



**Amendment No. 1
to
Contract No. 5600 NA170000179
for
Training
between
CBT Nuggets, LLC
and the
City of Austin, Texas**

1.0 The City hereby amends the above referenced contract to increase available funding to provide services in an amount not to exceed \$50,000.00 effective 03/05/2019.

2.0 The total Contract amount is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 6/21/17 – 6/20/20	\$41,968.74	\$41,968.74
Amendment No. 1: Admin Increase 03/05/2019	\$8,031.26	\$50,000.00

3.0 MBE/WBE goals were not established for this contract.

4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

6.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract.

Signature & Date: 3/6/19



Printed Name: Matthew L. Bromley, General
Authorized Representative Counsel

CBT Nuggets, LLC
1550 Valley River Drive
Eugene, OR 97401

Signature & Date:



3/7/19

Ricardo Zavala, Procurement Specialist III
City of Austin Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN
And
CBT Nuggets, LLC
For
Training**

This Contract is between CBT Nuggets, LLC, having offices at 1550 Valley River Drive, Eugene, OR 97401, and the City, a home-rule municipality incorporated by the State of Texas.

1.1 This Contract is composed of the following documents:

- 1.1.1 This Contract
- 1.1.2 Exhibit A, CBT Nuggets IT Training Subscription Agreement
- 1.1.3 Exhibit B, Supplemental Terms
- 1.1.4 Exhibit C, Non-Discrimination Certification
- 1.1.5 Exhibit D, Non-Suspension or Debarment Certification

1.2 Order of Precedence. Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order:

- 1.2.1 This Contract
- 1.2.2 Exhibit A
- 1.2.3 Exhibit B

1.3 Quantity. Quantity of goods or services as described in Exhibit A.

1.4 Term of Contract. The contract will be in effect as of the later of the signature dates below (Effective Date), and shall remain in effect for an initial term of Thirty-six (36) months.

1.5 Compensation. The Contractor shall be paid a total not-to-exceed amount of \$13,989.58 for the first 12 months. \$13,989.58 for the second (12) month period, and \$13,989.58 for the third (12) month period for a total estimated contract amount not to exceed \$41,968.74 comprising the software maintenance and support fees.

This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

CBT Nuggets, LLC

Matthew L. Bramley

Printed Name of Authorized Person



Signature

General Counsel

Title:

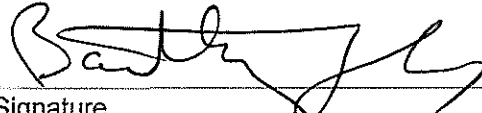
June 21, 2017

Date:

CITY OF AUSTIN

Bartley Tyler

Printed Name of Authorized Person



Signature

Procurement Specialist I

Title:

6/21/17

Date:

Exhibit Listing

Exhibit A	CBT Nuggets IT Training Subscription Agreement
Exhibit B	Supplemental Terms
Exhibit C	Non Discrimination Certification
Exhibit D	Non Suspension or Debarment Certification

Exhibit A

CBT NUGGETS IT TRAINING SUBSCRIPTION AGREEMENT

This CBT Nuggets IT Training Premium Subscription Agreement (this "Agreement"), dated as of the later of the signature dates below (the "Effective Date") is between **CBT Nuggets, LLC**, a Delaware limited liability company, ("CBT Nuggets"), with its principal office located at 1550 Valley River Drive, Eugene, OR 97401, United States, and **City of Austin**, a home-rule municipality incorporated by the State of Texas, with the mailing address of PO Box 1088, Austin, TX 78767 (the "Customer") (collectively the "Parties").

RECITALS:

- A.** CBT Nuggets is engaged in the business of creating and selling information technology video training materials, including, but not limited to, streaming video materials (the "CBT Video Courses").
- B.** Specific to this Agreement, CBT Nuggets offers single or multi-year streaming subscriptions to access the CBT Video Courses offered by CBT Nuggets through its website (the "Website").
- C.** Customer desires to access the CBT Video Courses and, as applicable, to make the CBT Video Courses available to Customer's employees (individually "Learner" and collectively the "Learners"), and CBT Nuggets desires to provide the same pursuant to the terms and subject to the conditions of this Agreement.

AGREEMENT:

The Parties agree as follows:

1. Grant of License.

1.1 During the Term of this Agreement (defined in Paragraph 2), CBT Nuggets grants Customer 20 revocable, non-transferable, non-royalty bearing, non-assignable, non-exclusive, non-sublicensable license(s) to access, view and to use the CBT Video Courses. The license(s) is/are solely for use by Customer and its Learners.

1.2 Customer and its Learners may not copy, reproduce, reverse engineer, translate, port, modify or make derivative works of the CBT Video Courses in whole or in part. Customer and its Learners may not rent, sell, assign, lease, sublicense, market, publish, display, distribute or transfer the CBT Video Courses in any manner not expressly authorized by this Agreement without the consent of CBT Nuggets. Customer shall communicate to all Learners the restrictions and limitations of the license as set forth in this Paragraph 1.

1.3 Each license is a single user license and the single user license must be connected to a named user. The email address attached to license must be specifically associated solely with that individual Learner. Each Learner is expressly governed by the applicable terms of this Agreement.

1.4 Upon Customer's discovery and/or the request of CBT Nuggets, the Customer agrees to promptly remedy any violation of this Paragraph 1 and to provide CBT Nuggets with sufficient evidence that Customer is in compliance with this Paragraph 1.

1.5 CBT Nuggets reserves the right to suspend or terminate any Learner's access to the CBT Video Courses if, at its sole discretion, CBT Nuggets believes the Learner or Customer is in violation of this Agreement. Upon the occurrence of any suspension or termination event, no refund will be made to Customer of any amounts previously paid to CBT Nuggets.

2. Cost and Term of the Agreement. Customer shall pay CBT Nuggets the total sum of USD \$41,968.74, initially in installment payments of USD \$13,989.58, paid annually, for the license(s), for the duration of the Term of this Agreement, unless the Parties otherwise agree by written amendment or by updating the billing cycle. The Term of this Agreement commences as of the Effective Date, and shall continue for three (3) consecutive years. Prices described in this Paragraph 2 do not include any taxes that may apply. As applicable, Customer shall pay any sales tax, use tax, excise, duty or any other form of tax relating to Customer's receipt of access to the CBT Video Courses.

3. Billing Terms and Conditions. The billing terms and conditions for this Agreement are as follows:

3.1 If Customer is issuing a purchase order for the CBT Nuggets IT training subscription, CBT Nuggets shall provide Customer with an invoice annually representing the installment amount owed by Customer, as provided in Paragraph 2. If Customer is paying by credit card, CBT Nuggets shall store Customer's credit card information on file, and shall automatically charge the card for the installment amount on each installment due date.

3.2 Customer shall pay each invoice, in full, no later than 30 days after the invoice date.

3.3 This Agreement is not an invoice.

3.4 Customer may not terminate this Agreement prior to the expiration of the Term of this Agreement, and shall be responsible for promptly paying the full amount of each invoice, unless the Parties otherwise agree in writing.

3.5 During the Term of this Agreement, Customer may purchase additional licenses for additional Learners. The terms of each additional license and the corresponding usage by each additional Learner shall be expressly governed by the terms of this Agreement. In the event Customer purchases additional licenses, unless the Parties otherwise agree in writing, the installment payment amount and total amount due described in Paragraph 2 shall be increased proportionately.

4. Disclaimer of Warranties. The CBT Video Courses are provided to Customer on an "AS IS" and "WITH ALL FAULTS" basis. The CBT Video Courses are complex and may contain nonconformities, defects or errors. CBT Nuggets does not warrant that the CBT Video Courses will be error free. **CBT Nuggets does not make any warranty, express or implied, and hereby disclaims any and all warranties, including but not limited to, warranties of merchantability and fitness for a particular purpose.**

5. Intellectual Property. All right, title and interest in and to the CBT Video Courses, and the content, materials and data contained therein, and any derivative works thereof is expressly reserved by CBT Nuggets. No portion of the CBT Video Courses may be copied, reproduced, distributed, displayed, transferred or assigned without the express written consent of CBT Nuggets.

6. Limitation on Damages. UNDER NO CIRCUMSTANCES WILL CBT NUGGETS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, COMPENSATORY, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM ANY PROVISION OF THIS AGREEMENT, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION, AND/OR OTHER TORTS.

7. Limitation of Liability and Remedies. NOTWITHSTANDING ANY DAMAGES THAT THE CUSTOMER MIGHT INCUR FOR ANY REASON WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES REFERENCED IN PARAGRAPH 6 AND ALL DIRECT OR GENERAL DAMAGES), THE ENTIRE AGGREGATE LIABILITY OF CBT NUGGETS AND AFFILIATES OF CBT NUGGETS UNDER ANY PROVISION OF THIS AGREEMENT SHALL BE LIMITED TO THE ACTUAL AMOUNT PAID BY THE CUSTOMER UNDER THIS AGREEMENT. THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8. Electronic Signature. A party's electronic signature shall be construed to be an original signature, and the document transmitted shall be considered to have the same binding legal effect as an original signature on an original document.

9. Amendments. This Agreement may be amended only by an instrument in writing executed by the Parties.

10. **Warranty of Authority.** Each party executing this Agreement represents and warrants that each of them is duly authorized to do so and that the execution and delivery of this Agreement is the lawful and voluntary act of the Parties.

11. **Entire Agreement.** This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof. This Agreement supersedes any and all prior negotiations, discussions, agreements, and understandings between the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the Effective Date.

CBT NUGGETS, LLC

CUSTOMER

DATED: June 21, 2017

DATED: 6/21/17

By: [Signature]

By: [Signature]

Print Name: Matthew L. Bartley

Print Name: Bartley Tyler

Title: General Counsel

Title: Procurement Specialist I

Exhibit B
Supplemental Terms

1. **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Matthew Bromley, Email: legalteam@cbtuggets.com, Phone: 541-735-5791. The City's Contract Manager for the engagement shall be Chad Paine; Email: chad.paine@austintexas.gov, Phone: 512-404-4098.

2. **Invoices.**

Invoices shall be mailed to the below address:

	City of Austin
Department	Communication Technology Management or (CTM)
Attn:	Accounts Payable
Email Address	CTMAPInvoices@austintexas.gov
Mailing Address	PO Box 1088
City, State, Zip Code	Austin, TX 78767
Email Address	CTMAPInvoices@austintexas.gov

3. **Travel Expenses.** Travel expenses are not authorized under this Contract.

4. **Equal Opportunity**

4.1.1 **Equal Employment Opportunity:** No Contractor or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non- Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit D. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

4.1.2 **Americans With Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

5. **Right To Audit**

5.1.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

5.1.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

Exhibit C
Non Discrimination Certification

City of Austin, Texas
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE
NON-DISCRIMINATION CERTIFICATION

City of Austin, Texas
Human Rights Commission

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

Sec. 4-2 Discriminatory Employment Practices Prohibited. As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

City of Austin
Minimum Standard Non-Discrimination in Employment Policy:

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, OR THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 21st day of June, 2017

CONTRACTOR

Authorized Signature

Title

CBTNuggets, LLC

[Signature]

Matthew L. Bromley

General Counsel

Exhibit D
Non Suspension or Debarment Certification

City of Austin, Texas
Section 0805
NON-SUSPENSION OR DEBARMENT CERTIFICATION

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name:

CBT Nuggets, LLC

Signature of Officer or
Authorized
Representative:



Date:

June 21, 2017

Printed Name:

Matthew L. Bramley

Title

General Counsel