

**AMENDMENT
to the
SAAS SERVICES AGREEMENT
BETWEEN THE CITY OF COLUMBIA, MISSOURI, AND
BENEVATE, INC.**

This Amendment to the 2017 Agreement between the **CITY OF COLUMBIA** (“City” or “Customer”), and **Benevate, Inc.**, (“Company” or “Contractor”) is made as of the date of the last signatory noted below (“Amendment Effective Date”).

RECITALS

- A. WHEREAS, on November 21, 2017, Customer and Company entered into an Agreement (“Agreement”) for software and related services; and
- B. WHEREAS, the novel coronavirus disease (COVID-19) is a highly infectious and dangerous disease that on March 11, 2020 was declared by the World Health Organization to be a public health emergency; and
- C. WHEREAS, due to the COVID-19 epidemic there have been declarations of emergency enacted by the President of the United States, the Governor of the State of Missouri and the City of Columbia; and
- D. WHEREAS, the U.S. Congress passed the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act (Pub.L. 116–136), which was signed into law on March 27, 2020, and provides more than \$2 trillion in economic relief, and the State of Missouri received funds pursuant to Title VI of the Social Security Act, as added by §5001 of the CARES Act; the U.S. Congress has also passed other appropriations for purposes of providing additional funds to alleviate the public health emergency and the economic impacts of the COVID-19 public health emergency including, but not limited to the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123, 134 Stat. 146; Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020); and Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139, 134 Stat. 620 (2020); and Congress may adopt additional legislation to provide additional economic relief (collectively “COVID-19 Relief Funding”); and
- E. WHEREAS, these actions of the federal government reflect the federal government’s commitment to the public purposes of protecting the American people from the public health and economic impacts of the Coronavirus Disease 2019 public health emergency, in part by providing fast and direct economic assistance for American workers, families, and small businesses, and preserving jobs for American industries;
- F. WHEREAS, Boone County has asked the City of Columbia to assist in distributing some of the COVID-19 Relief Funding to small businesses in Boone County, Missouri, as part of a Small Business Recovery Grant Program;

- G. WHEREAS, City has need for additional development services related to the Benevate software and services to allow City to distribute COVID-19 Relief Funding to small businesses on behalf of Boone County, Missouri;
- H. WHEREAS, City has determined that the Additional Services are a necessary expenditure incurred due to the public health emergency with respect to the Coronavirus Disease 2019; and that the funding for these additional services had not been accounted for in the budget most recently approved as of March 27, 2020; and the costs will be incurred during the period that begins on March 1, 2020 and ends on December 30, 2020;
- I. WHEREAS, the Parties hereto desire to formally amend the Agreement with this Amendment (hereinafter "Amendment") and desire to be bound by the terms contained in the Agreement as amended or supplemented by those terms contained in this Amendment.

AMENDMENT

NOW, THEREFORE, in consideration of the mutual benefit to be derived by the parties, it is agreed to amend the Agreement, as follows:

- 1. Section 1.1 of the Agreement shall be removed and replaced with the following:
"1.1 Company will use commercially reasonable efforts to provide Customer the services described in the Statement of Work ("SOW") attached as Exhibit A hereto and additional services described in the Statement of Work attached to this Amendment as Exhibit A-1. The additional services outlined in Exhibit A-1 shall be completed no later than December 7, 2020."
- 2. Section 1.3 of the Agreement shall be removed and replaced with the following:
"1.3 Company's Software, Services and Support shall comply with the requirements in the Agreement as amended, those set forth in Exhibit E for the original scope of work, and the additional requirements for the services designated in Exhibit A-1 that are agreed to in writing by the Parties using the procedures set forth herein. For the initial Statement of Work, Customer shall conduct acceptance testing according to the requirements set forth in Exhibit E. For the additional services in Exhibit A-1, the Parties shall develop acceptance testing procedures and requirements (hereinafter "Additional Services Requirements"), which shall be reduced to writing and signed by both Company's Project Manager and City's Project Manager Randy Cole. Upon Company's completion of the Additional Services designated in Exhibit A-1, Customer shall conduct acceptance testing according to the Additional Services Requirements. Should Customer determine that Company's software and services fail the acceptance testing, Customer may terminate the agreement for cause and or pursue such remedies as may be available to Customer at law or in equity."

3. The last sentence of Section 2.1 of the Agreement shall be removed and replaced with the following:

“The Parties agree that Customer may use the software, support and services for Customer’s work related to the Columbia Community Land Trust and for Customer’s work with regard to the distribution of COVID-19 Relief Funding to small businesses that Customer is performing for Boone County, Missouri as part of the Small Business Recovery Grant Program.”

4. The following Section 4.4 shall be added to the Agreement:

“4.4 Additional Services for the Boone County Small Business Recovery Grant Program. Company shall perform the additional services related to the Boone County Small Business Recovery Grant Program as outlined in Exhibit A-1. The additional services shall meet the Customer’s performance requirements specified in the Additional Services Requirements. For these additional services Customer will pay Company two thousand dollars (\$2,000.00).”

5. The last section on page 7 of the Agreement shall be removed and replaced with the following:

“9.14 Contract Documents. This Agreement includes the following exhibits, which are incorporated herein by reference:

Exhibit	Description
A	Services Statement of Work
A-1	Statement of Work for Additional Services Related to the Boone County Small Business Recovery Grant Program
B	Service Level Terms
C	Implementation Services Statement of Work
D	Per User Pricing
E	Performance Requirements
F	Company’s Insurance Policy Summary
G	City’s Red Flag Policy

In the event of a conflict between the terms of an exhibit and the terms of this Agreement, the terms of this Agreement control.”

6. The following Section 10 shall be added to the Agreement:

“10. Grant Funding. Contractor acknowledges that state and/or federal grant funds are being used to pay for the services set forth in this Amendment. Contractor agrees to familiarize itself and comply with all conditions and requirements for utilization of such grant funds, including, but not limited to those set forth herein (collectively “Grant Requirements”). Contractor shall include in contracts with its subcontractors provisions that require subcontractors to comply with the Grant Requirements.

10.1 ACCESS TO RECORDS AND REPORTS: The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the City, the Federal and State Agencies, and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than five years after final payment is made and all pending matters are closed.

10.2 GENERAL CIVIL RIGHTS PROVISIONS: The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

10.3 COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS: During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the Federal agency to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the City or the Federal Agency, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the City will impose such contract sanctions as it or the Federal Agency may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
- b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the City or the Federal Agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

10.4 TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES: During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

10.5 ENERGY CONSERVATION REQUIREMENTS: Contractor and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201 et seq).

10.6 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE): All contracts and subcontracts that result from this contract incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers. The Contractor has full responsibility to monitor compliance to the referenced statute or regulation. The Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

10.7 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970: All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

10.8 RIGHTS TO INVENTIONS

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

10.9 CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS: Contractor represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. The Contractor represents that it is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

10.10 VETERAN'S PREFERENCE: In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.”

7. All other terms of the Agreement shall remain unchanged and in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment to the Agreement, on the day and year last written below.

CITY OF COLUMBIA, MISSOURI

DocuSigned by:
By: John Glascock
John Glascock, City Manager

DS
TT

Date: 11/25/2020

ATTEST:

DocuSigned by:
By: Sheela Amin
Sheela Amin, City Clerk

APPROVED AS TO FORM:

DocuSigned by:
By: Nancy Thompson
Nancy Thompson, City Counselor/rw

DS
RW

CERTIFICATION: I, hereby certify that this contract is within the purpose of the appropriation to which it is to be charged, Account Number CITYWIDE-COVID19-CDBG-BUSNASST and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefor.

By: Matthew Lue
Matthew Lue, Finance Director

Benevate, Inc.

DocuSigned by:
By: J. Jason Rusnak
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Name: J. Jason Rusnak

Title: President

Date: 11/20/2020

ATTEST:

By: _____

Name and Title

Exhibit A-1 Statement of Work for Additional Services Related to the Boone County Small Business Relief Program

- Complete build of Small Business Recovery Grant Program module within Neighborly System according to City identified required fields.
- Complete initial build of module by December 1, 2020 and provide staff orientation to module.
- Complete any necessary changes arising from staff orientation to module.
- Ensure the Small Business Recovery Grant Program module is ready to go live and available for participants by December 7, 2020.
- Provide any technical support needed during the application process to City staff, should any additional technical difficulties arise.