

**Request for Proposals (RFP)  
for**

**Worker's Compensation Third Party Administration (TPA)  
Claims Management Services**

**RFP HR 21-016**

**Schedule of Events**

<b>ACTIVITY (All times are local Phoenix time)</b>	<b>DATE</b>
Issue RFP	December 17, 2021
Pre-Proposal Meeting at 1:30 p.m. via Cisco Webex	January 5, 2022
Submittal of Written Questions by 2:00 p.m.	January 7, 2022
Responses to Written Questions	January 14, 2022
Email Request to Submit Offer by 2:00 p.m.	January 14, 2022
Proposal Submittal by 2:00 p.m.	January 21, 2022
Short Listing and Offeror Interviews, if applicable	Week of February 7th
Award Recommendation to Phoenix City Council	April 6, 2022

**Submit proposals and requests for alternate formats to:**

Margie Vasquez, Procurement Officer  
City of Phoenix Human Resources Department  
251 W. Washington Street, 7<sup>th</sup> Floor  
Phoenix, Arizona 85003  
Telephone: (602) 206-5081 (7-1-1 Friendly)  
Margie.Vasquez@phoenix.gov

**Date posted on website (issue Date): December 17, 2021**

This RFP does not commit the City to award any agreement.  
All dates subject to change.



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### RFP PROCESS - INSTRUCTIONS

#### 1. DESCRIPTION – STATEMENT OF NEED:

- 1.1 The City of Phoenix invites sealed offers from Offerors for **Worker's Compensation Third Party Administration (TPA) Claims Management Services** for a five-year period commencing on or about **July 1, 2022** or the "Effective Date," which is upon award by City Council and conditioned upon signature and recording by the City Clerk as required by the Phoenix City Code, whichever is later.
- 1.2 This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.
- 1.3 Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence: by reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of this Agreement.

#### 2. MINIMUM QUALIFICATIONS:

Each Offeror must demonstrate in its proposal that it meets the minimum qualifications, or its proposal will be disqualified as non-responsive. The Offeror must:

- 2.1 have been in operation a minimum of ten (10) years.
- 2.2 have a minimum of ten (10) years' experience providing Worker's Compensation Third Party Administration Claims Management Services listed in this solicitation.
- 2.3 have a staff of adjusters with the appropriate licenses, experience and training at the Senior Adjuster level to assign to the City's account.
- 2.4 be lawfully authorized to conduct business in Arizona or must have no impediments to conducting business in Arizona.
- 2.5 have the capacity to provide a transition plan and complete the transition and provide services on July 1, 2022.

#### 3. AGREEMENT TERM AND CONTRACTUAL RELATIONSHIP:

- 3.1 Offerors are responsible for reading the agreement and submitting any questions about it in accordance with the process listed in this agreement. By submitting a proposal, each Offeror agrees it will be bound by the terms of the Agreement attached hereto. The City anticipates a five-year term. Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence of any of the following:
  - reaching the end of the term and any extensions;
  - completing the services set forth in the Scope of Work (the "Services");
  - payment of the maximum authorized compensation; or
  - termination pursuant to the provisions of the Agreement.



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#### 4. PRE-PROPOSAL MEETING:

Offerors may attend the pre-proposal meeting via Cisco Webex at the date and time listed on page one. Please register for this meeting by emailing the procurement officer listed on the front page.

Meeting number/access code/meeting information: **24736480059**

Meeting password: **QHvFmywm532**

Attend the meeting using one of the formats below:

- Join online using your Cisco Webex account
- Join online without a Cisco Webex account: [globalpage-prod.webex.com/join](https://globalpage-prod.webex.com/join)
- Join by phone 1-415-655-0001 US Toll. When asked for Attendee Number, press #.
- Join from a video system or application  
Dial: **24736480059@cityofphoenix.webex.com**  
You can also dial **173.243.2.68** and enter your meeting number.
- Join using Microsoft Lync or Microsoft Skype for Business  
Dial **24736480059.cityofphoenix@lync.webex.com**

#### 5. SCOPE OF WORK AND SUPPLEMENTAL TERMS AND CONDITIONS:

Contractor will provide Services that will be in accordance with the Scope of Work as set forth in Section II, *Exhibit A*, which may be supplemented with additional detail from time to time during the term of the Agreement, and that are satisfactory to the City. In performing these Services, Contractor will also specifically comply with the applicable Supplemental Terms and Conditions that are set forth in Section II, *Exhibit E*.

#### 6. CITY'S VENDOR SELF-REGISTRATION AND NOTIFICATION:

Vendors must be registered in the City's eProcurement Self-Registration System at <https://www.phoenix.gov/financesite/Pages/EProc-help.aspx> in order to respond to solicitations and access procurement information. The City may, at its sole discretion, reject any offer from a Offeror who has not registered in the City's eProcurement system.

#### 7. PREPARATION OF OFFER:

**7.1** All forms provided must be completed and submitted with your offer. The signed and completed Solicitation Disclosure form must be included or your offer may be deemed non-responsive.

**7.2** It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of your offer must be initialed in original ink by the authorized person signing the offer. No offer will be altered, amended or



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- withdrawn after the specified offer due date and time. The City is not responsible for Offeror's errors or omissions.
- 7.3** All time periods stated as a number of days will be calendar days.
- 7.4** It is the responsibility of all Offerors to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting an offer. Negligence in preparing an offer confers no right of withdrawal after due date and time. Offerors are strongly encouraged to:
- 7.4.1** Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
  - 7.4.2** Study and carefully correlate Offeror's knowledge and observations with the solicitation and other related data.
  - 7.4.3** Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies which Offeror has discovered in or between the solicitation and such other related documents.
- 7.5** The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Offeror is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.
- 8. EXCEPTIONS:**
- 8.1** If an Offeror has any exceptions to any terms, conditions or material requirements of this solicitation including without limitation to the Professional Services Agreement and the Scope of Work, the Offeror must list all exceptions to the requirements of the solicitation and attachment documents, if any, on a separate page labeled "Exceptions Statement." Offeror must identify the reason for the requested change, provide alternate language and provide an explanation. If Offeror's Submittal does not include a separate Exceptions Statement identifying all specific exceptions, the exceptions will be deemed waived by the Offeror.
- 8.2** It is the intent of the City to award a contract on a fair, competitive basis. For this reason, the City may view any "Exception" in response to any material conditions or requirement of the solicitation, as an attempt by the Offeror to vary the terms of the solicitation which, in fact, may result in giving the Offeror an unfair advantage. For this reason, the City will, at its option, not allow exceptions to any material requirement if, in the opinion of the City, the exceptions alter the overall intent of the solicitation, unless the exception would be of material benefit to the City. Additionally, the City may, at its option, deem any submittal non-responsive based on exceptions by the Offeror.





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### 9. INQUIRIES:

- 9.1** All questions that arise relating to this solicitation should be directed to the procurement officer on the solicitation cover page.
- 9.2** To be considered, written inquiries must be received at the address on the cover page by the submittal time. Written inquiries may be emailed to the address on the cover page. Inquiries received will then be answered in an addendum.
- 9.3** No informal contact initiated by Offerors on the proposed service will be allowed with members of City's staff from date of distribution of this solicitation until after the closing date and time for the submission of offers. All questions concerning or issues related to this solicitation must be presented in writing.

### 10. ADDENDA:

The City of Phoenix will not be responsible for any oral instructions made by any employees or officers of the City of Phoenix in regard to the offering instructions, plans, drawings, specifications, or contract documents. Any changes to the plans, drawings and specifications will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addendum by signing and returning the addenda document with the offer submittal.

### 11. LICENSES:

If required by law for the operation of the business or work related to this Offer, Offeror must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.

The City will not enter into contracts with foreign corporations not granted authority to transact business, or not in good standing, in the State of Arizona by the Arizona Corporation Commission.

### 12. CERTIFICATION:

By signature in the offer section of the Affidavit page, Offeror certifies:

- The submission of the Offer did not involve collusion or other anti-competitive practices.
- The Offeror must not discriminate against any employee, or applicant for employment in violation of Federal or State Law. The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.



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### 13. SUBMISSION OF OFFER:

**13.1** The City of Phoenix will accept submittals electronically ONLY for this RFP process. No hardcopies will be accepted. To submit proposals electronically, Offerors must send an email to the Procurement Officer by the date stated on the Schedule of Events indicating the Offeror's intent to submit a proposal. The Procurement Officer will send an invitation to the Offeror which will include submittal instructions. Offers must be able to be downloaded by the Department on or prior to the exact time and date indicated in the Schedule of Events on the cover page. Late offers will not be considered. The prevailing clock will be the Department clock.

**13.2** Please submit only a cover letter/executive summary, the responses to Section III-Evaluation Requirements, Section IV-Submittals, the required supporting documentation, and Addenda. Do not submit a copy of the entire solicitation document. This Offer will remain in effect for a period of 180 calendar days from the bid opening date and is irrevocable unless it is in the City's best interest to do so.

### 14. WITHDRAWAL OF OFFER:

At any time prior to the solicitation due date and time, an Offeror (or designated representative) may withdraw the Offer by submitting a request in writing and signed by a duly authorized representative. Facsimiles, telegraphic or mailgram withdrawals will not be considered. Withdrawals may not be made after the proposal due date.

### 15. OFFER RESULTS:

Offers will be opened on the offer due date, time and location indicated in the Schedule of Events. Offers and other information received in response to the solicitation will be shown only to authorized City personnel having a legitimate interest in them or persons assisting the City in the evaluation. Offers are not available for public inspection until after the City has posted the award recommendation on the City's website.

### 16. PRE-AWARD QUALIFICATIONS:

**16.1** The Offeror must meet the Minimum Requirements listed in paragraph 2.

**16.2** Upon notification of an award, the Offeror will have ten (10) business days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this solicitation. Insurance requirements are non-negotiable.

**16.3** If the requirement of paragraph 16.1 is not met, the City at its option may deem the Offeror's offer non-responsive and award the contract to another Offeror.

### 17. AWARD OF CONTRACT:

Unless otherwise indicated, award(s) will be made to the most responsive, responsible Offeror(s) who are regularly established in the Services contained in this



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solicitation and who have demonstrated the ability to perform the required Services in an acceptable manner. Factors that will be considered by the City include:

- Technical capability of the Offeror to accomplish the Scope of Work required in the Solicitation. This includes performance history on past and current government or industrial contracts; and,
- Demonstrated availability of the necessary manpower (both supervisory and operational personnel) and necessary equipment to accomplish the scope of work in the Solicitation; and,
- Vendor history of performance and termination for convenience or cause.

Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.

### **18. CITY'S RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST:**

The City reserves the right to disqualify any Offeror on the basis of any real or apparent conflict of interest that is disclosed by the Offer submitted or any other data available to the City. This disqualification is at the sole discretion of the City. Any Offeror submitting an offer herein waives any right to object now or at any future time, before anybody or agency, including but not limited to, the City Council of the City of Phoenix or any court.

### **19. SOLICITATION TRANSPARENCY POLICY:**

**19.1** Commencing on the date and time a solicitation is published, potential or actual offerors or respondents (including their representatives) shall only discuss matters associated with the Solicitation with the Mayor, any members of City Council, the City Manager, any Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under Arizona Statutes, until Agreement(s) are awarded to all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation. As long as the Solicitation is not discussed, Offerors may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff who is not involved in the selection process.

**19.2** Offerors may discuss their proposal or the Solicitation with the Mayor or one or more members of the Phoenix City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.



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- 19.3** With respect to the selection of the successful Offerors, the City Manager and/or City Manager's Office will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and/or City Manager's Office and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.
- 19.4** This policy is intended to create a level playing field for all Offerors, assure that contracts are awarded in public, and protect the integrity of the selection process. **OFFERORS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED.** After official Notice is received by the City for disqualification, the OFFEROR may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.
- 19.5** “To discuss” means any contact by the OFFEROR, regardless of whether the City responds to the contact. Offerors that violate this policy shall be disqualified until Agreement(s) are awarded, or all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City’s intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

### **20. PROTEST PROCESS:**

- 20.1** Offeror may protest the contents of a solicitation no later than seven days before the solicitation deadline when the protest is based on an apparent alleged mistake, impropriety or defect in the solicitation. Protests filed regarding the solicitation may be addressed by an amendment to the solicitation or denied by the City. If denied, the opening and award will proceed unless the City determines that it is in the City’s best interests to set new deadlines, amend the solicitation, cancel or re-bid.
- 20.2** Therefore, unless otherwise notified by a formal amendment, the Protester must adhere to all solicitation dates and deadlines, including timely filing of an offer, regardless of filing a protest.
- 20.3** Offeror may protest an adverse determination issued by the City regarding responsibility and responsiveness, within seven days of the date the Offeror was notified of the adverse determination.
- 20.4** Offeror may protest an award recommendation if the Offeror can establish that it had a substantial chance of being awarded the contract and will be harmed by the recommended award. The City will post recommendations to award the contract(s) to an Offeror on the City’s website. Offeror must submit award protests within seven days after the posting of the award recommendation, with exceptions only for good cause shown, within the City’s full and final discretion.
- 20.5** All protests will be in writing, filed with the Procurement Officer identified in the



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solicitation, and include the following:

- Identification of the solicitation number;
- The name, address and telephone number of the protester
- A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
- The form of relief requested; and
- The signature of the protester or its authorized representative.

**20.6** The Procurement Officer will render a written decision within a reasonable period after the protest is filed. The City will not request City Council authorization to award the contract until the protest process is complete. All protests and appeals must be submitted in accordance with the City's Procurement Code, (Phoenix City Code, Ch. 43), and administrative regulations and any protests or appeals not submitted within the time requirements will not be considered.

### **21. PUBLIC RECORD:**

All Offers submitted in response to this invitation will become the property of the City and become a matter of public record available for review pursuant to Arizona State law. If an Offeror believes that a specific section of its Offer response is confidential, the Offeror will isolate the pages marked confidential in a specific and clearly labeled section of its Offer response. An Offeror may request specific information contained within its Offer is treated by the Procurement Officer as confidential provided the Offeror clearly labels the information "confidential." To the extent necessary for the evaluation process, information marked as "confidential" will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Offerors as "confidential" available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify an Offeror in writing of any request to view any portion of its Offer marked "confidential." The Offeror will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Offeror does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

### **22. LATE OFFERS:**

Late Offers must be rejected, except for good cause. If a late Offer is submitted, the Department will document the date and time of the submittal of the late Offer, keep the Offer and notify the Offeror that its Offer was disqualified for being a late Offer.



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### 23. RIGHT TO DISQUALIFY:

The City reserves the right to disqualify any Offeror who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Offeror on the basis of any real or apparent conflict of interest that is disclosed by the Offeror submitted or any other data or information available to the City. This disqualification is at the sole discretion of the City. By submission of a solicitation response, the Offeror waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City or any court as to the exercise by the City of such right to disqualify or as to any disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Offeror.

### 24. STATEMENT OF BONDING ABILITY:

Offerors must submit a letter from a bonding or insurance company stating that the Offeror can qualify for and procure the performance and/or payment surety required in this solicitation. Submittals received without the required statement of ability to secure a performance or payment surety may be considered as non-responsive. Offerors anticipating the submittal of a cash surety in lieu of a bond should submit a statement notifying the City.

### 25. PERFORMANCE BOND:

A performance surety in the amount of \$500,000 shall be provided by the Contractor immediately after notice of award. The City of Phoenix will not issue a written purchase order or give notice to proceed in any form until the surety is received by the Procurement Officer. The performance surety must be in the form of a bond, cashier's check, certified check or money order. Personal or company checks are not acceptable unless certified. If surety is in the form of a bond, the company issuing the surety must be authorized by the Insurance Department of Arizona to transact business in the State of Arizona or be named on the approved listing of non-admitted companies. A Certificate of Deposit (CD) issued by a local Phoenix bank may also be used as a form of surety provided that the CD is issued jointly in the name of the City of Phoenix and the Contractor, and that the Contractor endorses the CD over to the City at the beginning of the contract period. Interest earnings from the CD can be retained by the Contractor.

### 26. CONTRACT AWARD:

The City reserves the right to award a contract by individual line items, by group, all or none, or any other combination most advantageous to the City.



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### **27. EVALUATION OF COMPETITIVE SEALED OFFERS:**

The City will use its discretion in applying the following processes to this solicitation. Any ties in scoring will be resolved with a best and final price request and the lowest price will prevail.

### **28. DETERMINING RESPONSIVENESS AND RESPONSIBILITY:**

**28.1** Offers will be reviewed for documentation of minimum qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.

**28.2** Responsiveness: Nonresponsive Offers will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Offers (as the case may be) will render an Offer nonresponsive.

**28.3** Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and an Offer that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Offeror remove the conditions, exceptions, reservations or understandings. If the Offeror fails to do so in writing, the City may determine the Offer to be nonresponsive.

**28.4** Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by the contractor, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Offeror be a responsible contractor. Responsibility includes the Offeror's integrity, skill, capacity, experience, and facilities for conducting the work to be performed.

**28.5** The Procurement Officer, in consultation with legal counsel, will review each Offer to determine if the Offeror is responsible. The City's determination as to whether an Offeror is responsible will be based on the information furnished by the Offeror, interviews (if any), any information at the City's request, information in any best and final offer, and information received from Offeror's references, including information about Offeror's past history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the Solicitation will not be made until any necessary investigation, which each Offeror agrees to permit by submitting its Offer, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

**28.6** The Offeror's unreasonable failure to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Offeror.



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### **29. DETAILED EVALUATION OF OFFERS AND DETERMINATION OF COMPETITIVE RANGE:**

During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Offerors' rankings and which Offers are within the Competitive Range, when appropriate.

### **30. OFFERS NOT WITHIN THE COMPETITIVE RANGE:**

The City may notify Offerors of Offers that the City determined are not in the Competitive Range.

### **31. DISCUSSIONS WITH OFFERORS IN THE COMPETITIVE RANGE:**


The City will notify each Offeror whose Offer is in the Competitive Range or made the 'short list' and provide in writing any questions or requests for clarification to the Offeror. Each Offeror so notified may be interviewed by the City and asked to discuss answers to written or oral questions or provide clarifications to any facet of its Offer. The Offerors in the competitive range may be required to provide a demonstration of their product.

**31.1** Demonstrations - Offerors in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the City of Phoenix. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).

**31.2** If an Offer in the Competitive Range contains conditions, exceptions, reservations or understandings to or about any Contract or Solicitation requirement, the City may discuss or negotiate the conditions, exceptions, reservations or understandings during these meetings. But the City in its sole discretion may reject any and all conditions, exceptions, reservations and understandings, and the City may instruct any Offeror to remove the conditions, exceptions, reservations or understandings. If the Offeror fails to do so, the City may determine the Offer is nonresponsive, and the City may revoke its determination that the Offer is in the Competitive Range.

**31.3** To the fullest extent permitted by law, the City will not provide any information, financial or otherwise, to any Offeror about other Offers received in response to this solicitation. During discussions with Offerors in the Competitive Range, the City will not give Offerors specific prices or specific financial requirements that Offerors must meet to qualify for further consideration. The City may state that proposed prices are too high with respect to the marketplace or otherwise unacceptable. Offerors will not be told of their relative rankings before Contract



	<b>SECTION I – INSTRUCTIONS</b>	<b>CITY OF PHOENIX</b>
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award.

**32. BEST AND FINAL OFFERS (BAFO):**

- 32.1** A BAFO is an option available for negotiations. Each Offeror in the Competitive Range, which is determined in the City’s sole discretion, may be afforded the opportunity to amend its Offer and make one BAFO.
- 32.2** If an Offeror’s BAFO modifies its initial Offer, the modifications must be identified in the BAFO. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Offers. The City will adjust appropriately the initial scores for criteria that have been affected by Offer modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.
- 32.3** The Evaluation Panel will recommend the Offer that is the best value and most advantageous to the City based on the evaluation criteria.
- 32.4** The City reserves the right to make an award to an Offeror whose Offer is the highest rated, best value, and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.



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**SECTION II – PROFESSIONAL SERVICES CONSULTING AGREEMENT**

**WORKER’S COMPENSATION THIRD PARTY ADMINISTRATION (TPA)  
CLAIMS MANAGEMENT SERVICES  
PROFESSIONAL SERVICES CONSULTING AGREEMENT**

**AGREEMENT NO. \_\_\_\_\_**

Margie Vasquez, Procurement Officer  
City of Phoenix Human Resources Department  
251 W Washington Street, 7<sup>th</sup> Floor  
Phoenix, Arizona 85003  
Telephone: (602) 206-5081  
Margie.Vasquez@phoenix.gov



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**PROFESSIONAL SERVICES CONSULTING AGREEMENT**

**BETWEEN**

**THE CITY OF PHOENIX AND**

**[LEGAL NAME OF CONTRACTOR]**

This **AGREEMENT** is made and entered into this 1<sup>st</sup> of July, 2022 (“the Effective Date”) or as of the City Clerk date, whichever is later, by and between the City of Phoenix, Arizona, a municipal corporation of the State of Arizona (hereinafter referred to as “City”) and [Legal name of contractor] (hereinafter referred to as “Contractor”).

**RECITALS**

1. The City Manager of the City of Phoenix, Arizona, is authorized by the provisions of the City Charter to execute agreements for professional services.
2. The City desires to obtain the Services that are specifically set forth in this Agreement.
3. The City procured these professional Services in accordance with the Phoenix City Code and Administrative Regulation 3.10.
4. Contractor possesses the skills and expertise necessary to provide such services as desired by the City.
5. This Agreement is authorized by the City Council [Ordinance Number and Agenda Number if applicable] on [Date.]

**NOW, THEREFORE**, it is agreed by and between the parties as follows:

**1. TERM OF AGREEMENT:**

- 1.1 This Agreement begins on the Effective Date in the above introductory paragraph, and upon approval by the City, for a period of five (5) years.
- 1.2 This Agreement will terminate upon the earliest occurrence of any of the following:
  - 1.2.1 reaching the end of the term exercised as set forth in 1.1;
  - 1.2.2 completing the services set forth in the Scope of Work attached as *EXHIBIT A – SCOPE OF WORK* (the “Services”);
  - 1.2.3 payment of the maximum compensation under Paragraph 2 of this Agreement; or
  - 1.2.4 termination pursuant to the provisions of this Agreement.



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**2. PAYMENT**

**2.1.** The total amount to be remitted by the City to Contractor for all Services satisfactorily performed under this Agreement will not exceed [\$Enter amount] per year inclusive of all reasonable and necessary expenses, if approved in advance by the City and included in *EXHIBIT B – Fee Schedule*. Under this Agreement, the City will pay for Services at the rate(s) specified in the Fee Schedule, with no additional charges for overhead, benefits, local travel or administrative support. Payments will be made in proportion to the Services performed and no more than 90% of the total contract price will be paid before the work is totally completed and accepted by the City.

**2.2.** Contractor will submit monthly invoices on or before the [Enter calendar] day of every month. Each invoice will be accompanied with itemized receipts. The invoice will be submitted free of mathematical errors and/or missing supporting documentation. All appropriate documentation will be provided that supports the charges reflected in the monthly invoice. Upon finding of an error and/or missing documentation, the City will return the invoice to the Contractor. Contractor will promptly resubmit the revised invoice to the City. Each revised invoice will document the date that the revised invoice is submitted to the City. Requests for payment must be submitted with documentation of dates and hours worked, hourly rate charged, and a detailed description of the Services performed. Failure of City to identify an error does not waive any of the City's rights.

**2.3. Invoices will be submitted to:**

Email Invoices to:      Invoices@phoenix.gov  
   Brittany.Whittle@phoenix.gov  
   Tracy.Hamilton@phoenix.gov  
   Ashley.Pritchett@phoenix.gov  
   David.Mathews@phoenix.gov

**3. SCOPE OF WORK AND SUPPLEMENTAL TERMS AND CONDITIONS:**

Contractor will provide Services that will be in accordance with the Scope of Work as set forth in *EXHIBIT A – SCOPE OF WORK*, which may be supplemented with additional details from time to time during the term of the Agreement, and that are satisfactory to the City. In performing these Services, Contractor will also specifically comply with the applicable Supplemental Terms and Conditions that are set forth in *EXHIBIT E*. Contractor will provide monthly and quarterly reports to the respective Trustees according to a mutually agreed-upon schedule.

**4. INDEMNIFICATION & INSURANCE REQUIREMENTS- SEE EXHIBIT C**



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### 5. **LAWFUL PRESENCE REQUIREMENT:**

Pursuant to A.R.S. §§ 1-501 and -502, the City of Phoenix is prohibited from awarding a contract to any natural person who cannot establish that he or she is lawfully present in the United States. In order to establish lawful presence, this person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. In the event the prevailing responder is unable to satisfy this requirement, the City will offer the award to the next-highest scoring responder. The law does not apply to fictitious entities such as corporations, partnerships and limited liability companies.

### 6. **INDEPENDENT CONTRACTOR STATUS; EMPLOYMENT DISCLAIMER.**

**6.1** The parties agree that Contractor is providing the Services under this Agreement on a part-time and/or temporary basis and that the relationship created by this Agreement is that of independent contractors. Neither Contractor nor any of Contractor's agents, employees or helpers will be deemed to be the employee, agent, or servant of the City. The City is only interested in the results obtained under this Agreement; the manner, means and mode of completing the same are under the sole control of Contractor.

**6.2** This Agreement is not intended to constitute, create, give rise to, or otherwise recognize a joint venture, partnership or formal business association or organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in this Agreement. The parties agree that no individual performing under this Agreement on behalf of Contractor will be considered a City employee, and that no rights of City Civil Service, City retirement or City personnel rules will accrue to such individual. Contractor will have total responsibility for all salaries, wages, bonuses, retirement, withholdings, worker's compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals and will save and hold harmless the City with respect thereto.

### 7. **LEGAL WORKER REQUIREMENTS:**

The City is prohibited by Arizona Revised Statutes § 41-4401 from awarding an agreement to any Contractor who fails, or whose subcontractors fail, to comply with Arizona Revised Statutes § 23-214(A). Therefore, Contractor agrees that:

- Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with Arizona Revised Statutes § 23-214, subsection A.
- A breach of warranty herein will be deemed a material breach of the Agreement and is subject to penalties up to and including termination of the Agreement.



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- The City retains the legal right to inspect the papers of the Contractor or subcontractor employee(s) who work(s) on this Agreement to ensure that Contractor or subcontractor is complying with the warranty herein.

### 8. CONFIDENTIALITY AND DATA SECURITY

- 8.1** All data, regardless of form, including originals, images and reproductions, prepared by, obtained by, or transmitted to Contractor in connection with this Agreement is confidential, proprietary information owned by the City. Except as specifically provided in this Agreement, the Contractor shall not disclose data generated in the performance of the service to any third person without the prior written consent of the City Manager or his/her designee.
- 8.2** Personal identifying information, financial account information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times to avoid unauthorized access. At a minimum, Contractor must encrypt and/or password-protect electronic files. This includes data saved to laptop computers, computerized devices, or removable storage devices. When personal identifying information, financial account information, or restricted City information regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed.
- 8.3** In the event that data collected or obtained by the Contractor in connection with this Agreement is believed to have been compromised, Contractor will notify the City Privacy Officer immediately. Contractor agrees to reimburse the City for any costs incurred by the City to investigate potential breaches of this data, and, where applicable, the cost of notifying individuals who may be impacted by the breach.
- 8.4** Contractor agrees that the requirements of this Section will be incorporated into all subcontractor/subcontractor agreements entered, into by the Contractor. It is further agreed that a violation of this Section will be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice.
- 8.5** The obligations of Contractor under this Section will survive the termination of this Agreement.

### 9. CONTACTS WITH THIRD PARTIES:

- 9.1** Contractor or its subcontractors will not contact third parties to provide any information in connection to the Services provided under this Agreement without the prior written consent of the City. Should Contractor or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Agreement or any other prior or existing Agreement with the City, Contractor or its subcontractors will





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promptly inform the City giving the particulars of the information sought and will not disclose such information or give such testimony without the written consent of the City or court order. The obligations of Contractor and its subcontractors under this Section will survive the termination of this Agreement.

- 9.2** Contractor agrees that the requirements of this Section will be incorporated into all subcontractor agreements entered into by the Contractor. It is further agreed that a violation of this Section will be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice.

### **10. SBE/ DBE UTILIZATION:**

The City extends to each individual, firm, vendor, supplier, contractor and subcontractor an equal economic opportunity to compete for City business and strongly encourages voluntary utilization of small and/or disadvantaged businesses to reflect both the industry and community ethnic composition. The use of such businesses is encouraged whenever practical.

### **11. AUDIT/RECORDS:**

**11.1** The City reserves the right, at reasonable times, to audit Contractor's books and records relative to the performance of service under this Agreement. All records pertaining to this Agreement will be kept on a generally accepted accounting basis for a period of six years following termination of the Agreement.

**11.2** If, following an audit of this Agreement, the audit discloses the Contractor has provided false, misleading, or inaccurate cost and pricing data, and the cost discrepancies exceed 1% of the total Agreement billings, the Contractor will be liable for reimbursement of the reasonable, actual cost of the audit.

### **12. COMPLIANCE WITH LAWS:**

Contractor will comply with all existing and subsequently enacted federal, state and local laws, ordinances, codes, and regulations that are, or become applicable to this Agreement. If a subsequently enacted law imposes substantial additional costs on Contractor, a request for an amendment may be submitted pursuant to this Agreement.

### **13. AMENDMENTS:**

Whenever an addition, deletion or alteration to the Services described in *EXHIBIT A – SCOPE OF WORK* substantially changes the Scope of Work thereby materially increasing or decreasing the cost of performance, a supplemental agreement must first be approved in writing by the City and Contractor before such addition, deletion or alteration will be performed. Changes to the Services may be made and the compensation to be paid to Contractor may be adjusted by mutual agreement, but



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in no event may the compensation exceed the amount authorized without further written authorization. It is specifically understood and agreed that no claim for extra work done or materials furnished by Contractor will be allowed except as provided herein, nor will Contractor do any work or furnish any materials not covered by this Agreement unless first authorized in writing. Any work or materials furnished by Contractor without prior written authorization will be at Contractor's risk, cost and expense, and Contractor agrees to submit no claim for compensation or reimbursement for additional work done or materials furnished without prior written authorization.

**14. NO ORAL ALTERATIONS:**

No alteration or variation of the terms of this Agreement will be binding on the parties herein unless such alteration or variation is in writing and signed by each of the parties to this Agreement. No oral understanding or agreement not incorporated in this Agreement will be binding on any of the parties herein.

**15. NOTICES:**

**15.1** Any notice, consent or other communication ("Notice") required or permitted under this Agreement will be in writing and either: (1) delivered in person; (2) sent via e-mail, return receipt requested; (3) sent via facsimile transmission; (4) deposited with any commercial air courier or express delivery service; or (5) deposited in the United States mail, postage prepaid.

If to Contractor:

[Legal name and address of contractor.]

If to City:

Tracy Hamilton, Workers Compensation Supervisor  
City of Phoenix Human Resources Department  
3535 S. 35<sup>th</sup> Avenue  
Phoenix, Arizona 85009  
Telephone: (602) 262-4561  
Tracy.Hamilton@phoenix.gov

**15.2** Notice will be deemed received: (1) at the time it is personally served; (2) on the day it is sent via e-mail; (3) on the day it is sent by facsimile transmission; (4) on the second day after its deposit with any commercial air courier or express delivery service; or (5) five business days after the Notice is deposited



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in the United States mail as above provided. Any time period stated in a Notice will be computed from the time the Notice is deemed received.

**15.3** Notices sent by e-mail and facsimile transmission will also be sent by regular mail to the recipient at the above address. This requirement for duplicate Notice is not intended to change the effective date of the Notice sent by e-mail or facsimile transmission.

**16. INTEGRATION:**

This Agreement constitutes and embodies the full and complete understanding and agreement of the parties hereto and supersedes all prior understandings, agreements, discussions, proposals, bids, negotiations, communications, and correspondence, whether oral or written. No representation, promise, inducement or statement of intention has been made by any party hereto which is not embodied in this Agreement, and no party will be bound by or liable for any statement of intention not so set forth.

**17. GOVERNING LAW; FORUM; VENUE:**

This Agreement is executed and delivered in the State of Arizona, and the substantive laws of the State of Arizona (without reference to choice of law principles) will govern their interpretation and enforcement. Any action brought to interpret or enforce any provision of this Agreement that cannot be administratively resolved, or otherwise related to or arising from this Agreement, will be commenced and maintained in the state or federal courts of the State of Arizona, Maricopa County, and each of the parties, to the extent permitted by law, consents to jurisdiction and venue in such courts for such purposes.

**18. FISCAL YEAR CLAUSE:**

The City's fiscal year begins July 1st and ends June 30th each calendar year. The City may make payment for services rendered or costs encumbered only during a fiscal year and for a period of 60 days immediately following the close of the fiscal year, under the provisions of Arizona Revised Statutes § 42-17108. Therefore, Contractor must submit billings for services performed or costs incurred prior to the close of a fiscal year within ample time to allow payment within this 60-day period.

**19. TERMINATION OR SUSPENSION OF SERVICES:**

**19.1 City's Right to Terminate:**

The City reserves the right to terminate this Agreement without cause, or to abandon the Services, or any part of the Services not then completed, by notifying Contractor in writing. Immediately upon receiving a written notice to terminate or suspend Services, Contractor will:

- Discontinue advancing the work in progress, or such part that is described in the notice.



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- Deliver to the City all collected raw data, draft reports, preliminary reports, working papers, estimates and forecasts entirely or partially completed, together with all unused materials supplied by the City.
- Appraise the work it has completed and submit its appraisal to the City for evaluation.
- Be paid in full the pro rata value for Services performed to the date of its receipt of the Notice of Termination, including reimbursement for all reasonable costs and expenses incurred by Contractor in terminating the work, including demobilization of field service. No payment will be made for loss of **anticipated profits or unperformed services**.

### 20. FINAL PAYMENT:

**20.1 PAYMENT:** The City will make final payment for all Services performed and accepted within 60 days after Contractor has delivered to the City any final progress reports, documentation, materials and evidence of costs and disbursement as required under this Agreement. Any use by the City of preliminary reports, raw data or other incomplete material returned by Contractor will be at the City's sole risk for such use.

**20.2 TEMPORARY SUSPENSION:** The City may, by written notice, direct Contractor to suspend performance on all or any part of the Services for such period of time as may be determined by the City to be necessary or desirable for its convenience. If such suspension causes additional expense to Contractor in performance, and not due to fault or negligence of Contractor, the payment will be adjusted on the basis of actual costs resulting directly from the suspension, and the period for performance of the Services will be extended by mutual agreement. Any claim by Contractor for a price adjustment must be supported by appropriate documentation asserted promptly after Contractor has been notified to suspend performance.

### 21. PROFESSIONAL COMPETENCY:

**21.1 QUALIFICATIONS:** Contractor represents that it is familiar with the nature and extent of this Agreement, the Services, and any conditions that may affect its performance under this Agreement. Contractor further represents that it is fully experienced and properly qualified, is in compliance with all applicable license requirements, and is equipped, organized, and financed to perform such Services.

**21.2 LEVEL OF CARE AND SKILL:** Services provided by Contractor will be performed in a manner consistent with that level of care and skill ordinarily exercised by members of Contractor's profession currently practicing in the same industry under similar conditions. Acceptance or approval by the City of Contractor's work will in no way relieve Contractor of liability to the City for damages suffered or incurred arising from the failure of Contractor to adhere to the aforesaid standard of professional competence.



## SECTION II – PROFESSIONAL SERVICES CONSULTING AGREEMENT

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### 22. SPECIFIC PERFORMANCE:

Contractor agrees that in the event of a breach by Contractor of any material provision of this Agreement, the City will, upon proper action instituted by it, be entitled to a decree of specific performance thereof according to the terms of this Agreement. In the event the City will elect to treat any such breach on the part of Contractor as a discharge of the Agreement, the City may nevertheless maintain an action to recover damages arising out of such breach. This paragraph is not intended as a limitation of such other remedies as may be available to the City under law or equity.

### 23. FORCE MAJEURE:

Contractor will not be responsible or liable for, or deemed in breach hereof because of any delay in the performance of its obligations hereunder to the extent caused by circumstances beyond its control, without its fault or negligence, and that could not have been prevented by the exercise of due diligence, including but not limited to fires, natural disasters, riots, wars, unavoidable and unforeseeable site conditions, failure of the City to provide data within the City's possession or to make necessary decisions or provide necessary comments in connection with any required reports prepared by Contractor in connection with the Services and the unforeseeable inability to obtain necessary site access, authorization, permits, licenses, certifications and approvals (such causes hereafter referred to as "Force Majeure").

### 24. DOCUMENTATION:

**24.1 DISSEMINATION AND RETENTION:** There will be no dissemination or publication of any information gathered, or documents prepared in the course of the performance of the Services without the prior written consent of the City. Should the City, upon advice of counsel, deem it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and non-disclosure with regard to the subject matter of this Agreement, then, and in that event, upon written demand, Contractor will relinquish to the possession and control of the City its entire file related to this Agreement and only those portions of said file deemed by the City to be not privileged will be returned to Contractor pending the resolution of the existing or anticipated litigation.

**24.2 FORMAT AND QUALITY:** All documents prepared by Contractor will be prepared in a format and at a quality approved by the City.

**24.3 DOCUMENT REVIEW:** Contractor will review all documents provided by the City related to the performance of the Services and will promptly notify the City of any defects or deficiencies discovered in such review.

**24.4 SUBMITTALS:** Contractor will provide timely and periodic submittals of all documents required of Contractor, including subcontracts, if any, as such become available to the City for review.



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**25. RELEASE OF INFORMATION - ADVERTISING AND PROMOTION:**

Contractor will not publish, release, disclose or announce to any member of the public, press, official body, or any other third party: (1) any information concerning this Agreement, the Services, or any part thereof; or (2) any documentation or the contents thereof, without the prior written consent of the City, except as required by law. The name of any site on which Services are performed will not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

**26. CONFLICTS OF INTEREST:**

**26.1** Contractor acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Agreement upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Phoenix City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Agreement without liability, including any such commission, percentage, brokerage or contingent fee.

**26.2** The City reserves the right to immediately terminate the contract in the event that the City determines that Contractor has an actual or apparent conflict of interest.

**26.3** Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Agreement, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Agreement, the City may, by one calendar day written notice to Contractor, terminate the right of Contractor to proceed under this Agreement, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in an Arizona court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

**26.4** This Agreement is subject to the requirements of Arizona Revised Statutes §38-511.

**27. PUBLIC RECORDS:**

**27.1** Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, the Contractor acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, the Contractor understand that disclosure of some or all of the items subject to this Agreement may be required by law.



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**27.2** In the event City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Contractor, the City agrees to provide the Contractor with notice of that request, which shall be deemed given when sent via email or deposited by the City with the USPS for regular delivery to the address of the Contractor specified in their proposal. Within ten days of notice by the City, the Contractor will inform the City in writing of any objection by the Contractor to the disclosure of the requested information and obtain a court order enjoining such disclosure. Failure by the Contractor to object timely and obtain an order enjoining disclosure in the time specified in the notice shall be deemed waiver of any objection and any remedy against the City for disclosure.

**27.3** The Contractor agrees to handle all aspects related to request, including properly communicating with the requestor and timely responding with information the disclosure of which the Contractor does not object thereto and procuring a court order enjoining disclosure of information the Contractor deems confidential. Furthermore, the Contractor agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments. This provision shall survive the termination of this Agreement.

### **28. CLAIMS OR DEMANDS AGAINST THE CITY:**

**28.1** Contractor acknowledges and accepts the provisions of Chapter 18, Section 14 of the Charter of the City of Phoenix, pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in Chapter 18, Section 14 of the Charter of the City of Phoenix alters, amends or modifies the supplemental and complementary requirements of the State of Arizona Notice of Claim statutes, Arizona Revised Statutes §§ 12-821 and 12-821.01, pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.

**28.2** Moreover, nothing in this Agreement will constitute a dispute resolution process, an administrative claims process, or contractual term as used in Arizona Revised Statutes § 12-821.01(C), sufficient to affect the date on which the cause of action accrues within Arizona Revised Statutes § 12-821.01(A) and (B).

### **29. WAIVER OF CLAIMS FOR ANTICIPATED PROFITS:**

Contractor waives any claims against the City and its officers, officials, agents and employees for loss of anticipated profits caused by any suit or proceeding, directly



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or indirectly, involving any part of this Agreement.

### 30. CONTINUATION DURING DISPUTES:

**30.1** Contractor agrees as a condition of this Agreement that in the event of any dispute between the parties, provided no Notice of Termination has been given by the City, and if it is feasible under the terms of this Agreement each party will continue to perform the obligations not related to the dispute required of it during the resolution of such dispute, unless enjoined or prohibited by a court of competent jurisdiction.

**30.2** Failure or delay by either party to exercise any right, power or privilege specified in or appurtenant to this Agreement will not be deemed a waiver.

### 31. THIRD PARTY BENEFICIARY CLAUSE:

The parties expressly agree that this Agreement is not intended by any of its provisions to create any right of the public or any member thereof as a third-party beneficiary nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

### 32. EQUAL EMPLOYMENT OPPORTUNITY AND PAY:

**32.1** In order to do business with the city, contractor must comply with Phoenix City Code, 1969, Chapter 18, Article V, as amended, Equal Employment Opportunity requirements. Contractor will direct any questions in regard to these requirements to the equal opportunity department, (602) 262-6790.

**32.2** For a contractor with 35 employees or fewer: contractor in performing under this agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The contractor further agrees that this clause will be incorporated in all subcontracts related to this agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this agreement. Contractor further agrees that this clause will be incorporated in all subcontracts, contractor agreements or subleases of this agreement entered into by supplier/lessee.

**32.3** For a contractor with more than 35 employees: Contractor in performing under this agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex,





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national origin, age, or disability, nor otherwise commit an unfair employment practice. The contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-contractor agreements or subleases of this agreement entered into by supplier/lessee. The contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

**32.4 DOCUMENTATION:** Suppliers and lessees may be required to provide additional documentation to the equal opportunity department affirming that a nondiscriminatory policy is being utilized.

**32.5 MONITORING:** The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

### **33. CONTRACT INTERPRETATION:**

#### **33.1 APPLICABLE LAW:**

This Contract will be governed by the law of the State of Arizona, and suits pertaining to this Contract will be brought only in Federal or State courts in Maricopa County, State of Arizona.

**33.2 CONTRACT ORDER OF PRECEDENCE:** In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:

**33.2.1.** Professional Services Agreement Standard Terms and Conditions

**33.2.2.** Exhibit E Supplemental terms and Conditions

**33.2.3.** Exhibit C and D Insurance and Indemnification Terms and Insurance Certificate



## SECTION II – PROFESSIONAL SERVICES CONSULTING AGREEMENT

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- 33.2.4.** Exhibit A and B Statement of Scope of Work and Fee Schedule
- 33.3 SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.
- 33.4 PAROL EVIDENCE:** This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

### 34. MISCELLANEOUS

- 34.1 ORGANIZATION – EMPLOYMENT DISCLAIMER:** The Agreement resulting hereunder is not intended to constitute, create, give rise to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor's obligations under the agreement are considered to be City's employees and that no rights of City civil services, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and will save and hold the City harmless with respect there.
- 34.2 COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 34.3 FACSIMILE OR ELECTRONIC SIGNATURES.** Either or all parties may execute this Agreement by facsimile or other scanned or electronic signature, and any such facsimile or other scanned or electronic signature shall be deemed an original signature.
- 34.4 NON-WAIVER OF LIABILITY:** The City of Phoenix as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable Arizona law.



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**35. NO ISRAEL BOYCOTT:**

By entering into this Agreement, the Contractor certifies that they are not currently engaged in, and agrees for the duration of the Agreement to not engage in, a boycott of goods or services from Israel.

**36. PERFORMANCE BOND:**

A performance surety in the amount of \$ 500,000 shall be provided by the Contractor immediately after notice of award. The City of Phoenix will not issue a written purchase order or give notice to proceed in any form until the surety is received by the Procurement Officer. The performance surety must be in the form of a bond, cashier's check, certified check or money order. Personal or company checks are not acceptable unless certified. If surety is in the form of a bond, the company issuing the surety must be authorized by the Insurance Department of Arizona to transact business in the State of Arizona or be named on the approved listing of non-admitted companies. A Certificate of Deposit (CD) issued by a local Phoenix bank may also be used as a form of surety provided that the CD is issued jointly in the name of the City of Phoenix and the Contractor, and that the Contractor endorses the CD over to the City at the beginning of the contract period. Interest earnings from the CD can be retained by the Contractor.



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**37. APPROVALS**

**IN WITNESS WHEREOF**, the parties herein have caused this Agreement to be executed, effective as of the date in the first paragraph (the “Effective Date”);

CITY OF PHOENIX, a municipal corporation

JEFFREY BARTON, City Manager

By: \_\_\_\_\_  
Name: David Mathews  
Title: Acting Human Resources Director

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Date

APPROVED AS TO FORM,  
CRIS MEYER, City Attorney

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[If your company is a corporation:

Name of company Corporation  
a State corporation

By: \_\_\_\_\_  
Name  
Title, (President and CEO, etc.)]



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[If your company is a Limited Liability with Individual Members:

Name of company, LLC,  
a State limited liability company

By: \_\_\_\_\_

Name

Member

By: \_\_\_\_\_

Name

Member]

[If your company is a Limited Liability with Individual Manager:

Name of company, LLC,  
a State limited liability company

By: \_\_\_\_\_

Name

Manager]

[If your company is a Limited Liability with the Member or Manager is a Corporation:

Name of company, LLC,  
a State limited liability company  
Its Manager (Member)

By: \_\_\_\_\_

Name

President]

[If your company is a Limited Liability with the Member or Manager is a General  
Partnership:



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Name of company, LLC,  
a State limited liability company  
Its Manager (Member)

By: \_\_\_\_\_

Name

an Arizona general partnership,  
Its Manager or Managing General Partner]



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### EXHIBIT A – SCOPE OF WORK

#### 1. BACKGROUND

The City of Phoenix is a public agency with approximately 14,000 benefit eligible employees. Contractor agrees to do all things necessary to timely and properly provide all claims management and payment services necessary to provide benefits under the Workers' Compensation Program for City employees and in accordance with the Contract, including but not limited to those duties set out in this Scope of Work. All services performed hereunder shall be subject to performance guarantees.

#### 2. FIRM AND STAFF REQUIREMENTS

Failure to maintain and adequately staff an onsite facility shall be a material breach of the Contract and will be subject to penalty as outlined in the performance guarantees.

##### FIRM:

- A. Contractor shall be licensed to conduct business and licensed to adjust workers' compensation claims in the State of Arizona and approved as a Third Party Administrator (TPA) by the Industrial Commission of Arizona by the start of the contract period.
- B. Contractor must have the capability and requisite experience to manage the Program on behalf of the City in accordance with the provisions and requirements of the Scope of Work.

##### STAFF:

- C. Contractor must provide sufficient qualified staff to provide services.
- D. The employees assigned to work under the Contract shall have the appropriate license, experience and training at the Senior Adjuster level. All adjusters must have a workers' compensation adjusting license prior to adjusting any City claims.
- E. Designated Account Manager/Operations Manager – Contractor must designate an Account Manager/Operations Manager who is responsible for ensuring the Contract requirements and service deliverables are consistently met by the Contractor.
  - The designee shall be the single day-to-day contact for the City with the primary responsibilities of responding to all performance issues, coordinating the efforts of the Contractor's staff to resolve issues, and overseeing all aspects of project management including, but not limited to, the initial implementation and ongoing program facilitation.
  - The designee shall have a minimum of five (5) years of experience with an organization similar to the City and direct experience with accounts of



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similar size and complexity as the City. The City retains the right to approve the assigned Account Manager/Operations Manager and to participate in any interview as needed.

- The designee must have appropriate authority to make reasonable decisions in response to the City's Program needs.
- F. Account Management Team – Contractor must provide an Account Management Team that is experienced in providing services for similar entities, is accessible to the City, and has sufficient capacity and authority to respond to the City's issues in a timely manner. Contractor agrees that all services performed pursuant to the Contract shall be rendered through its claims office on-site at City of Phoenix offices. Contractor shall maintain services for the duration of the Contract staffed by a dedicated unit consisting of, at a minimum:
- One dedicated Account/Operating Manager; one on-site Supervisor; a sufficient number of on-site adjusters to maintain a caseload of 150 active claims; a sufficient number of on-site adjusters to maintain a caseload of 300 supportive care claims; and a sufficient number of assistants for all claims as deemed necessary to perform services required in the Contract.
  - Contractor shall maintain a dedicated staff member to review files and copy requested information for disability retirements within 14 days of the initial request.
  - At the discretion of the City, City Human Resources Department Safety Section staff may take a random screen shot picture of adjuster caseloads to verify compliance. This requirement is subject to performance guarantees.

The City will provide the office/cubicle space for the onsite staff, which will include a telephone and main fax machine. Contractor may be required to provide other equipment, such as computers, work supplies, and other items as deemed necessary for the onsite staff to perform their duties. Teleworking will be considered and approved by the City of Phoenix on an intermittent as needed basis.

### 3. SCOPE OF SERVICES

- A. To the extent the City makes appropriate funds available, Contractor covenants and represents that it will not delay the payment of any bill or benefit payable either under the Workers' Compensation Program or required by federal, state, or local law for any reason. Contractor shall make timely payments to all persons and entities supplying labor, materials, or equipment or services for the performance of the Agreement. Failure to make timely payments shall be a material breach of this Agreement and will be subject to penalty as outlined in the performance guarantees.





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- B. Contractor will follow claim procedures and settlement authority established by the City. The City retains the right to exclude all ancillary providers recommended by Contractor. The City further retains the right to agree or disagree with ancillary services recommended by Contractor, including but not limited to: pharmacy programs, durable medical equipment providers, defense attorneys, and surveillance companies at the City's discretion.
- C. Contractor will investigate and evaluate all claims and make informed recommendations for future handling to the City Human Resources Department Safety Section to ensure the proper disposition and medical management of each claim. This will ensure that proper medical services are being performed and that injured employees are returning to work under transitional work programs.

#### 4. GENERAL FILE MANAGEMENT

- A. Claims will be set up by Contractor and at the adjuster's desk within one (1) business day of receipt of legal notice of a new injury (either Form 102 or Form 101/407).
- B. Adjusters will make three-point contact on every claim within one (1) business day of receipt of each claim on their desk.
- C. Adjusters will return all phone calls from City employees or medical providers within one (1) business day. If an adjuster is out of the office, phone calls will be returned by the Supervisor or designee within one (1) business day. All attempts to return phone calls will be documented in the claim notes. This requirement may be subject to a performance guarantee.
- D. Diaries will be placed on all files in order to obtain the information necessary to make a compensability determination within fourteen (14) business days from Contractor's receipt of the claim.
- E. Adjusters will secure recorded interviews on all claims that require thorough background information. This includes but is not limited to: claims involving pre-existing or underlying conditions, claims involving injuries that require specialist referral, injuries that are under investigation for any reason, and injuries that require detailed information regarding negligent third parties.
- F. Adjusters will immediately request all prior medical records on all claims that are being investigated for compensability and/or are suspected, within the first seven (7) days of the investigation, to potentially become lost time claims.
- G. Adjusters will prepare and communicate in writing, dates and amounts of any appropriate indemnity benefit payments per Arizona Revised Statute (A.R.S.) § 23-1062 to the appropriate City Human Resources Department Safety Section staff member within fourteen (14) calendar days from the date of file creation or the date of any employee's first day of lost time from work. The adjuster will utilize a payment method (check, voucher, or other form if requested) and procedures agreed upon by the City. Contractor must also



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- establish procedures for recovering, tracking and follow-up to ensure that indemnity and medical benefit overpayments or duplicate payments are recovered within thirty (30) days after Contractor has become aware of the discrepancies.
- H. At the time an adjuster communicates either verbally or in writing to City Human Resources Department Safety Section staff that industrial time is either not approved or is denied, the adjuster is required to call the affected employee directly and advise or leave a message with detailed information regarding the non-approval of industrial time. This contact will include the adjuster's contact information as well as an invitation to the employee to call with any questions they may have. This telephonic contact must then be followed up with a letter sent via certified mail to the employee within one (1) business day referencing the date of the telephonic message and its contents, along with an invitation to contact the adjuster with any questions or concerns. This item is subject to penalty as outlined in the performance guarantees.
  - I. Adjusters will initiate all appropriate medical payments within thirty (30) days of receipt per A.R.S. § 23-1062.01. Contractor will utilize a payment method (check, voucher, or other form if requested) and procedures agreed upon by the City. If a bill is received by Contractor and not paid within thirty (30) days of receipt by Contractor, Contractor shall incur and pay at its sole cost any and all late charges, interest, fees, penalties and fines, and shall defend, indemnify, and hold harmless the City, its elected or appointed officials, agents, servants, and employees against any liability for nonpayment of said bill. This requirement is subject to performance guarantees.
  - J. Adjusters will meet with and notify, via e-mail, the Human Resources Department Safety Section staff within one (1) business day upon receiving notice that an injured worker has been released to any form of light duty.
  - K. The adjusters will review each file to ensure that ICA notification has been received by the 30th day following receipt of a claim. If the adjuster notes that no ICA notification has been received on the 30th day following receipt of a new claim, the adjuster will supply a copy of the completed ICA Form 407 from the claim file to the Industrial Commission. This action will then be documented in the claim notes on the date the ICA Form 407 was copied to the Commission.
  - L. Adjusters will not issue any Notices to the Industrial Commission until the ICA Claim Number has been received.
  - M. Adjusters will contact the City no later than seven (7) calendar days prior to a potential claim denial due to the expiration of a 21-day notice from the Commission. The adjuster will work with City Human Resources Department Safety Section staff in that seven (7)-day period to gather any and all information possible to make a fair determination of compensability for every claim before the due date for the determination.



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- N. All calls from medical providers requesting first-fill prescription authorizations, physical therapy authorizations, or medical diagnostics authorizations for treatment being provided to a City employee under a new injury claim prior to the establishment of a claim file at Contractor's office will be routed to Contractor's Supervisor. The Supervisor will then:
1. Obtain the employee information from the provider.
  2. Contact City Human Resources Safety Section staff for verification that the injured worker is a City of Phoenix employee with a new work-related injury.
  3. At the Supervisor's discretion based on the information obtained, the adjuster will call the provider back and authorize the first fill prescription and medical diagnostics as needed, and up to the first three (3) visits of physical therapy on an investigative basis pending Contractor's receipt of the claim from the City.
- O. Upon acceptance of any previously denied claim or previously denied Petition to Reopen, adjusters will make immediate direct contact both by telephone and in writing with all associated medical providers who rendered medical services to a City of Phoenix employee during the period when the industrial claim or the active treatment was denied. All medical bills associated with payments that were processed through the employee's personal health plan must be immediately solicited by the adjuster and paid on the workers' compensation claim so that the employee's personal health plan can be reimbursed by the medical provider.
- P. The adjuster will notify the City Human Resources Department Safety Section staff in writing of any recommendations for initial reserve or subsequent reserve increase that is in combined excess of \$50,000. The reserve increase request will be accompanied with a written outline of the adjuster's evaluation of the claim and justification for the reserve increase. Reserves on indemnity medical claims will be reviewed no less than every ninety (90) days by the adjuster.
- Q. Adjusters are required to appropriately classify and dispose of claims with exposure to bodily fluids, airborne pathogens, and/or chemical exposures with the Industrial Commission, i.e., determine whether the exposure is with or without injury and issue the Notice of Claim Status.
- R. Adjusters will comply with all federal and state laws as well as all City written guidelines regarding employee privacy/confidentiality. The City requires that the personal-identifying information of all City employees be protected from unnecessary public disclosure. City employee identification numbers will be provided and are to be utilized on all correspondence. City employee identification numbers must be entered into the claim system within seven (7) days of receipt by Contractor.



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- S. Due to confidentiality concerns, the City reserves the right to direct how claims will be reported to the Index Bureau.
- T. At no time will any City employee's Social Security Number (**SSN**) be published on any correspondence. This includes all notices issued to the Industrial Commission of Arizona. When claim information is requested by an outside party and prior to publication of that information, Contractor is responsible for ensuring that all personal identifying information of the employee is redacted, including all references to: **SSN**, employee identification number, date of birth, home address, and all personal phone numbers. This requirement is subject to performance guarantees.
- U. All referrals to defense counsel shall be discussed with and approved in writing by the City Human Resource Department Safety Section staff prior to assignment.
- V. All referrals for Independent Medical Examinations (IMEs) will be discussed with and approved in writing by the City Human Resources Department Safety Section staff prior to assignment. The written request will include the name of the Independent Medical Examiner (IME) company to be assigned and the IME physician to be utilized prior to assignment. Any change in IME physician must be communicated to and approved in writing by City Human Resources Department Safety staff.
- W. All referrals to nurse case management will be discussed with City Human Resources Department Safety Section staff and approved in writing prior to assignment.
- X. All referrals for surveillance investigations will be discussed with City Human Resources Department Safety Section staff and approved in writing prior to assignment.
- Y. The adjuster will copy City Human Resources Department Safety Section staff on all correspondence between Contractor and defense counsel and on all IME reports. The City Human Resources Department Safety Section staff reserves the right to be copied on any medical reports, nurse case management reports, subrogation correspondence, investigative reports, and video surveillance upon specific request.
- Z. Adjusters or a designated representative for Contractor will immediately notify City Human Resources Department Safety Section staff upon receipt of any Worker's and Physician's Report of Injury (ICA Form 102) for which there is no corresponding Employer's First Report of Injury (ICA Form 101). No denial is to be issued on a City claim due solely to the absence of a completed Employer's First Report of Injury without the written approval of City Human Resources Department Safety Section staff.
- AA. Adjusters are required to consult with City Human Resources Department Safety Section staff and to work directly with the injured worker and Copperpoint in assisting the injured worker with the reopening process when denials are being recommended because the injured worker has a prior



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- industrial claim with the City through Copperpoint or the State Compensation Fund.
- BB. Prior to mailing any denial, the adjuster will contact and personally advise or attempt to personally advise the employee (by leaving a voicemail message if unable to reach the employee directly) that a denial of their industrial claim is being issued. This message will include an invitation to the employee to call the adjuster back with any concerns or questions they have regarding the claim denial. The injured worker must be provided a contact number that will be answered by a live person during regular business hours.
- CC. If necessary, adjusters will respond to specific claim inquiries from the City Human Resources Department Safety Section staff verbally within four (4) hours and provide a written status report within one (1) week of such a request.
- DD. Immediately upon receipt of a new claim, all adjusters handling City injury claims will review the claim for determination of possible relief from third parties, including charges under the provisions pertaining to handicapped employees and second injury funds. Contractor will identify and place negligent third parties on notice of a workers' compensation lien within the first thirty (30) days after receipt of the new claim. Employee notification of a lien will be issued on the acceptance of claim date. This requirement is subject to a performance guarantees.
- EE. Upon receipt of a new claim, all adjusters will actively initiate the process of identifying possible responsible third parties, including but not limited to auto liability insured. The adjusters will also conduct immediate verification of liability subrogation investigations involving general liability, premises liability, and product liability coverage and pursue third party recoveries in all cases unless the City agrees in writing that the pursuit is not cost-effective. These investigations will include verifying immediately if the injured worker filed an Incident Report or in any way placed the other party on notice at the time of the incident and advise the City of same.
- FF. Upon receipt of a claim arising from a crime, all adjusters will seek restitution through the criminal court system to protect the City's recovery rights in criminal cases and will immediately identify responsible criminal suspects through contact with the injured worker. The adjuster will place the appropriate criminal court representative on notice of the City's interest in seeking restitution judgments against responsible criminal third parties. The adjuster will maintain contact with the criminal court representative and provide updates to the criminal court as requested by the representative.
- GG. The City does not agree to any assumed levels of lien reduction to third parties or their attorneys. All requests for third party settlements or for reductions in the City's workers' compensation lien from attorneys representing City of Phoenix employees in bodily injury claims against third parties must be placed in writing by the third party attorney and addressed to



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- both Contractor and the City Human Resources Department Safety Section staff before any lien reduction will be considered.
- HH. The adjuster will require third parties to complete the Arizona State "Approval of Settlement Form" when requesting a compromise of a City lien. All third party settlements must be approved by the City Human Resources Department Safety Section staff in writing prior to disbursement of funds.
- II. The adjuster will notify the City immediately of any third party claim denied by the adverse party or adverse carrier. The adjuster will not abandon subrogation without the written approval of City Human Resources Department Safety Section staff.
- JJ. Contractor's Supervisor shall conduct file reviews on all open active claims on at least a quarterly basis. All supportive care awards (SCA) shall be reviewed by the Supervisor every six (6) months.
- KK. Contractor's Supervisor's reviews will include meaningful, claim-specific written recommendations to the adjuster for future handling, including management and disposition of the claim. The claim notes will reflect the adjuster's immediate response to the supervisor's recommendations. The supervisor's diary will be re-set at appropriate intervals to oversee the adjuster's responsiveness and adherence to the recommendations made.
- LL. In the event of a catastrophic injury/claim, at the direction of the City Human Resources Safety Section staff, a field investigator will be sent to the site immediately to conduct an investigation. The adjuster will then participate in a conference call with all interested City personnel.
- MM. The adjuster will include with the employee's copy of the Closing Notices a copy of the City's "How Are We Doing?" survey to be completed by the employee and returned directly to the City Human Resources Department Safety Section.
- NN. Contractor will notify the City Human Resources Department Safety Section staff of any pending hearing, trials, or settlement conferences.
- OO. Contractor will send written notice within one (1) business day to an employee via certified mail when the adjuster assigned to their claim changes. This communication will include the name and contact information for the new adjuster.

### **5. ADDITIONAL CLAIMS ADMINISTRATION REQUIREMENTS**

- A. The City retains the right to exclude all ancillary providers recommended by Contractor and to agree or disagree with ancillary services recommended by Contractor, including but not limited to: pharmacy programs, durable medical equipment providers, IME companies, defense attorneys, and surveillance companies.
- B. If the Contract is awarded under a per claim charge, Contractor will only charge a specified Per Incident rate for First Aid Only claims. This same rate will apply to all Exposure Claims that have no associated injury (i.e., saliva,



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- incidental contact with blood-borne pathogens, or airborne contaminants).
- C. The City requires Contractor to report all City claims that fall within the federal reporting guidelines to the Centers for Medicare and Medicaid Services (CMS) as required by the Medicare Secondary Payer (MSP) Act of 2007, effective July 1, 2009.
  - D. Contractor is responsible for immediately communicating in writing the amount and requirements of the Medicare Set-Aside (MSA) to the City Human Resources Department Section Safety staff in the event that a claim reported to CMS requires that one be established.
  - E. Contractor will utilize and disclose to the City a specified payment code that Contractor would utilize for payment from Contractor's funds for any statutory penalties assessed to the City as a result of Contractor's failure to comply with any local, state or federal statute.
  - F. Contractor will provide claim forms for the reporting of all occupational incidents, injuries, and diseases to the proper state regulatory agency and recommend procedures for prompt reporting.
  - G. Contractor will prepare and submit to the Industrial Commission of Arizona and other such regulatory agencies all required forms relating to workers' compensation claims.
  - H. Contractor will maintain complete records (hard copy and computerized) on all reported claims on behalf of and as custodian for the City.
  - I. At no additional cost to the City, Contractor will provide real-time access to claims data and provide the City with the means and training to create specific real time loss reports.
  - J. At no additional cost to the City, Contractor will work in conjunction with the City to streamline processes and create efficiencies where possible, including process improvement in case management, technological efficiencies, and recordkeeping.
  - K. When an employee with an existing open claim sustains a new injury, Contractor will assign the new injury claim to the adjuster handling the existing open claim(s).
  - L. Contractor will recommend attorneys to assist in any case where legal representation is desired and will consult with and furnish available claim information to any attorney chosen. The City will make final selection of attorneys.
  - M. At no additional cost to the City, Contractor will be responsible for sending a representative as required by the various criminal and/or civil court systems to present lien documentation and testify if required on behalf of the City in all cases where the restitution lien being sought is greater than \$1000.
  - N. Contractor will report appropriate losses and details therein to the City's excess insurance carrier. The City will be copied on all correspondence between Contractor and the excess insurance carrier.
  - O. Contractor will meet quarterly with the City's designee(s) to review all open



## SECTION II – PROFESSIONAL SERVICES CONSULTING AGREEMENT

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- indemnity claims, and to discuss estimated liabilities and claim management strategies.
- P. Contractor will meet annually with the City's designee(s) to review the reserve amounts posted on all claims that exceed \$50,000.
  - Q. Contractor will cooperate with and make information available to City auditors, regulating agencies, or other designees upon request.
  - R. Contractor will consult with the City on matters pertaining to self-insurance as deemed necessary by the City.
  - S. If requested, Contractor will assist in the preparation and filing of self-insurance reports and forms required by the Industrial Commission of Arizona and any other regulatory agency.
  - T. At no additional cost to the City and if requested, Contractor will attend City Council meetings to provide information about the status of claims.
  - U. Contractor will ensure that any Acknowledgement of Summons and Complaint is immediately sent to the City Human Resources Department Safety Section staff.
  - V. Contractor will discuss all proposed claim settlements with the City Human Resources Department Safety Section staff prior to settlement. Workers' Compensation settlements will be defined as negotiated payments other than statutory medical and indemnity payments that result in the closing of the claim.
  - W. Contractor agrees that in the event of the termination of the Contract, Contractor will continue to provide ministerial services and administer any open claims provided that the City continues to make adequate funds available for the payment of such claims and the parties negotiate and agree to an additional fee for this service.
  - X. Upon termination of the contract and if requested by the City, Contractor must provide the City with complete and accurate electronic claims information, actual physical files of City claims in a format requested by the City, and any other claims information requested.
  - Y. Contractor shall provide the City's Bill Review Contractor with an electronic copy of original bills for review and evaluation. It is the responsibility of the Bill Review Contractor to arrange for the pick-up and return of bills and related documentation in a manner and frequency that is acceptable to the City. Contractor shall work cooperatively with the Bill Review Contractor to ensure that bills are paid timely and accurately.
  - Z. Subcontracting services under this RFP is not allowed without the express written approval of City Human Resources Department Safety Section staff. Contractor may be authorized to use special consultants to provide technical services such as Independent Medical Examinations with the express approval of the City. Special consultant expenses that are authorized in writing prior to expenditure will be paid in addition to the per claimant adjustment fee.
  - AA. Contractor shall adhere to the City's core mission and values which can be





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found on the City's website at:

<https://www.phoenix.gov/citymanager/vision-and-values>

### 6. REPORTING REQUIREMENTS

- A. At no additional cost, Contractor will provide an annual fiscal year (July 1 - June 30) electronic report in a City specified format by September 1 of each year. The report must outline: significant claim trends and developments observed during the fiscal year; suggestions for mitigating the adverse impact of the trends and developments; the effectiveness and cost of Contractor-provided or subcontracted managed care contracts; and proposals for renewing the contracts with the City.
- B. On a monthly basis and at no additional cost, Contractor will provide the City with an electronic report of the City's current claims data. The report will be in a City-specified format that allows City staff to manipulate the data and will include: claim number, City-issued employee identification number, employee's department and division name and number, employee's last name, employee's first name, date of injury, date of claim acceptance, adjuster name, claim type, and claim status. This information must be presented for the previous two-month period. Parameters that are not met are subject to performance guarantees.
- C. On a monthly basis and at no additional cost, Contractor will provide the City with an electronic report in a City specified format that includes: a listing of all independent medical examinations completed in the previous thirty (30) day period, the name of the IME company, the name of the person who scheduled the IME, the name of the practitioner who performed the IME, the employee's name, the employee's City-issued identification number, the employee's department name and number, and the name of the adjuster.

### 7. PERFORMANCE GUARANTEES/PENALTIES

- A. Contractor will timely report all qualifying City claims to the Centers for Medicare and Medicaid Services (CMS) in accordance with the guidelines of the Medicare Secondary Payer (MSP) Law. In the event that Contractor fails to do so, and the City is fined as a result, Contractor will be solely responsible for reimbursing the City for the entire cost of associated fines/penalties assessed to the City.
- B. The City will assess a \$200 per instance charge-back to Contractor's monthly statement for any City claim that Contractor denies due to exposure but which also had/has an associated injury (i.e., needlestick, human bite, etc.).
- C. The City will assess a \$200 per instance charge-back to Contractor's monthly statement for any claim that is denied by Contractor solely because Contractor did not receive the Employer's Report of injury (form 101) prior to the due date for ICA notification.



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- D. The City will assess a \$5,000 per instance charge-back to Contractor's monthly statement each time an employee's personal identifying information (PII) is published in writing or is not properly redacted from documents Contractor supplies to any outside source. Additionally, Contractor will be responsible for providing one year of credit monitoring service free of charge for any City employee whose PII is released by Contractor.
- E. If Contractor fails to inform the City that an injured worker sustained time loss from work in excess of seven (7) days, the City will calculate and assess Contractor a per-day penalty equal to 10% of the injured worker's daily industrial compensation rate for each day of lost time after the 14th day. (Note: This will include employees placed on alternate duty status when Contractor did not notify the City in writing of the injured worker's availability for light work assignment.) The City will subtract this calculated penalty from Contractor's monthly statement to the City.
- F. If an adjuster fails to timely notify an employee verbally or in writing of a denial or delay of industrial compensation, and if the City is required to pay compensation solely because the adjuster did not communicate with the employee in a timely manner, the amount of the compensation approved (that would not otherwise have been due to the employee) will be deducted from Contractor's monthly invoice.
- G. If a bill is received by Contractor and not paid per the requirements of A.R.S. § 23- 1062.01, Contractor shall pay at its sole cost any and all late charges, interest, fees, penalties, and fines and shall defend, indemnify, and hold harmless the City, its elected or appointed officials, agents, servants, and employees against any liability for nonpayment of said bill.
- H. If Contractor fails to obtain prior written approval of City Human Resources Department Safety staff and agrees to reduce a City lien or agrees to accept or process a payment from: 1) the third party, 2) the third party insurer, or 3) the third party attorney, Contractor will repay at its sole cost the amount of the reduction to the City within thirty (30) days. If payment is not received within thirty (30) days, a 10% fee will be assessed to the reduction amount for each additional thirty (30) day period until the reduction is repaid.
- I. On a monthly basis and at no additional cost, Contractor will provide the City with an electronic report of the City's current claims data as referenced in paragraph 6(B). If required parameters are not met, a \$1,000 fee will be deducted from Contractor's monthly invoice for each instance per line item of unmet criteria.
- J. If Contractor fails to maintain a sufficient number of on-site adjusters to maintain a caseload of 150 active claims and 300 supportive care claims, and a sufficient number of assistants for all claims as deemed necessary to perform services required in the Contract, a \$500 fee will be assessed for each file in excess of the caseload requirements. At the discretion of the City, Human Resources Safety Section staff or City Audit Staff will take a random



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screen shot picture of adjuster caseloads to verify compliance..

- K. If Contractor fails to identify and notify negligent third parties of a Workers' Compensation lien within the first thirty (30) days after receipt of the new claim or fails to issue injured worker notification of the lien on the acceptance of claim date, a \$500 fee will be assessed for each instance when notification was not provided. An additional \$1,000 fee will be assessed for each additional thirty (30) day period of non-notification.

NOTE: City of Phoenix reserves the right to waive or enforce all performance guarantees/penalties at their sole discretion.

### 8. TECHNOLOGY / CLOUD APPLICATIONS

- A. Contractor shall make all data available to the City via an SFTP site established during implementation. In addition, all schemata and file definitions shall be made available to the City upon request.
- B. Contractor shall communicate through HIPAA-compliant electronic sites to exchange data between itself and any other required vendor as requested by the City and at no additional cost.
- C. Contractor shall provide claim system functionality to send/receive file transmission from the City's PeopleSoft Human Resources Information System. See Attachment B File Format. The City will approve any template deviations after contract award.
- D. Contractor shall provide claim system functionality that shows individual medical bill payment and bill review fees matched together on the claim payment screen.

### 9. TRANSITION AND IMPLEMENTATION SERVICES

- A. Contractor shall begin the implementation process within ten (10) business days of Contract award.
- B. Contractor shall submit an implementation plan which shall include a detailed transition of claims. The plan must prioritize the transition of active claims that are receiving Temporary Partial Disability (TPD), Total Temporary Disability (TTD) or Permanent Partial Disability (PPD) – Compensation benefits first, followed by all remaining claims that are open for medical treatment, followed by closed claims.
- C. Contractor shall facilitate and accept the transfer of all claims as requested by the City. The City estimates approximately 35,000 claims total. This includes approximately 2,200 open claims and 33,000 closed claims.



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- D. A designated transition and implementation manager shall support the City through completion of the implementation process and for a minimum of forty-five (45) calendar days after the implementation effective date of July 1, 2022. Such support includes but is not limited to: weekly calls with the City and the designated account management team, maintenance of issue tracking logs, and issue resolution. This support must be provided as part of the base administrative fees with no additional cost to the City.
- E. Contractor shall provide any necessary information, including records, data, or documentation related to transition when a member moves from one Contractor's plan to another, and upon termination of this Agreement.
- F. Contractor shall have a procedure which describes how your firm would administer and close claims that remain with your firm if/when your firm is replaced by another firm.



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**EXHIBIT B – FEE SCHEDULE**

**Most Favored Nations:** If Contractor enters (or has previously entered) any written agreement that has the effect of establishing a fee schedule benefitting another client with a similarly sized and risked employee pool in a manner more favorable in any material respect to the Fee Schedule set forth herein, Contractor shall furnish to the City, as soon as reasonably practicable, a compendium containing the more favorable fee schedule (an “Election Notice”). The City may elect to receive the more favorable fee schedule set forth in such Election Notice that is reasonably applicable to the City upon written notice to the Contractor within thirty (30) days of receipt of a copy of such Election Notice.

**All-Inclusive Price**

Pricing shall be all-inclusive, including any ancillary fees and costs required to accomplish the Scope of Work and all aspects of the Contractor’s offer as accepted by the City. Details of service not explicitly stated in the Scope of Work or in Contractor’s Offer, but necessarily a part of them are deemed to be understood by Contractor and included herein. All administrative, reporting, or other requirements, all overhead costs and profit and any other costs toward the accomplishment of the requirements in the Agreement are included in the pricing provided.

<b>1. Annual Rate for all TPA Services – Per Fiscal Year (July 1 through June 30)</b>				
<b>FY 2022-2023</b>	<b>FY 2023-2024</b>	<b>FY 2024-2025</b>	<b>FY 2025-2026</b>	<b>FY 2026-2027</b>
\$	\$	\$	\$	\$
<b>Total Cost</b> (Sum of all 5 years)			\$ _____	
<b>2. Claim Transfer Fees</b>				
<ul style="list-style-type: none"> <li>- Please provide the fixed price to transfer all existing claims. The City estimates approximately 35,000 claims (see paragraph 9C.</li> <li>- This is a one time cost which applies only to the 1<sup>st</sup> Contract Year (FY 2022-2023)</li> </ul>			\$ _____	
<b>Grand Total</b> (Sum of items 1 and 2)			\$ _____	



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**Other Fees**

This section identifies additional services which may be provided during the term of the agreement. Please provide a price for each corresponding item listed in the "Description" column. This list is not all inclusive. Please provide additional services and the price, as applicable.

DESCRIPTION	PRICE
Pharmacy Benefit Program	_____ % of savings
Claims Intake Reporting	\$ ____ per report by email, phone, or fax (no charge for online reporting)
OSHA Reporting Module	\$ _____ annual fee
Field Investigation	\$ _____ HR (T&E charged as ALE to claim file)
Index Bureau	\$ _____ per index
MMSEA Section III Reporting	\$ _____ eligible claim, one-time fee
Carrier Fees	If applicable, City will be responsible for payment of any carrier fees associated with the transition of claim handling responsibilities.
<b><u>Additional Services:</u></b> Identify any other fees not already included, but which are required by the scope of work.	
DESCRIPTION	PRICE
1.	
2.	
3.	
4.	
5.	



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**EXHIBIT C - INDEMNIFICATION & INSURANCE REQUIREMENTS**

**1. DEFENSE & INDEMNIFICATION:**

Contractor (“Indemnitor”) must defend, indemnify, and hold harmless the City of Phoenix and its officers, officials (elected or appointed), agents, and employees (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever (“Losses”) caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees or subcontracts (“Indemnitor’s Agents”) arising out of or in connection with this Contract. This defense and indemnity obligation includes holding Indemnitee harmless for any Losses or other amount arising out of or recovered under any state’s Workers’ Compensation Law or arising out of the failure of Indemnitor or Indemnitor’s Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Indemnitor’s duty to defend Indemnitee accrues immediately at the time a claim is threatened or a claim is made against Indemnitee, whichever is first. Indemnitor’s duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnitee from and against any and all Losses, except where it is proven that those Losses are solely as a result of Indemnitee’s own negligent or willful acts or omissions. Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Contract, Indemnitor agrees to waive all rights of subrogation against Indemnitee for losses arising from or related to any work performed by Indemnitor or Indemnitor’s Agents for the City of Phoenix. The obligations of Indemnitor under this provision survive the termination or expiration of this Contract.

**2. CONTRACTOR’S INSURANCE:**

Contractor and subcontracts must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subcontracts. Contractor and subcontracts must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract.

The City in no way warrants that the limits stated in this section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontracts and Contractor may purchase additional insurance as they determine necessary.



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**2.1 SCOPE AND LIMITS OF INSURANCE:** Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the liability limits provided that (1) the coverage is written on a “following form” basis, and (2) all terms under each line of coverage below are met.

### 2.1.1 Commercial General Liability – Occurrence Form

General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000

- The policy must name the City of Phoenix as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Contract.
- There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Phoenix as an additional insured.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor’s insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

### 2.1.2 Automobile Liability

Bodily Injury and Property Damage coverage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$1,000,000
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- The policy must be endorsed to include the City of Phoenix as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.





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- The Contractor’s insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

**2.1.3 Worker’s Compensation and Employers’ Liability**

Workers’ Compensation Statutory Employers’ Liability:

Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- Policy must contain a waiver of subrogation against the City of Phoenix.
- This requirement does not apply when a contractor or subcontract is exempt under A.R.S. § 23-902(E), **AND** when such contractor or subcontract executes the appropriate sole proprietor waiver form.

**2.1.4 Professional Liability (Errors and Omissions Liability)**

Each Claim	\$1,000,000
Annual Aggregate	\$1,000,000

- The policy must cover liability arising from the failure to meet the professional standards required or expected in the delivery of those services as defined in the Scope of Services of this Contract.
- Contractor warrants that any retroactive date under the policy must precede the effective date of this Contract; and that either continuous coverage will be maintained, or an extended reporting period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

**2.1.5 Network Security and Privacy Liability (required if Contractor has access to personal or confidential data.)**

Each Claim	\$1,000,000
Annual Aggregate	\$1,000,000

- Policy must cover (1) third party claims and losses with respect to network risk and invasion of privacy (2) crisis management and third party identity theft response costs and (3) cyber extortion.
- Contractor warrants that any retroactive date under the policy must precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended reporting period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.



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**2.2 NOTICE OF CANCELLATION:** For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to **Margie Vasquez, Human Resources Department, 251 W Washington Street, 7th Floor, Phoenix, AZ 85003** or **Margie.Vasquez@phoenix.gov**.

**2.3 ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Arizona and with an “A.M. Best” rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

**2.4 VERIFICATION OF COVERAGE:** Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract must be sent directly to **Margie Vasquez, Human Resources Department, 251 W Washington Street, 7th Floor, Phoenix, AZ 85003**. The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to review complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY’S RISK MANAGEMENT DIVISION.**

**2.5 SUBCONTRACTS:** Contractor’s certificates shall include all subcontracts as additional insureds under its policies **OR** Contractor shall be responsible for ensuring and verifying that all subcontracts have valid and collectable insurance. At any time throughout the life of the contract, the City of Phoenix reserves the right to require proof from the Contractor that its subcontracts have insurance coverage. All subcontracts providing services included under this Contract’s Scope of Services are subject to the insurance coverages identified above and must include the City of Phoenix as an additional insured. In certain circumstances, the Contractor may, on behalf of its subcontracts, waive a



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specific type of coverage or limit of liability where appropriate to the type of work being performed under the subcontract. Contractor assumes liability for all subcontracts with respect to this Contract.

- 2.6 APPROVAL:** Any modification or variation from the insurance coverages and conditions in this Contract must be documented by an executed contract amendment.



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**EXHIBIT D - CONTRACTOR'S INSURANCE CERTIFICATE**

Contractor's Insurance Certificate



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### EXHIBIT E - SUPPLEMENTAL TERMS AND CONDITIONS

#### 1. NON-ASSIGNABILITY:

- 1.1 This Agreement is in the nature of a personal services agreement and Contractor shall have no power to assign its rights and obligations under this Agreement without the prior written consent of the City. Any attempt to assign without such prior written consent shall be void.
- 1.2 Contractor shall assign experienced personnel capable of and devoted to the successful accomplishment of the services outlined in this solicitation and resulting contract. These specific individuals shall be assigned as key positions.
- 1.3 The resulting contract is predicated, in part and among other considerations, on the utilization of the specific individual(s) and/or personnel qualification(s) identified and/or described in Contractor's Offer. Therefore, no substitution of such specified individuals and/or personnel shall be made without prior written approval of the City.
- 1.4 Key personnel changes: Proposed substitution of personnel under this contract shall be of equal experience and/or shall exceed the current incumbent's experience and qualifications.
  - 1.4.1 **Resume:** Provide a resume of the proposed personnel. Include relevant experience and qualifications specific to the services outlined in this solicitation and resulting contract.
  - 1.4.2 **Organization chart:** Provide a revised organizational chart to the City.
- 1.5 **Notice to City:** The City requires an advance notice of fourteen (14) calendar days for all key personnel changes. For immediate staff changes where this timeframe is not possible, Contractor shall notify the City of staff changes immediately, or no later than forty-eight (48) hours after Contractor is notified by their staff.
- 1.6 **City's Review:** The City will review the proposed staff member's resume and determine if the experience and qualifications is equal to and/or exceeds the current incumbent's experience and qualifications. The City will provide a written response to Contractor within ten (10) business days accepting or declining the proposed personnel. The City is the sole decision-maker of replacement personnel assigned to perform services under the Agreement.



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- 1.7 The City’s approval of a personnel substitution shall not be construed as an acceptance of the substitution’s performance potential. Contractor shall bear all transitional expenses incurred for any costs associated with removing or replacing Key Personnel who are performing work under the contract.**

**2. TITLE:**

All documents including but not limited to artwork, copy, posters, billboards, photographs, video tapes, audio tapes, systems designs, drawings, estimates, field notes, investigations, software, reports, diagrams, surveys, analyses, studies or any other original works of authorship created by Contractor in the performance of this Agreement are to be and remain “works for hire” under Title 17, United States Code, and the property of the City and all copyright ownership and authorship rights in the work(s) shall belong to the City pursuant to 17 U.S.C. § 201(b). In the event that the work(s) that is/are the subject matter of this Agreement is deemed to not be work for hire, then Contractor hereby assigns to the City all of the right, title and interest for the entire world in and to the work(s) and the copyright therein. Contractor agrees to cooperate and execute additional documents reasonably necessary to conform to its obligations under this paragraph.

All documents, together with all unused materials supplied by the City, are to be delivered to the City upon termination of this Agreement before the final payment is made to Contractor.

**3. CONTRACT WORKER ACCESS CONTROLS, BADGE AND KEY ACCESS REQUIREMENT:**

**3.1 Contractor and Subcontract Workers Background Screening:** Contractor agrees that all Contractor and subcontracts’ workers (collectively “Contract Worker(s)”) pursuant to this Agreement will be subject to background and security checks and screening (collectively “Background Screening”) at Contractor’s sole cost and expense, unless otherwise provided for in the scope of work. Contractor’s background screening will comply with all applicable laws, rules and regulations. Contractor further agrees that the background screening is necessary to preserve and protect the public health, safety and welfare.

- The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.

**3.2 Background Screening Risk Level:** The City has established two levels of risk: Standard and Maximum risk. If the scope of work changes, the City may amend the level of risk, which could require the Contractor to incur additional contract costs to obtain background screens or badges. The current risk level



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and background screening required for this Agreement is **STANDARD RISK LEVEL**.

- 3.3 Standard Risk Level:** A standard risk background screening will be performed when the Contract Worker's work assignment will:
- require a badge or key for access to City facilities; or
  - allow any access to sensitive, confidential records, personal identifying information or restricted City information; or
  - allow unescorted access to City facilities during normal and non-business hours.
- 3.4 Requirements:** The background screening for this standard risk level will include a background check for real identity/legal name, and will include felony and misdemeanor records from any county in the United States, the state of Arizona, plus any other jurisdiction where the Contractor worker has lived at any time in the preceding seven years from the Contract Worker's proposed date of hire.
- 3.5 Contractor Certification; City Approval of Background Screening:**
- 3.5.1** Unless otherwise provided for in the Scope, Contractor will be responsible for:
- determining whether Contract Worker(s) are disqualified from performing work for the City for standard risk level background checks; and,
  - reviewing the results of the background check every five years;
  - engaging in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
  - submitting the list of qualified Contract Workers to the contracting department.
- 3.5.2** For sole proprietors, the Contractor must comply with the background check for himself and any business partners, or members or employees who will assist on the contract and for whom the requirements of the Agreement apply.
- 3.5.3** By executing this agreement, Contractor certifies and warrants that Contractor has read the background screening requirements and criteria in this section, and that all background screening information furnished to the City is accurate and current. Also, by executing this agreement, Contractor further certifies and warrants that Contractor has satisfied all background screening requirements for the standard risk background screening, and verified legal worker status, as required.



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- 3.6 Terms of This Section Applicable to all Contractor’s Contracts and Subcontracts:** Contractor will include Contract Worker background screening in all contracts and subcontracts for services furnished under this agreement.
- 3.7 Materiality of Background Screening Requirements; Indemnity:** The background screening requirements are material to City’s entry into this agreement and any breach of these provisions will be deemed a material breach of this contract. In addition to the indemnity provisions set forth in this agreement, Contractor will defend, indemnify and hold harmless the City for all claims arising out of this background screening section including, but not limited to, the disqualifications of a Contract Worker by Contractor. The background screening requirements are the minimum requirements for the Agreement. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of the Contractor’s services under this Agreement or Contractor’s failure to comply with this section. Therefore, Contractor and its Contract Workers will take any reasonable, prudent and necessary measures to preserve and protect public health, safety and welfare when providing services under this Agreement.
- 3.8 Continuing Duty; Audit:** Contractor’s obligations and requirements will continue throughout the entire term of this Agreement. Contractor will maintain all records and documents related to all background screenings and the City reserves the right to audit Contractor’s records.
- 3.9 Contractor’s Default; Liquidated Damages; Reservation of Remedies for Material Breach:** If Contractor is required to access any City facilities without an escort, City badging is required. Contractor’s default under this section will include, but is not limited to, the following:
- 3.9.1** Contract Worker gains access to a City facility(s) without the proper badge or key;
  - 3.9.2** Contract Worker uses a badge or key of another to gain access to a City facility;
  - 3.9.3** Contract Worker commences services under this agreement without the proper badge, key or background screening;
  - 3.9.4** Contract Worker or Contractor submits false information or negligently submits wrong information to the City to obtain a badge, key or applicable background screening; or
  - 3.9.5** Contractor fails to collect and timely return Contract Worker’s badge or key upon termination of Contract Worker’s employment, reassignment of Contract Worker to another City facility or upon the expiration, cancellation or termination of this Agreement.
  - 3.9.6** Contractor acknowledges and agrees that the access control, badge and key requirements in this section are necessary to preserve and





## SECTION II – PROFESSIONAL SERVICES CONSULTING AGREEMENT

CITY OF PHOENIX

protect the public health, safety and welfare. Accordingly, Contractor agrees to properly cure any default under this section within three business days (excluding weekends and City holidays) from the date notice of default is sent by the City. The parties agree that Contractor's failure to properly cure any default under this section will constitute a breach of this section. In addition to any other remedy available to the City at law or in equity, the Contractor will be liable for and pay to the City the sum of \$1,000.00 for each breach by Contractor in this section. The parties further agree that the sum fixed above is reasonable and approximates the actual or anticipated loss to the City at the time and making of this agreement if Contractor breaches this section. Further, the parties expressly acknowledge and agree to the fixed sum set forth above because of the difficulty of proving the City's actual damages if Contractor breaches this section. The parties further agree that three breaches by Contractor in this section arising out of any default within a consecutive period of three months or three breaches by Contractor in this section arising out of the same default within a period of 12 consecutive months will constitute a material breach of this agreement by Contractor and the City expressly reserves all of its rights, remedies and interests under this agreement, at law and in equity including, but not limited to, termination of this agreement.

### **3.10 Employee Identification and Access:**

- 3.10.1** Contract Workers are forbidden access to designated restricted areas. Access to each building will be as directed by the authorized Phoenix authorized representative. Contract Workers are not authorized access other than during scheduled hours. Access to the building will be directed by the City's authorized representative.
- 3.10.2** Only authorized Contract Workers are allowed on the premises of the City facilities/buildings. Contract Workers are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contract Worker.
- 3.10.3** Unless otherwise provided for in the scope of work:
- Contract Workers must **always** have city issued badges and some form of verifiable company identification (badge, uniform, employee id).
  - Contractor will supply a list of the names and titles of all employees requiring access to the buildings. It is the Contractor's responsibility to provide updates and changes of personnel as necessary.



**SECTION II – PROFESSIONAL SERVICES  
CONSULTING AGREEMENT**

**CITY OF PHOENIX**

- 3.11 Key Access Procedures:** If the Contractor Worker's services require keyed access to enter a City facility(ies), a separate key issue/return form must be completed and submitted by the Contractor for each key issued. Contractor must submit the completed key issue/return form to the appropriate badging office.
- 3.12 Stolen or Lost Badges or Keys:** Contractor must immediately report lost or stolen badges or keys to the City's appropriate badging office. If the badge/key was stolen, Contract Worker's must report the theft to their local police department. Prior to issuance of a new badge or key, a new badge application or key issue form must be completed, submittal of a police department report for stolen badges, and applicable payment of the fee(s) listed herein.
- 3.13 Return of Badge or Key:** All badges and keys are the property of the City and must be returned to the City at the badging office within one business day (excluding weekends and City holidays) of when the Contract Worker's access to a City facility is no longer required to furnish the services under this agreement. Contractor will collect a Contract Worker's badge and key(s) upon the termination of the Contract Worker's employment; when the Contractor Worker's services are no longer required at a City facility(s); or upon termination, cancellation or expiration of this agreement.
- 3.14 Badge and Key Fees:** The following constitute the badge and key fees under this agreement. The City reserves the right to amend these fees upon a 30-day prior written notice to Contractor.

Replacement Badge Fee:	\$55.00	per badge
Lost/Stolen Badge Fee:	\$55.00	per badge
Replacement Key Fee:	\$55.00	per key
Replacement Locks:	\$55.00	per lock



**SECTION III – EVALUATION REQUIREMENTS**

**CITY OF PHOENIX**

**SECTION III – EVALUATION REQUIREMENTS**

**1. EVALUATION CRITERIA**

In accordance with the Administrative Regulation, 3.10, Competitive Sealed Proposal awards shall be made to the responsible Offeror(s) whose proposal is determined in writing to be the most advantageous to the City based upon the evaluation criteria listed below. The evaluation factors are listed in the relative order of importance.

Qualifications, Experience and References	250 POINTS
Method of Approach	450 POINTS
Pricing	300 POINTS
<b>TOTAL AVAILABLE POINTS:</b>	<b>1000 Maximum</b>

Offerors must submit the information in the same order as requested and must contain the following:

**PART 1 – TITLE PAGE**

The title page should include the title and number of the RFP, name and address of the Offeror(s), and the date of the proposal.

**PART 2 – COVER LETTER**

The cover letter will provide a brief history of the Offeror and its organization(s). An officer authorized to bind the Offeror to the terms and condition of this RFP must sign the cover letter transmitting the proposal. This letter will also contain statements confirming inclusion of all proposal submittal requirements.

**PART 3 – TABLE OF CONTENTS**

The Table of Contents shall include references for all sections and sub-sections within the Offer. Please include the corresponding page numbers.

**PART 4 – QUALIFICATIONS, EXPERIENCE AND REFERENCES**

Evaluation of qualifications, experience and references will be based on the Offeror’s demonstrated qualifications and experience in successfully completing similar projects to the satisfaction of their customers. Offeror must provide a narrative for each requirement and complete the attachments with corresponding information applicable to this section. Offeror is encouraged to provide attachments to their narrative responses, provided that the supplements clearly and concisely clarify responses to the specific requirement.



## SECTION III – EVALUATION REQUIREMENTS

CITY OF PHOENIX

### **Qualifications and Experience Narrative**

1. Describe overall project experience with other clients of similar scope and size.
2. Demonstrate the firm's experience with implementation and managing worker's compensation claims administration for both local and national customers (government agencies preferred but not required).
3. Describe firm's resources available for the project. For the two teams identified under the Org Chart section below, provide a resume/narrative for the key project staff assigned to this contract. Each resume/narrative shall clearly highlight staff's relevant experience, qualifications, education, and license(s) for the services outlined in this solicitation.
4. Describe experience in training staff (following Implementation and during the contract term).
5. Demonstrate the firm's capabilities, experience and expertise to manage the Worker's Compensation Program for the City in accordance with the provisions and requirements set forth herein. Describe your firm's multi-lingual capability.
  - a. Provide the staff name(s) who will serve as the City's primary point of contact during negotiations and during the contract period. Provide the name, title, telephone number, and email address.
  - b. Identify the customer service on-site resources.
  - c. Provide a list of subcontractors that will be used to provide the services outlined in the solicitation and describe the services contracted to other providers. Describe any agreements to pay commissions or other forms of compensation to those firms.
6. What job performance standards has your firm set for claim adjusters? How are they measured? What results are tracked each month, quarter, annually? Are the results shared with the adjusters and your firm's clients?
7. Would your firm be able or willing to alter performance standards at the City's request? Please indicate if yes or no.
8. Describe any internal adjuster incentive programs or bonus programs that your firm provides or makes available to staff (above the individual's salary) as appreciation for providing exemplary customer service to customers.
9. Supply a sample of your firm's computerized loss experience reports. Discuss the format, frequency and timing of such reports, their function, and the flexibility of the risk management information system your firm will use in preparing such reports. Samples and discussion should include both workers' compensation and incident reporting.
10. **Minimum Qualifications**

Demonstrate how your firm complies with all of the requirements as listed in Section I, paragraph 2 Minimum Qualifications (2.1 through 2.5). Provide a narrative and/or supporting documentation to demonstrate compliance with all items. Failure to demonstrate compliance with these items will disqualify your proposal from further evaluation.



## SECTION III – EVALUATION REQUIREMENTS

CITY OF PHOENIX

### 11. Organizational Charts

- a. Implementation Team – Outline the proposed Implementation Team members responsible for the implementation of this project and ongoing program improvements/changes going forward during this project phase.
- b. Account/Operations Management Team – Outline the proposed Account/Operations Management Team members responsible for providing key services throughout the term of the Agreement. Indicate who is the designated Account Manager.

### 12. Workflow Diagram

Contractor shall provide a copy of their "Best Practices" in the form of a workflow diagram outlining workers' compensation claims handling procedures, including administrative support, mailroom, intake, claims and medical management process, bill processing, and recoveries.

## PART 5 – METHOD OF APPROACH

Evaluation of Method of Approach will be based on the Offeror's demonstrated ability to meet the City's project requirements, project implementation plan, and project schedule to begin work quickly ensure that all services will begin by July 1, 2022.

The Offeror must address the following:

### 1. City's Project Requirements:

Provide a narrative describing the services you offer and your ability to comply with the City's requirements in *EXHIBIT A -- SCOPE OF WORK*, including a detailed description demonstrating your understanding of the requirements.

- a. Describe the procedures that your firm uses to ensure security of physical, medical privacy, electronic and fiscal records.
- b. Describe the record keeping procedures that your firm will utilize for all aspects of the administration of the City's program.

### Claim Eligibility and Processing

- c. Describe your intake process for new claims. Does your firm have a toll-free number for reporting claims? Is it staffed 24 hours a day, 365 days a year?
- d. Explain your firm's protocol for reviewing, determining eligibility, opening new files, denying a claim and settling a claim.
- e. What procedures are followed for handling questionable claims?
- f. Describe your procedures for making initial and follow-up contact with injured employees, including the time frames.
- g. Provide samples of correspondence / forms that would be provided to injured employees.
- h. Describe your firm's fraud unit, its policies, procedures and how it would communicate with the City.



## SECTION III – EVALUATION REQUIREMENTS

CITY OF PHOENIX

- i. Describe your firm's procedures and protocols to investigate injuries or circumstances.
  - j. Discuss your firm's standard ration for case closures as related to new and reopened claims. Provide an example utilizing twelve months of data from another client in the southwest similar to the City. Explain how your firm utilizes closure performance comparisons and the frequency of these comparisons. Explain other criteria used to determine the appropriateness of closing cases.
  - k. Describe your firm's internal audit function and how it works (number of claims audited, frequency of audits, auditor qualifications, documentation of audit, client involvement, published results, etc.)
2. Project Implementation Plan:  
Provide a detailed description of your Project Implementation Plan with a description of all critical milestones, including a project timeline/schedule and a proposed training plan. Clearly describe how you will ensure services will begin timely for the fiscal year effective July 1, 2022.
3. Project Schedule:  
Provide a detailed project schedule with includes at a minimum: major milestones, deliverables, project implementation, reporting, data migration (if applicable), and final acceptance.
- Note: The project schedule will be finalized following the contract award. The City reserves the right to make adjustments as deemed appropriate for a successful implementation.
4. Fiscal Practices:  
Describe the fiscal accounting practices and budgetary controls that your firm will use to ensure the responsible use and management of contract funds and accurate invoicing. Describe how costs incurred under this contract will be appropriately accounted for to ensure that only applicable contract services expenses will be billed to the City. State your firm's fiscal reporting and monitoring capabilities (i.e. spread sheets, automated fiscal reports, quality controls, checks and balances) to ensure that contract funds are managed responsibly. Describe the procedures that your firm will take to ensure that the City receives satisfactory products and services, striving to provide the best value at the lowest price.
5. Reserves:
- a. Describe your firm's procedure for setting reserves; including adjuster authority, supervisor authority, methodology, practices and philosophies.
  - b. Describe the frequency of claims reserve reviews and the mechanism to guarantee that timelines are observed.
  - c. Describe the process of the reserve reviews and who conducts them.



## SECTION III – EVALUATION REQUIREMENTS

CITY OF PHOENIX

6. Benefit Payments:

- a. Describe the procedures to be utilized for computation and timely payment of benefits, medical and hospitalization costs.
- b. The City has a program that provides injured employees with limited, supplemental pay during the time they are injured. How would your firm monitor and coordinate the supplemental pay with timely indemnity payments?

7. Adverse Actions/Potential Impact:

- a. Based on your firm's experience, briefly describe what issues, policies and procedures are important to ensure the success of a large municipality's worker's compensation program.
- b. Indicate whether your firm currently has any unpaid judgments or is involved in any litigation, threatened litigation, investigation, reorganization, receivership, strike, audit, corporate acquisition, or other action that could have an adverse impact on your firm's ability to comply with the requirements stated herein.
- c. Indicate if your firm has been unable to complete a contract, been removed from a contract, or been replaced during a contract period in the past five years. If so, explain what happened and why.

8. Technology Compliance:

Contractor must provide the following information relating to any "cloud" solution that hosts City data outside the City's network, or transmits and/or receives City data:

- a. Describe the compatibility of your firm's hardware and software with the PeopleSoft Human Resources Information System for data sharing and transfer. Identify any requirements needed for the City to have online access to claims.
- b. Indicate your ability to provide claim system functionality that shows individual medical bill payment and bill review fees matched together on the claim payment screen.
- c. Are your applications and information hosted by Amazon Web Services (AWS) or Microsoft Azure?
  - If so, indicate which one.
  - If not, who hosts your information and applications?
- d. If your host is not AWS or Microsoft Azure, does your host have a recent SSAE 18 or SOC2? If so, please provide a copy with your submittal.
- e. Please note, if an Offeror's data host does not have an acceptable SOC2 or SSAE 18, the Offerors in the competitive range will be required to participate in a Security Assessment with the City's IT department. See Attachment A –



## SECTION III – EVALUATION REQUIREMENTS

CITY OF PHOENIX

Security and Privacy Maturity Questionnaire. This requirement will apply only if hosted services are not provided by AWS or Microsoft Azure.

9. Legal:

- a. What defense firms or individual attorneys will be representing the City? How long has your firm been using the recommended attorneys, and how many attorneys are associated with the law firm?
- b. Describe the defense firm/attorney's participation on behalf of the City in workers' compensation hearings.
- c. Describe the procedure that your firm uses to manage the quality of work and costs of outside defense firms.
- d. What was your firm's average defense cost per indemnity/future medical claim with a date of injury between January 2017 and December 2020?

### **PART 6 - PRICING**

Offerors shall complete Exhibit B – Fee Schedule. The proposed pricing will be fixed for the entire term of the Agreement.

The proposed contract pricing shall be all-inclusive, including any ancillary fees and costs required to accomplish the Scope of Work and all aspects of the Contractor's offer as accepted by the City.





## SECTION IV – SUBMITTALS

CITY OF PHOENIX

### SECTION IV - SUBMITTALS

#### AFFIDAVIT

1. The undersigned Offeror hereby submits to the City of Phoenix (City) the enclosed proposal based upon all terms and conditions set forth in the City's Request for Proposals (RFP) and referenced materials. Offeror further specifically agrees hereby to provide services in the manner and on the terms and conditions set forth in the proposal submitted by the Offeror.
2. The undersigned Offeror acknowledges and states, under penalty of perjury, as follows:
  - 2.1 The City is relying on Offeror's submitted information and the representation that Offeror has the capability to successfully undertake and complete the responsibilities and obligations submitted in its proposal and in Agreement.
  - 2.2 The City has the right to make any further inquiry it deems appropriate to substantiate or supplement information supplied by Offeror.
  - 2.3 Offeror has read and fully understands all the provisions and conditions set forth in the RFP documents, upon which its proposal is based.
  - 2.4 The forms and information requested in the RFP are complete and made part of the proposal. The City is not responsible for any Offeror errors or omissions.
  - 2.5 This proposal may be withdrawn by requesting such withdrawal in writing at any time prior to the proposal deadline but may not be withdrawn after such date and time.
  - 2.6 The City reserves the right to reject any and all proposals and to accept the proposal that, in its judgment, will provide the best service to the City.
  - 2.7 This proposal is valid for a minimum of 120 days after the RFP proposal deadline.
  - 2.8 All costs incurred by Offeror in connection with this proposal shall be borne solely by Offeror. Under no circumstances shall the City be responsible for any costs associated with Offeror's proposal or the RFP process.
  - 2.9 Offeror has not in any manner, directly or indirectly, conspired with any person or party to unfairly compete or compromise the competitive nature of the RFP process.
  - 2.10 The contents of this proposal have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this proposal.
  - 2.11 To the best of the Offeror's knowledge, the information provided in its proposal is true and correct and neither the undersigned Offeror nor any partner, corporate officer or managing employee have ever been convicted of a felony or a crime involving moral turpitude.



## SECTION IV – SUBMITTALS

CITY OF PHOENIX

### 3. COPIES

**3.1** The City of Phoenix will accept submittals electronically ONLY for this RFP process. No hardcopies will be accepted. To submit proposals electronically, offerors must send an email to the Procurement Officer by the date stated on the Schedule of Events indicating the offeror's intent to submit a proposal. The Procurement Officer will send an invitation to the offeror which will include submittal instructions. Offers must be able to be downloaded by the Department on or prior to the exact time and date indicated in the Schedule of Events on the cover page. Late offers will not be considered. The prevailing clock will be the Department clock.

**3.2** Please submit only the responses to Section III-Evaluation Requirements, Section IV-Submittals, the required supporting documentation and Excel spreadsheets, and signed Addenda. Do not submit a copy of the entire Solicitation document. This Offer will remain in effect for a period of 180 calendar days from the bid opening date and is irrevocable unless it is in the City's best interest to do so.

### 4. COSTS AND PAYMENTS

**4.1 PAYMENT TERMS & OPTIONS:** Offerors must choose an option, if a box is not checked, the City will **default to 0% – net 45 days**

- Offeror offers a prompt payment discount of either \_\_\_\_\_% – 30 days or 0% – 45 days - to apply after receipt of invoice. If no prompt payment discount is offered, the default is 0%, net 45 days; effective after receipt of invoice. **Payment terms offering a discount will not be considered in the price evaluation of your Offer.**
- Offeror may be paid immediately upon invoice approval if it enrolls in the Single Use Account (SUA) Program administered by the City's servicing bank ("Bank"). By checking this box, the Offeror accepts transaction costs charged by their merchant bank and agrees not to transfer to the City those extra charges. The City will not pay an increase in our services for the SUA charges; if an audit uncovers an upcharge for the SUA charges the Offeror will owe the City all costs. The Offeror may opt-out of the SUA program once, but then may not rejoin during the same contract term. **For more information about the SUA program or to enroll, send email to mailbox.sua@phoenix.gov.**



**SECTION IV – SUBMITTALS**

**CITY OF PHOENIX**

**5. REFERENCES**

Offeror shall furnish the names and contact information for a minimum of three (3) firms or government organizations for whom the Offeror is **furnishing** or has furnished services similar to those described in this RFP in the past five years. References from large public or corporate entities are preferred. Do not list City of Phoenix employees or officials as references.

A. Company Name \_\_\_\_\_  
Address \_\_\_\_\_  
Reference \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
Email address \_\_\_\_\_

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B. Company Name \_\_\_\_\_  
Address \_\_\_\_\_  
Reference \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
Email address \_\_\_\_\_

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C. Company Name \_\_\_\_\_  
Address \_\_\_\_\_  
Reference \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
Email address \_\_\_\_\_



**SECTION IV – SUBMITTALS**

**CITY OF PHOENIX**

**6. Signature(s)**

By executing below, the Offeror avows that the statements and information provided herein are true, correct and complete, and that the signatory below is authorized to execute this Affidavit on behalf of the Offeror.

Offeror's Contracting Entity (Legal Name<sup>1</sup>): \_\_\_\_\_

*<sup>1</sup>The successful Offeror must be authorized to transact business in Arizona and be in good standing prior to contract award.*

Printed Name of Authorized Representative\*: \_\_\_\_\_

Title: \_\_\_\_\_

Business Mailing Address: \_\_\_\_\_

Telephone and Email Address: \_\_\_\_\_

Signature: \_\_\_\_\_

*\*Proposal must be signed by an individual authorized to contractually bind the Offeror.*



## SECTION IV – SUBMITTALS

CITY OF PHOENIX

### SOLICITATION DISCLOSURE

This form must be signed and submitted to the City and all questions must be answered (or N/A) or your Offer may be considered non-responsive..

1. Name of person submitting this disclosure form.

First	MI	Last	Suffix
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2. Contract Information

Solicitation # or Name: **RFP HR 21-016 Worker's Compensation Third Party Administration (TPA) Claims Management Services**

3. Name of individual(s) or entity(ies) seeking the Agreement with the City (i.e. specific parties to the Agreement)

4. List any individuals(s) or entity(ies) that are owners, partners, parent, sublessees, joint venture or subsidiaries of the individual or entity listed in Question 3. Please include all Board members, executive committee members and officers for each entry. If not applicable, indicate N/A.

5. List any individuals or entities that will be subcontractors on this Agreement or indicate N/A.

- Subcontractors may be retained but are not known to the Contractor as of the time of this submission.
- List of subcontractor, including the name of the owner(s) and business name:

6. List any attorney, lobbyist, or consultant retained by any individuals listed in Questions 3, 4, or 5 to assist in the proposal or seeking the resulting contract. If none, indicate N/A.

7. Disclosure of conflict of interest:



## SECTION IV – SUBMITTALS

CITY OF PHOENIX

Are you aware of any fact(s) with regard to this Solicitation or resulting Agreement that would raise a “conflict of interest” issue under City Code Section 43-34?

“An elected City official or a City employee shall not represent any person or business for compensation before the City regarding any part of a procurement, including any resulting contract, if during the time the elected official is or was in office or the employee is or was employed by the City such elected official or employee played a material or significant role in the development of the Solicitation, any other part of the procurement, or the contract award.”

- I am not aware of any conflict(s) of interest under City Code Section 43-34.
- I am aware of the following potential or actual conflict(s) of interest:

### 8. Notice Regarding Prohibited Interest in Contracts

State law and the Phoenix City Charter and Code prohibit public officers or employees, their close relatives, and any businesses they, or their relatives, own from (1) representing before the City any person or business for compensation, (2) doing business with the City by any means other than through a formal procurement, and (3) doing business with the City without disclosing that the person has an interest in the Agreement. This prohibition extends to subcontracts on City contracts and also applies to parent, subsidiary, or partner businesses owned by a public officer or employee. See A.R.S. Sections 38-501 through 38-511, for more information (City Charter, Chapter 11, applies the state conflict-of-interest law to City employees).

Please note that any contract in place at the time a person becomes a public officer or employee may remain in effect. But the contract may not be amended, extended, modified, or changed in any manner during the officer’s or employee’s city service without following city administrative regulations.

Are you aware of any fact(s) with regard to this Agreement that would raise a “conflict of interest” issue under A.R.S. Sections 38-501 through 38-511? (See Arizona Revised Statutes regarding conflict of interest at [www.azleg.gov](http://www.azleg.gov)).

- I am not aware of any conflict(s) of interest under Arizona Revised Statutes Sections 38-501 through 38-511.
- I am aware of the following conflict(s) of interest:



## SECTION IV – SUBMITTALS

CITY OF PHOENIX

### 9. Acknowledgements

#### Solicitation Transparency Policy – No Contact with City Officials or Staff During Evaluation

- I understand that a person or entity who seeks or applies for a city contract, or any other person acting on behalf of that person or entity, is prohibited from contacting city officials and employees regarding the contract after a solicitation has been posted.
- This “no-contact” provision only concludes when the contract is awarded at a City Council meeting. If contact is required with City official or employees, the contact will take place in accordance with procedures by the City. Violation of this prohibited contacts provision, set out in City Code Sections 2-190.4 and 43-36, by respondents, or their agents, will lead to **disqualification**.

### 10. Fraud Prevention and Reporting Policy

- I acknowledge that the City has a fraud prevention and reporting policy and takes fraud seriously. I will report fraud, suspicion of fraud, or any other inappropriate action to: telephone no. 602-261-8999 or 602-534-5500 (TDD); or [aud.integrity.line@phoenix.gov](mailto:aud.integrity.line@phoenix.gov).

The purpose of the fraud policy is to maintain the City's high ethical standards. The policy includes a way for our business partners to report wrongdoing or bad behavior. Suspected fraud should be reported immediately to the Phoenix Integrity Line. The City has adopted a zero-tolerance policy regarding fraud.

#### OATH

I affirm that the statements contained in this form, including any attachments, to the best of my knowledge and belief are true, correct, and complete.

Should any of the answers to the above questions change during the course of the Agreement, particularly as it relates to any changes in ownership, applicant agrees to update this form with the new information within 30 days of such changes. Failure to do so may be deemed a breach of contract.

PRINT NAME

TITLE

SIGNATURE

DATE

COMPANY (CORPORATION, LLC, ETC.) NAME and DBA