

CITY OF TACOMA AND THE RESCUE MISSION EMERGENCY SHELTER FUNDING AND OPERATIONS AGREEMENT

THIS AGREEMENT ("Agreement" or "Contract") is made and entered into, effective this 15th day of April 2025 ("Effective Date"), by and between the CITY OF TACOMA, Washington, a municipal corporation operating as a first class charter city under the laws of the State of Washington ("City") and **THE RESCUE MISSION**, a Washington nonprofit corporation ("**TRM**").

RECITALS

WHEREAS there are currently 720 shelter beds available in the City for single adults, families, youth, young adults, and survivors of domestic violence experiencing homelessness, and

WHEREAS the City's and Pierce County Strategic plans identify a need for an additional 200 emergency shelters and congregate beds in the City of Tacoma, and

WHEREAS, in May 2017, the City declared a state of emergency in response to the growing number of people living in homeless encampments in Tacoma, and

WHEREAS, in order to address the emergency, the City developed an emergency response plan, which includes the provision of additional publicly available emergency shelter space, and

WHEREAS, pursuant to this Agreement, the parties intend to provide for the development and operation by TRM of a new publicly available emergency shelter to serve up to (100) individuals, or more, year-round by March 31, 2026, and

WHEREAS this project expands TRM's Downtown Campus men's wing of the shelter on the west end of the existing building. This building expansions will be a multi-story structure built adjacent to the existing building, and

WHEREAS the total cost for the new shelter project is **\$19,101,267**, to be funded as follows: (1) **\$3,500,000** paid directly by the City of Tacoma; (2) **\$4,000,000** Community Project Funding ("CPF") to be passed thru the City of Tacoma from Housing and Urban Development ("HUD") through the execution of a separate contract, (3) **\$5,500,000** paid directly by Pierce County thru a separate agreement, (4) **\$5,000,000** paid directly by Washington State Commerce thru a separate agreement, and **\$1,101,267** which shall be paid directly by Tacoma Rescue Mission, and

NOW, THEREFORE, in consideration of the recitals set forth above, the terms and conditions contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

AGREEMENT:

1. Emergency Sheltering Capacity Increase and Shelter Conversion

A. Schedule

Following full execution of this Agreement by all parties, TRM will begin work on the Shelter Expansion Project ("Project") to increase its capacity to provide basic emergency shelter and services for additional persons experiencing homelessness by expanding capacity in the men's wing congregate shelter space on TRM's main campus, this expansion project is expected to increase capacity.

Promptly upon issuance of permits by the City, TRM will work to expand the men's wing of the existing downtown facility that is a permanent shelter with a development schedule of substantial completion on or before March 31, 2026. The expansion has a required outcome of a publicly available shelter facility capable, in combination with the existing supportive services already available within the campus, of serving the needs of at least one hundred (100) additional homeless individuals, or more, year-round.

B. Responsibility for Emergency Shelter Expansion

Subject to the requirements of this Agreement, and the requirements associated the funding sources, TRM is solely responsible for contracting and managing the expansion of to an emergency shelter facility. The expansion is a private project on private property. TRM will comply with all requirements of the public funding sources, including, but not limited to, payment of prevailing wage, if applicable.

2. Emergency Shelter Expansion Funding

Upon the City's finalization of its contract with HUD regarding the \$4,000,000 in Community Project Funding, the City shall provide a 50% advance payment of \$1,750,000. In the event that the City and HUD are unable to finalize a contract for the \$4,000,000 in Community Project Funding for this project or does not actually receive that funding to pass thru to TRM, the City's remaining contribution of \$1,750,000 shall be contingent upon TRM executing an amendment to this Contract showing the adjusted total cost for the new shelter project and TRM's demonstration that it is still able to receive the funds from Pierce County and Washington State Commerce and is able to move forward and provide the deliverables promised in this Contract. The City will pay the remaining \$1,750,000 upon the City's approval of invoices submitted as set forth in Section 11.

The funds provided thru this Contract to TRM shall be only used for costs of expansion of TRM's shelter men's wing on the west end of its main campus to a publicly available shelter facility capable, in combination of additional supportive services, of serving the needs of at least an additional 100 homeless individuals, for at least 5 consecutive years with year-round operations. The parties agree that failure to meet this performance obligation shall be considered a material breach of Contract. Additionally, the specific funding sources comprising the City funding may require a more particular allocation with the project. TRM, in consultation with the City, shall comply with all allocation and expenditure requirements.

In addition to all other applicable restrictions, none of the funds provided under this Agreement shall be used in the performance of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office. None of the funds provided under this contract shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the Tacoma City Council, the Washington State Legislature, the United States Congress, or any other legislative body.

In the event of TRM's breach of the legal requirements stated herein, the City may exercise any remedy provided by law. TRM shall be liable for any misuse of federal funds and shall be required to repay any funds required by the federal government. City shall have the right to deduct from any monies due to TRM, or that thereafter become due, an amount for damages or misuse TRM owes to the City for default under this provision; provided however, neither the City nor TRM will be liable to the other for consequential damages or punitive damages.

4. Records Related to Performance of Contract

TRM shall establish and maintain records in accordance with requirements prescribed by the City, with respect to all matters related to the performance of this Contract. Except as otherwise authorized by the City, TRM shall retain such records for a period of 6 years after receipt of the final payment under this Contract or termination of this Contract.

5. Compliance with Laws

TRM agrees that it will comply with applicable laws and regulations. TRM agrees to establish, maintain, and provide to the City, upon request, such records as may be reasonably required by the City to comply or show compliance with such applicable laws, regulations and requirements herein within the time period provided in Section 4 above. TRM shall continuously maintain all required business licenses and registrations.

6. Nondiscrimination

TRM shall comply with applicable nondiscrimination, equal opportunity, and fair labor standards requirements, and all other applicable City of Tacoma, State of Washington, and federal laws and regulations, and shall continue to comply with all such laws and regulations throughout the construction of the new facility. TRM shall not discriminate in any employment action because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, veteran or military status, or the presence of any sensory, mental or physical handicap.

7. No City of Tacoma Liability

TRM expressly acknowledges and agrees that neither TRM, nor any other person or entity shall have any recourse to the assets, credit or services of the City of Tacoma because of any debts, obligations, or liabilities of the City, whether created hereunder or otherwise. No member, official, or employee of the City, shall be personally liable to TRM, or any successor thereto, because of any obligations or debts arising hereunder.

8. Hold Harmless

TRM hereby agrees to indemnify and hold harmless the City, its officials, officers, agents, employees, and volunteers, from any and all claims, causes of action, judgments or liens occasioned by or arising out of the performance by TRM of any activity covered hereunder, and to defend for and on behalf of the City, at its own expense, any such claim or cause of action, and in the event of recovery thereon, to pay any judgment or lien arising therefrom, including any and all costs as a part thereof.

9. Prevailing Wages

- A. If federal, state, local, or any applicable law requires TRM to pay prevailing wages in connection with this Contract, and TRM is so notified by the CITY, then TRM shall pay applicable prevailing wages and otherwise comply with the Washington State Prevailing Wage Act (RCW 39.12) in the performance of this Contract.
- B. If applicable, a Schedule of Prevailing Wage Rates and/or the current prevailing wage determination made by the Secretary of Labor for the locality or localities where the Contract will be performed is made of part of the Contract by this reference. If prevailing wages apply to the Contract, TRM and its subcontractors shall:
 - 1. Be bound by and perform all transactions regarding the Contract relating to prevailing wages and the usual fringe benefits in compliance with the provisions of Chapter 39.12 RCW, as amended, the Washington State Prevailing Wage Act and/or the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable, including the federal requirement to pay wages not less than once a week.
 - 2. Ensure that no worker, laborer or mechanic employed in the performance of any part of the Contract shall be paid less than the prevailing rate of wage specified on that Schedule and/or specified in a wage determination made by the Secretary of Labor (unless specifically preempted by federal law, the higher of the Washington state prevailing wage or federal Davis-Bacon rate of wage must be paid.
 - 3. Immediately upon award of the Contract, contact the Department of Labor and Industries, Prevailing Wages section, Olympia, Washington and/or the federal Department of Labor, to obtain full information, forms and procedures relating to these matters. Per such procedures, a Statement of Intent to Pay Prevailing Wages and/or other or additional documentation required by applicable federal law, must be submitted by TRM and its subcontractor to the CITY, in the manner requested by the CITY, prior to any payment by the CITY hereunder, and an Affidavit of Wages Paid and/or other or additional documentation required by federal law must be received or verified by the CITY prior to final Contract payment.

10. Not to Exceed Amount

The total price to be paid by CITY for TRM'S full and complete performance of the Scope of Work hereunder shall not exceed \$3,500,000.00 without a written and executed Amendment to this Contract. Said price shall be the total compensation for TRM'S performance hereunder including, but not limited to, all work, deliverables, materials, supplies, equipment, subcontractor fees, and all reimbursable travel and miscellaneous or incidental expenses to be incurred by TRM.

In the event TRM incurs cost in excess of the sum authorized for service under this Contract, TRM shall pay such excess from its own funds, and the CITY shall not be required to pay any part of such excess, and TRM shall have no claim against the CITY on account thereof excepting Attorney's Fees under Section 31 if applicable.

11. Payment

TRM shall submit monthly invoices for services completed and/or deliverables furnished during the invoice period. Upon CITY'S request, TRM shall submit necessary and appropriate documentation, as determined by the CITY, for all invoiced services and deliverables. For transactions conducted in SAP Ariba, invoices shall be submitted directly through Ariba. For invoices paid by ACH or by check, unless stated otherwise, invoices shall be electronically submitted by email with corresponding PO number or other identifying number listed in the subject line to accountspayable@cityoftacoma.org.

Payment shall be considered timely if made within 30 days of receipt of a properly completed invoice or when the CITY receives the corresponding payment from United States Housing and Urban Development (HUD) (whichever date is later). All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced. The CITY may withhold payment to TRM for any services or deliverables not performed as required hereunder until such time as TRM modifies such services or deliverables to the satisfaction of the CITY and HUD.

12. Payment Method

The CITY's preferred method of payment is by ePayables (Payment Plus), followed by credit card (aka procurement card), then Electronic Funds Transfer (EFT) by Automated Clearing House (ACH), then check or other cash equivalent. TRM may be required to have the capability of accepting the CITY's ePayables or credit card methods of payment. CITY, in its sole discretion, will determine the method of payment for this Contract.

13. Independent Contractor Status

The services and deliverables shall be furnished by TRM as an independent contractor, and nothing herein contained shall be construed to create an employer and employee relationship. TRM shall provide at its sole expense all materials, office space, and other necessities to perform its duties under this Contract, unless stated otherwise in this Contract. No payroll or employment taxes of any kind shall be withheld or paid by the CITY with respect to payments to TRM. The payroll or employment taxes that are the subject of this paragraph include, but are not limited to, FICA, FUTA, federal income tax, state personal income tax, state disability insurance tax and state unemployment insurance tax. By reason of TRM's status as an independent TRM hereunder, no workers' compensation insurance has been or will be obtained by the CITY on account of TRM. TRM may be required to provide the CITY proof of payment of these said taxes and benefits. If the CITY is assessed or deemed liable in any manner for those charges or taxes, TRM agrees to hold the CITY harmless from those costs, including attorney's fees.

14. Warranties

- A. TRM represents and warrants that its services will be of professional quality and will be rendered in accordance with prevailing professional standards and ethics. Services performed by TRM under this Contract shall be conducted in a manner consistent with the level of care and skill standard to the industry and shall be solely liable if it fails to do so. If possible, TRM agrees to immediately re-perform any services that are not in compliance with this representation and warranty at no cost to the CITY.

- B. TRM represents and warrants that it will comply with all applicable local, State, and federal licensing, accreditation and registration requirements and standards necessary in the performance of this Contract and shall be solely liable for doing so.
- C. EXECUTIVE ORDER 18-03 – WORKERS’ RIGHTS (MANDATORY INDIVIDUAL ARBITRATION). TRM represents and warrants that TRM does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers. TRM further represents and warrants that, during the term of this Contract, TRM shall not, as a condition of employment, require its employees to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

Any written commitment by TRM within the scope of this Contract will be binding upon TRM. Failure of TRM to fulfill such a commitment may constitute breach and will render TRM liable for damages under the terms of this Contract. For purposes of this section, a commitment by TRM includes: (i) options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by TRM to the CITY or contained in any TRM publications, or descriptions of services in written or other communication medium, used to influence CITY to enter into this Contract.

15. Contract Administration

Neighborhood and Community Services Department staff for the CITY shall have primary responsibility for contract administration and approval of services to be performed by TRM and shall coordinate all communications between TRM and the CITY.

16. Specific Personnel

If before, during, or after the execution of this Contract, TRM represents to the CITY that certain personnel would or will be responsible for performing services and deliverables under this Contract, then TRM is obligated to ensure that said personnel perform said Contract services to the maximum extent permitted by law. This Contract provision shall only be waived by written authorization by the CITY, and on a case-by-case basis.

17. Records Related to Performance of Contract

Upon CITY's request, TRM shall make available to CITY all accounts, records and documents related to the performance of this Contract for CITY's inspection, auditing or evaluation during normal business hours as reasonably needed by CITY to assess performance, compliance and quality assurance under this Contract. Upon City's request TRM shall provide to CITY any and all records or documents related to the performance of this Contract that CITY deems to be public records responsive to a request made to the CITY pursuant to the Washington State Public Records Act, Chapter 42.56 Revised Code of Washington.

18. Notices

Except for routine operational communications, which may be delivered personally or transmitted by electronic mail, all notices required hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first-class mail, postage prepaid, to the parties at the following addresses:

<u>CITY:</u> Name: Katie Johnston Title: Interim Director Address: 747 Market Street Tacoma, WA 98402 Telephone No.: (253) 591-5063 E-mail: kjohnston2@cityoftacoma.org	<u>TRM:</u> Name: Duke Paulson Title: Executive Director, Tacoma Rescue Mission Address: PO Box 1912 Tacoma, WA 98401 Telephone No.: (253) 383-4493 E-mail: DukeP@trm.org
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19. Termination

- A. Except as otherwise provided herein, the CITY may terminate this Contract at any time, for CITY's own reasons and without cause, by giving ten (10) business days written notice to TRM. CITY may terminate this Contract in the event of any material breach of any of the terms and conditions of this Contract if TRM's breach continues in effect after written notice of breach and 30 days to cure such breach and fails to cure such breach.
- B. In the event CITY terminates this Contract due to the CITY's own reasons and without cause or due to TRM's actions or omissions, the CITY shall pay TRM the amount due for actual work and services necessarily performed or reasonable expenses incurred under this Contract up to the effective date of termination, consistent with Section 2 and provided the amount requested does not exceed the sum of the City's contribution of \$3,500,000 and the total amount of the \$4,000,000 of anticipated federal funding.
- C. In the event of material default or breach by TRM of any of the terms or conditions of the Contract, CITY may, at its election, procure services and deliverables under this CONTRACT from other sources, and may deduct from the unpaid balance due TRM, or collect against the bond or security (if any), or may invoice and recover from TRM all costs paid in excess of the price(s) set forth in the Contract.
- D. Termination of this Contract by CITY shall not constitute a waiver of any claims or remaining rights the CITY may have against TRM relative to performance hereunder.
- E. In addition to the termination and suspension rights provided herein, CITY may with ten (10) business days' prior written notice, terminate or suspend this Contract, in whole or in part, at the sole discretion of CITY if CITY reasonably determines that: (a) a change in Federal or State legislation, requirements, or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (b) that a change in available funds affects CITY's ability to pay. A change of available funds as used in this

section includes but is not limited to a change in Federal or State funding, whether as a result of a legislative act or by order of the President, the Governor, the City Council, or the City Manager. If a written notice is delivered under this provision, CITY shall pay TRM for Services and/or Deliverables properly delivered or performed, or reasonable expenses incurred until the effective date of said notice provided the amount requested does not exceed the sum of the City's contribution of \$3,500,000 and the total amount of the \$4,000,000 of anticipated federal funding. Except as provided for in this Contract, and except as may have been made to expressly survive termination, in the event of termination for non-appropriation or reduction of funds or changes in law, CITY shall have no obligation or liability to TRM.

20. Suspension

The CITY may suspend this Contract, at its sole discretion, upon ten (10) business days' written notice to TRM. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to TRM'S reasonable expenses provided the expenses do not exceed the City's contribution of \$3,500,000 and shall be subject to reasonable verification. TRM shall resume performance of services under this Contract without delay when the suspension period ends. Suspension of this Contract by CITY shall not constitute a waiver of any claims or remaining rights the CITY may have against TRM relative to performance hereunder. In the event of any such suspension, all dates set forth herein, including but not limited to time periods set for submissions for payment, receipt of payment, that set for completion, and in the schedule of the work to be performed hereunder, shall be adjusted by a day for each day of such suspension.

21. Federal Funds

If federal funds will be used to fund, pay or reimburse all or a portion of the services or deliverables provided under the Contract, the terms and conditions set forth at Appendix A to this Contract are incorporated into and made part of this Contract and TRM will comply with all applicable provisions of Appendix A and with all applicable federal laws, regulations, executive orders, policies, procedures, and directives in the performance of this Contract. If TRM's receipt of federal funds under this Contract is as a sub-recipient, Appendix B, "Sub-recipient Information and Requirements" must be completed and incorporated into and made part of this Contract.

22. Taxes

Unless stated otherwise herein, TRM is responsible for the payment of all charges and taxes applicable to the services performed under this Contract, and TRM agrees to comply with all applicable laws regarding the reporting of income, maintenance of records, and all other requirements and obligations imposed pursuant to applicable law. If the CITY is assessed, made liable, or responsible in any manner for such charges or taxes, TRM holds CITY harmless from such costs, including attorney's fees.

If TRM fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including by Tacoma City ordinance, and including by a court of law, CITY will deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon

demand by the governmental body. Any such payments shall be deducted from TRM's total compensation.

23. Licenses and Permits

TRM, at its expense, shall obtain and keep in force any and all necessary licenses and permits. TRM shall obtain a business license as required by Tacoma Municipal Code Subtitle 6B.20 and shall pay business and occupation taxes as required by Tacoma Municipal Code Subtitle 6A.30. If applicable, TRM must have a Washington state business license.

24. Indemnification

TRM shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers, from any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Contract including but not limited to medical malpractice, breach of confidentiality obligations contained herein and the intentional or negligent acts, errors, omissions, or misconduct committed by TRM or its employees, agents, volunteers, officials, officers, and subcontractors; provided that this provision shall not apply to the extent that damage or injury results from the sole negligence of the CITY, or its officers, agents, or employees. This indemnification shall extend to and include attorneys' fees and the cost of establishing the right of indemnification hereunder in favor of the CITY. This indemnification shall survive the termination of this Contract.

25. Title 51 Waiver

TRM specifically assumes potential liability for actions brought by TRM'S own employees against the CITY and, solely for the purpose of this indemnification and defense, TRM specifically waives any immunity under the state industrial insurance law, Title 51 RCW. TRM RECOGNIZES THAT THIS WAIVER WAS THE SUBJECT OF MUTUAL NEGOTIATION.

26. Insurance

During the course and performance of the services herein specified, TRM will maintain the insurance coverage in the amounts and in the manner specified in this section. The intent of the required insurance is to protect the CITY should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of TRM including its employees, subcontractors, or agents, while performing under the terms of this Contract. TRM must provide insurance coverage that is maintained in full force and effect during the term of this Contract, as follows:

A. Commercial General Liability Insurance Policy - Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1 million per occurrence/\$2 million general aggregate. Additionally, TRM is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of Subcontracts.

B. Business Automobile Liability. In the event that services delivered pursuant to this Contract involve the use of vehicles, either owned, hired, or non-owned by TRM, automobile liability insurance is required covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

C. Professional Liability Errors and Omissions – Provide a policy with coverage of not less than \$1 million per claim/\$2 million general aggregate.

D. Industrial Insurance Coverage. Prior to performing work under this Contract, TRM must provide or purchase industrial insurance coverage for TRM's employees, as may be required of an "employer" as defined in Title 51 RCW and must maintain full compliance with Title 51 RCW during the course of this Contract.

E. The insurance required must be issued by an insurance company/ies authorized to do business within the state of Washington and must name the CITY as additional insureds under any Commercial General and/or Business Automobile Liability policy/ies. All policies must be primary to any other valid and collectable insurance. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this Contract, TRM must provide written notice of such to CITY within one (1) Business Day of TRM's receipt of such notice. Failure to buy and maintain the required insurance may, at CITY's sole option, result in this Contract's termination.

F. Upon request, TRM must submit to CITY a certificate of insurance that outlines the coverage and limits defined in the Insurance section. If a certificate of insurance is requested, TRM must submit renewal certificates as appropriate during the term of the contract.

G. TRM certifies that it is self-insured, is a member of a risk pool, or maintains the types and amounts of insurance identified above and will provide certificates of insurance to that effect to CITY upon request.

27. Conflict of Interest

No officer, employee, or agent of the CITY, nor any member of the immediate family of any such officer, employee, or agent as defined by CITY ordinance, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. TRM shall comply with all federal, state, and CITY conflict of interest laws, statutes, and regulations. TRM represents that TRM presently has no interest and shall not acquire any interest, direct or indirect, in the program to which this Contract pertains which would conflict in any manner or degree with the performance of TRM'S services and obligations hereunder. TRM further covenants that, in performance of this Contract, no person having any such interest shall be employed. TRM also agrees that its violation of the CITY'S Code of Ethics contained in Chapter 1.46 of the Tacoma Municipal Code shall constitute a breach of this Contract subjecting the Contract to termination.

28. Public Disclosure

Both Parties are subject to the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). This Contract and documents provided by either Party to the other are deemed public records subject to disclosure under the Public Records Act. Thus, either Party may be required, upon request, to disclose this Contract and documents related to it unless an exemption under the Public Records Act or other laws applies. In the event one Party receives a request for such disclosure, determines in its legal judgment that no applicable exemption to disclosure applies, and the other Party has complied with the requirements herein to mark all content considered to be confidential or proprietary, the first Party agrees to provide the other Party ten (10) days' written notice of impending release. Should legal action thereafter be initiated by either Party to enjoin or otherwise prevent such release, all expense of any such litigation shall be borne by said Party, including any damages, attorneys' fees or costs awarded by reason of having opposed disclosure. A Party shall not be liable for any release where notice was provided, and the other Party took no action to oppose the release of information. Notice of any proposed release of information pursuant to Chapter 42.56 RCW, shall be provided according to the "Notices" provision herein.

29. Confidential or Proprietary Records Must be Marked

If TRM provides the CITY with records that TRM considers confidential or proprietary, TRM must mark all applicable pages of said record(s) as "Confidential" or "Proprietary." If TRM fails to so mark record(s), then (1) the CITY, upon request, may release said record(s) without the need to satisfy the notice requirements above; and (2) TRM expressly waives its right to allege any kind of civil action or claim against the CITY pertaining to the release of said record(s).

30. Dispute Resolution

In the event of a dispute pertaining to this Contract, the parties agree to attempt to negotiate in good faith an acceptable resolution. If a resolution cannot be negotiated, then the parties agree to submit the dispute to voluntary non-binding mediation before pursuing other

remedies. This provision does not limit the CITY'S right to terminate as authorized by this Contract.

31. Miscellaneous Provisions

Governing Law and Venue

Washington law shall govern the interpretation of this Contract. Pierce County shall be the venue of any mediation, arbitration, or litigation arising out of this Contract.

Assignment

TRM shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Contract or for any of the compensation due hereunder without the prior written consent of the CITY.

No Third Party Beneficiaries

Except as provided for herein, this Contract shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.

Waiver

A waiver or failure by either party to enforce any provision of this Contract shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Contract.

Severability and Survival

If any term, condition or provision of this Contract is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Contract, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Contract, shall survive termination of this Contract.

Entire Agreement

This Contract and the attached Exhibits and Appendices, as modified herein, contain the entire agreement between the parties as to the services to be rendered hereunder. All previous and contemporaneous agreements, representations or promises and conditions relating to the subject matter of this Contract are superseded hereby. The Parties hereto mutually acknowledge, understand and agree that the terms and conditions set forth herein shall control and prevail over any conflicting terms and conditions stated in any attachments hereto.

Modification

No modification or amendment of this Contract shall be effective unless set forth in a written and executed Amendment to this Contract.

Attorneys Fees

In the event of any dispute arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys fees and costs from the non prevailing party, including those on appeal.

Accessibility

- A. REQUIREMENTS AND STANDARDS. Each Information and Communication Technology (ICT) product or service furnished under this Contract shall be accessible to and usable by individuals with disabilities in accordance with the Americans with Disabilities Act (ADA) and other applicable Federal and State laws and policies, including OCIO Policy 188, *et seq.* For purposes of this clause, TRM shall be considered in compliance with the ADA and other applicable Federal and State laws if it satisfies the requirements (including exceptions) specified in the regulations implementing Section 508 of the Rehabilitation Act, including the Web Content Accessibility Guidelines (WCAG) 2.1 Level AA Success Criteria and Conformance Requirements (2008), which are incorporated by reference, and the functional performance criteria.
- B. DOCUMENTATION. TRM shall maintain and retain, subject to review by the CITY or HCA, full documentation of the measures taken to ensure compliance with the applicable requirements and functional performance criteria, including records of any testing or simulations conducted.
- C. REMEDIATION. If TRM claims that its products or services satisfy the applicable requirements and standards specified in subsection A and it is later determined by CITY that any furnished product or service is not in compliance with such requirements and standards, the CITY will promptly inform TRM in writing of noncompliance. TRM shall, at no additional cost to CITY, repair or replace the non-compliant products or services within the period specified by CITY. If the repair or replacement is not completed within the specified time, CITY may cancel the Contract, delivery, task order, or work order, or purchase line item without termination liabilities or have any necessary changes made or repairs performed by employees of CITY or by another TRM, and TRM shall reimburse CITY for any expenses incurred thereby.

Public Works

For any work performed with the City funds which qualifies as “public work” under applicable State law, TRM hereby agrees to comply with all requirements of State law for said work, including the payment of prevailing wages; requirement of a payment and performance bond for said work; and requirement of retainage.

IN WITNESS WHEREOF, the Parties hereto have accepted and executed this Contract, as of the Effective Date stated above, which shall be Effective Date for bonding purposes as applicable. The undersigned TRM representative, by signature below, represents and warrants they are duly authorized to execute this legally binding Contract for and on behalf of TRM and further represents and warrants that TRM is not suspended, debarred, or otherwise disqualified under federal, state, or local law from participating in this Contract.

CITY OF TACOMA:

The Rescue Mission:

Signature:

Signature:

Name:

Name:

Title:

Title:

(City of Tacoma use only - blank lines are intentional)

Director of Finance: _____

Deputy/City Attorney (approved as to form): _____

Approved By: _____

Approved By: _____

Approved By: _____

Approved By: _____

Approved By: _____

Approved By: _____

Approved By: _____

Approved By: _____

APPENDIX A to 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap.38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

APPENDIX B—Sub-recipient information and requirements

Pursuant to 2 CFR 200.332(a)(1) Federal Award Identification

(i) Agency Name (must match the name associated with its unique entity identifier)		(ii) Unique Entity Identifier <i>(i.e., DUNS)</i>	City of Tacoma Number for This Agreement
(iii) Federal Award Identification Number (FAIN)	(iv) Federal Award Date	(v) Federal Period of Performance Start and End Date	(vi) Federal Budget Period Start and End Date
(vii) Amount of Federal Funds <i>Obligated</i> to the agency <i>by this action</i>: \$	(viii) Total Amount of Federal Funds <i>Obligated</i> to the agency	(ix) Total Amount of the Federal Award <i>Committed</i> to the agency \$	
(x) Federal Award Project Description: CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS— City of Tacoma			
(xi) Federal Awarding Agency: DEPARTMENT OF THE TREASURY	Pass-Through Entity: City of Tacoma	Awarding Official Name and Contact Information:	
(xii) Assistance Listing Number and Name (the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listing number at time of disbursement)			(xiii) Identification of Whether the Award is R&D
(xiv) Indirect Cost Rate for the Federal Award	Award Payment Method (lump sum payment or reimbursement) REIMBURSEMENT		