. TIME OF BEGINNING AND COMPLETION.

The Recipient shall begin the work outlined in the “Scope of Work” (“Work”) upon receipt of written notice to proceed from the City. The City will acknowledge in writing when the Work is complete. Time limits established under this Agreement shall not be extended because of delays for which the Recipient is responsible, but may be extended by the City, in writing, for the City’s convenience or conditions beyond the Recipient’s control.

3. SCOPE OF WORK.

The Scope of Work for this Agreement and the time schedule for completion of such Work is as follows:

In the wake of current and historical police brutality and racial injustice, the Consultant will act as an advisor to the City of Seattle and “Street Czar” community liaison to achieve short-term and long-term outcomes, including but not limited to the following:

1. Urgent de-escalation of conflict and violence between the police and the community assembling in the Capitol Hill neighborhood.
2. Continuation of the conversations with the streets program established by Not This Time.
3. Provide recommendations to the City on de-escalation, community engagement, and alternatives to policing.
4. The option for Not This Time to direct funds from this contract to other community organizations supporting the Black community for services to be determined in consultation with the Department of Neighborhoods.

5. Not This Time will work in partnership with other community organizations and coalitions also involved in de-escalation.

Deliverable: Written scope of work including a summary assessment of community need, activities and services to be provided by Consultant in response to those needs. Scope of work with specific milestones, deliverables and timeline will be submitted to the City by June 30, 2020 and finalized in consultation with the City.

The Work is subject to City review and approval. The Recipient shall confer with the City periodically and prepare and present information and materials (e.g. detailed outline of completed Work) requested by the City to determine the adequacy of the Work or Recipient's progress.

4. EXPANSION FOR NEW WORK.

This Agreement scope may be expanded for new work. Any expansion for New Work (work not specified within the original Scope of Work Section of this Agreement, and/or not specified in the original RFP as intended work for the Agreement) must comply with all the following limitations and requirements: (a) the New Work is not reasonable to solicit separately; (b) the New Work is for reasonable purpose; (c) the New Work was not reasonably known either the City or Recipient at time of contract or else was mentioned as a possibility in the solicitation (such as future phases of work, or a change in law); (d) the New Work is not significant enough to be reasonably regarded as an independent body of work; (e) the New Work would not have attracted a different field of competition; and (f) the change does not vary the essential identified or main purposes of the Agreement. The City may make exceptions for immaterial changes, emergency or sole source conditions, or other situations required in City opinion. Certain changes are not New Work subject to these limitations, such as additional phases of Work anticipated at the time of solicitation, time extensions, Work Orders issued on an On-Call contract, and similar. New Work must be mutually agreed and issued by the City through written Addenda. New Work performed before an authorizing Amendment may not be eligible for payment.

5. INTERLOCAL COOPERATION ACT.

RCW 39.34 allows cooperative agreements between public agencies and other political subdivisions, to share the work or results of work that each agency also has authority to independently perform. SMC 20.60.100 allows certain non-profits to also use these agreements. If a public agency files or has filed an Intergovernmental Cooperative Purchasing Agreement with the City Purchasing and Contracting Services Division, those agencies may utilize City contracts in lieu of their own selection process, as long as the contract meets the requirements required of their local and state law. The Recipient may accept or decline such Work. If the Recipient accepts work from another public agency using the City of Seattle Agreement as the authority, the Recipient shall offer the same prices, terms and conditions. The City of Seattle accepts no responsibility for the choice of an agency to utilize the City contract, or for payment or performance.

6. PAYMENT.

- A. This contract provides for monthly flat fee payments of \$12,500 to complete the Scope of Work, and shall include only those costs allowed under Part 31 of the Federal Acquisition Regulations (FAR), which are incorporated by reference.
- B. If Consultant determines that, to effectively accomplish the work called for, it would be optimal to hire additional employees or retain additional consultants to add to his own capacity, he will inform DON and the parties will decide whether this additional staffing can be supported by DON. It is understood that the funds included in the current contract are not sufficient to support such additional workforce.
- C. Upon completion of six months of service, Consultant and DON will meet to assess outcomes and determine whether to amend the contract to extend it for another six months.
- D. Compensation under this Agreement shall not exceed \$150,000 over a total of twelve months unless modified by a written amendment to this Agreement.

E. The City will provide office space at King Street Station to Consultant for the period of this contract at no cost. Office space will be available to be used during regular business hours.

6.1 PAYMENT PROCEDURES.

The Recipient may submit invoices and requests for payment to the City monthly. Invoices shall be accompanied by a description of services rendered during the previous month. Template of services rendered description will be developed with the City. Payment shall be made by the City to the Recipient upon the City's receipt of a properly prepared invoice containing the information listed below.

Deliver all invoices and invoice/billing notices under this Agreement to:

If to the City:	If to the Recipient:
Andres Mantilla Andres.Mantilla@seattle.gov Dept of Neighborhoods PO Box 94649 Seattle WA 98124-4649	Andre Taylor Not This Time 323-747-6974 andretaylor@yahoo.com 4547 Rainier Ave S. Seattle, WA 98118

See attached checklist for further instructions.

Invoices must clearly display the following (sub-recipients' invoices must also include this information):
<ul style="list-style-type: none"> • Invoice Date and Invoice Number • City Project Manager Name: Andres Mantilla (Please do not put PM's name in the address) • Department Contract No. DA20GF034 • Contract Title: Community Safety De-escalation Services • Period covered by the invoice • Description of services per the scope of work • If Applicable, the following Sub-Consultant payment information will be provided (attach Sub-Consultant invoices as backup): <ul style="list-style-type: none"> ○ Amount Paid to all Sub-Consultants for the invoice period (list separate totals for each Sub-Consultant). ○ Cumulative To-Date amount paid to all Sub-Consultants (list separate totals for each Sub-Consultant). • Cumulative costs per task and for the total project

6.2 REIMBURSABLES

If the Agreement specified reimbursables to be compensated by the City, the following limitations apply. If no travel or direct charges are identified and allowed in the Agreement, the City shall provide no reimbursement.

A. City will reimburse the Recipient at actual cost for expenditures that are pre-approved by the City in writing and are necessary and directly applicable to the work required by this Contract provided that similar direct project costs related to the contracts of other clients are consistently accounted for in a like manner. Such direct project costs may not be charged as part of overhead expenses or include a

markup. Other direct charges may include but are not limited to the following types of items: travel, printing, cell phone, supplies, materials, computer charges, and fees of subconsultants.

- B. The billing for approved direct expenses shall include an itemized listing of charges supported by copies of original bills, invoices, expense accounts, subconsultant invoices, and other supporting documents used by the Recipient to generate invoice(s) to the City. The original supporting documents shall be available to the City for inspection upon request. All charges must be necessary for the services provided under this Contract.
- C. The City will reimburse the actual cost for travel expenses incurred as evidenced by copies of receipts (excluding meals) supporting such travel expenses, and in accordance with the City of Seattle Travel Policy, details of which can be provided upon request.
- D. **Airfare:** Pre-approved Airfare will be reimbursed at the actual cost of the airline ticket. The City will reimburse for Economy or Coach Fare only. Receipts detailing each airfare are required.
- E. **Meals:** Meals will be reimbursed at the Federal Per Diem daily meal rate (*excluding the "Incidental" portion of the published CONUS Federal M&I Rate*) for the city in which the work is performed. *Receipts may be required as documentation.* The invoice shall state, "The meals are being billed at the Federal Per Diem daily meal rate", and shall detail how many of each meal is being billed (e.g. the number of breakfasts, lunches, and dinners). The City will not reimburse for alcohol at any time.
- F. **Lodging:** Lodging will be reimbursed at actual cost incurred up to a maximum of the published Runzheimer Cost Index for the city in which the work is performed (*the current maximum allowed reimbursement amount can be provided upon request*). Receipts detailing each day / night lodging are required. The City will not reimburse for ancillary expenses charged to the room (e.g. movies, laundry, mini bar, refreshment center, fitness center, sundry items, etc.)
- G. **Vehicle mileage:** Vehicle mileage will be reimbursed at the [Federal Internal Revenue Service Standard Business Mileage Rate](#) in effect at the time the mileage expense is incurred. Please note: payment for mileage for long distances traveled will not be more than an equivalent trip round-trip airfare of a common carrier for a coach or economy class ticket.
- H. **Rental Car:** Rental car expenses will be reimbursed at the actual cost of the rental. Rental car receipts are required for all rental car expenses. The City will reimburse for a standard car of a mid-size class or less. The City will not reimburse for ancillary expenses charged to the car rental (e.g. GPS unit).
- I. **Miscellaneous Travel** (e.g. parking, rental car gas, taxi, shuttle, toll fees, ferry fees, etc.): Miscellaneous travel expenses will be reimbursed at the actual cost incurred. Receipts are required for each expense of \$10.00 or more.
- J. **Miscellaneous other business expenses** (e.g. printing, photo development, binding): Other miscellaneous business expenses will be reimbursed at the actual cost incurred and may not include a markup. Receipts are required for all miscellaneous expenses that are billed.
- K. For in-house expenses, the Recipient will provide backup documentation. Examples of these types of costs include copies and fees for rentals of specialized equipment such as surveying equipment, noise monitoring equipment and diving equipment. Any rental fees for equipment owned by the Recipient must have a standard backup rental rate sheet that applies to the Recipient's use of the equipment for clients.

Subconsultant: Subconsultant expenses will be reimbursed at the actual cost incurred. Copies of all Subconsultant invoices that are rebilled to the City are required.

6.3 PROMPT PAY.

Definitions

- A. An invoice is considered received when it is date-stamped as received by the office of the recipient who is designated within this contract. If the invoice is not date-stamped or otherwise marked as received by a department, the date of the invoice will be considered the date the invoice is received.
- B. A payment is considered made on the day it is mailed or is available.

- C. Disputed items include, but are not restricted to, improperly prepared invoices, lack of appropriate supporting documentation, unapproved staff or staff rates on the invoice, and unsatisfactory work product or services.

Prompt Payment to Recipient

- A. Timely Payment: Except as provided otherwise herein, payment for an invoice will be issued and mailed to the Recipient within thirty (30) calendar days of receipt of the invoice.
- B. Disputed Items: The City may withhold payment for disputed items. The City will promptly notify the Recipient in writing, outlining the disputed items, the amount withheld and actions the Recipient must take to resolve the disputed items. The City default is to delay payment until a revised invoice is submitted and approved. However, the Recipient may request partial payment for the approved amounts, if the unapproved amount represents a small share of the total invoice. The City shall pay the revised invoice within thirty (30) calendar days of receipt.
- C. Legal Fees: In any action brought to collect interest due under this Section, the prevailing party is entitled to an award of reasonable attorney fees.

Prompt Payment to Subconsultants

- A. Cut-Off Date: Except as provided otherwise herein, payment for an invoice will be made to a subconsultant within thirty (30) calendar days of receipt by the Recipient. The Recipient may establish a monthly cut-off date of (*to be established by Prime*) that subconsultants must submit an invoice in order to assure 30-day payment.
- B. Disputed Items: The Recipient may withhold payment for disputed items. The Recipient will promptly notify the subconsultant in writing, outlining disputed items, the amount withheld and actions the subconsultant must take to resolve the disputed item(s). Such withheld amounts are limited only to items in dispute. The subconsultant can request partial payment for the approved amounts, or that the Recipient delay their entire payment until a revised invoice is submitted to and accepted by the Recipient. The Recipient shall pay the revised invoice within thirty (30) calendar days of receipt.
- C. Flow-Down Clauses: The Recipient shall require this provision in each subcontract of any tier.

7. TAXES, FEES AND LICENSES.

- A. The Recipient shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. It is the Recipient's sole responsibility to monitor and determine any changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. Where required by state statute, ordinance or regulation, the Recipient shall pay and maintain in current status all taxes necessary for performance. The Recipient shall not charge the City for federal excise taxes. The City will furnish Recipient an exemption certificate where appropriate.
- C. As authorized by SMC, the Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.

8. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

See section 6.1 PAYMENT PROCEDURES

9. EQUAL BENEFITS.

This provision applies to all contracts valued at \$53,000 or above, including amendments. The Recipient shall comply with SMC Ch. 20.45 and Equal Benefit Program Rules, which require the Recipient to provide the same or equivalent benefits (“equal benefits”) to domestic partners of employees as the Recipient provides to spouses of employees. At the City’s request, the Recipient shall provide information and verification of the Recipient’s compliance. Any violation of this Section is material breach, for which the City may exercise enforcement actions or remedies defined in SMC Chapter 20.45.

10. SOCIAL EQUITY REQUIREMENTS.

- A. Non-discrimination: The Recipient shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Recipient shall affirmatively try to ensure applicants are employed, and employees are treated equally during employment, without regard to race, color, age, sex, marital status, sexual orientation, gender identify, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status or the presence of any sensory, mental or physical handicap. Such efforts include, but are not limited to employment, upgrading, demotion, transfer, recruitment, layoff, termination, rates of pay or other compensation, and training.
- B. WMBE Inclusion: The Recipient shall seek inclusion of woman and minority businesses (WMBEs) for subcontracting. A WMBE is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington but must be registered in the City Online Business Directory.

Inclusion efforts may include the use of solicitation lists, advertisements in publications directed to minority communities, breaking down total requirements into smaller tasks or quantities where economically feasible, making schedule or requirement modifications that assist WMBE businesses to compete, targeted recruitment, mentorships, using recipients or minority community organizations for outreach, and selection strategies that result in greater subconsultant diversity.

- C. Paid Sick Time and Safe Time Ordinance: The Recipient shall be aware that the City has a Paid Sick Time and Safe Time ordinance that requires companies to provide employees who work more than 240 hours within a year inside Seattle, with accrued paid sick and paid safe time for use when an employee or a family member needs time off from work due to illness or a critical safety issue. The ordinance applies to employers, regardless of where they are located, with more than four full-time equivalent employees. This is in addition and additive to benefits a worker receives under prevailing wages per WAC 296-127-014(4). City contract specialists may audit payroll records or interview workers as needed to ensure compliance to the ordinance. Please see <http://www.seattle.gov/laborstandards>, or you may call the Office of Labor Standards at 206-684-4500.
- D. Other Labor Standards Requirements: The Recipient shall comply to the extent applicable, with the City’s Minimum Wage labor standards as required by SMC 14.19, setting wage standards for employees working within city limits as well as the Wage Theft labor standards as required by SMC 14.20, setting basic requirements for payment of wages and tips for employees working within city limits and providing various payment documentation to employees.
- E. Personnel Conduct: Recipient will ensure that its respective employees, agents, and subcontractors conduct themselves in a courteous and expeditious manner. The use of abusive, indecent, offensive, coarse, or insulting language, or any form of harassment is prohibited and will not be tolerated. Recipient’s employees, agents, and subcontractors will be competent and hold appropriate licenses and endorsements. The City may require the removal of any employee or subcontractor of Recipient for misconduct or incompetent or negligent performance. Such persons will not be allowed to perform services under this Agreement without the written consent of the City.

11. PROTECTION OF PROPERTY

Recipient is responsible for protecting its person and property at all times, including but not limited to supplies and equipment to perform services hereunder; Recipient releases and agrees to hold the City harmless from liability for losses or damages or any kind sustained by Recipient in performing the services required hereunder.

12. INDEMNIFICATION.

Recipient shall defend, indemnify, and hold the City harmless from and against all claims, demands, losses, damages or costs, including but not limited to damages arising out of bodily injury or death to persons and damage to property, caused by or resulting from:

- the sole negligence or willful misconduct of Recipient, its officers, employees, agents or subconsultants;
- the concurrent negligence of Recipient, its officers, employees, agents or subconsultants but only to the extent of the negligence of Recipient, its officers, employees, agents or subconsultants;
- the negligent performance or non-performance of the contract by the Recipient; or
- the use of any design, process, or equipment that constitutes an infringement of any patent in effect, or violates any other intellectual proprietary interest, including copyright, trademark, and trade secret.

Recipient waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the City and its officials, agents or employees.

13. INSURANCE.

Recipient agrees that it will maintain premises operations and vehicle liability insurance in force with coverages and limits of liability typically maintained by recipients performing work of a scope and nature similar to that called for under this Agreement, but in no event less than the coverages and/or limits required by Washington state law. Such insurance shall include "The City of Seattle" as an additional insured for primary and non-contributory limits of liability. Workers compensation insurance shall also be maintained if required by Washington state law.

14. AUDIT.

Upon request, the Recipient shall permit the City and any other governmental agency ("Agency") involved in funding of the Work, to inspect and audit all pertinent books and records. This includes work of the Recipient, any subconsultant, or any other person or entity that performed connected or related Work. Such books and records shall be made available at any and all times deemed necessary by the Agency, including up to six years after final payment or release of withheld amounts. Such inspection and audit shall occur in King County, Washington or other reasonable locations that the Agency selects. The Recipient shall permit the Agency to copy books and records. The Recipient shall ensure that inspection, audit and copying rights of the Agency is a condition of any subcontract, agreement or other arrangement under which any other person or entity may perform work under this Agreement.

15. INDEPENDENT CONSULTANT.

A. The Recipient is an independent Consultant. This Agreement does not intend the Recipient to act as a City employee. The City has neither direct nor immediate control over the Recipient nor the right to control the manner or means by which the Recipient works. Neither the Recipient nor any Consultant employee shall be an employee of the City. This Agreement prohibits the Recipient to act as an agent or legal representative of the City. The Recipient is not granted express or implied rights or authority to assume or create any obligation or responsibility for or in the name of the City, or to bind the City. The City is not liable for or obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay social security or other tax that may arise from employment. The Recipient shall pay all income and other taxes as due. The Recipient may perform work for other parties; the City is not the exclusive user of the services that the Recipient provides.

- B. If the City needs the Recipient to Work on City premises and/or with City equipment, the City may provide the necessary premises and equipment. Such premises and equipment are exclusively for the Work and not to be used for any other purpose.
- C. If the Recipient works on the City premises using City equipment, the Recipient remains an independent Consultant. The Recipient will notify the City Project Manager if s/he or any other Workers are within 90 days of a consecutive 36-month placement on City property. If the City determines using City premises or equipment is unnecessary to complete the Work, the Recipient will be required to work from its own office space or in the field. The City may negotiate a reduction in Recipient fees or charge a rental fee based on the actual costs to the City, for City premises or equipment.

16. KEY PERSONS.

The Recipient shall not transfer or reassign any individual designated in this Agreement as essential to the Work, without the express written consent of the City, which shall not be unreasonably withheld. If any such individual leaves the Recipient's employment, the Recipient shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the Recipient from its obligations under this Agreement.

17. ASSIGNMENT AND SUBCONTRACTING.

The Recipient shall not assign or subcontract its obligations under this Agreement without the City's written consent, which may be granted or withheld in the City's sole discretion. The Recipient shall ensure that all subconsultants comply with all obligations and requirements applicable to the subcontracted work. The City's consent to any assignment or subcontract does not release the recipient from liability or any obligation within this Agreement, whether before or after City consent, assignment, or subcontract. This provision does not apply to the subgranting to other organizations contemplated in paragraph (3)(4), though such subgrants will be discussed with and disclosed to DON.

18. CITY ETHICS CODE (SMC 4.16.010 TO .105).

- A. The Recipient shall promptly notify the City in writing of any person expected to be a Consultant Worker (including any Consultant employee, subconsultant, principal, or owner) and was a former City officer or employee within the past twelve (12) months.
- B. The Recipient shall ensure compliance with the City Ethics Code by any Consultant Worker when the Work or matter related to the Work is performed by a Consultant Worker who has been a City officer or employee within the past two years.
- C. The Recipient shall provide written notice to the City of any Consultant worker who shall or is expected to perform over 1,000 hours of contract work for the City within a rolling 12-month period. Such hours include those performed for the Recipient and other hours that the worker performed for the City under any other contract. Such workers are subject to the City Ethics Code, SMC 4.16. The Recipient shall advise their Consultant Workers.
- D. The Recipient shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Recipient. Promotional items worth less than \$25 may be distributed by the Recipient to City employees if the Recipient uses the items as routine and standard promotional materials. Any violation of this provision may cause termination of this Agreement. Nothing in this Agreement prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.
- E. Campaign Contributions (Initiative Measure No. 122): Elected officials and candidates are prohibited from accepting or soliciting campaign contributions from anyone having at least \$250,000 in contracts with the City in the last two years or who has paid at least \$5,000 in the last 12 months to lobby the City. Please contact Polly Grow at polly.grow@seattle.gov for more information about the measure, or call the Ethics Director with questions at 206-615-1248.

19. NO CONFLICT OF INTEREST.

The Recipient confirms that the Recipient or workers have no business interest or a close family relationship with any City officer or employee who was or will be involved in the recipient selection, negotiation, drafting, signing, administration or evaluation of the Recipient's work. As used in this section, the term Recipient includes any worker of the Recipient who was, is, or will be, involved in negotiation, drafting, signing, administration or performance of the Agreement. The term close family relationship refers to: spouse or domestic partner, any dependent parent, parent-in-law, child, son-in-law, daughter-in-law; or any parent, parent in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a City officer or employee described above.

20. ERRORS AND OMISSIONS, CORRECTIONS.

Recipient is responsible for professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Recipient under this Agreement. Recipient, without additional compensation, shall correct or revise errors or mistakes in the designs, drawings, specifications, and/or other recipient services immediately upon notification by the City. The obligation provided for in this Section regarding acts or omissions resulting from this Agreement survives Agreement termination or expiration.

21. INTELLECTUAL PROPERTY RIGHTS.

- A. Copyrights. The Recipient shall retain the copyright (including the right of reuse) to all materials and documents prepared by the Recipient for the Work, whether or not the Work is completed. The Recipient grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use copy and distribute every document and all the materials prepared by the Recipient for the City under this Agreement. If requested by the City, a copy of all drawings, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs, and other storage facilities), software program or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials and/or any other related documents or materials developed solely for and paid for by the City to perform the Work, shall be promptly delivered to the City.
- B. Patents: The Recipient assigns to the City all rights in any invention, improvement, or discovery, with all related information, including but not limited to designs, specifications, data, patent rights and findings developed with the performance of the Agreement or any subcontract. Notwithstanding the above, the Recipient does not convey to the City, nor does the City obtain, any right to any document or material utilized by the Recipient created or produced separate from the Agreement or was pre-existing material (not already owned by the City), provided that the Recipient has identified in writing such material as pre-existing prior to commencement of the Work. If pre-existing materials are incorporated in the work, the Recipient grants the City an irrevocable, non-exclusive right and/or license to use, execute, reproduce, display and transfer the pre-existing material, but only as an inseparable part of the work.
- C. The City may make and retain copies of such documents for its information and reference with their use on the project. The Recipient does not represent or warrant that such documents are suitable for reuse by the City or others, on extensions of the project or on any other project.

22. NON-DISCLOSURE AGREEMENT

No Signed Non-Disclosure Agreement is required

23. PROPRIETARY AND CONFIDENTIAL INFORMATION.

The State of Washington's Public Records Act (Release/Disclosure of Public Records) Under Washington State Law (reference RCW Chapter 42.56, the Public Records Act) all materials received or created by the City of Seattle are considered public records. These records include but are not limited to bid or proposal submittals, agreement documents, contract work product, or other bid material.

The State of Washington's Public Records Act requires that public records must be promptly disclosed by the City upon request unless that RCW or another Washington State statute specifically exempts records from disclosure. Exemptions are narrow and explicit and are listed in Washington State Law (Reference RCW 42.56 and RCW 19.108).

As mentioned above, all City of Seattle offices (“the City”) are required to promptly make public records available upon request. However, under Washington State Law some records or portions of records may be considered legally exempt from disclosure. A list and description of records identified as exempt by the Public Records Act can be found in RCW 42.56 and RCW 19.108.

If the City receives a public disclosure request for any records or parts of records that Contractor has properly and specifically listed on the City Non-Disclosure Request Form (Form) submitted with Contractor’s bid/proposal, or records that have been specifically identified in this contract, the City will notify Contractor in writing of the request and will postpone disclosure. While it is not a legal obligation, the City, as a courtesy, will allow Contractor up to ten business days to obtain and serve the City with a court injunction to prevent the City from releasing the records (reference RCW 42.56.540). If you fail to obtain a Court order and serve the City within the ten days, the City may release the documents.

The City will not assert an exemption from disclosure on Contractor’s behalf. If Contractor believes that its records are exempt from disclosure, Contractor is obligated to seek an injunction under RCW 42.56.540. Contractor acknowledges that the City will have no obligation or liability to Contractor if the records are disclosed.

24. DISPUTES.

Any dispute or misunderstanding that may arise under this Agreement, concerning the Recipient’s performance, shall first be through negotiations, if possible, between the Recipient’s Project Manager and the City’s Project Manager. It shall be referred to the Director and the Recipient’s senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, either party may decline or discontinue such discussions and may then pursue the legal means to resolve such disputes, including but not limited to alternative dispute resolution processes. Nothing in this dispute process shall mitigate the rights of the City to terminate the contract. Notwithstanding all of the above, if the City believes in good faith that some portion of the Work has not been completed satisfactorily, the City may require the Recipient to correct such work prior to the City payment. The City will provide to the Recipient an explanation of the concern and the remedy that the City expects. The City may withhold from any payment otherwise due, an amount that the City in good faith finds to be under dispute, or if the Recipient provides no sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed.

25. TERMINATION.

- A. For Cause: The City may terminate this Agreement if the Recipient is in material breach of this Agreement, and such breach has not been corrected to the City’s reasonable satisfaction in a timely manner.
- B. For Reasons Beyond Control of the Parties: Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party’s reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Recipient’s own employees, sabotage, or superior governmental regulation or control.
- C. For City’s Convenience: Both parties may terminate this Agreement without cause and including their convenience, upon written notice to the other party.
- D. Notice: Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than five (5) business days prior to the effective date of termination.
- E. Actions upon Termination: if termination occurs and is not the fault of the Recipient, the Recipient shall be paid for the services properly performed prior to termination, with any reimbursable expenses then due, but such compensation shall not exceed the maximum compensation to be paid under the Agreement. The Recipient agrees this payment shall fully and adequately compensate the Recipient and all subconsultants for all profits, costs, expenses, losses, liabilities, damages, taxes and charges of any kind (whether foreseen or unforeseen) attributable to the termination of this Agreement.
- F. Upon termination, the Recipient shall provide the City with the most current design documents, contract documents, writings and other products the Recipient has produced to termination, along

with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred.

26. RECIPIENT PERFORMANCE EVALUATION.

The Recipient's performance will be evaluated by the City at the conclusion of the contract. The Evaluation template can be viewed <http://www.seattle.gov/contracting/docs/ccPE.doc>.

27. DEBARMENT.

Federal Debarment: The Recipient shall immediately notify the City of any suspension or debarment or other action that excludes the Recipient or any subconsultant from participation in Federal contracts. Recipient shall verify all subconsultants intended and/or used by the Recipient for performance of City Work are in good standing and are not debarred, suspended or otherwise ineligible by the Federal Government. Debarment shall be verified at <https://www.sam.gov>. Recipient shall keep proof of such verification of subconsultant debarment status within the Recipient records.

City of Seattle Debarment: Under SMC Chapter 20.70, the Director of City Purchasing and Contracting Services (CPCS), as hereby delegated by the Director of Finance and Administrative Services, may debar and prevent a Recipient from contracting or subcontracting with the City for up to five years after determining the Recipient:

- A. Received overall performance evaluations of deficient, inadequate, or substandard performance on three or more City contracts;
- B. Failed to comply with City ordinances or contract terms, including but not limited to, ordinance or contract terms related to woman and minority business utilization, discrimination, equal benefits, or other state, local or federal non-discrimination laws;
- C. Abandoned, surrendered, or failed to complete or to perform work on or for a City contract;
- D. Failed to comply with contract provisions, including but not limited to quality of workmanship, timeliness of performance, and safety standards;
- E. Submitted false or intentionally misleading documents, reports, invoices, or other statements to the City in connection with a contract;
- F. Colluded with another firm to restrain competition;
- G. Committed fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a contract for the City or any other government entity;
- H. Failed to cooperate in a City debarment investigation.

The CPCS Director or designee may issue an Order of Debarment under the SMC 20.70.050. Rights and remedies of the City under these provisions are besides other rights and remedies provided by law or under the Agreement.

28. MISCELLANEOUS PROVISIONS.

- A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Background Checks and Immigrant Status: The City may require background checks for some or all of the employees that may perform work under this Agreement. The City reserves the right to require such background checks at any time. The City has strict policies regarding the use of background checks, criminal checks, immigrant status, and/or religious affiliation for contract workers. The policies are incorporated into the contract and available for viewing on-line at <http://www.seattle.gov/city-purchasing-and-contracting/social-equity/background-checks>.
- C. Notification Requirements for Federal Immigration Enforcement Activities: Prior to responding to any requests from an employee or agent of any federal immigration agency including the Immigration and Customs Enforcement (ICE), the U.S. Department of Homeland Security (DHS), Homeland Security Investigations (HSI), Enforcement Removal Operations (ERO), Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) regarding your City contract, Recipients shall notify the DON Program Manager immediately.

Such requests include, but are not limited to:

- a. requests for access to non-public areas in City buildings and venues (i.e., areas not open to the public such as staff work areas that require card key access and other areas designated as “private” or “employee only”); or
- b. requests for data or information (written or oral) about workers engaged in the work of this contract or City employees.

No access or information shall be provided without prior review and consent of the City. The Recipient shall request the ICE authority to wait until the DON Project Manager is able to verify the credentials and authority of the ICE agent and will direct the Recipient on how to proceed.

- D. **Binding Agreement:** This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
- E. **Americans with Disabilities Act (ADA):** Specific attention by the designer is required in association with the Americans with Disabilities Act (ADA) 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611, its requirements, regulations, standards and guidelines, which were updated in 2010 and are effective and mandatory for all State and local government facilities and places of public accommodation for construction projects including alteration of existing facilities, as of March 15, 2012. The City advises that the requirements for accessibility under the ADA, may contain provisions that differ substantively from accessibility provisions in applicable State and City codes, and if the provisions of the ADA impose a greater or equal protection for the rights of individuals with disabilities or individuals associated with them than the adopted local codes, the ADA prevail unless approval for an exception is obtained by a formal documented process. Where local codes provide exceptions from accessibility requirements that differ from the ADA Standards; such exceptions may not be permitted for publicly owned facilities subject to Title II requirements unless the same exception exists in the Title II regulations. It is the responsibility of the designer to determine the code provisions.
- F. **Federal, State, and Local Compliance:** The Recipient, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Seattle; and rules, regulations, orders and directives of their administrative agencies and officers, including, but not limited to, Seattle Municipal Code Chapter 14.04 (Fair Employment Practices), Chapter 14.06 (Unfair Public Accommodations Practices), Chapter 14.10 (Fair Contracting Practices), and Chapter 20.45 (City Contracts – Non-Discrimination in Benefits). Without limiting the generality of this paragraph, the Recipient shall comply with the requirements of this Section.
- G. **Violations of Law:** Any violation of the requirements in Section 28.F shall be a material breach of contract for which the Recipient may be subject to damages, sanctions, or other remedies as provided for under this Agreement or under applicable law. In the event Recipient is in violation of Section 28.F, Recipient may also be subject to debarment from City contracting activities in accordance with Section 27.
- H. **Venue:** This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in the Superior Court of King County.
- I. **Remedies Cumulative:** Rights under this Agreement are cumulative and nonexclusive of any other remedy of law or in equity.
- J. **Captions:** The titles of sections or subsections are for convenience only and do not define or limit the contents.

- K. Severability: If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- L. Waiver: No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Recipient after the time the same shall have become due nor payment to the Recipient for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- M. Entire Agreement: This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Recipient. The solicitation (Request for Proposal or Solicitation for Qualifications), Addenda, Recipients Proposal, and Recipients WMBE Inclusion Plan, are each explicitly included as Attachments material to the Agreement. Where there are conflicts between these documents, the controlling document will first be this Agreement as amended, the WMBE Inclusion Plan as adopted, the Recipient's Proposal, then the City Solicitation documents. If conflict occurs between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford the City the maximum benefits.
- N. Negotiated Agreement: The parties acknowledge this is a negotiated agreement, that they have had this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship.
- O. No personal liability: No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Agreement by having legally-binding representatives affix their signatures below.

IMPLEMENTING ORGANIZATION

By Andre Taylor 07/27/20
Andre Taylor (Jul 26, 2020 17:00 PDT)
 Signature Date

Andre Taylor Founder/Executive Director
 Type or Print Name Title

City of Seattle Business License Number:
Washington State Unified Business Identifier Number (UBI): 604-001-708

CITY OF SEATTLE

By Andres Mantilla 06/22/20
Andres Mantilla (Jun 22, 2020 08:47 PDT)
 Signature Date

Andres Mantilla Director
 Type or Print Name Title

