RESOLUTION NO. 2931

RESOLUTION AUTHORIZING THE MAYOR SIGN A TWENTY-EIGHT PAGE BUSINESS LICENSING SERVICES AGREEMENT WITH THE DEPARTMENT OF REVENUE

WHEREAS, state law – specifically RCW Chapter 35.90 – requires all cities to partner with the Department of Revenue with regard to the issuance of business licenses; and

WHEREAS, to effectuate such partnership, DOR is asking the City to enter into a written contract, labeled Business Licensing Services Agreement and measuring 28 total pages including its Attachments; and

WHEREAS, the terms of the proposed contract are acceptable to City staff;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor be and is authorized to sign a twenty-eight page Business Licensing Services Agreement with the Department of Revenue.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 12th day of July, 2022.

Sherry Raymond
Sherry Raymond, Mayor

ATTEST:

Dale Novobielski, Clerk Treasurer

APPROVED AS TO FORM:

Rob Case, City Attorney

Department of Revenue Washington State	**BUSINESS LICENSING SERVICES AGREEMENT**	DOR Contract Number: K2069 Contractor Contract Number:

THIS CONTRACT is made between the Washington State Department of Revenue ("DOR") and City of Selah ("Contractor") the party whose name appears below, and is effective as of the date set forth below.

CONTRACTOR NAME		CONTRACTOR DOING BUSINESS AS (DBA)		
City of Selah		City of Selah		
CONTRACTOR ADDRESS | Street		City	State	Zip Code
115 W Naches Ave		Selah	WA	98942
CONTRACTOR CONTACT/TITLE	CONTRACTOR TELEPHONE	CONTRACTOR EMAIL ADDRESS		
Dorraine Bigby/Business Registration Cor.	(509)698-7326	Dorraine.Bigby@selahwa.gov		

DOR PROGRAM	DOR DIVISION/SECTION
Business Licensing Services	Taxpayer Services/Partnership Services
DOR CONTACT NAME AND TITLE Katie Early, BLS Partnership Services Manager	DOR CONTACT ADDRESS Department of Revenue Attn: Business Licensing Service PO Box 47478 Olympia, WA 98504-7478
DOR CONTACT TELEPHONE (360) 705-6777	DOR CONTACT EMAIL ADDRESS DORBLSPARTNER@DOR.WA.GOV

CONTRACT START DATE	CONTRACT END DATE	
Date of Last Signature	When Terminated in Writing By Both Parties	

PURPOSE OF CONTRACT:

This Contract includes all terms and conditions for DOR and Contractor to govern Contractor's partnering with DOR to have business licenses issued, and renewed, if the city requires renewal, through the business licensing service in accordance with Chapter 19.02 RCW.

The parties signing below warrant that they have read and understand this Contract, and have authority to execute this Contract. This Contract will be binding on DOR only upon signature by DOR.

CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED
Sherry Raymond	SHERRY RAYMOND, MAYOR	7/12/22
DOR SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED
	Sandi Fairchild, Chief Financial Officer	

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Attachment 1: RCW 35.90.020

Attachment 2: Confidential Information Security Requirements

Contract #K2069 Business Licensing Services

Purpose

The purpose of this Contract is to establish the terms under which the Washington State Department of Revenue' (hereinafter referred to as "DOR") Business Licensing Service (hereinafter referred to as "BLS") program will act as the City of Selah's (hereinafter referred to as "Contractor") Agent for the purpose of collecting, processing, and disbursing information, licenses, and fees related to Contractor's ability to collect licensing fees, collection and distribution of information based on Contractor's regulatory authority as a City or Town within the state of Washington.

Contractor shall retain its regulatory authority over its business, licensing and other regulatory activities, except as expressly delegated to DOR in accordance with this Contract and RCW 35.09.020. A copy of Chapter 35.090.020 RCW is attached hereto as Attachment 1.

NOW THEREFORE, DOR and Contractor enter into this Contract, the terms and conditions of which will govern Contractor's partnering with DOR to have business licenses issued, and renewed, if the city requires renewal, through the Business Licensing Service in accordance with Chapter 19.02 RCW.

IN CONSIDERATION of the mutual promises as set forth in this Contract, the parties agree as follows:

1. **DEFINITIONS**

   "Agent" means an entity used for the purpose of collecting, processing, and disbursing information, licenses, and fees.

   "Authorized Representative" means a person to whom signature authority has been delegated in writing acting within the limits of his/her authority.

   The "State Business Licensing Service" or "BLS program" means the program, administered by DOR. Chapter 35.90.20 RCW requires any Washington state municipality not under contract with the FileLocal service for local business licensing by June 30, 2020, will contract with the BLS program by December 31, 2022 if it continues to issue general business licenses. . DOR will facilitate for contractors the issuance and renewal of municipal government general business licenses, collection and distribution of licensing fees, and collection and distribution of business information.

"Breach" means the unauthorized acquisition, access, use, or disclosure of Confidential Information that compromises the security, confidentiality, or integrity of the Confidential Information.

"Confidential Information" means information that may be exempt from disclosure to the public or other unauthorized persons under chapter 42.56 RCW or other state or federal statutes or regulations. Confidential Information includes, but is not limited to, any information identifiable to an individual that relates to a natural person, finances, education, business, use or receipt of governmental services, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and any other identifying numbers, law enforcement records, DOR's source code or object code, or DOR or State security information.

"Contract" means this Contract document and all schedules, exhibits, attachments, incorporated documents and amendments.

"**Contractor"** means the City of Selah, its employees and agents. Contractor includes any firm, provider, organization, individual or other entity performing services under this Contract. It also includes any Subcontractor retained by Contractor as permitted under the terms of this Contract.

"Data" means information produced, furnished, acquired, or used by Contractor in meeting requirements under this Contract.

"Effective Date" means the first date this Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Contract.

"DOR Contract Manager" means the individual identified on the cover page of this Contract who will provide oversight of the Contractor's activities conducted under this Contract.

"Department of Revenue" or **"DOR"** or "**Revenue"** means the Washington State Department of Revenue, any division, section, office, unit or other entity of DOR, or any of the officers or other officials lawfully representing DOR.

"Overpayment" means any payment or benefit to the Contractor in excess of that to which the Contractor is entitled by law, rule, or this Contract, including amounts in dispute.

"RCW" means the Revised Code of Washington. All references in this Contract to RCW chapters or sections include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at: http://apps.leg.wa.gov/rcw/.

"Subcontractor" means a person or entity that is not in the employment of the Contractor, who is performing all or part of the business activities under this Contract under a separate contract with Contractor. The term "Subcontractor" means subcontractor(s) of any tier.

"WAC" means the Washington Administrative Code. All references to WAC chapters or sections will include any successor, amended, or replacement regulation. Pertinent WACs may be accessed at: http://app.leg.wa.gov/wac/.

2. SPECIAL TERMS AND CONDITIONS

2.1 PERFORMANCE EXPECTATIONS

2.1.1 Contractor will, within the time period requested by DOR, provide DOR with all Business Requirements and licensing information required to implement Contractor's participation in the BLS program.

2.1.2 DOR will request Contractor's Business Requirements directly by communicating with the Contractor's Contract Manager.

2.1.3 DOR will request Contractor's licensing information through the use of the License file format found on the DOR website at https://dor.wa.gov/doing-business/business-licensing-service-and-local-licensing page. This request will be sent directly to Contractor's Contract Manager, or their designee.

2.1.4 All non-public, confidential business and/or confidential taxpayer information and data transferred between the parties is required to be encrypted by password protection or a secure file transfer process requiring a user ID and hardened passwords shall not be shared in the same message as any file containing non-public or confidential data.

2.1.5 Contractor agrees, completion and remittance to DOR of all of the following documents are requirements for Contractor's participation in the BLS program:

- DOR's Business License Application and/or City Addendum;
- The "Business License" document for proof of licensure under Contractor's licensing or regulatory program; and
- The Unified Business Identifier (UBI) number to identify licensees and license accounts in all communications with Revenue.

2.1.6 Contractor will obtain and maintain, at no cost to DOR, all necessary equipment and online services required to support Contractor's access into and use of the BLS Database.

2.1.7 End-to-end testing will take place until such time as DOR is satisfied with the receipt and delivery of information. End to end testing includes testing all newly configured Contractor business requirements into DOR's ATLAS system.

2.1.8 Contractor is required to have their licensing and information technology staff available during the first six (6) months of testing to respond to DOR. Contractor's staff assigned to assist DOR must be knowledgeable of Contractor's operations

and/or technology and be able to assist DOR staff with process improvements and/or troubleshooting. All Contractor's technology staff will be required to be subject matter experts in Contractor's technology. Additionally, Contractor's staff shall have the ability to make decisions on technical determinations as well as be available via email, telephone, and will take part in business meetings, when required, with DOR.

2.1.9 Contractor agrees to have staff available for training sessions, set to occur approximately six months prior to Contractor's assigned go-live date.

2.1.10 In accordance with RCW 35.90.070, Contractor agrees any general business license change enacted by Contractor, whose general business license is issued BLS, takes effect no sooner than seventy-five (75) days after DOR receives notice of the change, if the change affects in any way, who must obtain a license, who is exempt from obtaining a license, or the amount or method of determining any fee for the issuance or renewal of a license

2.1.11 Contractor will provide DOR with all statistical data associated with this Contract. The statistical data will include, but not be limited to, the following data elements:

- Full-Time Equivalent (FTE) savings
- Change in number of Contractor issued licensees
- Any changes in Contractor's revenue flow

2.1.12 Expected performance under this Contract includes, but is not limited to, the following:

i. Knowledge of applicable state and federal laws and regulations pertaining to subject of the Contract;

ii. Collaboration with DOR staff in Contractor's conduct of the services;

iii. Conformance with DOR directions regarding the delivery of the services;

iv. Protection of all Confidential Information and Data; and

v. Timely, accurate and informed communications between the parties.

2.2 TERM

2.2.1 The initial term of the Contract will commence on the date of last signature, and continue unless terminated as provided herein.

2.3 COMPENSATION

DOR's services, as identified in this Contract, are provided at no charge to Contractor, with the following exceptions:

2.3.1 Contractor shall reimburse DOR the actual costs of developing and producing any and all ad hoc informational reports. Ad hoc reports will be created only if requested by the Contractor and agreed-upon by DOR.

2.3.2 Contractor is required to reimburse DOR for all expenses relating to the implementation of any changes, outside of the standard BLS program, if requested by the Contractor and agreed-upon by Revenue. Any said changes to the BLS program shall be in writing, amended by mutual written agreement of the Parties. Such amendments will not be binding unless they are in writing and signed by personnel authorized to bind each party as outlined in section 4.3 of this Contract.

2.3.3 DOR will not charge any fees associated with a standard, initial BLS project coordination and implementation. Any and all costs incurred by DOR or Contractor, including any and all travel related expenses, shall be absorbed by the respective party.

2.3.4 If DOR and/or Contractor agree to pay any travel-related expenses through an Amendment of this Contract, any and all day-to-day expenses related to performance under the Contract, including but not limited to travel, lodging, meals, and incidentals must be authorized in writing, in advance, by the DOR and reimbursement will be at rates not to exceed the then-current rules, regulations, and guidelines for Washington state employees published by the state Office of Financial Management in the state Administrative and Accounting Manual (http://www.ofm.wa.gov/policy/10.htm); reimbursement will not exceed expenses actually incurred.

To receive reimbursement, Contractor will be required to provide a detailed breakdown of authorized expenses and receipts for any and all expenses.

2.4 CONTRACTOR AND DOR CONTRACT MANAGERS

2.4.1 Contractor's Contract Manager will have prime responsibility and final authority for the services provided under this Contract and be the principal point of contact for DOR's Contract Manager for all business matters, performance matters, and administrative activities.

2.4.2 DOR's Contract Manager is responsible for monitoring the Contractor's performance and will be the contact person for all communications regarding contract performance and deliverables. The DOR Contract Manager has the authority to accept or reject the services provided and must approve the Contractor's invoices prior to payment.

2.4.3 The contact information provided below may be changed by written notice of the change (email acceptable) to the other party.

Contractor Contract Manager Information		Department of Revenue Contract Manager Information	
Name:	Dorraine Bigby	Name:	Katie Early
Title:	Business Registration Coordinator	Title:	BLS Partnership Services Manager
Phone:	(509)698-7326	Phone:	(360) 705-6607
Email:	Dorraine.Bigby@selahwa.gov	Email:	KatieE@DOR.WA.GOV

2.5 LEGAL NOTICES

Any notice, demand or other communication required or permitted to be given under this Contract or applicable law is effective only if it is in writing and signed by the applicable party, properly addressed, and delivered in person, via email, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid certified mail, return receipt requested, to the parties at the addresses provided in this section.

2.5.1 In the case of notice to the Contractor:

City of Selah
Attn: Dorraine Bigby
115 W Naches Ave
Selah, WA 98942

2.5.2 In the case of notice to DOR:

Attention: Procurement & Contracts Manager
Department of Revenue
Business & Financial Services
Post Office Box 47462
Olympia, WA 98504-7462

2.5.3 Notices are effective upon receipt or four (4) Business Days after mailing, whichever is earlier.

2.5.4 The notice address and information provided above may be changed by written notice of the change given as provided above.

2.6 INCORPORATION OF DOCUMENTS AND ORDER OF PRECEDENCE

Each of the documents listed below is by this reference incorporated into this Contract. In the event of an inconsistency, the inconsistency will be resolved in the following order of precedence:

2.6.1 Applicable Federal and State of Washington statutes and regulations, including RCW 30.90.020 attached hereto as Attachment 1;

2.6.2 Data Share Agreement ***K2069;***

2.6.3 Recitals;

2.6.4 Special Terms and Conditions;

2.6.5 General Terms and Conditions;

2.6.6 Attachment 2: Confidential Information Security Requirements; and

2.6.7 Any other provision, term or material incorporated herein by reference or otherwise incorporated.

2.7 INSURANCE

Contractor 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 DOR upon request.

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

The policy must be maintained for the term of this Contract and three (3) years following its termination.

3. GENERAL TERMS AND CONDITIONS

3.1 ACCESS TO DATA

In compliance with RCW 39.26.180(2) and federal rules, the Contractor must provide access to any data generated under this Contract to DOR, the Joint Legislative Audit and Review Committee, the State Auditor, and any other state or federal officials so authorized by law, rule, regulation, or agreement at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models.

3.2 ADVANCE PAYMENT PROHIBITED

No advance payment will be made for services furnished by the Contractor pursuant to this Contract.

3.3 AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments will not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

3.4 ASSIGNMENT

3.4.1 Contractor may not assign or transfer all or any portion of this Contract or any of its rights hereunder, or delegate any of its duties hereunder, except delegations as set forth in Section 3.29, *Subcontracting*, without the prior written consent of DOR. Any permitted assignment will not operate to relieve Contractor of any of its duties and obligations hereunder, nor will such assignment affect any remedies available to DOR that may arise from any breach of the provisions of this Contract or warranties made herein, including but not limited to, rights of setoff. Any attempted assignment, transfer or delegation in contravention of this Subsection 3.4.1 of the Contract will be null and void.

3.4.2 DOR may assign this Contract to any public agency, commission, board, or the like, within the political boundaries of the State of Washington, with written notice of thirty (30) calendar days to Contractor.

3.5 ATTORNEYS' FEES

In the event of litigation or other action brought to enforce the terms of this Contract, each party agrees to bear its own attorneys' fees and costs.

3.6 CONFIDENTIAL INFORMATION PROTECTION

3.6.1 Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of Confidential Information. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without DOR's express written consent or as provided by law. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information (See Attachment 2: *Confidential Information Security Requirements*).

3.6.2 DOR reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Contractor through this Contract. Violation of this section by Contractor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information, monetary damages, or penalties.

3.6.3 The obligations set forth in this Section will survive completion, cancellation, expiration, or termination of this Contract.

3.7 CONFIDENTIAL INFORMATION BREACH – REQUIRED NOTIFICATION

3.7.1 Contractor must notify the DOR Procurement and Contracts Manager at LoriG@dor.wa.gov or a proxy designated by BLS Partnership Services Manager within five (5) Business Days of discovery of any Breach or suspected Breach of Confidential Information.

3.7.2 Contractor will take steps necessary to mitigate any known harmful effects of such unauthorized access including, but not limited to, sanctioning employees and taking steps necessary to stop further unauthorized access. Contractor agrees to indemnify and hold DOR harmless for any damages related to unauthorized use or disclosure of Confidential Information by Contractor, its officers, directors, employees, Subcontractors or agents.

3.7.3 Any breach of this clause may result in termination of the Contract and the demand for return or disposition (Attachment 2, Section 6) of all Confidential Information.

3.7.4 Contractor's obligations regarding Breach notification survive the termination of this Contract and continue for as long as Contractor maintains the Confidential Information and for any breach or possible breach at any time.

3.8 CONTRACTOR'S PROPRIETARY INFORMATION

Contractor acknowledges that DOR is subject to Chapter 42.56 RCW, the Public Records Act, and that this Contract will be a public record as defined in Chapter 42.56 RCW. Any specific information that is claimed by Contractor to be Proprietary Information must be clearly identified as such by Contractor. To the extent consistent with Chapter 42.56 RCW, DOR will maintain the confidentiality of Contractor's information in its possession that is marked Proprietary. If a public disclosure request is made to view Contractor's Proprietary Information, DOR will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, DOR will release the requested information on the date specified.

3.9 DISPUTES

The parties will use their best, good faith efforts to cooperatively resolve disputes and problems that arise in connection with this Contract. Both parties will continue without delay to carry out their respective responsibilities under this Contract while attempting to resolve any dispute. When a genuine dispute arises between DOR and the Contractor regarding the terms of this Contract or the responsibilities imposed herein and it cannot be resolved between the parties' Contract Managers, either party may initiate the following dispute resolution process.

3.9.1 The initiating party will reduce its description of the dispute to writing and deliver it to the responding party (email acceptable). The responding party will respond in writing within five (5) Business Days (email acceptable). If the initiating party is not satisfied with the response of the responding party, the initiating party may request that the DOR Director review the dispute. Any such request from the initiating party must be submitted in writing to the DOR Director within five (5) Business Days after receiving the response of the responding party. The DOR Director will have sole discretion in determining the procedural manner in which he or she will review the dispute. The DOR Director will inform the parties in writing within five (5) Business Days of the procedural manner in which he or she will review the dispute, including a timeframe in which he or she will issue a written decision.

3.9.2 A party's request for a dispute resolution must:

3.9.2.1 Be in writing;

3.9.2.2 Include a written description of the dispute;

3.9.2.3 State the relative positions of the parties and the remedy sought;

3.9.2.4 State the Contract Number and the names and contact information for the parties;

3.9.3 This dispute resolution process constitutes the sole administrative remedy available under this Contract. The parties agree that this resolution process will precede any action in a judicial or quasi-judicial tribunal.

3.10 ENTIRE AGREEMENT

DOR and Contractor agree that the Contract is the complete and exclusive statement of the agreement between the parties relating to the subject matter of the Contract and supersedes all letters of intent or prior contracts, oral or written, between the parties relating to the subject matter of the Contract, except as provided in Section 3.30 *Warranties*.

3.11 FORCE MAJEURE

A party will not be liable for any failure of or delay in the performance of this Contract for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders or any other force majeure event.

3.12 FUNDING WITHDRAWN, REDUCED OR LIMITED

If DOR determines, in its sole discretion that the funds it relied upon to establish this Contract have been withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding after the effective date of this contract but prior to the normal completion of this Contract, then DOR, at its sole discretion, may:

3.12.1 Terminate this Contract pursuant to Section 3.28.3, *Termination for Non-Allocation of Funds*;

3.12.2 Renegotiate the Contract under the revised funding conditions; or

3.12.3 Suspend Contractor's performance under the Contract upon five (5) Business Days' advance written notice to Contractor. DOR will use this option only when DOR determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this Contract.

3.12.3.1 During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.

3.12.3.2 When DOR determines in its sole discretion that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to DOR informing DOR whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.

3.12.3.3 If the Contractor's proposed resumption date is not acceptable to DOR and an acceptable date cannot be negotiated, DOR may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. DOR will be liable only for payment in accordance with the

terms of this Contract for services rendered prior to the retroactive date of termination.

3.13 GOVERNING LAW

This Contract is governed in all respects by the laws of the state of Washington, without reference to conflict of law principles. The jurisdiction for any action hereunder is exclusively in the Superior Court for the state of Washington, and the venue of any action hereunder is in the Superior Court for Thurston County, Washington. Nothing in this Contract will be construed as a waiver by DOR of the State's immunity under the 11th Amendment to the United States Constitution.

3.14 DOR NETWORK SECURITY

Contractor agrees not to attach any Contractor supplied computers, peripherals or software to the DOR Network without prior written authorization from DOR's Chief Information Officer. Unauthorized access to DOR networks and systems is a violation of DOR Policy and constitutes computer trespass in the first degree pursuant to Chapter 9A.90.040 RCW. Violation of any of these laws or policies could result in termination of the contract and other penalties.

Contractor will have access to the DOR visitor or Guest Wi-Fi Internet connection while on site if available at the DOR office(s).

3.15 INDEMNIFICATION

Contractor must defend, indemnify, and save DOR harmless from and against all claims, including reasonable attorneys' fees resulting from such claims, for any or all injuries to persons or damage to property, or Breach of its confidentiality and notification obligations under Section 3.6 *Confidential Information Protection* arising from intentional or negligent acts or omissions of Contractor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents, in the performance of this Contract.

3.16 NO THIRD-PARTY BENEFICIARIES

DOR and Contractor are the only parties to this contract. Nothing in this Contract gives or is intended to give any benefit of this Contract to any third parties.

3.17 NONDISCRIMINATION

During the performance of this Contract, the Contractor must comply with all federal and state nondiscrimination laws, regulations and policies, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101 et seq.; the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §12101 et seq., 28 CFR Part 35; and Title 49.60 RCW, Washington Law Against Discrimination. In the event of Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be

rescinded, cancelled, or terminated in whole or in part under the Termination for Default sections, and Contractor may be declared ineligible for further contracts with DOR.

3.18 OVERPAYMENTS TO CONTRACTOR

In the event that overpayments or erroneous payments have been made to the Contractor under this Contract, DOR will provide written notice to Contractor and Contractor will refund the full amount to DOR within thirty (30) calendar days of the notice. If Contractor fails to make timely refund, DOR may charge Contractor one percent (1%) per month on the amount due, until paid in full. If the Contractor disagrees with DOR's actions under this section, then it may invoke the dispute resolution provisions of Section 3.9 *Disputes*.

3.19 PAY EQUITY

3.19.1 Contractor represents and warrants that, as required by Washington state law (Laws of 2017, Chap. 1, § 213), during the term of this Contract, it agrees to equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if (i) the individuals work for Contractor, (ii) the performance of the job requires comparable skill, effort, and responsibility, and (iii) the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed.

3.19.2 Contractor may allow differentials in compensation for its workers based in good faith on any of the following: (i) a seniority system; (ii) a merit system; (iii) a system that measures earnings by quantity or quality of production; (iv) bona fide job-related factor(s); or (v) a bona fide regional difference in compensation levels.

3.19.3 "Bona fide job-related factor(s)" may include, but not be limited to, education, training, or experience, that is: (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) accounts for the entire differential.

3.19.4 A "bona fide regional difference in compensation level" must be (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) account for the entire differential.

3.19.5 Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) Days of DOR's request for such evidence, DOR may suspend or terminate this Contract.

3.20 RECORDS AND DOCUMENTS REVIEW

3.20.1 The Contractor must maintain books, records, documents, magnetic media, receipts, invoices or other evidence relating to this Contract and the performance of

the services rendered, along with accounting procedures and practices, all of which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. At no additional cost, these records, including materials generated under this Contract, are subject at all reasonable times to inspection, review, or audit by DOR, the Office of the State Auditor, and state and federal officials so authorized by law, rule, regulation, or agreement [See 42 USC 1396a(a)(27)(B); 42 USC 1396a(a)(37)(B); 42 USC 1396a(a)(42(A); 42 CFR 431, Subpart Q; and 42 CFR 447.202].

3.20.2 The Contractor must retain such records for a period of six (6) years after the date of final payment under this Contract.

3.20.3 If any litigation, claim or audit is started before the expiration of the six (6) year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved.

3.21 REMEDIES NON-EXCLUSIVE

The remedies provided in this Contract are not exclusive, but are in addition to all other remedies available under law.

3.22 RIGHT OF INSPECTION

The Contractor must provide right of access to its facilities to DOR, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

3.23 RIGHTS IN DATA/OWNERSHIP

3.23.1 DOR and Contractor agree that all data and work products (collectively "Work Product") produced and transferred to Contractor pursuant to this Contract will be considered a *work for hire* under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and will be owned exclusively by DOR.

3.23.2 Contractor will not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership of any Work Product, without the prior written permission of DOR. Contractor will take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors will not copy, share, sell, disclose, transmit, disseminate or use any part or portion of DOR's Work Product, or any portion thereof, in any form, to any third party.

3.24 RIGHTS OF STATE AND FEDERAL GOVERNMENTS

In accordance with 45 C.F.R. 95.617, all appropriate state and federal agencies, will have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, translate, or

otherwise use, and to authorize others to use for Federal Government purposes: (i) software, modifications, and documentation designed, developed or installed with Federal Financial Participation (FFP) under 45 CFR Part 95, subpart F; (ii) the Custom Software and modifications of the Custom Software, and associated Documentation designed, developed, or installed with FFP under this Contract; (iii) the copyright in any work developed under this Contract; and (iv) any rights of copyright to which Contractor purchases ownership under this Contract.

3.25 SEVERABILITY

If any provision of this Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity will not affect the other provisions or applications of this Contract that can be given effect without the invalid provision, and to this end the provisions or application of this Contract are declared severable.

3.26 SUBCONTRACTING

3.26.1 Neither Contractor, nor any Subcontractors, may enter into subcontracts for any of the work contemplated under this Contract without prior written approval of DOR. DOR has sole discretion to determine whether or not to approve any such subcontract. In no event will the existence of the subcontract operate to release or reduce the liability of Contractor to DOR for any breach in the performance of Contractor's duties.

3.26.2 Contractor is responsible for ensuring all terms, conditions, assurances and certifications set forth in this Contract are included in any subcontracts.

3.26.3 The rejection or approval by the DOR of any Subcontractor or the termination of a Subcontractor will not relieve Contractor of any of its responsibilities under the Contract, nor be the basis for additional charges to DOR.

3.26.4 DOR has no contractual obligations to any Subcontractor or vendor under contract to the Contractor. Contractor is fully responsible for all contractual obligations, financial or otherwise, to its Subcontractors.

3.27 SURVIVAL

The terms and conditions contained in this Contract that, by their sense and context, are intended to survive the completion, cancellation, termination, or expiration of the Contract will survive. In addition, the terms of the sections titled *Confidential Information Protection, Confidential Information Breach – Required Notification, Contractor's Proprietary Information, Disputes, Overpayments to Contractor, Publicity, Records and Documents Review, Rights in Data/Ownership, and Rights of State and Federal Governments* will survive the termination of this Contract. The right of DOR to recover any overpayments will also survive the termination of this Contract.

3.28 TERMINATION

3.28.1 TERMINATION FOR DEFAULT

In the event DOR determines that Contractor has failed to comply with the terms and conditions of this Contract, DOR has the right to suspend or terminate this Contract. DOR will notify Contractor in writing of the need to take corrective action. If corrective action is not taken within five (5) Business Days, or other time period agreed to in writing by both parties, the Contract may be terminated. DOR reserves the right to suspend all or part of the Contract, or prohibit Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by Contractor or a decision by DOR to terminate the Contract.

In the event of termination for default, Contractor will be liable for damages as authorized by law including, but not limited to, any cost difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, e.g., cost of the competitive bidding, mailing, advertising, and staff time.

If it is determined that Contractor: (i) was not in default, or (ii) its failure to perform was outside of its control, fault or negligence, the termination will be deemed a "Termination for Convenience."

3.28.2 TERMINATION FOR CONVENIENCE

When, at DOR's sole discretion, it is in the best interest of the State, DOR may terminate this Contract in whole or in part by providing ten (10) calendar days' written notice. If this Contract is so terminated, DOR will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty will accrue to DOR in the event the termination option in this section is exercised.

3.28.3 TERMINATION FOR NONALLOCATION OF FUNDS

If funds are not allocated to continue this Contract in any future period, DOR may immediately terminate this Contract by providing written notice to the Contractor. The termination will be effective on the date specified in the termination notice. DOR will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. DOR agrees to notify Contractor of such nonallocation at the earliest possible time. No penalty will accrue to DOR in the event the termination option in this section is exercised.

3.28.4 TERMINATION FOR WITHDRAWAL OF AUTHORITY

In the event that the authority of DOR to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, DOR may immediately terminate this Contract by providing written notice to the Contractor. The termination will be effective on the date specified in the termination notice. DOR will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. DOR agrees to notify Contractor of such withdrawal of authority at the earliest possible time. No penalty will accrue to DOR in the event the termination option in this section is exercised.

3.28.5 TERMINATION FOR CONFLICT OF INTEREST

DOR may terminate this Contract by written notice to the Contractor if DOR determines, after due notice and examination, that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract is so terminated, DOR will be entitled to pursue the same remedies against the Contractor as it could pursue in the event Contractor breaches the contract.

3.29 WAIVER

Waiver of any breach of any term or condition of this Contract will not be deemed a waiver of any prior or subsequent breach or default. No term or condition of this Contract will be held to be waived, modified, or deleted except by a written instrument signed by the parties. Only the DOR Authorized Representative has the authority to waive any term or condition of this Contract on behalf of DOR.

3.30 WARRANTIES

3.30.1 Contractor represents and warrants that it will perform all services pursuant to this Contract in a professional manner and with high quality and will immediately re-perform any services that are not in compliance with this representation and warranty at no cost to DOR.

3.30.2 Contractor 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 the Services.

3.30.3 Any written commitment by Contractor within the scope of this Contract will be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and will render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes:

(i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor to DOR or contained in any Contractor publications, or descriptions of services in written or other communication medium, used to influence DOR to enter into this Contract.

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Attachment 1

RCW 35.90.020

RCW 35.90.020

Licensing as partnership with department—Partnership priority—Biennial plan—Exception—Report.

(1) Except as otherwise provided in subsection (7) of this section, a city that requires a general business license of any person that engages in business activities within that city must partner with the department to have such license issued, and renewed if the city requires renewal, through the business licensing service in accordance with chapter 19.02 RCW.

(a) Except as otherwise provided in subsection (3) of this section, the department must phase in the issuance and renewal of general business licenses of cities that required a general business license as of July 1, 2017, and are not already partnering with the department, as follows:

(i) Between January 1, 2018, and December 31, 2021, the department must partner with at least six cities per year;

(ii) Between January 1, 2022, and December 31, 2027, the department must partner with the remaining cities; or

(iii) Between July 1, 2017 and December 31, 2022, the department must partner with all cities requiring a general business license if specific funding for the purposes of this subsection [(1)(a)](iii) is appropriated in the omnibus appropriations act.

(b) A city that imposes a general business license requirement and does not partner with the department as of January 1, 2018, may continue to issue and renew its general business licenses until the city partners with the department as provided in subsection (4) of this section.

(2) (a) A city that did not require a general business license as of July 1, 2017, but imposes a new general business license requirement after that date must advise the department in writing of its intent to do so at least ninety days before the requirement takes effect.

(b) If a city subject to (a) of this subsection (2) imposes a new general business license requirement after July 1, 2017, the department, in its sole discretion, may adjust resources to partner with the imposing city as of the date that the new general business licensing requirement takes effect. If the department cannot reallocate resources, the city may issue and renew its general business license until the department is able to partner with the city.

(3) The department may delay assuming the duties of issuing and renewing general business licenses beyond the dates provided in subsection (1)(a) of this section if:

(a) Insufficient funds are appropriated for this specific purpose;

(b) The department cannot ensure the business licensing system is adequately prepared to handle all general business licenses due to unforeseen circumstances;

(c) The department determines that a delay is necessary to ensure that the transition to mandatory department issuance and renewal of general business licenses is as seamless as possible; or

(d) The department receives a written notice from a city within sixty days of the date that the city appears on the department's biennial partnership plan, which includes an explanation of the fiscal or technical challenges causing the city to delay joining the system. A delay under this subsection (3)(d) may be for no more than three years.

(4) (a) In consultation with affected cities and in accordance with the priorities established in subsection (5) of this section, the department must establish a biennial plan for partnering with cities to assume the issuance and renewal of general business licenses as required by this section. The plan must identify the cities that the department will partner with and the dates targeted for the department to assume the duties of issuing and renewing general business licenses.

(b) By January 1, 2018, and January 1st of each even-numbered year thereafter, the department must submit the partnering plan required in (a) of this subsection (4) to the governor; legislative fiscal committees; house local government committee; senate agriculture, water, trade and economic development committee; senate local government committee; affected cities; association of Washington cities; association of Washington business; national federation of independent business; and Washington retail association.

(c) The department may, in its sole discretion, alter the plan required in (a) of this subsection (4) with a minimum notice of thirty days to affected cities.

(5) When determining the plan to partner with cities for the issuance and renewal of general business licenses as required in subsection (4) of this section, cities that notified the department of their wish to partner with the department before January 1, 2017, must be allowed to partner before other cities.

(6) A city that partners with the department for the issuance and renewal of general business licenses through the business licensing service in accordance with chapter 19.02 RCW may not issue and renew those licenses.

(7) A city may decline to partner with the department for the issuance and renewal of a general business license as provided in subsection (1) of this section if the city participates in the online local business license and tax filing portal known as "FileLocal" as of July 1, 2020. For the purposes of this subsection (7), a city is considered to be a FileLocal participant as of the date that a business may

access FileLocal for purposes of applying for or renewing that city's general business license and reporting and paying that city's local business and occupation taxes. A city that ceases participation in FileLocal after July 1, 2020, must partner with the department for the issuance and renewal of its general business license as provided in subsection (1) of this section.

(8) By January 1, 2019, and each January 1st thereafter through January 1, 2028, the department must submit a progress report to the legislature. The report required by this subsection must provide information about the progress of the department's efforts to partner with all cities that impose a general business license requirement and include:

(a) A list of cities that have partnered with the department as required in subsection (1) of this section;

(b) A list of cities that have not partnered with the department;

(c) A list of cities that are scheduled to partner with the department during the upcoming calendar year;

(d) A list of cities that have declined to partner with the department as provided in subsection (7) of this section;

(e) An explanation of lessons learned and any process efficiencies incorporated by the department;

(f) Any recommendations to further simplify the issuance and renewal of general business licenses by the department; and

(g) Any other information the department considers relevant.

Attachment 2

Confidential Information Security Requirements

1. Definitions

In addition to the definitions set out in Section 1 of this Contract K2069 for Business Licensing Services, the definitions below apply to this Attachment.

a. "Hardened Password" means a string of characters containing at least three of the following character classes: upper case letters; lower case letters; numerals; and special characters, such as an asterisk, ampersand or exclamation point.

   i. Passwords for external authentication must be a minimum of 10 characters long.

   ii. Passwords for internal authentication must be a minimum of 8 characters long.

   iii. Passwords used for system service or service accounts must be a minimum of 20 characters long.

b. "Portable/Removable Media" means any Data storage device that can be detached or removed from a computer and transported, including but not limited to: optical media (e.g. CDs, DVDs); USB drives; or flash media (e.g. CompactFlash, SD, MMC).

c. "Portable/Removable Devices" means any small computing device that can be transported, including but not limited to: handhelds/PDAs/Smartphones; Ultramobile PC's, flash memory devices (e.g. USB flash drives, personal media players); and laptops/notebook/tablet computers. If used to store Confidential Information, devices should be Federal Information Processing Standards (FIPS) Level 2 compliant.

d. "Secured Area" means an area to which only Authorized Users have access. Secured Areas may include buildings, rooms, or locked storage containers (such as a filing cabinet) within a room, as long as access to the Confidential Information is not available to unauthorized personnel.

e. "Transmitting" means the transferring of data electronically, such as via email, SFT, web services, AWS Snowball, etc.

f. "Trusted System(s)" means the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service ("USPS") first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.

g. "Unique User ID" means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase, or other mechanism, authenticates a user to an information system.

2. Confidential Information Transmitting

a. When transmitting DOR's Confidential Information electronically, including via email, the Data must be encrypted using NIST 800-series approved algorithms (http://csrc.nist.gov/publications/PubsSPs.html). This includes transmission over the public internet.

b. When transmitting DOR's Confidential Information via paper documents, the Receiving Party must use a Trusted System.

3. Protection of Confidential Information

The Contractor agrees to store Confidential Information as described:

a. Data at Rest:

i. Data will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data. Access to the Data will be restricted to Authorized Users through the use of access control lists, a Unique User ID, and a Hardened Password, or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Systems which contain or provide access to Confidential Information must be located in an area that is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

ii. Data stored on Portable/Removable Media or Devices:

- Confidential Information provided by DOR on Removable Media will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the Data.

- DOR's data must not be stored by the Contractor on Portable Devices or Media unless specifically authorized within a Data Share Agreement. If so authorized, the Receiving Party must protect the Data by:

    1. Encrypting with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data;

    2. Control access to the devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics;

    3. Keeping devices in locked storage when not in use;

    4. Using check-in/check-out procedures when devices are shared;

5. Maintain an inventory of devices; and

6. Ensure that when being transported outside of a Secured Area, all devices with Data are under the physical control of an Authorized User.

b. Paper documents. Any paper records containing Confidential Information must be protected by storing the records in a Secured Area that is accessible only to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

4. Confidential Information Segregation

DOR Confidential Information received under this Agreement must be segregated or otherwise distinguishable from non-DOR data. This is to ensure that when no longer needed by the Contractor, all DOR Confidential Information can be identified for return or destruction. It also aids in determining whether DOR Confidential Information has or may have been compromised in the event of a security Breach.

a. The DOR Confidential Information must be kept in one of the following ways:

i. on media (e.g. hard disk, optical disc, tape, etc.) which will contain only DOR Data; or

ii. in a logical container on electronic media, such as a partition or folder dedicated to DOR's Data; or

iii. in a database that will contain only DOR Data; or

iv. within a database and will be distinguishable from non-DOR Data by the value of a specific field or fields within database records; or

v. when stored as physical paper documents, physically segregated from non-DOR Data in a drawer, folder, or other container.

b. When it is not feasible or practical to segregate DOR Confidential Information from non-DOR data, then both the DOR Confidential Information and the non-DOR data with which it is commingled must be protected as described in this Attachment.

5. Confidential Information Shared with Subcontractors

If DOR Confidential Information provided under this Agreement is to be shared with a Subcontractor, the contract with the Subcontractor must include all of the Confidential Information Security Requirements.

6. Confidential Information Disposition

When the Confidential Information is no longer needed, except as noted below, the Confidential Information must be returned to DOR or destroyed. Media are to be destroyed using a method documented within NIST 800-88 (http://csrc.nist.gov/publications/PubsSPs.html).

a. For DOR's Confidential Information stored on network disks, deleting unneeded Confidential Information is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in Section 3, above. Destruction of the Confidential Information as outlined in this section of this Attachment may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

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