0150-09865-0005

TRANSMITTAL

TO	DATE	COUNCIL FILE NO.
The Council	1/30/18	
FROM		**COUNCIL DISTRICT**
The Mayor		Various

Proposed Amended and Restated Agreement with
Tristar Risk Management, Inc., Acclamation Insurance Management Services, Inc., and
Elite Claims Management, Inc. (formerly known as ACME Administrators, Inc.)
to Provide Third Party Administration Services for the
City of Los Angeles' Workers' Compensation Claims Program

Transmitted for your consideration. The Council has 60 days from the date of receipt to act, otherwise the contract will be deemed approved pursuant to Administrative Code Section 10.5(a). See the City Administrative Officer report attached.

(Ana Guerrero) for

MAYOR

RHL:LC:11180035

CAO 649-d

Report From
OFFICE OF THE CITY ADMINISTRATIVE OFFICER
Analysis of Proposed Contract
($25,000 or Greater and Longer than Three Months)

To: The Mayor	Date: 01/29/18	C.D. No. All	CAO File No.: 0150-09865-0005
Contracting Department/Bureau: Personnel Department		Contact: Sherry Cox (213) 473-9122 David Noltemeyer (213) 473-3374	

Reference: Personnel Department transmittal dated December 15, 2017; referred by Mayor for report

Purpose of Contract: Third party administration (TPA) services to manage a portion of the City's workers' compensation claims.

Type of Contract:	Contract Term Dates:
( ) New contract (x) Amendment, Contract Nos. C-121812 (Tristar), C-121841 (AIMS), C-121842 (Elite)	Tristar Risk Management, Inc. (Tristar) Acclamation Insurance Management Services, Inc. (AIMS) Elite Claims Management, Inc. (Elite)

Contract/Amendment Amount: $13,833,043 combined total for three Amended and Restated Agreements as follows:
Tristar - Proposed amount $ 8,574,027.81 + Prior award(s) $ 42,104,313.19 = Total $ 50,678,341
AIMS - Proposed amount $ 4,060,358 + Prior award(s) $ 17,060,338 = Total $ 21,120,696
Elite - Proposed amount $ 1,198,657 + Prior award(s) $ 6,097,591 = Total $ 7,296,248

Source of funds: Human Resources Benefits, Department No. 61; Contractual Services Account No. 003040

Name of Contractor: Tristar, AIMS, and Elite

Address: Tristar – 100 Oceangate St., Suite 700, Long Beach, CA 92590
AIMS – 10445 Old Placerville Road, Sacramento, CA 92587
Elite – 28677 Old Town Front Street G, Temecula, CA 92590

	Yes	No	N/A	Contractor has complied with:	Yes	No	N/A
1. Council has approved the purpose	X			8. Business Inclusion Program	X		
2. Appropriated funds are available	X			9. Equal Benefits Ordinance		X	
3. Charter Section 1022 findings completed	X			10. First Source Hiring Ordinance		X	
4. Proposals have been requested	X			11. Contractor Responsibility Ordinance		X	
5. Risk Management review completed		X		12. Slavery Disclosure Ordinance		X	
6. Standard Provisions for City Contracts included	X			13. Bidder Certification CEC Form 50		X	
7. Workforce that resides in the City: %				14. Prohibited Contributors (Bidders) CEC Form 55		X	
* Applicable to contracts of $1,000,000 or more				15. CA Iran Contracting Act of 2010*		X	
				16. Arizona Policy			X

RECOMMENDATION

That the Council:

1) Approve, and authorize the General Manager of the Personnel Department (Personnel) to execute three separate Amended and Restated Agreements increasing the contract amounts as outlined below and extending the term through November 21, 2018 for the provision of third party administration services for managing workers' compensation claims, subject to the review and approval of the City Attorney:
   a. Contract No. C-121812 with Tristar Risk Management, Inc. (Tristar), to increase the maximum contract amount by $8,574,027.81 from $42,104,313.19 to $50,678,341;
   b. Contract No. C-121841 with Acclamation Insurance Management Services, Inc. (AIMS), to increase the maximum contract amount by $4,060,358 from $17,060,338 to $21,120,696;
   c. Contract No. C-121842 with Elite Claims Management Inc. (Elite) to increase the maximum contract amount by $1,198,657 from $6,097,591 to $7,296,248; and

Leah Chin			Richard Llewellyn
LC	Analyst	11180035	City Administrative Officer

CAO 661 Rev. 09/2017

2) Instruct Personnel to complete the following prior to execution of the Agreements:
   a. Ensure that the necessary insurance documentation meeting the limits deemed appropriate by the Office of the City Administrative Officer's Risk Manager has been submitted through TRACK4LA for both Tristar and Elite;
   b. Ensure that Elite's contract compliance documentation is submitted to and reviewed by Personnel, and relevant compliance forms are also verified by the Bureau of Contract Administration through the Los Angeles Business Assistance Virtual Network.

COMMENTS

The Personnel Department (Personnel) requests authority to execute three separate Amended and Restated Agreements (Amendments) with Tristar Risk Management, Inc. (Tristar), Acclamation Insurance Management Services, Inc. (AIMS), and Elite Claims Management Inc. (Elite, formerly known as ACME Administrators, Inc.) for the provision of third party administration services for managing workers' compensation claims and benefits. The Amendments would extend the term of each Agreement through November 21, 2018 and increase the maximum contract compensation by a cumulative total of $13,833,043. The Agreements include a ratification clause because of the need for Tristar, AIMS, and Elite to provide services on an on-going basis prior to the execution of the Amendments.

In March 2017, Personnel released a Request for Proposals (RFP) for third party administration services for managing workers' compensation claims and benefits. The RFP was subsequently withdrawn in order to include additional Medicare Secondary Payer requirements in the scope of work of the RFP. The Amendments are necessary to extend the terms of the existing Contractors and provide Personnel with additional time to complete a new competitive process. The original agreements, for which the Amendments are proposed, were awarded as a result of a competitive RFP process.

The following provides a summary of the approved and proposed Amendments subsequent to the award of the original Agreements:

1. Tristar Risk Management, Inc. (C-121812)
   - The original agreement was executed for a nearly three-year term effective November 30, 2012 to November 22, 2015.
   - Amendment No. 1 was executed to provide up to six additional work spaces for City Attorney personnel working at the office of Tristar in the County of Los Angeles at a cost of $600 per month and to increase the total maximum contract amount by $79,200 from $26,138,993 to $26,218,193.
   - In October 2015, Council authorized the execution of Amendment No. 2 (C.F. 15-1146) to extend the term of the agreement through November 22, 2017.
   - In May 2016, Council authorized the execution of the First Amended and Restated Agreement (C.F. 15-1146-S2) to increase the maximum contract amount by $15,886,120.19 from $26,218,193 to $42,104,313.19.
   - The proposed Second Amended and Restated Agreement would increase the maximum contract amount by $8,574,027.81 from $42,104,313.19 to $50,678,341, and extend the term of the agreement through November 21, 2018.

2. Acclamation Insurance Management Services, Inc. (C-121841)
   - The original agreement was executed for a three-year term effective May 3, 2013 to May 6, 2016.
   - Amendment No. 1 to the agreement was executed to amend the end date of the agreement from May 6, 2016 to April 29, 2016.
   - Amendment No. 2 to the agreement was executed to provide assistance to Personnel in managing a portion of Fire civilian workers' compensation claims on an as-needed basis and increase the maximum compensation amount by $218,007.10 from $10,830,549.90 to $11,048,557.
   - In October 2015, Council authorized the execution of Amendment No. 3 (C.F. 15-1146) to extend the term of the agreement through November 22, 2017.
   - In May 2016, Council authorized the execution of the Fourth Amended and Restated Agreement (C.F. 15-1146-S2) to increase the maximum contract amount by $6,011,781 from $11,048,557 to $17,060,338.
   - The proposed Fifth Amended and Restated Agreement would increase the maximum contract amount by $4,060,358 from $17,060,338 to $21,120,696, and extend the term of the agreement through November 21, 2018.

3. Elite Claims Management, Inc. (formerly known as ACME Administrators, Inc., C-121842)
   - The original agreement was executed for a three-year term effective May 3, 2013 to May 6, 2016.
   - Amendment No. 1 to the agreement was executed to amend the end date of the agreement from May 6, 2016 to April 29, 2016.
   - Amendment No. 2 to the agreement was executed to provide assistance to Personnel in managing workers' compensation claims for up to four additional City departments on an as-needed basis and increase the maximum compensation amount by $1,083,694 from $3,595,971 to $4,679,665.
   - In October 2015, Council authorized the execution of Amendment No. 3 (C.F. 15-1146) to extend the term of the agreement through November 22, 2017.
   - In May 2016, Council authorized the execution of the Fourth Amended and Restated Agreement (C.F. 15-1146-S2) to increase the maximum contract amount by $1,417,926 from $4,679,665 to $6,097,591.
   - The proposed Fifth Amended and Restated Agreement would increase the maximum contract amount by $1,198,657 from $6,097,591 to $7,296,248, and extend the term of the agreement through November 21, 2018. In addition, it recognizes the acquisition of ACME by Elite. Elite will assume all of ACME's contractual obligations under this agreement.

In accordance with Los Angeles Administrative Code Section 10.5(b), City Council approval of the proposed Agreements is required because the cumulative term exceeds three years and the total annual payment exceeds $149,111.

At the time of this report, Tristar and Elite have not provided current evidence of insurance coverage meeting the limits deemed appropriate by the Office of the City Administrative Officer's Risk Manager, which must be submitted through TRACK4LA. In addition, Elite's contract compliance documentation forms must be submitted to and reviewed by Personnel, and relevant forms must also be verified by the Bureau of Contract Administration through the Los Angeles Business Assistance Virtual Network.

FISCAL IMPACT STATEMENT

Partial funding for the three Agreements is included in the Human Resources Benefits 2017-18 Adopted Budget for this purpose. The Amendments comply with the City's Financial Policies in that the City's financial obligation is limited to funds budgeted for services rendered in accordance with the terms of the Amendments. There is no additional impact on the General Fund.

RHL:LC:11180035

Attachment

BOARD OF CIVIL SERVICE COMMISSIONERS
Room 360, PERSONNEL BUILDING

JONATHAN M. WEISS
PRESIDENT

JEANNE A. FUGATE
VICE PRESIDENT

COMMISSIONERS:
GABRIEL J. ESPARZA
NANCY P. McCLELLAND
RAUL PÉREZ

BRUCE WHIDDEN
COMMISSION EXECUTIVE DIRECTOR

CITY OF LOS ANGELES
CALIFORNIA

ERIC GARCETTI
MAYOR

PERSONNEL DEPARTMENT
PERSONNEL BUILDING
700 EAST TEMPLE STREET
LOS ANGELES, CA 90012

Wendy G. Macy
GENERAL MANAGER

December 15, 2017

Honorable Eric Garcetti
Mayor, City of Los Angeles
Room 303, City Hall
Los Angeles, CA 90012

Attention: Mandy Morales, Legislative Coordinator

Subject: REQUEST FOR REVIEW OF PROPOSED PERSONAL SERVICES AGREEMENTS FOR: ACCLAMATION INSURANCE MANAGEMENT SERVICES, INC. (AIMS), ELITE CLAIMS MANAGEMENT, INC. (ELITE, FORMERLY KNOWN AS ACME ADMINISTRATORS, INC.), AND TRISTAR RISK MANAGEMENT INC. (TRISTAR)

Dear Mayor Garcetti:

In accordance with Executive Directive No. 3, attached for your review and approval are draft personal services agreements with Acclamation Insurance Management Services, Inc. (AIMS), to provide third party administration of all Fire sworn and civilian workers' compensation claims, Elite Claims Management, Inc. (Elite, formerly known as ACME Administrators, Inc.) to provide third party administration of City Attorney, Personnel, and Police civilian workers' compensation claims, and Tristar Risk Management, Inc. (Tristar) to provide third party administration of all Police sworn workers' compensation claims.

The Contractor's compliance documentation statuses are as follows:

Contractors' Slavery Disclosure, Equal Benefits, Non-discrimination/Equal Employment Practices Provisions, and First Source Hiring Ordinance affidavits are current.

Personnel Department submitted a Contract Review Report to the Office of the City Administrative Officer which determined that it is more feasible for a contractor to perform this work because there is insufficient existing City staff and additional staff could not be trained in a timely manner to meet the department's need.

The headquarter addresses for the Contractors are as follows:

Acclamation Insurance Management Services, Inc.
10445 Old Placerville Road
Sacramento, CA 95827

Elite Claims Management, Inc.
28677 Old Town Front Street G
Temecula, CA 92590

Tristar Risk Management, Inc.
100 Oceangate Street, Suite 700
Long Beach, CA 92590

Fiscal Impact
Funding for these personal services contracts is budgeted in the Human Resources Benefits Contractual Services Account 3040.

These Amended and Restated agreements require Council approval because the length of time exceeds three years and the estimated annual payments exceed $100,000.

Recommendation
That the General Manager of the Personnel Department, or her designee, be authorized to execute personal services contracts with Acclamation Insurance Management Services, Inc. (AIMS), Elite Claims Management, Inc. (Elite, formerly known as ACME Administrators, Inc.), and Tristar Risk Management Inc. (Tristar) to provide third party administration (TPA) services for a term of six years.

Please contact David Noltemeyer at (213) 473-3374 with any additional questions.

Respectfully submitted,

Wendy Macy
General Manager

Attachments

ec: Leah Chu, CAO

REPORT FROM

THE PERSONNEL DEPARTMENT

TO:	DATE
REFERENCE:	COUNCIL FILE 15-1146

SUBJECT: **City of Los Angeles Workers' Compensation Program Contracts**

RECOMMENDATION:

That the City Council approve and authorize the Personnel Department General Manager to execute Amended and Restated Agreements to provide third party administration services for managing a portion of the City of Los Angeles workers' compensation claims to extend the terms and increase amounts for the Contracts as follows, subject to the review and approval by the City Attorney:

1. Contract No. C-121841 with Acclamation Insurance Management Services, Inc. (AIMS) to extend the term from November 22, 2017 to November 21, 2018 and increase maximum compensation by $4,060,358 from $17,060,338 to $21,120,696;

2. Contract No. C-121842 with Elite Claims Management, Inc. (Elite, formerly known as ACME Administrators, Inc.) to extend the term from November 22, 2017 to November 21, 2018 and increase maximum compensation by $1,198,657 from $6,097,591 to $7,296,248; and

3. Contract No. C-121812 with Tristar Risk Management, Inc. (Tristar) to extend the term from November 22, 2017 to November 21, 2018 and to increase maximum compensation by $8,574,028 from $42,104,313 to $50,678,341.

BACKGROUND:

The City of Los Angeles is self-insured for all of its workers' compensation obligations. The core function of the Workers' Compensation Program is to provide injured workers with the medical benefits and time off necessary to recuperate and return to work as quickly as possible. The Personnel Department's Workers' Compensation Division administers the City's Workers' Compensation Program, which currently includes approximately 16,000 open claims. Approximately 6,700 new claims and $168.5 million in benefit payments were processed in FY 16-17. The Division is responsible for all aspects of claims administration, which includes directing medical care, providing defense support in litigated cases and making payments for a variety of claims-related activities. The Workers' Compensation Division utilizes a combination of City staff and contracted third-party administrators (TPAs) to carry out the program objectives. Specifically, the City currently contracts with three TPAs to manage workers' compensation claims: AIMS for all sworn Fire and a portion of Fire civilian claims, Elite for the City Attorney, Personnel, and Police civilian claims, and Tristar for all Police sworn claims.

The Personnel Department requests approval to extend these TPA contracts and add funding to allow sufficient time to conduct a new procurement process. The Amended and Restated Agreements provide for an extension of time and additional funds as follows: (1) AIMS – increase of the total maximum compensation amount of the contract by $4,060,358 from $17,060,338 to $21,120,696 through November 21, 2018; (2) Elite – increase of the total maximum compensation

amount of the contract by $1,198,657 from $6,097,591 to $7,296,248 through November 21, 2018; and, (3) Tristar – increase of the total maximum compensation amount of the contract by $8,574,028 from $42,104,313 to $50,678,341 through November 21, 2018.

CURRENT CONTRACTS

The Contractors were selected in 2013 following a Request for Proposals process. Subsequently, the Mayor authorized Personnel to enter into contracts with AIMS, ACME (now Elite), and Tristar to provide TPA services for managing a portion of the City's workers' compensation claims. Pursuant to this Mayoral approval, Personnel executed the contracts and amendments to the contracts as follows:

Acclamation Insurance Management Services, Inc. (AIMS); Contract No. C-121841

- The original contract was executed for a three-year term effective May 3, 2013 to May 6, 2016.
- Amendment No. 1 to the contract was executed amending the end date of the contract from May 6, 2016 to April 29, 2016.
- Amendment No. 2 to the contract was executed to provide assistance to Personnel in managing a portion of Fire civilian workers' compensation claims on an as-needed basis and increasing the maximum compensation amount of the contract by $218,007.10 from $10,830,549.90 to $11,048,557.
- In October, 2015, Council authorized extension of the term of the contract from April 29, 2016 to November 22, 2017 (C.F. 15-1146). Pursuant to Council approval, Amendment No. 3 to the contract was executed extending the term of the contract to November 22, 2017.
- In May, 2016, Council increased compensation by $6,011,781 from $11,048,557 to $17,060,338 for the term through November 22, 2017 (C.F. No. 15-1146-S2). Pursuant to Council approval, the Fourth Amended and Restated Agreement was executed to increase the maximum payable to the Contractor.

Elite Claims Management, Inc. (formerly known as ACME Administrators, Inc., or ACME); Contract No. C-121842

- The original contract was executed for a three-year term effective May 3, 2013 to May 6, 2016.
- Amendment No. 1 to the contract was executed amending the end date of the contract from May 6, 2016 to April 29, 2016.
- Amendment No. 2 to the contract was executed to provide assistance to Personnel in managing workers' compensation claims for up to four additional City departments on an as-needed basis and increasing the maximum compensation amount of the contract by $1,083,694 from $3,595,971 to $4,679,665.
- In October 2015, Council authorized extension of the term of the contract from April 29, 2016 to November 22, 2017 (C.F. 15-1146). Pursuant to Council approval, Amendment No. 3 to the contract was executed extending the term of the contract to November 22, 2017.
- In May, 2016, Council increased compensation by $1,417,926 from $4,679,665 to $6,097,591 for the term through November 22, 2017 (C.F. No. 15-1146-S2). Pursuant to Council approval, the Fourth Amended and Restated Agreement was executed to increase the maximum payable to the Contractor.

Tristar Risk Management, Inc. (Tristar); Contract No. C-121812

- The original contract was executed for a three-year term effective November 30, 2012 to November 22, 2015.
- Amendment No. 1 to the contract was executed to increase the total maximum amount of the contract by $79,200 from $26,128,993 to $26,208,193.
- In October 2015, Council authorized extension of the term of the contract from November 22, 2015 to November 22, 2017 (C.F. 15-1146). Pursuant to Council approval, Amendment No. 2 to the contract was executed extending the term of the contract to November 22, 2017.
- In May, 2016, Council increased compensation by $15,886,120 from $26,208,193 to $42,094,313 for the term through November 22, 2017 (C.F. No. 15-1146-S2). Pursuant to Council approval, the First Amended and Restated Agreement was executed to increase the maximum payable to the Contractor.

PROPOSED AMENDED AND RESTATED AGREEMENTS

The Department will be releasing a Request for Proposals in the next two months. Once proposals have been received, the top ranked proposers will be asked to attend an oral interview to further assess their qualifications and to address any questions or concerns of our labor partners. These current contracts will be ended upon successful implementation of new TPA contract(s).

The proposed Amended and Restated Agreements provide for the following:

Acclamation Insurance Management Services, Inc. (AIMS); Contract No. C-121841

- Increase of the total maximum compensation amount of the contract by $4,060,358 from $17,060,338 to $21,120,696 through November 21, 2018.
- The annual expenditure over the last three years of the contract was $3.5 million annually.
- The increase in the annual compensation limit of approximately $4 million for 12 additional months of the contract term through November 21, 2018 is sufficient to cover the fixed monthly service fee of $300,849 (no change from the initial contract) or approximately $3.6 million annually and variable expenditures to provide assistance to Personnel to handle a portion of Fire civilian claims, if needed, as authorized by Amendment No. 1.

Elite Claims Management, Inc. (formerly known as ACME Administrators, Inc., or ACME); Contract No. C-121842

- Increase of the total maximum compensation amount of the contract by $1,198,657 from $6,097,591 to $7,296,248 through November 21, 2018.
- The annual expenditure over the last three years of the contract was approximately $3.8 million.
- The estimated total cost of the 12 additional months of the contract term through November 21, 2018 is approximately $1.2 million to cover the fixed monthly service fee of $99,888 (no change from the initial contract).

Tristar Risk Management, Inc. (Tristar); Contract No. C-121812

- Increase of the total maximum compensation amount of the contract by $8,574,028 from

$42,104,313 to $50,678,341 through November 21, 2018.

- The average annual expenditure over the last three years of the contract was approximately $18.3 million.
- The estimated total cost of the 12 additional months of the contract term through November 21, 2018 is approximately $8.6 million to cover the average fixed monthly fee of almost $707,986 which includes a 2% increase or $8,495,828 annually plus $64,500 for office space and $13,400 annually for as-needed services for a total annual cost of $8,574,028.

Contract Compliance

Per Charter Section 1022, the City Administrative Officer found that it is more feasible for a contractor to perform the work because there is insufficient existing City staff and additional staff could not be trained in a timely manner to meet the department's need. In accordance with Los Angeles Administrative Code Section 10.5(b)(2), Council approval of the Amended and Restated Agreements is required because the terms exceed three years and estimated annual payments exceed, $100,000. In addition, as Council approved the extension of the initial Contracts to November 22, 2017, Council approval of the Amended and Restated Agreements is now required. The Contractors have complied with all City contracting requirements, policies, and procedures.

CONCLUSION:

The Personnel Department is requesting that the City Council authorize the General Manager or designee of the Personnel Department to: 1) extend the term of three TPA contracts that are an integral part of the City Workers' Compensation Program; and 2) add funding as needed.

FISCAL IMPACT STATEMENT:

Funding for all three contracts is provided in the Human Resources Benefits 2017-18 Adopted Budget, Fund No. 100 Contractual Services Account No. 003040 for the cost of these contracts. There is no additional impact on the General Fund. As budgeted funds are available for the projected contract expenditures, the recommendation provided in this report complies with the City's Financial Policies

Respectfully submitted,

Wendy Macy
General Manager

SECOND AMENDED AND RESTATED AGREEMENT BETWEEN

CITY OF LOS ANGELES

AND

TRISTAR RISK MANAGEMENT, INC.

FOR

THIRD-PARTY ADMINISTRATION SERVICES OF WORKERS' COMPENSATION CLAIMS MANAGEMENT AND BENEFITS ADMINISTRATION

CONTRACT NO.: C -121812-2

SECOND AMENDED AND RESTATED AGREEMENT BETWEEN
CITY OF LOS ANGELES
AND
TRISTAR RISK MANAGEMENT, INC.
FOR

THIRD-PARTY ADMINISTRATION OF WORKERS' COMPENSATION CLAIMS MANAGEMENT AND BENEFITS ADMINISTRATION

CONTRACT # C-121812

This Contract, which includes the attached Exhibits, is made and entered into by and between the City of Los Angeles, a municipal corporation, acting by and through its Personnel Department (hereinafter referred to as "City"), and Tristar Risk Management, Inc., a California corporation (hereinafter referred to as "Contractor"), with reference to the following:

RECITALS

1. Whereas, City is legally self-insured for its workers' compensation liability and has the need for the services of a third party administration firm to manage its sworn personnel of the Los Angeles Police Department ("Sworn Police") workers' compensation claim workload; and

2. Whereas, City performed a 1022 review and determined that it is more economical for City to contract for the required services than to have employees perform the work; and

3. Whereas, City released a Request for Proposals pursuant to Charter Section 372 after determining that the proposed Contract is for expert and technical services of a temporary and occasional character for which bidding under Charter Section 371 is not practical or advantageous; and

4. Whereas, in response to City's Request for Proposal for such services, dated January 5, 2012, Contractor submitted a proposal dated February 29, 2012 which offers to provide the requested services; and

5. Whereas, Contractor is duly licensed and certified under the laws of the State of California to engage in the business of providing Third-Party Administration of Workers' Compensation Claims Management and Benefits Administration, as described hereunder and possesses the competence, expertise and personnel required to provide such services; and

6. Whereas, City and Contractor entered into a three-year contract, effective November 30, 2012, wherein Contractor agreed to manage City's workers' compensation claim caseload for sworn personnel of the Los Angeles Police Department; and

7. Whereas, effective April 17, 2014, City and Contractor amended the Contract (First Amendment) to add Section 22.4 to provide three additional office spaces and three additional cubicles, along with associated furniture, internet and telephone service, for City Attorney personnel associated with City's workers' compensation program, and increased the maximum payable to $26,218,193; and

8. Whereas, at its meeting of October 27, 2015, (CF:15-1146) the City Council authorized the Personnel Department General Manager or designee to extend the Contract for an additional two years; and

9. Whereas, effective March 3, 2016, City and Contractor amended the Contract (Second Amendment) to change the termination date from November 22, 2015 to November 22, 2017; and

10. Whereas, at its meeting of May 25, 2016, (CF15-1146-S2) the City Council authorized the Personnel Department General Manager or designee to increase the maximum payable to Contractor from $26,218,193 to $42,104,313; and

11. Whereas, the First Amended and Restated Agreement, executed on June 6, 2016, increased the maximum payable to Contractor from $26,218,193 to $42,104,313; and

12. Whereas, this Second Amended and Restated Agreement will increase the maximum amount payable under this contract from $42,104,313 to $50,678,341 and

13. Whereas, at its meeting on _____, 2018, the City Council authorized the Personnel Department General Manager or designee to extend the Contract one additional year through November 21, 2018 to execute this Second Restated and Amended Contract and to increase the maximum payable to the Contractor from $42,104,313 to $50,678,341;

14. Whereas this Second Amended and Restated Agreement is amended to delete "Claims Management Program Requirements" as Exhibit 1 and to replace it with "Claims Management Program Requirements 2017"

15. Whereas this Second Amended and Restated Agreement is amended to delete "Standard Provisions for City Contracts (Rev.03/09)" as Exhibit 2 and to replace it with "Standard Provisions for City Contracts (Rev.10/17)"

16. Whereas, the Personnel Department is funded for these services; and

17. Whereas, the terms and conditions of the contract shall remain the same except as modified consistent with recital 12, 13, 14, and 15.

NOW THEREFORE, in consideration of the premises and of the terms, covenants, and conditions set forth herein, the parties hereby covenant, represent, and agree as follows:

1. REPRESENTATIVES OF PARTIES

1.1 Representatives of the Parties and Service of Notice.

The representatives of the respective parties authorized to administer this Contract and to whom formal notices, demands, and communications will be given are as follows:

The representative of City is, unless otherwise stated in the Contract:

Wendy G. Macy, General Manager
City of Los Angeles, Personnel Department
700 E. Temple Street, Room 305
Los Angeles, CA 90012

Designee:

David Noltemeyer, Chief Management Analyst
Workers' Compensation Division Chief
City of Los Angeles, Personnel Department
700 E. Temple Street, Room 210
Los Angeles, CA 90012

The representative of Contractor is:

Thomas J. Veale, President
Tristar Risk Management, Inc.
100 Oceangate Street, Suite 700
Long Beach, CA 92590

1.2. Formal notices and correspondence to be given hereunder by either party must be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and will be deemed communicated three (3) days after the date of mailing.

1.3. If the name of the person designated to receive the notices or correspondence or if the address of such person changes, written notice will be given in accordance with this Section within five (5) working days of said change.

2. DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words as used herein shall be construed to have the following meanings, unless otherwise apparent from the context in which they are used.

2.1. California Code of Regulation (CCR)

The codification of general and permanent rules and regulations of the State of California, including the occupational health and workers' compensation program.

2.2. City

City of Los Angeles, California, a municipal corporation.

2.3. City Attorney

The City of Los Angeles governmental office providing legal counsel and services to City officers and departments.

2.4. City Contract Administrator (CCA)

Person designated by City's Personnel Department General Manager to manage the operations, work or services under this Contract.

2.5. City Contract Monitor

Person designated by City's Personnel Department General Manager with responsibility to oversee the day-to-day activities of this Contract, including inspections of any and all tasks, deliverables, goods, services and other work provided by Contractor.

2.6. City Personnel Department General Manager

Person designated by Mayor of City to manage the Personnel Department. Under this Contract, this person shall have the ultimate authority to resolve matters relating to the Contract that are not resolved by the CCA.

2.7. Contract

This written agreement, including exhibits or attachments, executed between City and Contractor.

2.8. Contract Cost (Base Fee)

The flat, annual fee for the provision of all services.

2.9. Contractor

The sole proprietor, partnership, or corporation that has entered into this Contract with City to perform or execute the work covered by Exhibit 1 – Claims Management Program Requirements 2017.

2.10. Contractor's Contract/Claims Manager

The person designated by Contractor to administer the Contract operations during the term of the Contract.

2.11. Days

Calendar day(s), unless otherwise specified.

2.12. Business Day

With the exception of Saturdays, Sundays and City legal holidays, all other days are considered business days. Contractor's holidays are limited to those actually observed, but may not exceed those observed by City. City will provide a list of City legal holidays to Contractor.

2.13. Division of Workers' Compensation (DWC)

The State of California agency which monitors the administration of workers' compensation claims, and provides administrative and judicial services to assist in resolving disputes that arise in connection with claims for workers' compensation benefits.

2.14. Fiscal Year

The twelve (12) month period beginning July 1st and ending the following June 30th.

2.15. Personnel Department

City of Los Angeles Personnel Department.

2.16. Program/Project

Workers' Compensation Claims Management and Benefits Administration services provided to City by Contractor.

2.17. Workers' Compensation Administrator

The Assistant Division Chief in the Workers' Compensation Division responsible for the technical management of the workers' compensation program.

2.18. Workers' Compensation Appeals Board (WCAB)

A seven-member, judicial body appointed by the Governor and confirmed by the Senate, exercises all judicial powers vested in it by the Labor Code. Its major functions include review of petitions for reconsideration of decisions by workers' compensation administrative law judges of the Division of Workers' Compensation and regulation of the adjudication process by adopting rules of practice.

2.19. Workers' Compensation Division

The organizational unit of City's Personnel Department responsible for the management of City's self-insured program for workers' compensation claims management and benefits administration.

3. WORK

3.1 Pursuant to the provisions of this Contract, Contractor shall fully perform, complete and deliver on time, all required tasks, deliverables, services and other work as set forth in Exhibit 1 – Claims Management Program Requirements 2017.

3.2. If Contractor provides any tasks, deliverables, goods, services, or work, other than as specified in this Contract, the same shall be deemed to be a gratuitous effort on the part of Contractor, and Contractor shall have no claim whatsoever against City.

4. TERM OF CONTRACT AND COMPENSATON

4.1. The term of the Contract commenced on November 30, 2012 and will continue through November 21, 2018, unless earlier terminated under provisions herein.

4.2. In the event of reduction of Work actually required under this Contract, expiration of the term of this Contract, or termination prior to the expiration of the term of this Contract, Contractor shall fully cooperate with City to

provide for the transition to whatever service replacement method City determines to be in City's best interest.

4.3. City's total obligation under this Contract for complete and satisfactory performance of the terms of this Contract as currently contemplated by the parties and detailed in the Claims Management Program Requirements for the period November 30, 2012 through November 21, 2018 shall not exceed $50,678,341, subject to available funding. Contractor shall be paid as set forth in Exhibit 1, Section III – Contractor Payment and Adjustments to Payment.

4.4. Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein. Contractor shall employ additional staff for special projects on an as-needed basis as determined by City. Compensation for such staff, and/or related expense, will be mutually agreed upon in writing when the need for such staff arises.

4.5. Assumption or takeover of any of Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall occur only with the CCA's express prior written approval.

5. TERMINATION OF CONTRACT

City may terminate this Contract for City's convenience at any time by giving Contractor 30 days' written notice thereof. Refer to Exhibit 2, Standard Provisions for City Contracts (Rev. 10/17), PSC-9.

6. ADMINISTRATION OF CONTRACT – CITY

The City's Personnel Department General Manager has designated the Workers' Compensation Division Chief as City's Contract Administrator (CCA). The CCA shall have the authority to manage this Contract on behalf of City.

6.1. Personnel Department General Manager

The General Manager has the authority to amend the terms and conditions of this Contract in accordance with Section 8, Amendments.

6.2. Contract Administrator (CCA)

6.2.1. Responsibilities of the CCA include:

- Ensure that the requirements and objectives of this Contract are met;
- Clarify and interpret Contract requirements and provisions;
- Provide direction to Contractor in areas relating to City policy, information requirements and procedural requirements;
- Meet with Contract/Claims Manager on a regular basis; and
- Review and approve any and all services, or other work provided by or on behalf of Contractor.

6.2.2. The CCA is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate City in any respect.

6.3 Workers' Compensation Administrator (WCA)

The CCA shall designate a CCA. The WCA is responsible for overseeing the day-to-day management of this Contract. The WCA reports to the CCA.

7. CONTRACTOR MANAGEMENT AND STAFF

7.1 Branch/Claims Manager

7.1.1. If applicable, before performing services under this Contract, Contractor shall designate in writing an account service team and designate a Contract/Claims Manager, each subject to approval of City. If Contractor elects to replace the Contract/Claims Manager, advance notice will be given to City. City reserves the right to meet, review and approve the background, education, and experience of any potential assignee to this position throughout the term of this Contract at its discretion.

7.1.2. The Contract/Claims Manager will serve as the prime contact on behalf of Contractor with City and will have overall management responsibility for the supervision of Contractor's performance under this Contract.

7.1.3. The Contract/Claims Manager will be responsible for maintaining the day-to-day operational control of all ongoing claims management activities related to this Contract. The Contract/Claims Manager will be responsible for ensuring the quality of claims management activities provided to City and for promptly resolving any problem or concern that may develop during the term of this Contract. The Contract/Claims Manager must have a California Self-Insurance Administrator Certificate and a minimum of three (3) years of full-time experience in the supervision of a large (>30) group of claims

examiners and related support personnel involved in the independent analysis and administration of a workers' compensation claims caseload. City prefers that the Contract/Claims Manager have a bachelor's degree from an accredited four-year institution.

7.1.4. The Contract/Claims Manager shall meet all of the training and requirements per CCR Section 2592.14.

7.2. Approval of Contractor's Staff

Contractor shall use its own employees to perform the services required under this Contract. City reserves the right to approve Contractor's personnel assigned to City's Program at the level of Assistant Manager and above, if any. Contractor must notify City in writing if such personnel cannot continue on this Contract. Upon receipt, City will respond in writing, either approving or rejecting the replacement personnel. Additionally, City shall have the right to require Contractor to replace any person, assigned to City's account, found to be in violation of any of the terms of this Contract. Contractor shall immediately deny access to its facility for such personnel no longer performing work on the City Contract.

7.3. Background and Security Investigations

7.3.1. At any time prior to or during term of this Contract, City may require that all Contractor staff performing work under this Contract undergo and pass, to the satisfaction of City, a background investigation, as a condition of beginning and continuing to work under this Contract. City shall use its discretion in determining the method of background clearance to be used, up to and including a City performed fingerprint security clearance. The fees associated with obtaining the background information shall be at the expense of Contractor, regardless if Contractor's staff passes or fails the background clearance investigation.

7.3.2. City may request that any member of Contractor's staff be immediately removed from working on the Contract at any time during the term of this Contract. City will not provide to Contractor or to Contractor's staff any information obtained through City conducted background clearance.

7.3.3. Contractor shall immediately deny access to City's dedicated unit for any staff member who does not pass such investigation(s) to the satisfaction of City and whose background is incompatible with City dedicated unit access, at the sole discretion of City.

7.3.4. Disqualification, if any, of Contractor's staff, pursuant to Section 7.3.1., shall not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

8. AMENDMENTS

For any revision to this Contract that affects the scope of work, period of performance, payments, or any term or condition of this Contract, except for those exceptions specifically provided for in this Contract, a negotiated amendment to this Contract shall be written and executed by City and Contractor.

9. AUTHORIZATION WARRANTY

Contractor represents and warrants that the person executing this Contract for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of this Contract and that all requirements of Contractor have been fulfilled to provide such actual authority.

10. BUDGET REDUCTIONS

In the event that the City Council adopts, in any fiscal year, a City Budget which provides for reductions in the salaries and benefits paid to the majority of City employees and imposes similar reductions with respect to City Contracts, City reserves the right to reduce its payment obligation under this Contract correspondingly for that fiscal year and any subsequent fiscal year during the term of this Contract (including any extensions), and the services to be provided by Contractor under this Contract shall also be reduced correspondingly. City's notice to Contractor regarding said reduction in payment obligation shall be provided within 30 calendar days of the City Council's approval of such actions. Except as set forth in the preceding sentence, Contractor shall continue to provide all of the services set forth in this Contract.

11. COMPLAINTS

11.1. Within two (2) weeks after Contract execution date, Contractor shall provide City with Contractor's policy for receiving, investigating and responding to complaints.

11.2. City will review Contractor's policy and provide Contractor with approval of said plan or with requested changes.

11.3. If City requests changes in Contractor's policy, Contractor shall make such changes and resubmit the plan within five (5) business days.

11.4. If, at any time, Contractor wishes to change Contractor's policy, Contractor shall submit proposed changes in writing to City for approval before implementation.

11.5. For complaints that escalate to the attention of Contract/Claims Manager, City official or union representative, Contractor shall preliminarily investigate all complaints and notify the CCA of the status of the investigation within five (5) business days of receiving the complaint. Contractor shall obtain pre-approval from the CCA for all written responses, as well as provide the CCA with a copy of all final written responses. Contractor will provide a copy of all written responses.

11.6. When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.

12. CONFLICT OF INTEREST

12.1. No City employee whose position with City enables such employee to influence the award of this Contract or any competing Contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor or have any other direct or indirect financial interest in this Contract. No officer or employee of Contractor who may financially benefit from the performance of work hereunder shall in any way participate in City's approval, or ongoing evaluation of such work, or in any way attempt to unlawfully influence City's approval or ongoing evaluation of such work.

12.2. Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. Contractor warrants that it is not now aware of any facts that create a conflict of interest. If Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to City. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of Section 12 shall be a material breach of this Contract.

13. CONTRACTOR MANAGEMENT AND AUDITS

The City is committed to being an active partner in the third party administration of its workers' compensation claims. To that end, dedicated City Monitors are available to provide advice and historical perspective on the management of all claims. This staff is also responsible to ensure that effective and efficient claims management techniques are consistently applied, and to assess Contractor's compliance with all terms and conditions in this Contract.

13.1 Claims Management Review

13.1.1. To facilitate the review of activities and to establish and maintain effective lines of communication, periodic working meetings will be held with staff of the Personnel Department, as determined by City to be desirable. Additionally, City staff from the Personnel Department and City Attorney's Office will be assigned to Contractor's work site to provide assistance and guidance to Contractor's employees, to review procedures, to audit individual claims files and provide legal and other services. Contractor shall provide office space for City staff to work at no cost to City (Refer to Section 22).

13.1.2. Working meetings to discuss the Program, policies and any problems that may occur will also be held with staff of the Police Department Medical Liaison Section.

13.1.3. Contractor shall maintain its own internal quality control program to monitor the procedures utilized by its supervisory and management personnel to ensure the quality of services provided to City.

13.2. Periodic Independent Audit

City reserves the right to assign an independent auditor to assess the quality of services being provided and the extent to which Contractor is conducting City business within generally accepted industry standard practices and Contract terms. Contractor is required to cooperate fully with any external claims management audit and provide adequate temporary office space, work stations and free parking, at no additional cost to City.

13.3. Financial Audit

Contractors providing services to City will be responsible for the verification of the legitimacy of payments made to service providers and for the disbursal of benefits to City employees through City's check issuance process. City therefore reserves the right for staff of its Office of the Controller or designee to conduct audits of financial accountability procedures.

13.4. Contractor Evaluation Ordinance

When the term of this Contract has expired, City will conduct an evaluation of Contractor's overall performance. City will also conduct regular evaluations of Contractor's performance during the term of the Contract. As required by Section 10.39.2 of the Los Angeles Administrative Code, Evaluations of City Personal Services Contracts, evaluations will be based

on a number of criteria, including the quality of the work product or service performed, the timeliness of performance, financial issues and the expertise of personnel that Contractor assigns to this Contract. A Contractor who receives a "Marginal" or "Unsatisfactory" rating will be provided with a copy of the final City evaluation and allowed 14 calendar days to respond. City will use the final City evaluation and any response from Contractor to evaluate Proposals and to conduct reference checks when awarding future service contracts.

14. GENERAL INSURANCE REQUIREMENTS

14.1. Without limiting Contractor's indemnification of City and during the term of this Contract, Contractor shall provide and maintain, and shall require all of its subcontractors to maintain the programs of insurance listed below. Evidence of this coverage must be submitted by Contractor and approved no later than 30 days prior to the inception of any operations. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by City. Such coverage shall be provided and maintained at Contractor's own expense.

14.2. Insurance policies purchased and maintained under this Contract by Contractor shall include a waiver of subrogation recovery against City and employees.

14.3. The preferred form of evidence of insurance and performance security is an industry ACORD Certificate submitted electronically at http://track4la.lacity.org.

15. INSURANCE COVERAGE AND PERFORMANCE SECURITY REQUIREMENTS

- General Liability insurance with limits of not less than $1,000,000.

- Automobile Liability with a limit of liability of not less than $250,000 for each accident. Such insurance shall include coverage for all "owned," "hired" and "non-owned" vehicles, or coverage for "any auto."

- Workers' Compensation and Employers' Liability insurance providing workers' compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible, with a limit of not less than $1,000,000.

- Professional Liability: Insurance covering liability arising from any negligent, wrongful act, error or omission of Contractor, its officers or employees with limits of

not less than $1,000,000 per occurrence and $5,000,000 aggregate. The coverage also shall provide an extended two-year reporting period commencing upon termination or cancellation of this Contract.

- Crime Coverage: Insurance with limits in amounts not less than indicated below covering against loss of money, securities, or other property referred to in this Contract, and naming City as loss payee:

Employee Dishonesty:	$1,000,000
Forgery or Alteration:	$1,000,000
Theft, Disappearance and Destruction:	$1,000,000
Computer Fraud:	$1,000,000
Burglary and Robbery:	$1,000,000

Contractor may provide a fidelity bond of $1,000,000 per occurrence in lieu of the above-mentioned crime insurance coverage.

15.1. Performance Security Requirements:

Such surety may be provided by one of the following forms and conditioned upon faithful performance and satisfactory completion of services by Contractor. Surety must be submitted by Contractor and approved no later than 30 days prior to the inception of any operations.

15.2. Performance Bond

A faithful performance bond of not less $1,000,000 payable to the City of Los Angeles and executed by a corporate surety licensed to transact business in the State of California, or

15.3. Certificate of Deposit (CD) or Letter of Credit (LOC)

A CD or an irrevocable LOC payable to the City of Los Angeles upon demand in an amount not less than $1,000,000. Such CD or LOC shall comply with minimum criteria and standards established by City and be maintained throughout the term of the Contract.

16. LEGISLATION REVIEWS

On an ongoing basis, Contractor shall monitor and evaluate any and all proposed legislative changes or State directives, rules, and regulations as they may affect the delivery of services under this Contract and/or as they relate to City's overall responsibility to manage its workers' compensation program, and report to City on the potential effect of proposed changes on City's third party claims administration services and benefits program.

17. MOST FAVORED PUBLIC ENTITY

If Contractor's prices decline, or should Contractor at any time during the term of this Contract provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Contract, then such lower prices shall be immediately extended to City.

18. NON-EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Contractor. This Contract shall not restrict City from acquiring similar, equal or like goods and/or services from other entities or sources.

19. NOTICE OF DELAYS

Except as otherwise provided under this Contract, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within one (1) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

20. NOTICE OF DISPUTES

Contractor shall bring to the attention of the CCA or CCA's designee any dispute between City and Contractor regarding the performance of services as stated in this Contract. If CCA or designee is not able to resolve the dispute, the General Manager or designee shall resolve it.

21. NOTICES

All notices or demands required or permitted to be given or made under this Contract shall be in writing and shall be hand delivered or mailed by first-class mail, postage prepaid, addressed to the parties as identified in Section 1, Representatives of Parties.

22. OFFICE OF CONTRACTOR

22.1. Contractor shall open a specific office to serve City's needs, or identify a clearly definable portion of a larger office space for staff dedicated to serving City's needs. It is preferable that such an office be located within Los Angeles County. However, regardless of its location, it is the responsibility of Contractor to coordinate the transfer of claims information, and to ensure that the communication needs of the Personnel Department, Police Department and injured workers are efficiently and effectively met.

22.2. Contractor shall provide a bonded courier service, or its own employees, to transport claims files and/or related items, on a daily basis, except weekends and holidays between Contractor's office and City's office, at no additional cost to City.

22.3. Contractor shall provide a safe, adequate and ergonomically sound work space, complete ergonomically correct furniture and computer work stations, computers (with access to City's claims management and imaging systems), Internet, email, telephone, facsimile service and free parking for two City on-site monitors and one City Attorney employee, at no additional cost to City. Adequate temporary work space, work stations and free parking shall also be provided for other City staff and City contract personnel as necessary for required program auditing or monitoring, at no additional cost to City.

22.4 Contractor shall provide at the Contractor's Claim Office additional office space, furniture, and computers, as described in Section 22.3., along with free parking, for use by City Attorney personnel, as follows:

a. Three office spaces and three cubicles plus furniture, internet and telephone service, for use by City Attorney personnel at a total cost of $600 per month for each space for the remaining Contract term.

b. Additional spaces, plus furniture, internet and telephone service for use by City Attorney personnel at a cost of $600 per month for each space as mutually agreed upon in writing by City and Contractor.

Should City require additional spaces under this Amendment, pursuant to item b. above, City shall notify Contractor in writing to request the availability of additional spaces at the Office of the Contractor. Upon mutual agreement in writing by City and Contractor, Contractor shall provide the additional spaces, as described in Section 22.3, along with free parking. Contractor shall prorate the billing as needed.

Should City require fewer spaces under this Amendment, City shall notify Contractor in writing, and the total monthly cost to City shall be reduced accordingly by deducting the $600.00 monthly cost for each space no longer required, effective upon the 1st of the next month following City's notification of Contractor.

23. PHYSICAL SECURITY/CONFIDENTIALITY

23.1. Contractor shall be responsible for safeguarding all City claims and property provided for Contractor's use or in Contractor's care, custody and

control. At the close of each workday, checks, cases, files, supplies, equipment and computer access shall be secured by Contractor.

23.2. All documents, records and information provided by City to Contractor, or accessed, reviewed or produced by Contractor, during performance of this Contract, including but not limited to employee/claimants' medical information, shall remain the property of City. All documents, records, and information provided by City to Contractor, or accessed, reviewed, or produced by Contractor during performance of this Contract, are confidential (hereinafter collectively referred to as "Confidential Information").

23.3. Contractor agrees not to provide Confidential Information, or disclose its content or any information contained in it either orally or in writing, to any other person or entity. Contractor agrees that all Confidential Information used or reviewed in connection with Contractor's work for City will be used only for the purpose of carrying out City business and cannot be used for any other purpose. Contractor shall be responsible for protecting the confidentiality and maintaining the security of all Confidential Information in its possession.

23.4. Any Confidential Information provided by City to Contractor, or accessed, reviewed or produced by Contractor, during performance of this Contract, shall be made available to its employees, agents, and subcontractors only on a need-to-know basis. Further, Contractor will provide written instructions to all of its employees, agents and subcontractors with access to the Confidential Information about the penalties for its unauthorized use or disclosure.

23.5. Contractor must not remove Confidential Information or any other documents or information used or reviewed in connection with Contractor's work for City from City facilities or Contractor's office without prior approval from City. Contractor shall, at the conclusion of this Contract, or at the request of City, promptly return to City any and all Confidential Information and all other written materials, notes, documents or other information obtained by Contractor during the course of work under this Contract. Contractor shall not make or retain copies of any such information, materials or documents. Contractor and its employees, agents, and subcontractors may have access to confidential medical records information, which access is controlled by statute. Misuse of such information may adversely affect the subject individual's civil rights and violates the law.

23.6. Contractor shall implement such reasonable and prudent measures to keep secure and private medical history information accessed by its employees, agents and subcontractors during the performance of this Contract as are

required by law and this Contract. Contractor shall advise its employees, agents and subcontractors of this confidentiality requirement.

23.7 All of Contractor's employees assigned to perform services, or to provide support to those performing services for City under this Contract shall sign and adhere to a Statement of Confidentiality, provided by City, or Contractor's own statement, which has been reviewed and approved by City, which includes, but is not limited to, media contacts, nondisclosure of information relating to claims management issues, and prohibited relationships with vendors, and that conforms, to the extent possible, to City's own ethics and confidentiality statements. Such statements shall be reviewed annually by Contractor with its employees and be available for City review at any reasonable time.

23.8. To facilitate communication with both the management and individual members in City's Police Department and to ensure the highest possible degree of efficiency and cooperation, Contractor shall communicate relevant claims information directly to the Police Department's Medical Liaison Section, and Fire and Police Pensions Department to serve their members' needs. This day-to-day operational communication is not subject to the direction above (Section 23.5) regarding advance approval for release of information.

23.9. The provisions of this Section shall survive expiration or termination of this Contract.

24. PUBLIC RECORDS ACT

24.1. Any documents submitted by Contractor and all information obtained in connection with City's right to audit and inspect Contractor's documents, books, and accounting records pursuant to Section 27, Record Retention and Inspection/Audit of this Contract become the exclusive property of City. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret," "confidential," or "proprietary." City shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

24.2. In the event City is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret," "confidential," or "proprietary," Contractor agrees to defend and indemnify City from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

25. PUBLICITY

25.1. Contractor shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing Contractor's need to identify its services and related clients to sustain itself, City shall not inhibit Contractor from publishing its role under this Contract within the following conditions:

- Contractor shall develop all publicity material in a professional manner.

- During the term of this Contract, Contractor shall not, and shall not authorize, another to publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of City without the prior written consent of the CCA. City shall not unreasonably withhold written consent.

25.2. Contractor may, without the prior written consent of City, indicate in its proposals and sales materials that it has been awarded this Contract with the City of Los Angeles, provided that the requirements of this Section 25 shall apply.

26. RATIFICATION CLAUSE

Due to the need for Contractor's services to be provided, Contractor may have provided services prior to the execution of this Contract. To the extent that said services were performed in accordance with the terms and conditions of this Contract, those services are hereby ratified.

27. RECORD RETENTION AND INSPECTION/AUDIT

27.1. Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. Contractor agrees that City, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or records relating to this Contract. All such material, including, but not limited to, all financial records, timecards and other employment records, and proprietary data and information, shall be kept and maintained by Contractor and shall be made available to City during the term of this Contract and for a period of three (3) years thereafter unless City's written permission is given to dispose of any such material prior to such time. All such material shall be

maintained by Contractor at a location in Los Angeles County, or another location approved by City, provided that if any such material is located outside Los Angeles County, then, at City's option, Contractor shall pay City for travel, per diem, and other costs incurred by City to examine, audit, excerpt, copy, or transcribe such material at such other location.

27.2. In the event that an audit of Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by Contractor or otherwise, Contractor shall immediately notify the CCA of such audit. Contractor shall also provide a copy of such audit report to the CCA within thirty (30) days of Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Contract. City shall make a reasonable effort to maintain the confidentiality of such audit report(s).

27.3. Failure on the part of Contractor to comply with any of the provisions of Subsections 27.1 and 27.2 shall constitute a material breach of this Contract upon which City may terminate or suspend this Contract.

28. SUBCONTRACTING

28.1. The requirements of this Contract may not be subcontracted by Contractor without the advance written approval of City. Any attempt by Contractor to subcontract without the prior consent of City may be deemed a material breach of this Contract.

28.2. If Contractor desires to subcontract, Contractor shall promptly provide the following information:

- A description of the work to be performed by the subcontractor
- A draft copy of the proposed subcontract
- Other pertinent information and/or certifications requested by City

28.3. Contractor shall remain fully responsible for all performances required of it under this Contract, including those that Contractor has determined to subcontract, notwithstanding City's approval of Contractor's proposed subcontract

28.4. City's consent to subcontract shall not waive City's right to prior and continuing approval of any and all personnel, including subcontractor employees providing services under this Contract. Contractor is responsible to notify its subcontractors of this City right.

28.5. The CCA is authorized to act for and on behalf of City with respect to approval of any subcontract and subcontractor employees. After approval

of the subcontract by City, Contractor shall forward a fully executed subcontract to City for its files.

28.6. Contractor shall be solely liable and responsible for all payments or other compensation to all subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding City's consent to subcontract.

28.7. Contractor shall obtain certificates of insurance, which establish that the subcontractor maintains all the programs of insurance required by City from each approved subcontractor. Contractor shall ensure delivery of all such documents to City before any subcontractor employee may perform any work hereunder.

29. TERMINATION FOR NON-APPROPRIATION OF FUNDS

Notwithstanding any other provision of this Contract, City shall not be obligated for Contractor's performance hereunder or by any provision of this Contract during any of City's future fiscal years unless and until City appropriates funds for this Contract in City's Budget for each such future fiscal year. If no appropriation is made, then Contractor's obligation to perform services shall cease when funding is exhausted and this Contract will terminate on the last day of the fiscal year for which there was an appropriation. City shall notify Contractor in writing of any such non-allocation of funds at the earliest possible date.

30. TRANSITION

Following the first week of this Contract, and at the end of the term of this Contract, or if this Contract is terminated by City for any reason, City, with the assistance of Contractor, will select a transport vendor to immediately identify, pack and prepare for movement of all necessary City claims files and property and relocate to the new Contractor. Contractor shall be responsible for the entire cost of relocation, which may be paid directly to the transport vendor or deducted from Contractor's final bill for services.

31. USE OF FULL-TIME EMPLOYEES

Contractor shall assign and use full-time employees of Contractor, working a minimum of seventy five hours per two week pay period (37.5 per week), to provide services under this Contract unless Contractor can demonstrate to the satisfaction of City that it is necessary to use non-full-time employees based on staffing efficiency or City requirements for the work to be performed under this Contract. It is understood and agreed that Contractor shall not, under any circumstances, use non-full-time employees for services provided under this Contract unless and until City has provided written authorization for the use of same. Contractor submitted with its proposal a full-time employee staffing plan. If Contractor changes its full-time employee staffing plan, Contractor shall

immediately provide a copy of the new staffing plan to City.

32. VALIDITY

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby.

33. WARRANTY AGAINST CONTINGENT FEES

33.1. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business.

33.2. For breach of this warranty, City shall have the right to terminate this Contract and, at its sole discretion, deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

34. STANDARD TERMS AND CONDITIONS

Contractor agrees to comply with Exhibit 2 – Standard Provisions for City Contracts (Rev. 10/17), attached hereto and made a part hereof.

35. RESPONSIBILITY TO PROVIDE SERVICES IN ACCORDANCE WITH APPLICABLE STANDARDS AND REQUIREMENT TO POSSESS ALL VALID PERMITS AND LICENSES

Contractor warrants that the work performed hereunder shall be completed in a manner consistent with professional standards among those firms in Contractor's profession, doing the same or similar work, under the same or similar circumstances. Contractor must possess and maintain valid licenses and permits required to perform the services described herein.

36. COMPLIANCE WITH STATUTES AND REGULATIONS

Contractor, in the performance of this Agreement, shall comply with all applicable statutes, rules, regulations, and orders of the United States, the State of California, the County and City of Los Angeles. Contractor shall comply with new, amended, or revised laws, regulations, and procedures that apply to the performance of this Agreement.

37. AMBIGUITY

No ambiguity in this Agreement may be interpreted against any one party by virtue of that party being drafter of the Agreement.

38. ENTIRE AGREEMENT

This Agreement contains the full and complete Agreement between the parties. No verbal agreement or conversation with any officer or employee of either party will affect or modify any of the terms and conditions of this Agreement.

39. ORDER OF PRECEDENCE

In the event of any inconsistency between the provisions in the body of this Agreement and the attachments, the provisions in the body of this Agreement take precedence, followed by Exhibit 2, Standard Provisions for City Contracts (Rev. 10/17).

40. INCORPORATION OF DOCUMENTS

The following documents are attached to and form a part of this Contract.

- Exhibit 1 – Claims Management Program Requirements 2017
- Exhibit 2 – Standard Provisions for City Contracts (Rev. 10/17)

This Contract and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersede all previous Contracts, written and oral, and all communications between the parties relating to the subject matter of this Contract. No change to this Contract shall be valid unless prepared pursuant to Section 8, Amendments, and signed by both parties.

THIS CONTRACT IS EXECUTED IN THREE (3) DUPLICATE ORIGINALS, EACH OF WHICH IS DEEMED TO BE AN ORIGINAL.

SIGNATURE PAGE FOLLOWS

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their respective duly authorized representatives.

CITY OF LOS ANGELES
PERSONNEL DEPARTMENT

By: _____
WENDY G. MACY
General Manager

Date: _____

TRISTAR RISK MANAGEMENT, INC.

By: _____
THOMAS J. VEALE
President

Date: _____

By: _____
DENISE L. COTTER
Secretary/Chief Financial Officer

Date: _____

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: _____
SAMUEL PETTY
Deputy City Attorney

Date: _____

ATTEST:

HOLLY L. WOLCOTT, City Clerk

By: _____
Deputy City Clerk

Date: _____

Approved Signature Methods:

1) Two signatures: One of the Chairman of the Board of Directors, President, or Vice-President, and one of the Secretary, Assistant Secretary, Chief Finance Officer, or Assistant Treasurer.
2) One signature of a Corporate-designated individual together with a properly attested resolution of the Board of Directors authorizing the individual to sign.

City Business License Number _____

Internal Revenue Service Taxpayer Identification Number _____

Contract Number C-121812-4

EXHIBIT 1 – CLAIMS MANAGEMENT PROGRAM REQUIREMENTS

SECTION I - PROGRAM DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words or terms as used herein shall be construed to have the following meanings, unless otherwise apparent from the context in which they are used.

1. Acceptable Quality Level (AQL)

A measure expressing the maximum allowable leeway or variance from a performance standard before City will reject a specified service. An AQL does not mean that Contractor may knowingly perform in a defective way. It means that City recognizes the fact of unintentional human error. Whenever possible, Contractor must re-perform work that fails to meet AQL to correct identified defect(s).

Recognition of unintentional error does not relieve Contractor from the right of City to make adjustments to payment to Contractor under Exhibit 1 – Contractor Payment and Adjustment to Payment, Section III.

2. Allocated Claim Costs

2.1. Various costs associated with evaluating the compensability of a claim and specific costs incurred in managing a claim may be charged directly to the claim. Allocated claims costs include:

- All carve-out fees and expenses
- Workers' Compensation Appeals Board or court costs, fees and expenses
- Fees for service of process
- Fees to attorneys and paralegals
- Cost of services of outside undercover investigators or operatives
- Vocational rehabilitation counselors
- Cost of employing independent experts for the purpose of preparing maps, photographs, diagrams, analysis for giving expert advice or opinions
- Cost of copies of transcripts of testimony at Coroner's Inquests for criminal or civil proceedings
- Cost of obtaining copies of any public record
- Any similar cost or expense properly chargeable to the defense of a particular claim or to protect the subrogation rights of City, or
- Other costs determined by City

2.2. Generally, the above services are typically not performed by Contractor responsible for administration of the claims file. Allocated claims costs are not included in the fees paid to Contractor, but are subject to review by City. Any service charged directly to the claim, but for which Contractor is considered responsible, such as using a vendor for routine copying services will be disallowed.

3. Closed Claim

Final closure of a claim after it has been determined that all benefits and legal obligations have been met, all bills have been paid, all reports and documentation are recorded in the claim file and appropriate notification to the claimant of file closure is made.

4. Conflict Claim

A claim submitted for non-sworn City employees, which, if handled by City's in-house claims personnel, would create the potential of a conflict of interest or result in the perception of impropriety.

5. Indemnity or Disability Claim

5.1. An indemnity or disability claim involves one or more of the following: temporary disability or salary continuation due, ratable permanent disability anticipated, death of the claimant, application for adjudication of claim filed, liability undetermined, medical costs over $3,500, benefits due more than six (6) months after opening of case, previously finalized claim re-opened with future medical costs (Take-Over Claim) and/or designation by the claims examiner.

5.2 Indemnity claims requiring the services of experienced claims professionals will be assigned to claims examiners. This includes all lost time claims (claims which incur salary continuation and/or temporary disability payments as required by Labor Code 4850/IOD and all claims for which, in the judgment of the assigned claims professional, there is an issue of permanent disability, litigation, fraud or subrogation.

5.3. Average caseloads for claims examiners must not exceed the caseload limit specified by City. Only open indemnity claims are counted towards the claim examiner's caseload. Contractor shall exercise due diligence in regularly reviewing and closing indemnity claims which no longer require the oversight of claims adjusting personnel to ensure that caseloads are not artificially inflated.

6. Medical Only Claim

6.1. A non-litigated claim involving only medical payments that are not expected to exceed $3,500. Indemnity payments are not expected.

6.2. Medical Only Claims shall be assigned to medical only claims assistants or other staff serving in a training or support role to the examiners. Medical Only claims may be assigned to a claims examiner if to do so will be a sound practice considering the claimant's history and/or the presence of "companion" indemnity claims.

6.3 Whenever a Medical Only Claim is assigned to a claims examiner for management outside of normal procedure, a specific notation for the basis of the assignment will be made in the electronic claim comments.

6.4. Medical Only claims assigned to an examiner shall not be included in the caseload count for that examiner.

7. Quality Assurance Monitor Plan (QAMP)

A variety of Inspection methods to evaluate Contractor's compliance with the Contract.

8. Quality Control Plan

All measures taken by Contractor to assure that the quality of an end-product or service will meet City's Contract requirements regarding timeliness, accuracy, appearance, completeness, consistency and conformity.

9. Random Sample

A sampling method where each service output has an equal chance of being selected.

10. Take-over Claim

Transfer of responsibility for management for a particular claim from City to Contractor.

SECTION II - CONTRACTOR'S SERVICES

1. Scope Of Work

Contractor shall provide workers' compensation claims management services for all existing claims as well as all reopened or new claims reported during the Contract period for sworn personnel of the Los Angeles City Police Department and for all sworn Police, sworn Fire and civilian conflict claims during the Contract transition process from November 24, 2012 to November 22, 2017.

Contractor shall provide these services in accordance with the following standards:

- Those specific standards and requirements set forth in this Section.
- To the extent a specific standard or requirement is not set forth in this Section, those standards and requirements set forth in the State of California workers' compensation statutes, codes, regulations, or other governing statutes and regulations, including any amendment to these statutes and regulations during the term of this Contract.

2. Minimum Standards of Performance

2.1. Each party's performance of this Contract shall comply with all applicable laws of the United States of America, the State of California and the City, including, but not limited to laws regarding health and safety, labor and employment, wages and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California. Contractor shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract. If any part, term, or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a Federal, State or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

2.2. Contractor shall utilize industry best practice standards for workers' compensation claims management and shall conduct all claims activities in accordance with the specific technical requirements included in this Section, and elsewhere, unless otherwise agreed or specified by the City.

3. Program Development

Contractor's responsibilities include but are not limited to the following:

3.1. Monthly review of procedures and practices with City personnel to

ensure that City's workers' compensation program is in compliance with State requirements as well as with sound workers' compensation claims management as determined by City.

3.2. Provide assistance in changing City policy and procedures to implement legislative changes or State rules and regulations which impact City's workers' compensation program.

3.3. Attend periodic performance feedback meetings facilitated by the WCA. The meetings will focus on Contractor's and City's performance in fulfilling the service level agreements contained in this Contract. The meetings will provide a forum to informally discuss opportunities for improving Contract terms and conditions, service level agreements and cost reductions for both parties.

3.4. Prepare agendas and distribute minutes to document such meetings within a week after each meeting, as well as any periodic reports required by City.

4. Contractor's Responsibilities

4.1. Comply with all City workers' compensation claims management policies and standards and be responsible for overall coordination and integration of claims services. At the sole discretion of City, Contractor shall take all necessary steps to reduce costs, increase productivity and to enhance the quality and the level of claims management.

4.2. Review and process all industrial injury cases in accordance with City standards, state statutes or laws and requirements of the State Department of Industrial Relations for reporting and notification. Conduct a thorough review of facts and develop all information necessary to determine the compensability for injuries and illnesses (accept claim, deny claim, or delay acceptance pending the results of additional investigation) and document the reasons for such determination, in accordance with California workers' compensation laws. All liability decisions and required notices for those decisions will be made within 90 days, or less if required by State of California statutes or regulations, from the date of employer's knowledge of injury in accordance with law, including but not limited to Labor Code Section 5402.

4.3. Determine compensability of injuries and illnesses in accordance with State workers' compensation laws.

4.4. Obtain a medical report addressing the issue of Arising Out of Employment/Course of Employment (AOE/COE) within 90 days, or less as required by law, from the date of employer's knowledge of injury.

4.5. Where there is evidence that a claimed injury is not work related, deny the claim within 90days, or less as required by law, of filing of the claim or within ninety (90) days or less from the date of employer's knowledge in accordance with law, including but not limited to Labor Code Section 5402. The review shall also include medical release forms, statements from supervisors and co-workers, depositions, etc.

4.6. Determine eligibility for and authorize salary continuation and/or temporary disability compensation benefits in accordance with medical advice and rehabilitation efforts.

4.7. Obtain City approvals in accordance with approval limits established by the WCA prior to the negotiation of any compromise and release agreement or Stipulation with Request for Award.

4.8. Determine the extent and degree of permanent disability, utilizing, as necessary and desirable, consultative ratings from the Disability Evaluation Unit of the Office of Benefit Determinations. Permanent Disability benefits shall be calculated in accordance with Labor Code Section 4658.

4.9. Authorize payments, in accordance with approval limits, for temporary and/or permanent disability compensation, medical care and death benefits in accordance with advisory ratings, or orders of the WCAB or compromise and release agreements.

4.10. Ensure that all indemnity benefits are paid accurately in accordance with City procedures and timeframes, and in full compliance with City's accounting and record keeping requirements.

4.11. Investigate, as necessary and appropriate, questionable cases and the status of disabled employees in order to assist in the adjustment, mediation and litigation of any such case and in the proper referral of suspected fraudulent cases.

4.12. Take all necessary actions, including timely notification, to assist City in recovering reimbursement for City liability through third-party subrogation, restitution, and/or apportionment on cases involving shared liability.

4.13. Provide the Department of Fire and Police Pensions or the long-term and short-term disability claims adjusting contractor with copies of the employee's report of injury, medical reports from the workers' compensation files and award letter. Any other pertinent case information on those workers' compensation claims also having a long-

term disability claim with City for the same condition shall also be provided.

4.14. Provide City aid and assistance in returning injured employees to their usual and customary or modified/alternate assignments in a timely manner.

4.15. If required by City, review and process City Attorney or authorized outside counsel invoices.

5. Staffing/Organization

5.1. Contractor shall be responsible for providing sufficient and competent staff to fulfill the Contract and shall have complete flexibility for establishing an effective management and organizational structure.

5.2. Adjustments in staffing based upon fluctuations in caseload shall be subject to approval of WCA/CCA. Average caseloads for claims examiners shall not exceed150 open indemnity claims unless adjusted in accordance with Section III, Sub-Section 1.

5.3. Contractor shall have at least one non-caseload carrying claims supervisor for every eight claims examiners. City has approved Contractor's staffing plan and organization chart dated September 6, 2012. Any proposed changes thereto shall be submitted to City no later than 30 days prior to any proposed change and approved by City in advance. Contractor shall have at least one non-caseload carrying Contract/Claims Manager, and one non-caseload carrying quality assurance auditor at the level and experience of a claims supervisor. The Contract/Claims Manager and quality assurance auditor may be the same individual and shall be assigned to City's account.

5.4. Except for claims assistants, and those examiners in training, all claims adjusting personnel, including the Contract/Claims Manager, shall possess a valid State of California Self-Insurance Administrators Certificate. Copies of the certificates must be available for review by City prior to the award of Contract or at the time of hire whichever comes later.

5.5. Claims assistants shall be capable of handling medical only claims and other support duties such as: obtaining medical updates, calculating routine temporary disability payments, identifying cases for assignment to medical case management, etc.

5.6. A clear depiction of Contractor's organizational structure shall be

provided to City, updated as necessary, showing the number of Contractor's positions dedicated to City's Project, including span of control for each supervisory position. All support staff and specialist positions shall also be included.

5.7. Experience/Training for Claims Examiner Personnel

5.7.1. To ensure workers' compensation claimants receive appropriate benefits and medical care, all claims examining personnel assigned to City's Project must meet specific standards of training, experience and skills.

5.7.2. All claims examining personnel engaged in the management of indemnity claims must either be a claims assistant in training, currently taking training as stated in CCR Sections 2592.02(a-c) and 2592.03, as may be amended, or have successfully completed the State of California Self-Insurance Administrator written examination; and worked as a workers' compensation examiner for a minimum of eighteen months.

5.7.3. All claims examining personnel engaged in the management of medical only claims must either have at least eighteen months of on-the-job experience adjusting California workers' compensation medical only claims and be within six months of certification by an insurer as an "experienced medical only claims examiner," or be a medical only claims assistant currently taking or have successfully completed the required training as stated in CCR Sections 2592.02(a-c) and 2592.03, as may be amended.

5.7.4. Contractor shall also require a minimum of thirty hours of post-certification training every two years for all claims examiners and twenty hours of training every two years for all medical only claims assistants pursuant to CCR Section 2592.02(d-f), as may be amended, and maintain satisfactory records of this training, to be provided City upon request.

5.8. Claims Examiners in Training

5.8.1. As a general practice, the City believes there is value to the concept of on-the job development of technical/professional staff. However, this practice must be tempered by the City's need for experienced claims adjusting services.

5.8.2. Contractor may employ examiners who do not possess a State of California Self-Insurance Administrator certificate to handle indemnity claims. However, such examiners must be taking training pursuant to CCR 2592.02(a-c) and 2592.03, as may be

amended. Upon completion of such training, examiners must be actively pursuing such certificate by taking every available State of California Self-Insurance Administrator examination until the certificate has been acquired. City reserves the right to request removal of any examiner who fails to pass such examination after multiple attempts.

5.9. Contractor's claims and management staff, with the exception of the Claims/Contract Manager and quality assurance auditor, shall work a minimum of 75 hours per two week pay period (37.5 hours per week) and exclusively administer City cases in a dedicated unit. Contractor must assure continuation of provision of services to City in the event of an Act of God, employee shortage or strike.

5.10. Claims Supervisors

5.10.1. Claims Supervisors shall have a minimum of five years' experience in adjusting a caseload of California workers' compensation indemnity claims. Equivalent or substitute experience may be approved by the CCA. Supervisors will not be assigned any workers' compensation claims.

5.10.2. Claims Supervisors shall meet all the training and experience requirements per California Code of Regulations Section 2592-2592.14.

5.11. Contractor Personnel – Claims Examiners

5.11.1. At least 75 percent of the claims examiners shall have a minimum of three years' experience in the adjustment of California workers' compensation indemnity claims. Equivalent or substitute experience may be approved by the WCA.

5.11.2. Claims Examiners shall meet all the training and experience requirements per California Code of Regulations Section 2592-2592.14.

5.11.3. Training Required for Claims Examiners

Should Contractor develop, offer, and implement a training program in compliance with California Code of Regulations, Title 10, Chapter 5, Section 2592-2592.14 or other training, the training shall be made available, at no cost to City, to at least one City Contract Monitor per year.

6. Employee Records

6.1. Contractor shall keep a current and accurate list of all of its employees providing services under this Contract. The list shall include each employee's name, date of employment, current address, phone number, current salary and any additional data on licensing, background, behavior or job performance pertinent to the provision of this Contract.

6.2. Contractor employee's personnel file shall include, but is not limited to, background investigation report(s), current State of California Self-Insurance Administrators Certificate, verification of post-certification training and training certificates.

6.3. Contractor shall retain and provide to City, upon request, a copy of the employment application, employee resume and/or all documents included in this Section for all employees assigned to City's Program.

7. Reporting Claims

7.1. Since Police Department services are seven day/ twenty four hour operations, Contractor shall have the capacity to accept the reporting of injuries directly from the accident location.

7.2. Contractor shall disseminate to sworn Police personnel information about their services and the system for reporting claims. Since Police Department facilities are dispersed throughout the City with numerous telephone area codes, Contractor must provide toll free telephone and fax communication access for these facilities and Sworn Police personnel.

7.3. A Contractor employee at the level of Claims Supervisor or above, who has the authority to act for Contractor, shall be immediately available whenever Contractor's offices are normally closed, to respond to urgent requests from the Police Department Medical Liaison Section. Contractor shall provide a monthly updated schedule of personnel assigned during non-office hours to the Medical Liaison Section and the WCA.

7.4. Contractor shall report all indemnity claims to the Insurance Services Offices, Inc. –ISO Claims Search at its own expense, document in City's claims management software system (LINX), and assist or prepare all necessary, and/or State mandated reports.

8. Claim File Set-Up and Review

Contractor shall be responsible for creating clear, complete and timely documentation of all investigations, medical reports, evaluations, reserve

changes, correspondence, successful and unsuccessful contact attempts and for the creation of a claims management plan of action for each claim. Critical claims information and key elements of the plan of action, as required by City, shall be documented in LINX, or its successor.

8.1. Upon receiving notice of a claim, Contractor shall prepare an individual claim file and enter the claim into City's electronic claims management system within one working day. All claim files shall be reviewed at least every 14 days for active claims and at least every three (3) months for claims that have settled, but are open for the employee's future medical care.

8.2. For active indemnity claims where Labor Code Section 4850/IOD or TD is being paid, Contractor shall contact the injured employee's doctor and the injured employee every 14days until employee returns to work, and document in the claims file.

8.3. If applicable, City will provide orientation to City's workers' compensation claims management and imaging systems for key Contractor personnel prior to the start date of the Contract. Contractor shall not be reimbursed for any expenses during orientation or training.

9. Case File Record Retention

All claims files will be retained indefinitely. No claims will be destroyed without CCA approval and Contractor will be responsible for storage of all files within the above criteria during the term of this Contract.

10. Claims Research/Prior Loss History (INDEX)

10.1. Contractor is required to subscribe to ClaimSearch or another comprehensive all-claims database and system for claims processing and fraud detection, at no additional cost to City.

10.2. Contractor will complete a basic claims search for every new claim, and additional search on the anniversary of injury, at minimum, and yearly thereafter as long as the claim remains open, as part of its basic claims management program, and document all findings in the claim notes.

11. Claims Research/WCAB Cases

Contractor will complete a basic claims search for every indemnity claim, or as necessary, as part of its basic claims management program and document all findings in the claim file, at no additional cost to City. City prefers that Contractor subscribe to the DWC electronic data exchange system (EDEX).

12. Indemnity and Medical Benefits

12.1. Contractor shall determine eligibility for, and authorize temporary disability compensation benefits in accordance with medical advice and return-to-work efforts.

12.2. The City of Los Angeles offers up to one year of salary continuation in lieu of temporary disability benefits per the City's Administrative Code Sections 4.104 and 4.177 and the California Labor Code. Benefits are available to sworn Police personnel for injuries on/after January 1, 2010.

12.3. Contractor shall determine the extent and degree of permanent disability, utilizing as necessary and desirable, consultative ratings from the California Division of Workers' Compensation - Disability Evaluation Unit. Contractor must ensure apportionment is addressed in all claims involving permanent disability.

12.4. Contractor shall authorize payments, in accordance with approval limits specified in the California Labor Code, for temporary and/or permanent disability compensation, medical care and death benefits in accordance with advisory ratings or orders of the WCAB.

13. Three Point Contact

Contractor shall conduct Three-Point Contact with the injured employee and legal representative (if applicable), employer and medical provider on all new claims. Such contact should be completed within one (1) working day of receiving the claim, but no later than two (2) working days. Contact must also be made on Police Department claims through its Medical Liaison Section.

14. Reserves

It is the policy of City that reserves be set as soon as possible after receiving notice of an injury. If adequate information is unavailable, the initial reserves may be delayed, but are to be set no later than 14 calendar days following receipt of notice of injury. At all times, reserves shall reflect the ultimate probable cost of a claim based on factual evidence known at the time reserves are set and they shall be continually reevaluated and updated as additional information becomes available.

15. Prior Authorization Program

Contractor shall utilize City's Prior Authorization Program which allows providers in the City's First Care Panel to send injured workers to contracted managed care providers for certain routine medical procedures on a pre-approved basis.

16. Managed Care Program

City has a contract with a private firm to provide medical service review and cost containment services. Contractor shall use only this firm. City may implement other cost containment strategies, including, but not limited to a Medical Provider Network. Contractor shall fully cooperate and assist in the development, implementation and utilization of these services.

17. Medical Cost Containment

17.1. Contractor shall ensure that all statements for medical benefits are reviewed and that all amounts authorized for payment have been determined in accordance with the Official Medical Fee Schedule adopted by the Administrative Director of the Division of Workers' Compensation, City's Preferred Provider Organization (PPO) discount rate, or City's network rate, whichever is lower. Contractor shall ensure that duplicate medical payments are not sent for fee review. Contractor shall utilize City medical panels, PPOs, provider networks, hospital and other medical utilization review services, and managed medical care services, as directed by City. All subcontractors or vendors shall be subject to prior review and approval by the CCA.

17.2. Should City wish to add City medical panels or a secondary PPO to enhance services provided by City's current fee review/PPO vendor, Contractor will coordinate the services of the primary and secondary providers to achieve seamless integration of their services.

18. Medical Management

It is the responsibility of Contractor to maximize the potential cost savings to City through the use of cost containment services and strategies. Any extraordinary medical expenses such as heart transplants, pain clinic charges, purchases of furniture, waterbeds, home exercise equipment, vehicles, spas or spa memberships, or other costly measures must be approved in advance by the WCA or designee.

19. Authority Limits

The CCA shall establish and provide to Contractor a schedule of authority limits and referrals, for all personnel approving indemnity, medical or City salary continuation benefits.

20. Settlement Negotiations

20.1. Contractor shall obtain written approvals in accordance with approval limits established by City prior to the negotiation of any settlement agreement. Contractor shall present all settlement agreement

recommendations to the WCA in a timely manner to permit adequate review. Such presentation shall include a written synopsis of alternatives, risks and options considered, and shall serve as the basis to discuss recommended settlements and to obtain the approval of the City Attorney.

20.2. The City Attorney will retain the authority to approve all final settlement recommendations; however, at its own discretion, the City Attorney may delegate portions of this authority to the CCA.

21. Medical Control

Contractor's responsibilities include but are not limited to the following:

21.1. Monitor treatment programs for injured or ill employees, including review of all medical reports to ensure reasonable fees and appropriate medical care and determine need for specialty evaluations.

21.2. Ensure that the treating doctor is complying with the requirements of Title 8, CCR, Section 9785 and file petition to remove treating doctors who fail to comply with CCR, Section 9785.

21.3. Abide by the City's Utilization Review Plan when authorizing or denying all treatment requests.

21.4. Maintain adequate staffing from 9:00 a.m. until 5:30 p.m. on each normal business day to authorize medical treatment and answer questions, in accordance with Labor Code 4600.4.

21.5. Make all necessary medical appointments and ensure that all necessary medical reports are provided to the Primary Treating Physician or consulting doctors.

21.6. Maintain close liaison with treating physicians to provide meaningful guidance to City departments in evaluating employee's ability to return to work, and/or recommend further treatment programs.

21.7. Evaluate and make recommendations for the panel of physicians who are utilized for the initial treatment of employees and the panel of physicians used for treatment requiring long-term treatment, or specialty care and evaluation, and make regular recommendations for updating of these panels.

21.8. Utilize information provided by and cooperate in the enforcement of any medical case management program and/or managed care program implemented by the CCA for claims including, but not limited to, obtaining pre-certification for medical procedures through utilization

review and requesting case management on older claims as needed, or at City's request.

21.9. If applicable, provide written policies and procedures within three (3) months after Contract commencement to ensure timely referrals of cases to managed care contractors and to maintain close coordination with managed care staff on a continuing basis.

21.10. Process bills and liens for medical treatment expenses so as to either pay the bill or lien in accordance with the official fee schedule or object to the bill or lien within the period designated by law, including but not limited to Title 8, California Code of Regulations, Section 9792.5.

21.11. Prepare an affidavit regarding resolution of liens and submit the affidavit to City's representative or defense attorney at least 10 days prior to any Mandatory Settlement Conference.

21.12. Identify claimants who may be Medicare beneficiaries, reimburse Medicare for "conditional payments" in which City is the responsible payer pursuant to 42 C.F.R. Section 411.21, and work with the federal Centers for Medicare and Medicaid Services (CMS), as appropriate, to develop Medicare Set-aside Arrangements (MSAs) on settlements that involve future medical expenses pursuant to 42 C.F.R. Sections 411.46 and 411.47.

21.13. Attend, and represent City, at all lien meetings at no additional expense to City, whereas the City Attorney will provide representation at trials and formal hearings.

22. Managed Care Program

22.1. Under the Managed Care Program, Contractor is responsible for entering into and maintaining contracts with a variety of providers to deliver prompt and appropriate medical care to City's injured employees. City currently has a Physical Medicine Network, Pharmacy Benefit Management Program, Radiology Network, Durable Medical Equipment Network, Home Health and Nurse Case Management Network, Translation and Transportation Network and a pilot Dental Network. Contractor is required to utilize these services on an exclusive basis and any others added by City.

22.2. City may implement other cost containment strategies, including but not limited to a Medical Provider Network. Contractor will fully cooperate and assist in the development, implementation and utilization of these services.

23. Return to Work & Supplemental Job Displacement Benefits (SJDB) / Vocational Rehabilitation

23.1. City policy requires that employees who become ill or injured in connection with the performance of their duties be returned to work as soon as possible, with primary emphasis to return employees to their former jobs. However, if this is not possible due to medical restrictions, Contractor must work actively with the Medical Liaison Section to place employees in modified or alternative assignments compatible with employees' medical capacities.

23.2. Contractor must serve injured workers with a Notice of Offer of Regular, Modified, or Alternative Work as stated in Title 8 CCR Section 10117. Contractor shall reimburse City for any fifteen per cent increase in permanent partial disability as a result of CCR Section 10117(b) (1) which City pays or is required to pay as a result of Contractor's acts, errors and/or omissions. Such reimbursements shall be deducted from Contractor's monthly service fees.

23.3. Contractor shall determine eligibility for and authorize supplemental job displacement benefits as necessary pursuant to Labor Code Section 4658.5, as well as all Vocational Rehabilitation benefits.

23.4. Contractor shall provide injured workers with required supplemental job displacement notices in compliance with State requirements.

24. Rehabilitation Services

24.1. When medically appropriate, Contractor shall coordinate implementation of rehabilitation plans for injured employees for approval by City, the employee and other agencies, to provide rehabilitation, re-training or reassignment for employees with physical or performance limitations resulting from industrial injuries pursuant to Labor Code Section 139.5.

24.2. Contractor shall manage all rehabilitation cases including evaluation, control, monitoring and selection of duly licensed professional rehabilitation service providers.

24.3. Contractor shall determine initial rehabilitation efforts for each injured employee with primary emphasis on returning employees to work in the City through job modification or reassignment to a position compatible with the employee's medical capacities. If placement within the City is not possible, rehabilitation efforts are to be directed at returning employees to other gainful employment.

24.4. Contractor shall determine if injured workers are entitled under provisions of Labor Code Section 139.5 to receive temporary disability or rehabilitation maintenance allowance, the services of a rehabilitation counselor, a program of retraining and placement, and reimbursement for costs directly related to the rehabilitation plan.

24.5. Contractor shall represent the City at formal and informal hearings before the State Rehabilitation Unit.

24.6. Contractor shall determine if injured workers are eligible for supplemental job displacement benefits pursuant to Labor Code Section 4658.5.

24.7. Contractor shall provide injured workers with required rehabilitation and supplemental job displacement notices in compliance with State requirements.

25. Citywide Temporary Modified Duty Program

Under direction of the WCA, Contractor will support the Police Department to ensure aggressive implementation of City's Temporary Modified Duty Program, and compliance with statutory requirements.

26. Customer Service

26.1. Contractor shall provide information and guidance to injured employees on benefits they will receive in accordance with State laws as well as any additional City work injury benefits.

26.2. Contractor shall assist in identifying and resolving employee problems arising out of industrial injuries.

26.3. Contractor shall develop and recommend policies and procedures to ensure that the employee's return to work is consistent with the findings of disability as determined by the WCAB.

26.4. At the request of the WCA, City Attorney or Police Department, Contractor shall provide responses to inquiries, make available claim status reports, and attend City claim status reviews or other meetings.

26.5. Contractor shall develop written standards for telephone and voice mail use, consistent with those established by City.

27. Litigation Management

The City Attorney's Office or designated private law firms provide legal services for all City workers' compensation claims. Contractor's responsibilities include, but are not limited to, the following:

27.1. Provide all necessary claims information and other assistance to legal counsel for the defense of litigated claims.

27.2. Provide a copy of all notices of conferences, Mandatory Settlement Conferences, trials or various hearings before the WCAB to City's legal counsel within five days from date of receipt.

27.3. Prepare litigated files and send to City's legal counsel when legal assistance is required. This may include a synopsis of the claim, a summary of all benefits paid, medical reports, and correspondence from applicant or applicant's attorney.

27.4. Provide to City Attorney a complete summary of all benefits paid (amounts and periods) to the injured employee along with a completed Balance Sheet, at least 10 days prior to any Mandatory Settlement Conference and provide an updated summary as necessary for other WCAB proceedings.

27.5. Respond to correspondence, telephone calls and email from defense attorneys within one workday or sooner if the correspondence is urgent, e.g. necessitated by an upcoming WCAB appearance date. All such communication shall be documented in claims notes.

27.6. Provide a written status report on open litigated cases as requested. Parameters of this report will be established by WCA.

27.7. Attend, and represent City, at all settlement conferences and lien hearings at no additional cost to City, unless otherwise instructed by the City Attorney.

28. Subrogation Recovery

28.1. All claims shall be immediately evaluated for subrogation potential, initially from information obtained during the Three-Point Contact for new injuries, and subsequently from other information obtained from supervisors' statements, accident reports, police reports, witness statements, etc. Written notices to appropriate parties will be provided and Contractor will work closely with City Attorney staff to seek reimbursement from the negligent third party. Notations of potential recovery and all communication with the City Attorney shall be documented in the claim notes.

28.2. Contractor shall utilize City's subrogation recovery procedure, or develop its own, subject to City approval, to determine whether the procedure meets City requirements.

29. Fraud investigations

29.1. Contractor shall investigate, as necessary and appropriate, questionable cases and the status of disabled employees in order to assist in the adjustment, mediation and litigation of cases, and in the proper referral of potential fraud cases.

29.2. If applicable, Contractor shall develop written policies and procedures relating to the identification and investigation of potential fraud cases. Contractor shall provide regular fraud detection training to key personnel to ensure aggressive, cost-effective investigations and timely referral to City and the Office of the City Attorney, Special Investigations Unit (SIU).

29.3. Contractor shall notify City and the Office of the City Attorney, SIU, immediately whenever the possibility of fraud is suspected.

29.4. At no cost to City, Contractor will provide regular SIU training to Contractor's key personnel to ensure aggressive, cost effective investigation and appropriate referrals to the Department of Insurance, District Attorney, WCA and City Attorney's Office.

30. Claims Payments - Accounting Controls

Contractor shall approve claims for payment and, as directed by the CCA, shall input and process same for payment by City's workers' compensation claims management system, financial or accounts payable system.

31. Claims Processing Responsibilities

31.1. Establish and maintain control procedures and necessary documentation to process and reject, settle, compromise or approve benefit claims against City in accordance with Section 31000.8 of the Government Code.

31.2. Enter payments of benefits and other claims file expenses into City's workers' compensation claims management system.

31.3. Establish and maintain an adequate and distinct separation of duties between Contractor personnel who process and enter data. Individuals responsible for the input of transactions shall not be involved in the release of these transactions. In addition, individuals responsible for the creation of a claim file and/or address changes shall not input or release transactions.

31.4. Establish and maintain sufficient checks and balances to ensure compliance with established procedures and controls.

32. Claims Best Practices Review

32.1. Contractor is required to complete a minimum of 10 internal claims audits per month by each claims supervisor to evaluate individual examiners' compliance with City's performance requirements. Claims supervisor(s) shall randomly select active indemnity claims and utilize City's claims audit form (or customized facsimile) to verify compliance with file documentation requirements, case set-up schedule, file management, utilization review and indemnity payment timeliness.

32.2. Any finding regarding non-compliance with City's requirements, and/or any performance deficiency by the claims examiner, shall be documented in the audit and discussed with the claims examiner, along with any corrective action taken. After review by the claims supervisor and/or Branch/Claims Manager, copies of all completed audits will be transmitted to City's on-site staff, and/or the WCA. Audit findings shall also be summarized on City's TPA Monthly Audit Summary Report and transmitted to WCA or designee.

32.3. All open claims shall have a complete annual review, at minimum. In addition, on a quarterly basis, City staff will randomly select a sample of multiple claims to determine if the use of industry best practices has been applied. On a monthly basis, random claims of examiner's caseloads will be selected for review. These claims will be formally reviewed with City and Contractor's management and staff as required. Case files and records are subject to audit by City at any reasonable time.

33. Alternate Dispute Resolution Program

33.1. City and Service Employees International Union (SEIU) Local 721 entered into an Agreement establishing an Alternative Dispute Resolution (ADR) Program in accordance with California Labor Code Section 3201.7. This Program currently covers civilian employees in four different unions and applies to all work-related injuries occurring on or after July 1, 2008.

33.2. Employees receive the same benefits that would otherwise be received in the State workers' compensation system, including medical treatment, temporary disability benefits, permanent disability benefits and supplemental job displacement benefits. The ADR Program requires that disputes related to workers' compensation claims be resolved utilizing the steps contained in the ADR Program before proceeding through the

WCAB. The Program includes the services of ombudspersons, mediators, arbitrators and advice nurses, all provided by a neutral third party.

33.3. Contractor is required to implement the ADR Program for any sworn Police employees who may be represented by any participating unions that provide workers' compensation claims management and benefits.

34. Computerized Claims Administration System (LINX)

34.1. City requires Contractor to utilize City's own proprietary claims administration system known as LINX. Since LINX is owned by the City, there are no licensing fees to Contractor to utilize this service. LINX software and training will be provided by City or a vendor of City's choice. Technical support for LINX software-related problems shall remain the ultimate responsibility of City. However, since Contractor will be off-site, Contractor shall provide first-tier support by diagnosing and resolving minor problems experienced by Contractor's end-users at no additional cost to City, whereas major problems will be directed to City.

34.2. If, during the term of this Contract, any change of office location, alteration of existing office space, or other reconfiguration occurs, it shall be the sole responsibility of Contractor to ensure the maintenance and continuous availability of LINX, or any other claims administration system, terminals and any other related hardware, for ongoing City business and to directly bear any costs associated with such alteration or reconfiguration.

34.3. City may, at its discretion, replace the LINX system with another computerized claims administration system. When, and if this occurs, Contractor shall assist City in the development and implementation of the new system to ensure a smooth transition.

35. Document Management and Workflow System

35.1. City has a web-based document management and workflow system (Imaging System) to electronically store all claims-related documents, route documents for processing and automate certain claims processes. Currently, the system is a system called eFlo, and is used for all civilian claims, except conflict claims.

35.2. Any Contractor administering claims which are currently using eFlo is responsible for prepping, scanning and indexing all claims-related documents into the Imaging System. This includes all incoming mail, as well as all claims-related documents directly received or produced by Contractor.

35.3. City reserves the right to require Contractor to use the Imaging System and to prepare, scan, index, route and process documents, as well as perform other duties as specified by City to maximize the full potential of the System.

35.4. If Contractor is required to scan and index documents, Contractor will be required to provide and install a capture system, and a fax server capable of connecting to the City's document management system (currently Filenet Content Services) at Contractor's site. To ensure timely processing of documents, the capture system, at minimum, will consist of an index workstation and a scan workstation connected to the City's Intranet backbone via a P2P Private Line T1 channel. The scanner of the scan workstation needs to be compatible with Filenet Capture Professional (version 4.0.2 and above).

35.5. City may at its discretion replace the eFlo System with another document imaging and workflow system. If and when this occurs, City reserves the right to require Contractor to use the new system and to purchase and maintain any hardware required to use the system. Contractor shall also assist the City in the development and implementation of the new system to ensure a smooth transition.

The current running specifications for the two workstations in the City are as follows:

Hardware:

- Intel Core i3 @ 3.1GHz and 4GB RAM
- 250 GB Hard drive
- Dual Monitor System

Software:

- Windows 7
- ODBC connection (SQL driver)
- IBM Filenet Capture Professional (version 4.0.2)
- Office 2010

35.5.1. Since the Imaging System is web-based, end-user client workstations will only require Windows XP operating system, Internet Explorer 6.0, and a minimum of 1GB RAM to utilize the system.

35.5.2. Internet Explorer 8.0 is required for the end-user workstation to access the web-based Imaging System.

35.5.3. To ensure efficient claims processing, City reserves the right to modify the Imaging System requirements according to the specifications of City.

35.5.4. Software, initial system configuration, and initial training shall be provided by City or a vendor of City's choice. This requirement shall also apply to the implementation of iVOS. However, Contractor shall be responsible for all equipment, maintenance, future reconfigurations to accommodate Contractor's workflow, and other related costs. However, since Contractor will be off-site, Contractor shall provide first-tier support by diagnosing and resolving minor problems experienced by Contractor's end-users at no additional cost to City, whereas major problems will be directed to City.

35.6. Computer Interface

35.6.1. Contractor, at no additional cost to City, shall interface with City's claims management system (LINX) and Imaging System through the provision of a P2P Private Line T1 channel pointing to City's Intranet backbone, according to specifications provided by City, and personal computers equipped with (at minimum) Intel Core i3 @ 3.1 GHz and 4GB of RAM, 250GB disk space, running with Windows 7 and Internet Explorer 8.0.

35.6.2. Contractor shall maintain the capacity to access the Internet and send and receive email for all claims adjusting personnel assigned to City cases. Contractor shall comply with CCA specified email protocol dealing with content and confidentiality when using email for City cases.

35.7. Computer Data Maintenance

Contractor shall, on a daily basis, accurately and thoroughly input, update and maintain all data fields on City's workers' compensation claims management system, as well as City's imaging system for all cases managed by Contractor.

36. Reporting Requirements

36.1. Contractor shall provide required monthly reports and records, with time deadlines, which include, but are not limited to:

- A report detailing the cases received and action taken in accordance with a format and data elements developed by City in cooperation with Contractor

- Statistical and narrative reports to assist City in evaluating its workers' compensation program

- A statistical and narrative report on outstanding issues to be addressed at Performance Evaluation Meetings

36.2. WorkCompStats

City currently utilizes computerized statistics, called WorkCompStats, as a management tool to track and monitor examiners' performance. Such statistics shall include, but not be limited to, bill turnaround time, rejected bill counts, closing ratios, settlement numbers per month, penalties (both medical and indemnity) and three point contact thresholds. Data for these statistics can be generated through LINX, City's bill review vendor and other sources.

Contractor shall compile statistics and charts as required by City, and meet with claims examining staff on a monthly basis to review the data and discuss methods for improvement. Contractor is expected to share such data and discussions with City and to aggressively pursue compliance with minimum goals established by City in the areas City selects for inclusion in WorkCompStats. City may also attend such meetings at its discretion. Contractor shall also provide City with monthly and quarterly reports as determined by City.

36.3. Quarterly Reports

Contractor shall prepare a written status report on selected open cases. Parameters and scope of this report will be established by CCA/WCA.

36.4. Annual Report

Contractor shall prepare a comprehensive annual statistical summary and narrative report to serve as the basis of the workers' compensation program and to permit preparation of reports required by the State Department of Industrial Relations.

SECTION III

CONTRACTOR PAYMENT AND ADJUSTMENTS TO PAYMENT

1. Total Obligation

City's total obligation for the period November 30, 2012 through November 21, 2018 shall not exceed $50,678,341, based upon a staffing model of one claims supervisor managing a total of one thousand fifty (1,050) indemnity claims and

a caseload level of one hundred fifty (150) indemnity claims per claims examiner.

Contractor's fee for the first year (12 months) was $10,284,353.11, which included compensation for services provided during the transition period specified below; for the second year, $7,848,831.77; and for the third year, $8,005,808.41. Contractor's fee for the fourth year shall be $8,223,524.52; and the fifth year, $7,741,795.38.

Should City decide to decrease the number of indemnity claims to 140 per claims examiner during the term of this Contract, City agrees to pay Contractor its monthly service fee and reduce its staffing level as specified in Sub-Sections 6 below, Method of Payment and Sub-Section 3 below, Number of Staff Positions. For any other permanent adjustment to the caseload level, City and Contractor shall negotiate in good faith an alternate and acceptable fee and staffing level.

Contractor's fee for the first year includes a negotiated amount of $2,092,220.00, at the rate of $12,380.00 per day and based upon Contractor's original Proposal service fee rate, to compensate Contractor for continuing to provide all professional and support staff to manage Police, Fire and civilian conflict claims during the Contract transition period, from November 24, 2012 to August 31, 2013.

Contractor agrees to reduce its total annual fee by one per cent, regardless of any caseload level adopted by City, pro-rated as necessary, when City replaces its current claims management system (LINX) with iVOS, said amount to be deducted from Contractor's regular monthly invoice.

2. Payment

2.1. City shall pay Contractor on a fee basis as set forth in this Section. Payment for assumption and administration of all take-over claims is included in this fee, if applicable. City will not make and Contractor is not entitled to any additional payment for the assumption or management of any takeover claim.

2.2. Contractor shall facilitate providing additional staff for special projects on an as-needed basis as determined by City. Compensation for such staff, and/or related expenses, shall be mutually agreed upon in writing when the need for such staff arises and is separate from the base monthly fee.

2.3. Contractor shall invoice City monthly in arrears for fees due for the billing period. The invoices shall clearly reflect and provide reasonable detail as determined by City of the services provided.

3. Number of Staff Positions

Position	140 Caseload	150 Caseload
Manager	1	1
Supervisor	6	6
Claims Examiner III	23	21
Claims Examiner II	18	17
Claims Examiner I	5	5
Claims Assistant	14	14
Support Staff	8	8
Total	75	72

4. Initial Claims Volume

The current estimate of the claims volume Contractor is required to manage is approximately 6,500. Initial claims caseload estimate excludes all Fire and civilian conflict claims managed by Contractor during the transition period from November 24, 2012 to August 31, 2013.

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5. Sworn Police New Claims By Month (FY 2011-12)

July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb	Mar.	Apr.	May	June	Total
208	290	284	249	244	262	276	271	300	263	281	290	3,218

6. Method of Payment

6.1. The monthly service fees shall be dependent on the level of staffing determined by City in accordance with Section III, Sub-Section 3 above, Number of Staff Positions. Depending on the level of staffing, the monthly service fees shall be as follows:

Monthly Service Fee	140 Caseload Limit	150 Caseload Limit	Other Caseload Limit
Year One	$647,072.40	$641,244.43	To Be Negotiated
Year Two	$663,249.21	$654,069.31	To Be Negotiated
Year Three	$679,830.44	$667,150.70	To Be Negotiated

Monthly Service Fees for Year Four shall be $685,293.71, for Year Five $698,999.58, and for Year Six shall be $714,502.

6.2. For any portion of a month during which services are provided, the

existing monthly service fee shall be pro-rated on a business-day basis. Monthly service fees shall be determined by the number of staff necessary to adequately handle the workers' compensation claims in accordance with the Caseload limit in Section III, Sub-Section 3 above, referred for service by City and as approved by City, and shall be adjusted, subject to City's agreement, as those claim totals affect needed staffing throughout the term of this Contract.

6.3. City shall provide Contractor with a monthly report of the indemnity caseload average. If the indemnity claim caseload average exceeds the adopted caseload limit, its monthly fee for the second month in which average caseloads continue in excess of the limit shall be reduced.

6.4. The amount of the reduction shall be equal to the monthly salary, fringe benefits and overhead of a claims examiner. The reduction shall double for the third month of non-compliance, triple for the fourth month of non-compliance and increase in the same manner and amount for each additional month in which Contractor remains out of compliance.

7. Adjustments

Except as provided in Sub-Section 6 above, Method of Payment, all other adjustments to staffing shall cause a corresponding change in the monthly service fees, based on the pro-rata average monthly salary plus the cost of fringe benefits and overhead for the position(s) added or deleted, but not to exceed the following rates:

Addition/Deletion of:	Monthly Service Fee Change
Manager	+/- $17,903.76
Supervisor	+/- $12,147.56
Claims Examiner III	+/- $10,909.69
Claims Examiner II	+/- $ 8,716.55
Claims Examiner I	+/- $ 7,529.91
Claims Assistant	+/- $ 5,196.80
Support Staff	+/- $ 4,028.78

8. Invoices and Payment

8.1. Contractor shall invoice City only for providing the tasks, deliverables, goods, services, and other work specified in Exhibit 1, Section III – Statement of Work, and elsewhere hereunder. Contractor shall be paid as set forth in Sub-Section 3 above, Number of Staff Positions and Sub-Section 6 above, Method of Payment. Contractor shall prepare invoices, which shall include the charges owed to Contractor by City under the terms of this Contract. Contractor shall be paid only for the tasks,

deliverables, goods, services, and other work approved in writing by City. If City does not approve work in writing, no payment shall be due to Contractor for that work.

8.2. To ensure that services provided under personal services contracts are measured against services as detailed in this Contract, City's Controller has developed a policy requiring that specific supporting documentation be submitted with invoices.

8.3. Contractor is required to submit invoices that conform to City standards and include, at a minimum, the following information:

a. Name and address of Contractor
b. Name and address of City department being billed
c. Date of the invoice and period covered
d. Reference to Contract number
e. Description of completed task and amount due for the task with appropriate and complete supporting documentation
f. Payment terms, total due and due date
g. Certification by a duly authorized officer
h. Discounts and terms (if applicable)
i. Remittance address (if different from Contractor's address)

8.4. All invoices shall be submitted on Contractor's letterhead, contain Contractor's official logo, or contain other unique and identifying information such as name and address of Contractor. Invoices shall be submitted on a calendar month basis and within 30 days after the month of service. Invoices submitted must be accompanied by a report detailing the staff assigned to City's account for that month. Such staffing report shall include the staff member's name, title, date of assignment to position, date of separation or absence from position, number of hours worked, pay rate, amount paid, and how fee adjustments, if any, were derived. City reserves the right to audit staffing reports and adjust billings to recover overpayments, if any. In order to facilitate such audits, Contractor shall provide timesheets and/or payroll records upon City's request.

8.5. Invoices and supporting documentation shall be prepared at the sole expense and responsibility of Contractor. City shall not compensate Contractor for any costs incurred for invoice preparation. City may request, in writing, changes to the content and format of the invoice and supporting documentation at any time.

8.6. Failure to adhere to these policies may result in non-payment or non-approval of demands, pursuant to Charter Section 262(a), which requires City's Controller to inspect the quality, quantity, and condition of services,

labor, materials, supplies or equipment received by any office or department of City, and approve demands before they are drawn on the City Treasury.

8.7. City reserves the right to require additional documentation prior to approval of invoice. City reserves the right to request additional supporting documentation to substantiate costs at any time.

8.8. All invoices under this Contract shall be submitted to the following address:

David Noltemeyer, Chief Management Analyst
Workers' Compensation Division Chief
City of Los Angeles Personnel Department
700 E. Temple Street, Room 210
Los Angeles, CA 90012

8.9. City Approval of Invoices

In no event shall payment be made prior to City's verifying and approving: 1) the services were received; 2) the work was approved and; 3) a full and complete invoice has been submitted. Payment shall be made within 30 calendar days of receipt of an approved invoice and only after such invoice has been approved for payment by City's representative. Invoices are considered complete when appropriate documentation is signed off as satisfactory by City's fiscal officer.

8.10. Total Obligation. City's total obligation under this Contract shall be in accordance with Sub-Section 1, Total Obligation.

8.11. City will adjust the invoice if necessary and pay the invoice within 30 days after receipt of a full and complete invoice, and only after such invoice has been approved for payment by City's representative.

9. Adjustments to Payments

Contractor shall reimburse City for any overpayment, fine, penalty or other cost incurred due to Contractor's failure to comply with State of California workers' compensation statutes, codes, regulations, or any term or condition of this Contract. Such failure includes, but is not limited to, the following:

i. Late payment or nonpayment of any benefit to any applicant or medical provider resulting in penalty or attorney fees.

ii. Overpayment of any benefit owed to any applicant, lien claimant, or other party in a case due to Contractor's failure to comply with the standards set forth in Exhibit 1 – Section II, Sub-Section 1, Scope of

Work.

iii. Overpayment of any benefit to any applicant, lien claimant, or other party in a case due to Contractor's failure to comply with the standards set forth in Exhibit 1 – Section II, Sub-Section 1, Scope of Work.

iv. Fines and/or administrative penalties assessed against City due to Contractor's failure to comply with the standards set forth in Exhibit 1, Section II, Sub-Section 1, Scope of Work.

v. No reimbursement by Contractor is required under this Section if Contractor's act(s) and/or omission(s) occurred because they were expressly approved or directed by an authorized City representative.

10. Notice of Adjustments to Payments

City shall give written notice to Contractor of any adjustments to payments. Contractor shall have two (2) weeks to respond in writing to the notice. If Contractor does not respond to the notice within two weeks, Contractor shall lose its right to dispute the adjustment. The response shall include, but not be limited to, one or more of the following:

10.1. Evidence that a penalty was not incurred or an overpayment or excessive cost was not made.

10.2. Evidence that Contractor's act(s) and/or omission(s) did not cause the penalty, overpayment, or excess cost.

10.3. Evidence that Contractor obtained prior written approval from an authorized City official.

11. Second Level Dispute Resolution Process

If, after receipt of Contractor's response to City's notice of adjustment to payments, City and Contractor are in disagreement, a second-level dispute resolution process will be conducted. The CCA or designee and an appropriate Contractor representative shall review the evidence and resolve the dispute. The second level dispute resolution process shall be completed within two months. At the end of the second-level dispute resolution process, City shall be entitled to reduce Contractor's monthly invoices for assessments of adjustments to payments.

12. Improper Acts or Failure to Act Regarding Claims Administration

12.1. Contractor shall reimburse City for exceeding monthly caseloads, overpayments, fines, penalties, attorney's fees, interest, medical costs,

rehabilitation costs and disability benefit payments which City pays or will be required to pay as a result of Contractor's acts, errors, and/or omissions which violate existing law, administrative procedure, or which fail to comply with generally accepted standard practices in the workers' compensation insurance industry, and third party workers' compensation claims administration field. City will offset such reimbursements from Contractor's monthly service fee if not paid separately by Contractor.

12.2. Contractor will not be responsible for reimbursement of liabilities including, but not limited to, overpayments, fines, penalties, attorney's fees, interest, medical costs, rehabilitation costs or disability benefit payments, if the act and/or omission resulted from following the express written instructions of City.

12.3. Contractor will not be responsible for reimbursement of liabilities including, but not limited to, overpayments, fines, benefit payments imposed as a result of a retrospective audit by the State Department of Industrial Relations, if the basis of the audit finding precedes the assumption of claim management responsibilities under this Contract with City.

13. Review of Indemnity Claims Volume

13.1. City reserves the right to review the actual claims volume every twelve months to determine if a change in base claims volume is warranted. If a change is warranted, City and Contractor must mutually agree on the new baseline for the indemnity claims volume and any resultant change to staffing.

13.2. The number of Police sworn new claims submitted for the twelve months from July 1, 2011 to June 30, 2012 was 3,218 (Section III, Sub-Section 5, above). For any contract year where the number of new indemnity claims, administered by workers' compensation claims examiners, exceeds 3,218 by 150, City shall pay Contractor an additional $62,000 within 60 days after the end of the contract year. If the total number of indemnity claims exceeds 3,218 by 300, administered by workers' compensation claims examiners, City shall pay Contractor an additional $124,000 after the end of the contract year.

13.3. The open indemnity claims caseload for sworn Police personnel was 6,500 (Exhibit 1, Section III, Initial Claims Volume) as of October 1, 2012. Should the open indemnity caseload change at the time of contract inception, then for every increase (or decrease) of 150 claims, the monthly base fee shall be increased (or decreased) by $5,175. Additionally, for any quarter where Contractor's open indemnity caseload decreases by increments of 150, the monthly base fee shall be reduced by increments of $5,175.

13.4. In the future, if City assigns claims from another department(s), City shall determine the number of new claims submitted for that department(s) during the previous 12 months, as well as the current number of open indemnity claims for that department(s). These numbers will be added to the baseline numbers referenced in 13.2 and 13.3 above when calculating fee adjustments per those sections. City shall compensate Contractor for this additional caseload by increasing Contractor's monthly base fee by $95 for each of these current open indemnity claims (at the time the department(s) is assigned to the Contractor.

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. Construction of Provisions and Titles Herein

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions of this Contract. The language of this Contract shall be construed according to its fair meaning and not strictly for or against **CITY** or **CONTRACTOR**. The word **"CONTRACTOR"** includes the party or parties identified in this Contract. The singular shall include the plural and if there is more than one **CONTRACTOR**, unless expressly stated otherwise, their obligations and liabilities shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC-2. Applicable Law, Interpretation and Enforcement

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

PSC-3. Time of Effectiveness

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR**;

B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;

C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and

D. This Contract has been signed on behalf of **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

PSC-4. Integrated Contract

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in the provisions of PSC-5 hereof.

PSC-5. Amendment

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-3.

PSC-6. Excusable Delays

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

In the event **CONTRACTOR'S** delay or failure to perform arises out of a Force Majeure Event, **CONTRACTOR** agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

PSC-7. Waiver

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

PSC-8. Suspension

At **CITY'S** sole discretion, **CITY** may suspend any or all services provided under this Contract by providing **CONTRACTOR** with written notice of suspension. Upon receipt of the notice of suspension, **CONTRACTOR** shall immediately cease the services suspended and shall not incur any additional obligations, costs or expenses to **CITY** until **CITY** gives written notice to recommence the services.

PSC-9. Termination

A. Termination for Convenience

CITY may terminate this Contract for **CITY'S** convenience at any time by providing **CONTRACTOR** thirty days written notice. Upon receipt of the notice of termination, **CONTRACTOR** shall immediately take action not to incur any additional obligations, costs or expenses, except as may be necessary to terminate its activities. **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to effect the termination. Thereafter, **CONTRACTOR** shall have no further claims against **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights **CITY** is entitled to, shall become **CITY** property upon the date of the termination. **CONTRACTOR** agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

B. Termination for Breach of Contract

1. Except as provided in PSC-6, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, **CITY** may give **CONTRACTOR** written notice of the default. **CITY'S** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **CITY**. Additionally, **CITY'S** default notice may offer **CONTRACTOR** an opportunity to provide **CITY** with a plan to cure the default, which shall be submitted to **CITY** within the time period allowed by **CITY**. At **CITY'S** sole discretion, **CITY** may accept or reject **CONTRACTOR'S** plan. If the default cannot be cured or if **CONTRACTOR** fails to cure within the period allowed by **CITY**, then **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.

2. If the default under this Contract is due to **CONTRACTOR'S** failure to maintain the insurance required under this Contract, **CONTRACTOR** shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subcontractors of the loss of insurance coverage and Contractor's obligation to suspend performance of

services. **CONTRACTOR** shall not recommence performance until **CONTRACTOR** is fully insured and in compliance with **CITY'S** requirements.

3. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then **CITY** may immediately terminate this Contract.

4. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates **CITY'S** laws, regulations or policies relating to lobbying, then **CITY** may immediately terminate this Contract.

5. Acts of Moral Turpitude

   a. **CONTRACTOR** shall immediately notify **CITY** if **CONTRACTOR** or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").

   b. If **CONTRACTOR** or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, **CITY** may immediately terminate this Contract.

   c. If **CONTRACTOR** or a Key Person is charged with or indicted for an Act of Moral Turpitude, **CITY** may terminate this Contract after providing **CONTRACTOR** an opportunity to present evidence of **CONTRACTOR'S** ability to perform under the terms of this Contract.

   d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.

e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of **CONTRACTOR**.

6. In the event **CITY** terminates this Contract as provided in this section, **CITY** may procure, upon such terms and in the manner as **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to **CITY** for all of its costs and damages, including, but not limited to, any excess costs for such services.

7. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-9(A) Termination for Convenience.

8. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

C. In the event that this Contract is terminated, **CONTRACTOR** shall immediately notify all employees and Subcontractors, and shall notify in writing all other parties contracted with under the terms of this Contract within five working days of the termination.

PSC-10. Independent Contractor

CONTRACTOR is an independent contractor and not an agent or employee of **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of **CITY**.

PSC-11. Contractor's Personnel

Unless otherwise approved by **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. **CITY** has the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** shall remove personnel from performing work under this Contract if requested to do so by **CITY**.

CONTRACTOR shall not use Subcontractors to assist in performance of this Contract without the prior written approval of **CITY**. If **CITY** permits the use of Subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of this Contract and paying all Subcontractors. **CITY** has the right to approve **CONTRACTOR'S** Subcontractors, and **CITY** reserves the right to request replacement of any

Subcontractor. **CITY** does not have any obligation to pay **CONTRACTOR'S** Subcontractors, and nothing herein creates any privity of contract between **CITY** and any Subcontractor.

PSC-12. Assignment and Delegation

CONTRACTOR may not, unless it has first obtained the written permission of **CITY**:

A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or

B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

PSC-13. Permits

CONTRACTOR and its directors, officers, partners, agents, employees, and Subcontractors, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance of this Contract. **CONTRACTOR** shall immediately notify **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to **CONTRACTOR'S** performance of this Contract.

PSC-14. Claims for Labor and Materials

CONTRACTOR shall promptly pay when due all amounts owed for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this Contract.

PSC-15. Current Los Angeles City Business Tax Registration Certificate Required

For the duration of this Contract, **CONTRACTOR** shall maintain valid Business Tax Registration Certificate(s) as required by **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

PSC-16. Retention of Records, Audit and Reports

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form or as otherwise approved by **CITY**. These records shall be retained for a period of no less than three years from the later of the following: (1) final payment made by **CITY**, (2) the expiration of this Contract or (3) termination of this Contract. The records will be subject to examination and audit by authorized **CITY** personnel or **CITY'S** representatives at any time. **CONTRACTOR** shall provide any reports requested by **CITY** regarding

performance of this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, **CONTRACTOR** may, upon **CITY'S** written approval, submit the required information to **CITY** in an electronic format, e.g. USB flash drive, at the expiration or termination of this Contract.

PSC-17. Bonds

All bonds required by **CITY** shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 *et seq.*, as amended from to time.

PSC-18. Indemnification

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by **CONTRACTOR,** Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-19. Intellectual Property Indemnification

CONTRACTOR, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **CITY** provided in this section shall not be exclusive

and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-20. Intellectual Property Warranty

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

PSC-21. Ownership and License

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this Contract including, without limitation, documents, materials, data, reports, manuals, specifications, artwork, drawings, sketches, blueprints, studies, memoranda, computation sheets, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas, matters and combinations thereof, and all forms of intellectual property originated and prepared by **CONTRACTOR** or its Subcontractors under this Contract (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of **CITY** for its use in any manner **CITY** deems appropriate. **CONTRACTOR** hereby assigns to **CITY** all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

CONTRACTOR agrees that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **CITY** irreparable harm. **CITY** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **CITY** from seeking or obtaining any other relief to which **CITY** may be entitled.

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract shall include this provision to contractually bind its Subcontractors performing work under this Contract such that **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein.

PSC-22. Data Protection

A. **CONTRACTOR** shall protect, using the most secure means and technology that is commercially available, **CITY**-provided data or consumer-provided data acquired in the course and scope of this Contract, including but not limited to customer lists and customer credit card or consumer data, (collectively, the "City Data"). **CONTRACTOR** shall notify **CITY** in writing as soon as reasonably feasible, and in any event within twenty-four hours, of **CONTRACTOR'S** discovery or reasonable belief of any unauthorized access of City Data (a "Data Breach"), or of any incident affecting, or potentially affecting City Data related to cyber security (a "Security Incident"), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. **CONTRACTOR** shall begin remediation immediately. **CONTRACTOR** shall provide daily updates, or more frequently if required by **CITY**, regarding findings and actions performed by **CONTRACTOR** until the Data Breach or Security Incident has been effectively resolved to **CITY'S** satisfaction. **CONTRACTOR** shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with **CITY**. At **CITY'S** sole discretion, **CITY** and its authorized agents shall have the right to lead or participate in the investigation. **CONTRACTOR** shall cooperate fully with **CITY**, its agents and law enforcement.

B. If **CITY** is subject to liability for any Data Breach or Security Incident, then **CONTRACTOR** shall fully indemnify and hold harmless **CITY** and defend against any resulting actions.

PSC-23. Insurance

During the term of this Contract and without limiting **CONTRACTOR'S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must: (1) conform to **CITY'S** requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

PSC-24. Best Terms

Throughout the term of this Contract, **CONTRACTOR**, shall offer **CITY** the best terms, prices, and discounts that are offered to any of **CONTRACTOR'S** customers for similar goods and services provided under this Contract.

PSC-25. Warranty and Responsibility of Contractor

CONTRACTOR warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

PSC-26. Mandatory Provisions Pertaining to Non-Discrimination in Employment

Unless otherwise exempt, this Contract is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

A. **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and **CITY**. In performing this Contract, **CONTRACTOR** shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.

B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this Contract by reference.

C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Equal Employment Practices" provisions of this Contract.

D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Affirmative Action Program" provisions of this Contract.

Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-27. Child Support Assignment Orders

CONTRACTOR shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, **CONTRACTOR** shall fully comply with all applicable State and Federal employment reporting requirements. Failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract. Failure of **CONTRACTOR** or principal owner to cure

the default within 90 days of the notice of default will subject this Contract to termination for breach. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-28. Living Wage Ordinance

CONTRACTOR shall comply with the Living Wage Ordinance, LAAC Section 10.37 *et seq.*, as amended from time to time. **CONTRACTOR** further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-29. Service Contractor Worker Retention Ordinance

CONTRACTOR shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-30. Access and Accommodations

CONTRACTOR represents and certifies that:

A. **CONTRACTOR** shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 et seq., the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 et seq., the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;

B. **CONTRACTOR** shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;

C. **CONTRACTOR** shall provide reasonable accommodation upon request to ensure equal access to **CITY**-funded programs, services and activities;

D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and

E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that **CITY** is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-31. Contractor Responsibility Ordinance

CONTRACTOR shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 *et seq.*, as amended from time to time.

PSC-32. Business Inclusion Program

Unless otherwise exempted prior to bid submission, **CONTRACTOR** shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal/Qualification process, throughout the duration of this Contract. **CONTRACTOR** shall utilize the Business Assistance Virtual Network ("BAVN") at https://www.labavn.org/, to perform and document outreach to Minority, Women, and Other Business Enterprises. **CONTRACTOR** shall perform subcontractor outreach activities through BAVN. **CONTRACTOR** shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of **CITY**.

PSC-33. Slavery Disclosure Ordinance

CONTRACTOR shall comply with the Slavery Disclosure Ordinance, LAAC Section 10.41 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-34. First Source Hiring Ordinance

CONTRACTOR shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-35. Local Business Preference Ordinance

CONTRACTOR shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-36. Iran Contracting Act

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with **CITY** for goods and services estimated at $1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

PSC-37. Restrictions on Campaign Contributions and Fundraising in City Elections

Unless otherwise exempt, if this Contract is valued at $100,000 or more and requires approval by an elected **CITY** office, **CONTRACTOR**, **CONTRACTOR'S** principals, and **CONTRACTOR'S** Subcontractors expected to receive at least $100,000 for performance under the Contract, and the principals of those Subcontractors (the "Restricted Persons")

shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles **CITY** to terminate this Contract and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected **CITY** officials or candidates for elected **CITY** office for twelve months after this Contract is signed. Additionally, a **CONTRACTOR** subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any **CONTRACTOR** subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least $100,000 for performance under this Contract:

> "Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections
>
> You are a subcontractor on City of Los Angeles Contract #_____. Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("**CITY**") officials and candidates for elected **CITY** office for twelve months after the **CITY** contract is signed. You are required to provide the names and contact information of your principals to the **CONTRACTOR** and to amend that information within ten business days if it changes during the twelve month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at ethics.lacity.org or by calling the Los Angeles City Ethics Commission at (213) 978-1960."

PSC-38. Contractors' Use of Criminal History for Consideration of Employment Applications

CONTRACTOR shall comply with the City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-39. Limitation of City's Obligation to Make Payment to Contractor

Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for **CITY** to comply with its governing legal requirements, **CITY** shall have no obligation to make any payments to **CONTRACTOR** unless **CITY** shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract. **CONTRACTOR** agrees that any services provided by **CONTRACTOR**, purchases made by **CONTRACTOR** or expenses incurred by **CONTRACTOR** in excess of the appropriation(s) shall be free and without charge to **CITY** and **CITY** shall have no obligation to pay for the services, purchases or expenses. **CONTRACTOR** shall have no obligation to provide any services,

provide any equipment or incur any expenses in excess of the appropriated amount(s) until **CITY** appropriates additional funds for this Contract.

PSC-40. Compliance with Identity Theft Laws and Payment Card Data Security Standards

CONTRACTOR shall comply with all identity theft laws including without limitation, laws related to: (1) payment devices; (2) credit and debit card fraud; and (3) the Fair and Accurate Credit Transactions Act ("FACTA"), including its requirement relating to the content of transaction receipts provided to Customers. **CONTRACTOR** also shall comply with all requirements related to maintaining compliance with Payment Card Industry Data Security Standards ("PCI DSS"). During the performance of any service to install, program or update payment devices equipped to conduct credit or debit card transactions, including PCI DSS services, **CONTRACTOR** shall verify proper truncation of receipts in compliance with FACTA.

PSC-41. Compliance with California Public Resources Code Section 5164

California Public Resources Code Section 5164 prohibits a public agency from hiring a person for employment or as a volunteer to perform services at any park, playground, or community center used for recreational purposes in a position that has supervisory or disciplinary authority over any minor, if the person has been convicted of certain crimes as referenced in the Penal Code, and articulated in California Public Resources Code Section 5164(a)(2).

If applicable, **CONTRACTOR** shall comply with California Public Resources Code Section 5164, and shall additionally adhere to all rules and regulations that have been adopted or that may be adopted by **CITY**. **CONTRACTOR** is required to have all employees, volunteers and Subcontractors (including all employees and volunteers of any Subcontractor) of **CONTRACTOR** working on premises to pass a fingerprint and background check through the California Department of Justice at **CONTRACTOR'S** sole expense, indicating that such individuals have never been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2), if the individual will have supervisory or disciplinary authority over any minor.

PSC-42. Possessory Interests Tax

Rights granted to **CONTRACTOR** by **CITY** may create a possessory interest. **CONTRACTOR** agrees that any possessory interest created may be subject to California Revenue and Taxation Code Section 107.6 and a property tax may be levied on that possessory interest. If applicable, **CONTRACTOR** shall pay the property tax. **CONTRACTOR** acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.

PSC-43. Confidentiality

All documents, information and materials provided to **CONTRACTOR** by **CITY** or developed by **CONTRACTOR** pursuant to this Contract (collectively "Confidential Information") are confidential. **CONTRACTOR** shall not provide or disclose any Confidential Information or their contents or any information therein, either orally or in writing, to any person or entity, except as authorized by **CITY** or as required by law. **CONTRACTOR** shall immediately notify **CITY** of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this Contract.

EXHIBIT 1

INSTRUCTIONS AND INFORMATION ON COMPLYING WITH CITY INSURANCE REQUIREMENTS

(Share this information with your insurance agent or broker)

1. **Agreement/Reference** All evidence of insurance should identify the nature of your business with the **CITY**. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) as determined in writing by the CAO-RM.

2. **When to submit** Normally, no work may begin until a **CITY** insurance certificate approval number ("CA number") has been obtained, so insurance documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.

Submitting your documents. **Track4LA®** is the **CITY'S** online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used by insurance brokers and agents as they submit client insurance certificates directly to the **CITY**. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format. Track4LA® advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA®** at http://track4la.lacity.org and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 may be accepted, however ***submissions other than through Track4LA® will significantly delay the insurance approval process as documents will have to be manually processed.*** **CONTRACTOR must provide CITY** a thirty day notice of cancellation (ten days for non-payment of premium) AND an Additional Insured Endorsement naming the **CITY** an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the **CITY** is an automatic or blanket additional insured. An endorsement naming the **CITY** an Additional Named Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Completed **Insurance Industry Certificates other than ACORD 25 Certificates** are sent electronically to CAO.insurance.bonds@lacity.org.

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

Verification of approved insurance and bonds may be obtained by checking **Track4LA®**, the **CITY'S** online insurance compliance system, at http://track4la.lacity.org.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate or edit the existing Acord 25 Certificate through **Track4LA®** at http://track4la.lacity.org.

5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the **CITY** has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (http://cao.lacity.org/risk/InsuranceForms.htm) to the CAO-RM for consideration.

6. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the **CITY** is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of **CITY** premises. Information on two **CITY** insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on **CITY** premises or streets, is available at (www.2sparta.com), or by calling (800) 420-0555.

7. **Automobile Liability** insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on **CITY** premises; it is not required for simple commuting unless **CITY** is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

8. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

9. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (http://cao.lacity.org/risk/InsuranceForms.htm). **A Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on **CITY** premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the **CITY**) any workers' compensation paid to an injured employee of the contractor.

10. **Property** insurance is required for persons having exclusive use of premises or equipment owned or controlled by the **CITY**. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle **CITY** funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at http://cao.lacity.org/risk/BondAssistanceProgram.pdf or call (213) 258-3000 for more information.

12. **Cyber Liability & Privacy** coverage may be required to cover technology services or products for both liability and property losses that may result when a **CITY** contractor engages in various electronic activities, such as selling on the Internet or collecting data within its internal electronic network. **CONTRACTOR'S** policies shall cover liability for a data breach in which the **CITY** employees' and/or **CITY** customers' confidential or personal information, such as but not limited to, Social Security or credit card information are exposed or stolen by a hacker or other criminal who has gained access to the **CITY'S** or **CONTRACTOR'S** electronic network. The policies shall cover a variety of expenses associated with data breaches, including: notification costs, credit monitoring, costs to defend claims by state regulators, fines and penalties, and loss resulting from identity theft. The policies are required to cover liability arising from website media content, as well as property exposures from: (a) business interruption, (b) data loss/destruction, (c) computer fraud, (d) funds transfer loss, and (e) cyber extortion.

Required Insurance and Minimum Limits

Name: _____ Date: _____

Agreement/Reference: _____

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

___ **Workers' Compensation (WC) and Employer's Liability (EL)**

WC *Statutory*

EL _____

☐ Waiver of Subrogation in favor of City

☐ Longshore & Harbor Workers
☐ Jones Act

___ **General Liability** _____

☐ Products/Completed Operations
☐ Fire Legal Liability _____
☐ _____

☐ Sexual Misconduct _____

___ **Automobile Liability** (for any and all vehicles used for this contract, other than commuting to/from work) _____

___ **Professional Liability** (Errors and Omissions) _____

Discovery Period _____

___ **Property Insurance** (to cover replacement cost of building - as determined by insurance company) _____

☐ All Risk Coverage
☐ Flood _____
☐ Earthquake _____

☐ Boiler and Machinery
☐ Builder's Risk
☐ _____

___ **Pollution Liability** _____

☐ _____

___ **Surety Bonds** - Performance and Payment (Labor and Materials) Bonds _____

___ **Crime Insurance** _____

Other: _____

DRAFT

FIFTH AMENDED AND RESTATED AGREEMENT

BETWEEN

CITY OF LOS ANGELES

AND

ACCLAMATION INSURANCE MANAGEMENT SERVICES, INC.

FOR

THIRD-PARTY ADMINISTRATION SERVICES OF WORKERS' COMPENSATION CLAIMS MANAGEMENT AND BENEFITS ADMINISTRATION

CONTRACT NO.: C-121841-5

FIFTH AMENDED AND RESTATED AGREEMENT BETWEEN
CITY OF LOS ANGELES
AND
ACCLAMATION INSURANCE MANAGEMENT SERVICES, INC.
FOR

THIRD-PARTYADMINISTRATION OF WORKERS' COMPENSATION CLAIMS MANAGEMENT AND BENEFITS ADMINISTRATION

CONTRACT #: C-121841

This Contract, which includes the attached Exhibits, is made and entered into by and between the City of Los Angeles, a municipal corporation, acting by and through its Personnel Department, hereinafter referred to as City, and Acclamation Insurance Management Services, Inc., a California corporation, hereinafter referred to as Contractor, with reference to the following:

RECITALS

1. Whereas, City is legally self-insured for its workers' compensation liability and has the need for the services of a third-party administration firm to manage a portion of its civilian workers' compensation claim workload; and

2. Whereas, the City performed a 1022 review and determined that it is more economical for the City to contract for the required services than to have employees perform the work; and

3. Whereas, the City released a Request for Proposals pursuant to Charter Section 372 after determining that the proposed Contract is for expert and technical services of a temporary and occasional character for which bidding under Charter Section 371 is not practical or advantageous; and

4. Whereas, in response to City's Request for Proposal for such services, dated January 5, 2012, Contractor submitted a proposal dated February 29, 2012 which offers to provide the requested services; and

5. Whereas, Contractor is duly licensed and certified under the laws of the State of California to engage in the business of providing Third-Party Administration of Workers' Compensation Claims Management and Benefits Administration, as described hereunder and possesses the competence, expertise and personnel required to provide such services; and

6. Whereas, City is legally self-insured for its workers' compensation liability and has the need for the services of a third party administration firm to manage its sworn personnel of the Los Angeles Fire Department ("Sworn Fire") workers' compensation claim workload; and

7. Whereas, the City selected Contractor for award of a three-year contract, effective May 3, 2013; and

8. Whereas, effective April 22, 2013, City and Contractor amended the Contract (First Amendment) to change the termination date to April 29, 2016 for administrative purposes; and

9. Whereas, effective May 15, 2015, City and Contractor amended the Contract (Second Amendment) to provide additional staff to temporarily cover additional City caseloads due to employee retirements and to increase the maximum payable to Contractor from $10,830,549 to $11,048,557; and

10. Whereas, at its meeting of October 27, 2015, (CF15-1146) the City Council authorized the Personnel Department General Manager or designee to extend the Contract for an additional two years; and

11. Whereas, on March 25, 2016 the City and Contractor amended the Contract (Third Amendment) to change the termination date to November 22, 2017; and

12. Whereas, at its meeting of May 25, 2016, the City Council authorized the Personnel Department General Manager or designee to increase the maximum payable to Contractor from $11,048,557 to $17,060,338; and

13. Whereas, the Fourth Amended and Restated Agreement executed on July 6, 2016 increased the maximum five-year payable to Contractor from $11,048,557 to $17,060,338; and

14. Whereas, at its meeting on _____, 2018, the City Council authorized the Personnel Department General Manager or designee to extend the Contract one additional year through November 21, 2018, to execute this Fifth Restated and Amended Contract and to increase the maximum payable under this contract from $17,060,338 to $21,120,696;

15. Whereas this Second Amended and Restated Agreement is amended to delete "Claims Management Program Requirements" as Exhibit 1 and to replace it with "Claims Management Program Requirements 2017";

16. Whereas this Second Amended and Restated Agreement is amended to delete "Standard Provisions for City Contracts (Rev.03/09)" as Exhibit 2 and to replace it with "Standard Provisions for City Contracts (Rev.10/17)";

17. Whereas, the Personnel Department is funded for these services; and

18. Whereas, the terms and conditions of the agreement shall remain the same except as modified consistent with recital number 13, 14, 15, and 16.

NOW THEREFORE, in consideration of the premises and of the terms, covenants, and conditions set forth herein, the parties hereby covenant, represent, and agree as follows:

1. REPRESENTATIVES OF PARTIES

1.1 Representatives of the Parties and Service of Notice.

The representatives of the respective parties authorized to administer this Contract and to whom formal notices, demands, and communications will be given are as follows:

The representative of the City is, unless otherwise stated in the Contract:

Wendy G. Macy, General Manager
City of Los Angeles, Personnel Department
700 E. Temple Street, Room 305
Los Angeles, CA 90012

Designee:

David Noltemeyer, Chief Management Analyst
Workers' Compensation Division Chief
City of Los Angeles, Personnel Department
700 E. Temple Street, Room 210
Los Angeles, CA 90012

The representative of Contractor is:

Dominic L. Russo, President and CEO
Acclamation Insurance Management Services, Inc.
10445 Old Placerville Road
Sacramento, CA 95827

1.2. Formal notices and correspondence to be given hereunder by either party must be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and will be deemed communicated three (3) days after the date of mailing.

1.3. If the name of the person designated to receive the notices or correspondence or if the address of such person changes, written notice will be given in accordance with this Section within five (5) working days of said change.

2. DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words

as used herein shall be construed to have the following meanings, unless otherwise apparent from the context in which they are used.

2.1. California Code of Regulation (CCR)

The codification of general and permanent rules and regulations of the State of California, including the occupational health and workers' compensation program.

2.2. City

City of Los Angeles, California, a municipal corporation.

2.3. City Attorney

The City of Los Angeles governmental office providing legal counsel and services to City officers and departments.

2.4. City Contract Administrator (CCA)

Person designated by the City's Personnel Department General Manager to manage the operations, work or services under this Contract.

2.5. City Contract Monitor

Person designated by the City's Personnel Department General Manager with responsibility to oversee the day-to-day activities of this Contract, including inspections of any and all tasks, deliverables, goods, services and other work provided by Contractor.

2.6. City Personnel Department General Manager

Person designated by Mayor of the City to manage the Personnel Department. Under this Contract, this person shall have the ultimate authority to resolve matters relating to the Contract that are not resolved by the CCA.

2.7. Contract

This written agreement, including exhibits or attachments, executed between City and Contractor.

2.8. Contract Cost (Base Fee)

The flat, annual fee for the provision of all services.

2.9. Contractor

The sole proprietor, partnership, or corporation that has entered into this Contract with the City to perform or execute the work covered by Exhibit 1 – Claims Management Program Requirements 2017.

2.10. Contractor's Contract/Claims Manager

The person designated by Contractor to administer the Contract operations during the term of the Contract.

2.11. Days

Calendar day(s), unless otherwise specified.

2.12. Business Day

With the exception of Saturdays, Sundays and City legal holidays, all other days are considered business days. Contractor's holidays are limited to those actually observed, but may not exceed those observed by City. City will provide a list of City legal holidays to Contractor.

2.13. Division of Workers' Compensation (DWC)

The State of California agency which monitors the administration of workers' compensation claims, and provides administrative and judicial services to assist in resolving disputes that arise in connection with claims for workers' compensation benefits.

2.14. Fiscal Year

The 12 month period beginning July 1st and ending the following June 30th.

2.15. Personnel Department

City of Los Angeles Personnel Department.

2.16. Program/Project

Workers' Compensation Claims Management and Benefits Administration services provided to City by Contractor.

2.17. Workers' Compensation Administrator

The Assistant Division Chief in the Workers' Compensation Division responsible for the technical management of the workers' compensation program.

2.18. Workers' Compensation Appeals Board (WCAB)

A seven-member, judicial body appointed by the Governor and confirmed by the Senate, exercises all judicial powers vested in it by the Labor Code. Its major functions include review of petitions for reconsideration of decisions by workers' compensation administrative law judges of the Division of Workers' Compensation and regulation of the adjudication process by adopting rules of practice.

2.19. Workers' Compensation Division

The organizational unit of City's Personnel Department responsible for the management of City's self-insured program for workers' compensation claims management and benefits administration.

3. WORK

3.1 Pursuant to the provisions of this Contract, Contractor shall fully perform, complete and deliver on time, all required tasks, deliverables, services and other work as set forth in Exhibit 1 – Claims Management Program Requirements 2017.

3.2. If Contractor provides any tasks, deliverables, goods, services, or work, other than as specified in this Contract, the same shall be deemed to be a gratuitous effort on the part of Contractor, and Contractor shall have no claim whatsoever against City.

4. TERM OF CONTRACT AND COMPENSATON

4.1. The term of the original Contract commenced on May 3, 2013 and will terminate on November 21, 2018, unless earlier terminated as provided herein.

4.2. In the event of reduction of Work actually required under this Contract, expiration of the term of this Contract, or termination prior to the expiration of the term of this Contract, Contractor shall fully cooperate with City to provide for the transition to whatever service replacement method City determines to be in City's best interest.

4.3. City's total obligation under the Contract for complete and satisfactory performance of the terms of this Contract as contemplated by the parties and detailed in the Claims Management Program Requirements (Exhibit 1) shall not exceed $21,120,696, subject to available funding. Contractor shall be paid as set forth in Exhibit 1, Section III, "Contractor Payment and Adjustments to Payment".

4.4. Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses

whatsoever incurred in or incidental to performance hereunder, except as specified herein. Contractor shall employ additional staff for special projects on an as-needed basis as determined by City. Compensation for such staff, and/or related expense, will be mutually agreed upon in writing when the need for such staff arises.

4.5. Assumption or takeover of any of Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall occur only with the CCA's express prior written approval.

5. TERMINATION OF CONTRACT

City may terminate this Contract for City's convenience at any time by giving Contractor 30 days' written notice thereof. Refer to Exhibit 2, Standard Provisions for City Contracts (Rev. 10/17), PSC-9.

6. ADMINISTRATION OF CONTRACT – CITY

The City's Personnel Department General Manager has designated the Workers' Compensation Division Chief as the City's Contract Administrator (CCA). The CCA shall have the authority to manage this Contract on behalf of City.

6.1. Personnel Department General Manager

The General Manager has the authority to amend the terms and conditions of this Contract in accordance with Section 8, Amendments.

6.2. Contract Administrator (CCA)

6.2.1. Responsibilities of the CCA include:

- Ensure that the requirements and objectives of this Contract are met;
- Clarify and interpret Contract requirements and provisions;
- Provide direction to Contractor in areas relating to City policy, information requirements and procedural requirements;
- Meet with Contract/Claims Manager on a regular basis; and
- Review and approve any and all services, or other work provided by or on behalf of Contractor.

6.2.2. The CCA is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate City in any respect.

6.3 Workers' Compensation Administrator (WCA)

The CCA shall designate a WCA. The WCA is responsible for overseeing the day-to-day management of this Contract. The WCA reports to the CCA.

7. CONTRACTOR MANAGEMENT AND STAFF

7.1 Branch/Claims Manager

7.1.1. Before performing services under this Contract, Contractor shall designate in writing an account service team and designate a Contract/Claims Manager, each subject to approval of City. If Contractor elects to replace the Contract/Claims Manager, advance notice will be given to City. City reserves the right to meet, review and approve the background, education, and experience of any potential assignee to this position throughout the term of this Contract at its discretion.

7.1.2. The Contract/Claims Manager will serve as the prime contact on behalf of Contractor with City and will have overall management responsibility for the supervision of Contractor's performance under this Contract.

7.1.3. The Contract/Claims Manager will be responsible for maintaining the day-to-day operational control of all ongoing claims management activities related to this Contract. The Contract/Claims Manager will be responsible for ensuring the quality of claims management activities provided to City and for promptly resolving any problem or concern that may develop during the term of this Contract. The Contract/Claims Manager must have a California Self-Insurance Administrator Certificate and a minimum of three (3) years of full-time experience in the supervision of a large (>30) group of claims examiners and related support personnel involved in the independent analysis and administration of a workers' compensation claims caseload. City prefers that the Contract/Claims Manager have a bachelor's degree from an accredited four-year institution.

7.1.4. The Branch/Claims Manager shall meet all of the training and requirements per CCR Section 2592.14.

7.2. Approval of Contractor's Staff

Contractor shall use its own employees to perform the services required under this Contract. City reserves the right to approve Contractor's personnel assigned to City's Program at the level of Assistant Manager and above, if any. Contractor must notify City in writing if such personnel cannot continue on this Contract. Upon receipt, City will respond in writing, either approving or rejecting the replacement personnel.

Additionally, City shall have the right to require Contractor to replace any person, assigned to City's account, found to be in violation of any of the terms of this Contract. Contractor shall immediately deny access to its facility for such personnel no longer performing work on the City Contract.

7.3. Background and Security Investigations

7.3.1. At any time prior to or during term of this Contract, City may require that all Contractor staff performing work under this Contract undergo and pass, to the satisfaction of City, a background investigation, as a condition of beginning and continuing to work under this Contract. City shall use its discretion in determining the method of background clearance to be used, up to and including a City performed fingerprint security clearance. The fees associated with obtaining the background information shall be at the expense of Contractor, regardless if Contractor's staff passes or fails the background clearance investigation.

7.3.2. City may request that any member of Contractor's staff be immediately removed from working on the Contract at any time during the term of this Contract. City will not provide to Contractor or to Contractor's staff any information obtained through City conducted background clearance.

7.3.3. Contractor shall immediately deny access to the City's dedicated unit for any staff member who does not pass such investigation(s) to the satisfaction of City and whose background is incompatible with City dedicated unit access, at the sole discretion of City.

7.3.4. Disqualification, if any, of Contractor's staff, pursuant to Section 7.3.1., shall not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

8. AMENDMENTS

For any revision to this Contract that affects the scope of work, period of performance, payments, or any term or condition of this Contract, except for those exceptions specifically provided for in this Contract, a negotiated amendment to this Contract shall be written and executed by City and Contractor.

9. AUTHORIZATION WARRANTY

Contractor represents and warrants that the person executing this Contract for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of this Contract and that all requirements of Contractor have been fulfilled to provide such actual authority.

10. BUDGET REDUCTIONS

In the event that the City Council adopts, in any fiscal year, a City Budget which provides for reductions in the salaries and benefits paid to the majority of City employees and imposes similar reductions with respect to City Contracts, City reserves the right to reduce its payment obligation under this Contract correspondingly for that fiscal year and any subsequent fiscal year during the term of this Contract (including any extensions), and the services to be provided by Contractor under this Contract shall also be reduced correspondingly. City's notice to Contractor regarding said reduction in payment obligation shall be provided within 30 calendar days of the City Council's approval of such actions. Except as set forth in the preceding sentence, Contractor shall continue to provide all of the services set forth in this Contract.

11. COMPLAINTS

11.1. Within two (2) weeks after Contract execution date, Contractor shall provide City with Contractor's policy for receiving, investigating and responding to complaints.

11.2. City will review Contractor's policy and provide Contractor with approval of said plan or with requested changes.

11.3. If City requests changes in Contractor's policy, Contractor shall make such changes and resubmit the plan within five (5) business days.

11.4. If, at any time, Contractor wishes to change Contractor's policy, Contractor shall submit proposed changes in writing to City for approval before implementation.

11.5. For complaints that escalate to the attention of Contract/Claims Manager, City official or union representative, Contractor shall preliminarily investigate all complaints and notify the CCA of the status of the investigation within five (5) business days of receiving the complaint. Contractor shall obtain pre-approval from the CCA for all written responses, as well as provide the CCA with a copy of all final written responses. Contractor will provide a copy of all written responses.

11.6. When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.

12. CONFLICT OF INTEREST

12.1. No City employee whose position with City enables such employee to influence the award of this Contract or any competing Contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor or have any other direct or indirect financial

interest in this Contract. No officer or employee of Contractor who may financially benefit from the performance of work hereunder shall in any way participate in City's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence City's approval or ongoing evaluation of such work.

12.2. Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. Contractor warrants that it is not now aware of any facts that create a conflict of interest. If Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to City. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of Section 12 shall be a material breach of this Contract.

13. CONTRACTOR MANAGEMENT AND AUDITS

The City is committed to being an active partner in the third party administration of its workers' compensation claims. To that end, dedicated City Monitors are available to provide advice and historical perspective on the management of all claims. This staff is also responsible to ensure that effective and efficient claims management techniques are consistently applied, and to assess Contractor's compliance with all terms and conditions in this Contract.

13.1 Claims Management Review

13.1.1. To facilitate the review of activities and to establish and maintain effective lines of communication, periodic working meetings will be held with staff of the Personnel Department, as determined by City to be desirable. Additionally, City staff from the Personnel Department and City Attorney's Office may be assigned to Contractor's work site to provide assistance and guidance to Contractor's employees, to review procedures, to audit individual claims files and provide legal and other services. Due to the location of Contractor's office, it may be necessary for Contractor's staff to attend any such meetings at City's Personnel Building or another location determined by City. Contractor shall provide office space for City staff to work at no cost to City (Refer to Section 22).

13.1.2. Working meetings to discuss the Program, policies and any problems that may occur will also be held with staff of the Fire Department Medical Liaison Unit.

13.1.3. Contractor shall maintain its own internal quality control program to monitor the procedures utilized by its supervisory and

management personnel to ensure the quality of services provided to City.

13.2. Periodic Independent Audit

City reserves the right to assign an independent auditor to assess the quality of services being provided and the extent to which Contractor is conducting City business within generally accepted industry standard practices and Contract terms. Contractor is required to cooperate fully with any external claims management audit and provide adequate temporary office space, work stations and free parking, at no additional cost to City.

13.3. Financial Audit

Contractors providing services to City will be responsible for the verification of the legitimacy of payments made to service providers and for the disbursal of benefits to City employees through City's check issuance process. City therefore reserves the right for staff of its Office of the Controller or designee to conduct audits of financial accountability procedures.

13.4. Contractor Evaluation Ordinance

When the term of this Contract has expired, City will conduct an evaluation of Contractor's overall performance. City will also conduct regular evaluations of Contractor's performance during the term of the Contract. As required by Section 10.39.2 of the Los Angeles Administrative Code, Evaluations of City Personal Services Contracts, evaluations will be based on a number of criteria, including the quality of the work product or service performed, the timeliness of performance, financial issues and the expertise of personnel that Contractor assigns to this Contract. A Contractor who receives a "Marginal" or "Unsatisfactory" rating will be provided with a copy of the final City evaluation and allowed 14 calendar days to respond. City will use the final City evaluation and any response from Contractor to evaluate Proposals and to conduct reference checks when awarding future service contracts.

14. GENERAL INSURANCE REQUIREMENTS

14.1. Without limiting Contractor's indemnification of City and during the term of this Contract, Contractor shall provide and maintain, and shall require all of its subcontractors to maintain the programs of insurance listed below. Evidence of this coverage must be submitted by Contractor and approved no later than 30 days prior to the inception of any operations. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by City. Such coverage shall be provided and maintained at Contractor's own expense.

14.2. Insurance policies purchased and maintained under this Contract by Contractor shall include a waiver of subrogation recovery against the City and employees.

14.3. The preferred form of evidence of insurance and performance security is an industry ACORD Certificate submitted electronically at http://track4la.lacity.org.

15. INSURANCE COVERAGE AND PERFORMANCE SECURITY REQUIREMENTS

- General Liability insurance with limits of not less than $1,000,000.

- Automobile Liability with a limit of liability of not less than $250,000 for each accident. Such insurance shall include coverage for all "owned," "hired" and "non-owned" vehicles, or coverage for "any auto."

- Workers' Compensation and Employers' Liability insurance providing workers' compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible, with a limit of not less than 1,000,000.

- Professional Liability: Insurance covering liability arising from any error, omission, negligent or wrongful act of Contractor, its officers or employees with limits of not less than $1,000,000 per occurrence and $5,000,000 aggregate. The coverage also shall provide an extended two-year reporting period commencing upon termination or cancellation of this Contract.

- Crime Coverage: Insurance with limits in amounts not less than indicated below covering against loss of money, securities, or other property referred to in this Contract, and naming the City as loss payee:

Employee Dishonesty:	$1,000,000
Forgery or Alteration:	$1,000,000
Theft, Disappearance and Destruction:	$1,000,000
Computer Fraud:	$1,000,000
Burglary and Robbery:	$1,000,000

Contractor may provide a fidelity bond of $1,000,000 per occurrence in lieu of the above-mentioned crime insurance coverage.

15.1. Performance Security Requirements:

Such surety may be provided by one of the following forms and conditioned upon faithful performance and satisfactory completion of services by Contractor. Surety must be submitted by Contractor and approved no later than 30 days prior to the inception of any operations.

15.2. Performance Bond

A faithful performance bond of not less than $750,000 payable to the City of Los Angeles and executed by a corporate surety licensed to transact business in the State of California, or

15.3. Certificate of Deposit (CD) or Letter of Credit (LOC)

A CD or an irrevocable LOC payable to the City of Los Angeles upon demand in an amount not less than $750,000. Such CD or LOC shall comply with minimum criteria and standards established by City and be maintained throughout the term of the Contract.

16. LEGISLATION REVIEWS

On an ongoing basis, Contractor shall monitor and evaluate any and all proposed legislative changes or State directives, rules, and regulations as they may affect the delivery of services under this Contract and/or as they relate to City's overall responsibility to manage its workers' compensation program, and report to City on the potential effect of proposed changes on City's third party claims administration services and benefits program.

17. MOST FAVORED PUBLIC ENTITY

If Contractor's prices decline, or should Contractor at any time during the term of this Contract provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Contract, then such lower prices shall be immediately extended to City.

18. NON-EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Contractor. This Contract shall not restrict City from acquiring similar, equal or like goods and/or services from other entities or sources.

19. NOTICE OF DELAYS

Except as otherwise provided under this Contract, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within one (1) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

20. NOTICE OF DISPUTES

Contractor shall bring to the attention of the CCA or CCA's designee any dispute between City and Contractor regarding the performance of services as stated in this Contract. If CCA or designee is not able to resolve the dispute, the General Manager or designee shall resolve it.

21. NOTICES

All notices or demands required or permitted to be given or made under this Contract shall be in writing and shall be hand delivered or mailed by first-class mail, postage prepaid, addressed to the parties as identified in Section 1, Representatives of Parties.

22. OFFICE OF CONTRACTOR

22.1. Contractor shall open a specific office to serve the City's needs, or identify a clearly definable portion of a larger office space for staff dedicated to serving the City's needs. It is preferable that such an office be located within Los Angeles County. However, regardless of its location, it is the responsibility of Contractor to coordinate the transfer of claims information, and to ensure that the communication needs of the Personnel Department, Fire Department and injured workers are efficiently and effectively met.

22.2. Contractor shall provide a bonded courier service, or its own employees, to transport claims files and/or related items, as required by the WCA, except weekends and holidays between Contractor's office and City's office at no additional cost to City.

22.3. Contractor shall provide a safe, adequate and ergonomically sound work space, complete ergonomically correct furniture and computer work stations, computers (with access to City's claims management and imaging systems, Internet and email), telephone, facsimile service and free parking for any City monitor(s) and any City Attorney employee, at no additional cost to City. Adequate temporary work space, work stations and free parking shall also be provided for other City staff and City contract personnel as necessary for required program auditing or monitoring, at no additional cost to City.

23. PHYSICAL SECURITY/CONFIDENTIALITY

23.1. Contractor shall be responsible for safeguarding all City claims and property provided for Contractor's use or in Contractor's care, custody and control. At the close of each workday, checks, cases, files, supplies, equipment and computer access shall be secured by Contractor.

23.2. All documents, records and information provided by City to Contractor, or accessed, reviewed or produced by Contractor, during performance of this Contract, including but not limited to employee/claimants' medical information, shall remain the property of City. All documents, records, and information provided by City to Contractor, or accessed, reviewed, or produced by Contractor during performance of this Contract, are

confidential (hereinafter collectively referred to as "Confidential Information").

23.3. Contractor agrees not to provide Confidential Information, or disclose its content or any information contained in it either orally or in writing, to any other person or entity. Contractor agrees that all Confidential Information used or reviewed in connection with Contractor's work for City will be used only for the purpose of carrying out City business and cannot be used for any other purpose. Contractor shall be responsible for protecting the confidentiality and maintaining the security of all Confidential Information in its possession.

23.4. Any Confidential Information provided by City to Contractor, or accessed, reviewed or produced by Contractor, during performance of this Contract, shall be made available to its employees, agents, and subcontractors only on a need-to-know basis. Further, Contractor will provide written instructions to all of its employees, agents and subcontractors with access to the Confidential Information about the penalties for its unauthorized use or disclosure.

23.5. Contractor must not remove Confidential Information or any other documents or information used or reviewed in connection with Contractor's work for City from City facilities or Contractor's office without prior approval from City. Contractor shall, at the conclusion of this Contract, or at the request of City, promptly return to City any and all Confidential Information and all other written materials, notes, documents or other information obtained by Contractor during the course of work under this Contract. Contractor shall not make or retain copies of any such information, materials or documents. Contractor and its employees, agents, and subcontractors may have access to confidential medical records information, which access is controlled by statute. Misuse of such information may adversely affect the subject individual's civil rights and violates the law.

23.6. Contractor shall implement such reasonable and prudent measures to keep secure and private medical history information accessed by its employees, agents and subcontractors during the performance of this Contract as are required by law and this Contract. Contractor shall advise its employees, agents and subcontractors of this confidentiality requirement.

23.7 All of Contractor's employees assigned to perform services, or to provide support to those performing services for City under this Contract shall sign and adhere to a Statement of Confidentiality, provided by City, or Contractor's own statement, approved by City, which includes, but is not limited to, media contacts, nondisclosure of information relating to claims management issues, and prohibited relationships with vendors, and that conforms, to the extent possible, to City's own ethics and confidentiality

statements. Such statements shall be reviewed annually by Contractor with its employees and be available for City review at any reasonable time.

23.8. To facilitate communication with both the management and individual members in City's Fire Department and to ensure the highest possible degree of efficiency and cooperation, Contractor shall communicate relevant claims information directly to the Fire Department's Medical Liaison Unit, and Fire and Police Pensions Department to serve their members' needs. This day-to-day operational communication is not subject to the direction above (Section 23.5) regarding advance approval for release of information.

23.9. The provisions of this Section shall survive termination/expiration of this Contract.

24. PUBLIC RECORDS ACT

24.1. Any documents submitted by Contractor and all information obtained in connection with City's right to audit and inspect Contractor's documents, books, and accounting records pursuant to Section 27, Record Retention and Inspection/Audit of this Contract become the exclusive property of City. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret," "confidential," or "proprietary." City shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

24.2. In the event City is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret," "confidential," or "proprietary," Contractor agrees to defend and indemnify City from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

25. PUBLICITY

25.1. Contractor shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing Contractor's need to identify its services and related clients to sustain itself, City shall not inhibit Contractor from publishing its role under this Contract within the following conditions:

- Contractor shall develop all publicity material in a professional manner.

- During the term of this Contract, Contractor shall not, and shall not authorize, another to publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of City without the prior written consent of the CCA. City shall not unreasonably withhold written consent.

25.2. Contractor may, without the prior written consent of City, indicate in its proposals and sales materials that it has been awarded this Contract with the City of Los Angeles, provided that the requirements of this Section 25 shall apply.

26. RATIFICATION CLAUSE

Due to the need for Contractor's services to be provided, Contractor may have provided services prior to the execution of this Contract. To the extent that said services were performed in accordance with the terms and conditions of this Contract, those services are hereby ratified.

27. RECORD RETENTION AND INSPECTION/AUDIT

27.1. Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. Contractor agrees that City, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or records relating to this Contract. All such material, including, but not limited to, all financial records, timecards and other employment records, and proprietary data and information, shall be kept and maintained by Contractor and shall be made available to City during the term of this Contract and for a period of three (3) years thereafter unless City's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by Contractor at a location in Los Angeles County, or another location approved by City, provided that if any such material is located outside Los Angeles County, then, at City's option, Contractor shall pay City for travel, per diem, and other costs incurred by City to examine, audit, excerpt, copy, or transcribe such material at such other location.

27.2. In the event that an audit of Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by Contractor or otherwise, Contractor shall immediately notify the CCA of such audit. Contractor shall also provide a copy of such audit report to the CCA within thirty (30) days of Contractor's

receipt thereof, unless otherwise provided by applicable Federal or State law or under this Contract. City shall make a reasonable effort to maintain the confidentiality of such audit report(s).

27.3. Failure on the part of Contractor to comply with any of the provisions of Subsections 27.1 and 27.2 shall constitute a material breach of this Contract upon which City may terminate or suspend this Contract.

28. SUBCONTRACTING

28.1. The requirements of this Contract may not be subcontracted by Contractor without the advance written approval of City. Any attempt by Contractor to subcontract without the prior consent of City may be deemed a material breach of this Contract.

28.2. If Contractor desires to subcontract, Contractor shall promptly provide the following information:

- A description of the work to be performed by the subcontractor
- A draft copy of the proposed subcontract
- Other pertinent information and/or certifications requested by City

28.3. Contractor shall remain fully responsible for all performances required of it under this Contract, including those that Contractor has determined to subcontract, notwithstanding City's approval of Contractor's proposed subcontract

28.4. City's consent to subcontract shall not waive City's right to prior and continuing approval of any and all personnel, including subcontractor employees providing services under this Contract. Contractor is responsible to notify its subcontractors of this City right.

28.5. The CCA is authorized to act for and on behalf of City with respect to approval of any subcontract and subcontractor employees. After approval of the subcontract by City, Contractor shall forward a fully executed subcontract to City for its files.

28.6. Contractor shall be solely liable and responsible for all payments or other compensation to all subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding City's consent to subcontract.

28.7. Contractor shall obtain certificates of insurance, which establish that the subcontractor maintains all the programs of insurance required by City from each approved subcontractor. Contractor shall ensure delivery of all such documents to City before any subcontractor employee may perform any work hereunder.

29. TERMINATION FOR NON-APPROPRIATION OF FUNDS

Notwithstanding any other provision of this Contract, City shall not be obligated for Contractor's performance hereunder or by any provision of this Contract during any of City's future fiscal years unless and until City appropriates funds for this Contract in City's Budget for each such future fiscal year. If no appropriation is made, then Contractor's obligation to perform services shall cease when funding is exhausted and this Contract will terminate on the last day of the fiscal year for which there was an appropriation. City shall notify Contractor in writing of any such non-allocation of funds at the earliest possible date.

30. TRANSITION

Following the first week of this Contract, and at the end of the term of this Contract, or if this Contract is terminated by City for any reason City, with the assistance of Contractor will select a transport vendor to immediately identify, pack and prepare for movement of all necessary City claims files and property and relocate to the new Contractor. Contractor shall be responsible for the entire cost of relocation, which may be paid directly to the transport vendor or deducted from Contractor's final bill for services.

31. USE OF FULL-TIME EMPLOYEES

Contractor shall assign and use full-time employees of Contractor, working a minimum of 80 hours per pay period, to provide services under this Contract unless Contractor can demonstrate to the satisfaction of City that it is necessary to use non-full-time employees based on staffing efficiency or City requirements for the work to be performed under this Contract. It is understood and agreed that Contractor shall not, under any circumstances, use non-full-time employees for services provided under this Contract unless and until City has provided written authorization for the use of same. Contractor submitted with its proposal a full-time employee staffing plan. If Contractor changes its full-time employee staffing plan, Contractor shall immediately provide a copy of the new staffing plan to City.

32. VALIDITY

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby.

33. WARRANTY AGAINST CONTINGENT FEES

33.1. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business.

33.2. For breach of this warranty, City shall have the right to terminate this Contract and, at its sole discretion, deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

34. STANDARD TERMS AND CONDITIONS

Contractor agrees to comply with Exhibit 2 – Standard Provisions for City Contracts (Rev. 10/17), attached hereto and made a part hereof.

35. RESPONSIBILITY TO PROVIDE SERVICES IN ACCORDANCE WITH APPLICABLE STANDARDS AND REQUIREMENT TO POSSESS ALL VALID PERMITS AND LICENSES

Contractor warrants that the work performed hereunder shall be completed in a manner consistent with professional standards among those firms in Contractor's profession, doing the same or similar work, under the same or similar circumstances. Contractor must possess and maintain valid licenses and permits required to perform the services described herein.

36. COMPLIANCE WITH STATUTES AND REGULATIONS

Contractor, in the performance of this Agreement, shall comply with all applicable statutes, rules, regulations, and orders of the United States, the State of California, the County and City of Los Angeles. Contractor shall comply with new, amended, or revised laws, regulations, and procedures that apply to the performance of this Agreement.

37. AMBIGUITY

No ambiguity in this Agreement may be interpreted against any one party by virtue of that party being drafter of the Agreement.

38. ENTIRE AGREEMENT

This Agreement contains the full and complete Agreement between the parties. No verbal agreement or conversation with any officer or employee of either party will affect or modify any of the terms and conditions of this Agreement.

39. ORDER OF PRECEDENCE

In the event of any inconsistency between the provisions in the body of this Agreement and the attachments, the provisions in the body of this Agreement take precedence, followed by Exhibit 2, Standard Provisions for City Contracts (Rev. 10/17).

40. INCORPORATION OF DOCUMENTS

The following documents are attached to and form a part of this Contract.

- Exhibit 1 – Claims Management Program Requirements 2017
- Exhibit 2 – Standard Provisions for City Contracts (Rev. 10/17)

This Contract and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersede all previous Contracts, written and oral, and all communications between the parties relating to the subject matter of this Contract. No change to this Contract shall be valid unless prepared pursuant to Section 8, Amendments, and signed by both parties.

THIS CONTRACT IS EXECUTED IN THREE (3) DUPLICATE ORIGINALS, EACH OF WHICH IS DEEMED TO BE AN ORIGINAL.

SIGNATURE PAGE FOLLOWS

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their respective duly authorized representatives.

CITY OF LOS ANGELES
PERSONNEL DEPARTMENT

By: _____
WENDY G. MACY
General Manager

Date: _____

ACCCLAMATION INSURANCE
MANAGEMENT SERVICES, INC.

By: _____
DOMINIC L. RUSSO
President and CEO

Date: _____

By: _____
LYNN CAVALCANTI
Senior Vice President

Date: _____

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: _____
Samuel Petty
Deputy City Attorney

Date: _____

ATTEST:

HOLLY L. WOLCOTT, City Clerk

By: _____
Deputy City Clerk

Date: _____

Approved Signature Methods:

1) Two signatures: One of the Chairman of the Board of Directors, President, or Vice-President, and one of the Secretary, Assistant Secretary, Chief Finance Officer, or Assistant Treasurer.
2) One signature of a Corporate-designated individual together with a properly attested resolution of the Board of Directors authorizing the individual to sign.

City Business License Number _____

Internal Revenue Service Taxpayer Identification Number _____

Contract Number C-121841-5

EXHIBIT 1 – CLAIMS MANAGEMENT PROGRAM REQUIREMENTS

SECTION I - PROGRAM DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words or terms as used herein shall be construed to have the following meanings, unless otherwise apparent from the context in which they are used.

1. Acceptable Quality Level (AQL)

A measure expressing the maximum allowable leeway or variance from a performance standard before City will reject a specified service. An AQL does not mean that Contractor may knowingly perform in a defective way. It means that City recognizes the fact of unintentional human error. Whenever possible, Contractor must re-perform work that fails to meet AQL to correct the identified defect(s).

Recognition of unintentional error does not relieve Contractor from the right of City to make adjustments to payment to Contractor under Exhibit 1 – Contractor Payment and Adjustment to Payment, Section III.

2. Allocated Claim Costs

2.1. Various costs associated with evaluating the compensability of a claim and specific costs incurred in managing a claim may be charged directly to the claim. Allocated claims costs include:

- All carve-out fees and expenses
- Workers' Compensation Appeals Board or court costs, fees and expenses
- Fees for service of process
- Fees to attorneys and paralegals
- Vocational rehabilitation counselors
- Cost of employing independent experts for the purpose of preparing maps, photographs, diagrams, analysis for giving expert advice or opinions
- Cost of copies of transcripts of testimony at Coroner's Inquests for criminal or civil proceedings
- Cost of obtaining copies of any public record
- Any similar cost or expense properly chargeable to the defense of a particular claim or to protect the subrogation rights of City, or
- Other costs determined by City

2.2. Generally, the above services are typically not performed by Contractor responsible for administration of the claims file. Allocated claims costs are not included in the fees paid to Contractor, but are subject to review by City. Any service charged directly to the claim, but for which Contractor is considered responsible, such as using a vendor for routine copying services will be disallowed.

3. Closed Claim

Final closure of a claim after it has been determined that all benefits and legal obligations have been met, all bills have been paid, all reports and documentation are recorded in the claim file and appropriate notification to the claimant of file closure is made.

4. Conflict Claim

A claim submitted for non-sworn City employees, which, if handled by City's in-house claims personnel, would create the potential of a conflict of interest or result in the perception of impropriety.

5. Indemnity or Disability Claim

5.1. An indemnity or disability claim involves one or more of the following: temporary disability or salary continuation due, ratable permanent disability anticipated, death of the claimant, application for adjudication of claim filed, liability undetermined, medical costs over $3,500, benefits due more than six (6) months after opening of case, previously finalized claim re-opened with future medical costs (Take-Over Claim) and/or designation by the claims examiner.

5.2. Indemnity claims requiring the services of experienced claims professionals will be assigned to claims examiners. This includes all lost time claims (claims which incur salary continuation and/or temporary disability payments as required by Labor Code 4850/IOD and all claims for which, in the judgment of the assigned claims professional, there is an issue of permanent disability, litigation, fraud or subrogation.

5.3. Average caseloads for claims examiners must not exceed the caseload limit specified by City. Only open indemnity claims are counted towards the claim examiner's caseload. Contractor shall exercise due diligence in regularly reviewing and closing indemnity claims which no longer require the oversight of claims adjusting personnel to ensure that caseloads are not artificially inflated.

6. Medical Only Claim

6.1. A non-litigated claim involving only medical payments that are not expected to exceed $3,500. Indemnity payments are not expected.

6.2. Medical Only Claims shall be assigned to medical only claims assistants or other staff serving in a training or support role to the examiners. Medical Only claims may be assigned to a claims examiner if to do so will be a sound practice considering the claimant's history and/or the presence of "companion" indemnity claims.

6.3. Whenever a Medical Only Claim is assigned to a claims examiner for management outside of normal procedure, a specific notation for the basis of the assignment will be made in the electronic claim comments.

6.4 Medical Only claims assigned to an examiner shall not be included in the caseload count for that examiner.

7. Quality Assurance Monitor Plan (QAMP)

A variety of Inspection methods to evaluate Contractor's compliance with the Contract.

8. Quality Control Plan

All measures taken by Contractor to assure that the quality of an end-product or service will meet City's Contract requirements regarding timeliness, accuracy, appearance, completeness, consistency and conformity.

9. Random Sample

A sampling method where each service output has an equal chance of being selected.

10. Take-over Claim

Transfer of responsibility for management for a particular claim from City to Contractor.

SECTION II - CONTRACTOR'S SERVICES

1. Scope Of Work

Contractor shall provide workers' compensation claims management services for all existing claims as well as all reopened or new claims reported during the Contract period for sworn personnel of the Los Angeles Fire Department.

Contractor shall provide these services in accordance with the following standards:

- Those specific standards and requirements set forth in this Section.

- To the extent a specific standard or requirement is not set forth in this Section, those standards and requirements set forth in the State of California workers' compensation statutes, codes, regulations, or other governing statutes and regulations, including any amendment to these statutes and regulations during the term of this Contract.

2. Minimum Standards of Performance

2.1. Each party's performance of Contract shall comply with all applicable laws of the United States of America, the State of California, and the City, including, but not limited to laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California. Contractor shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract. If any part, term, or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a Federal, State or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

2.2. Contractor shall utilize industry best practice standards for workers' compensation claims management and shall conduct all claims activities in accordance with the specific technical requirements included in this Section, unless otherwise agreed or specified by City.

3. Program Development

Contractor's responsibilities include but are not limited to the following:

3.1. Monthly review of procedures and practices with City personnel to ensure that City's workers' compensation program is in compliance with State requirements as well as with sound workers' compensation claims management as determined by City.

3.2. Provide assistance in changing City policy and procedures to implement legislative changes or State rules and regulations which impact City's workers' compensation program.

3.3. Attend periodic performance feedback meetings facilitated by the WCA. The meetings will focus on Contractor's and City's performance in fulfilling the service level agreements contained in this Contract. The meetings will provide a forum to informally discuss opportunities for improving Contract terms and conditions, service level agreements and cost reductions for both parties.

3.4. Prepare agendas and distribute minutes to document such meetings within a week after each meeting, as well as any periodic reports required by City.

4. Contractor's Responsibilities

4.1. Review every transferred claim within 90 days after initiation of services. All penalties due on cases must be identified by Contractor within 120 days after Contract inception; otherwise penalties become the sole responsibility of Contractor. Contractor shall also ensure that each claim is properly identified as Medical Only or Indemnity, and to ensure on a continuous basis that all claims are properly categorized and assigned.

4.2. Comply with all City workers' compensation claims management policies and standards and be responsible for overall coordination and integration of claims services. At the sole discretion of City, Contractor shall take all necessary steps to reduce costs, increase productivity and to enhance the quality and the level of claims management.

4.3. Review and process all industrial injury cases in accordance with City standards, state statutes or laws and requirements of the State Department of Industrial Relations for reporting and notification. Conduct a thorough review of facts and develop all information necessary to determine the compensability for injuries and illnesses (accept claim, deny claim, or delay acceptance pending the results of additional investigation) and document the reasons for such determination, in accordance with California workers' compensation laws. All liability decisions and required notices for those decisions will be made within 90 days, or less if required by State of California statutes or regulations, from the date of employer's knowledge of injury in accordance with law, including but not limited to Labor Code Section 5402.

4.4. Determine compensability of injuries and illnesses in accordance with State workers' compensation laws.

4.5. Obtain a medical report addressing the issue of Arising Out of Employment/Course of Employment (AOE/COE) within 90 days, or less as required by law, from the date of employer's knowledge of injury.

4.6. Where there is evidence that a claimed injury is not work related, deny the claim within 90 days, or less as required by law, of filing of the claim or within 90 days or less from the date of employer's knowledge in accordance with law, including but not limited to Labor Code Section 5402. The review shall also include medical release forms, statements from supervisors and co-workers, depositions, etc.

4.7. Determine eligibility for and authorize salary continuation and/or temporary disability compensation benefits in accordance with medical advice and rehabilitation efforts. At no cost to City, Contractor shall report all indemnity workers' compensation claims to the Insurance Services Office, Inc. – ISO Claims Search.

4.8. Obtain City approvals in accordance with approval limits established by the WCA prior to the negotiation of any compromise and release agreement or Stipulation with Request for Award.

4.9. Determine the extent and degree of permanent disability, utilizing, as necessary and desirable, consultative ratings from the Disability Evaluation Unit of the Office of Benefit Determinations. Permanent Disability benefits shall be calculated in accordance with Labor Code Section 4658.

4.10. Authorize payments, in accordance with approval limits, for temporary and/or permanent disability compensation, medical care and death benefits in accordance with advisory ratings, or orders of the WCAB or compromise and release agreements.

4.11. Ensure that all indemnity benefits are paid accurately in accordance with City procedures and timeframes, and in full compliance with City's accounting and record keeping requirements.

4.12. Investigate, as necessary and appropriate, questionable cases and the status of disabled employees in order to assist in the adjustment, mediation and litigation of any such case and in the proper referral of suspected fraudulent cases.

4.13. Take all necessary actions, including timely notification, to assist City in recovering reimbursement for City liability through third-party subrogation, restitution, and/or apportionment on cases involving shared liability.

4.14. Provide the Department of Fire and Police Pensions or the long-term and short-term disability claims adjusting contractor with copies of the employee's report of injury, medical reports from the workers' compensation files, award letter and any other pertinent case information on those workers' compensation claims also having a long-term disability claim with City for the same condition.

4.15. Provide City aid and assistance in returning injured employees to their usual and customary or modified/alternate assignments in a timely manner.

4.16. If required by City, review and process City Attorney or authorized outside Counsel invoices.

5. Staffing/Organization

5.1. Contractor shall be responsible for providing sufficient and competent staff to fulfill the Contract and shall have complete flexibility for establishing an effective management and organizational structure.

5.2. Adjustments in staffing based upon fluctuations in caseload shall be subject to approval of WCA/CCA. Average caseloads for claims examiners shall not exceed 150 open indemnity claims.

5.3. Contractor shall have at least one non-caseload carrying claims supervisor for every nine claims examiners, based upon a staffing model of one claims supervisor managing a total of 1,050 claims. Contractor shall have at least one non-caseload carrying Contract/Claims Manager, who may also act as Contractor's quality assurance auditor. The Contract/Claims Manager shall be assigned to City's account on an exclusive basis.

5.4. Except for medical only examiners, and those examiners in training, all claims adjusting personnel, including the Account Manager, shall possess a valid State of California Self-Insurance Administrators Certificate. Copies of the certificates must be submitted prior to the award of Contract or at the time of hire, whichever comes later.

5.5. Medical Only assistants shall be capable of handling medical only claims and other support duties such as: obtaining medical updates, calculating routine temporary disability payments, identifying cases for assignment to medical case management, etc.

5.6. A clear depiction of Contractor's organizational structure shall be provided to City, updated as necessary, showing the number of Contractor's positions dedicated to City's Project, including span of control for each supervisory position. All support staff and specialist positions shall also be included.

5.7. Experience/Training for Claims Examiner Personnel

5.7.1. To ensure workers' compensation claimants receive appropriate benefits and medical care, all claims examiner personnel assigned to City's Project must meet specific standards of training, experience and skills.

5.7.2. All claims adjusting personnel engaged in the management of indemnity claims must either be a medical only claims assistant in training, currently taking training as stated in CCR Sections 2592.02(a-c) and 2592.03, as may be amended, or have successfully completed the State of California Self-Insurance Administrator written examination; and worked as a workers' compensation examiner for a minimum of 18 months.

5.7.3. At least 75 percent of the claims examiners shall have a minimum of three years' experience in the adjustment of California workers' compensation indemnity claims. Equivalent or substitute experience may be approved by the WCA.

5.7.4. All claims examining personnel engaged in the management of medical only claims must either have at least 18 months of on-the-job experience adjusting California workers' compensation medical only claims and be within six (6) months of certification by an insurer as an "experienced medical only claim examiner," or be a medical only claims assistant currently taking or have successfully completed the required training as stated in CCR Sections 2592.02(a-c) and 2592.03, as may be amended.

5.7.5. Contractor shall also require a minimum of 30 hours of post-certification training every two (2) years for all claims examiners and twenty hours of training every two (2) years for all medical only claims assistants pursuant to CCR Section 2592.02(d-f), as may be amended, and maintain satisfactory records of this training, to be provided City upon request.

5.8. Claims Examiners in Training

5.8.1. As a general practice, the City believes there is value to the concept of on-the-job development of technical/professional staff. However, this practice must be tempered by the City's need for experienced claims adjusting services.

5.8.2. Contractor may employ examiners who do not possess a State of California Self-Insurance Administrator certificate to handle indemnity claims. However, such examiners must be taking training pursuant to CCR 2592.02(a-c) and 2592.03, as may be amended. Upon completion of such training, examiners must be actively pursuing such certificate by taking every available State of California Self-Insurance Administrator examination until the certificate has been acquired. City reserves the right to request removal of any examiner who fails to pass such examination after multiple attempts.

5.9. Contractor's claims and management staff shall work a minimum of eighty hours (80) per two-week pay period and exclusively administer City cases in a dedicated unit. Contractor must assure continuation of provision of services to City in the event of an Act of God, employee shortage or strike.

5.10. Claims Supervisors

5.10.1 Claims Supervisors shall have a minimum of five (5) years' experience in adjusting a caseload of California workers' compensation indemnity claims. Equivalent or substitute experience may be approved by the WCA. Supervisors will not be assigned any workers' compensation claims.

5.10.2. Claims Supervisors shall meet all the training and experience

requirements per California Code of Regulations Section 2592-2592.14.

6. Employee Records

6.1. Contractor shall keep a current and accurate list of all its employees providing services under this Contract. The list shall include each employee's name, date of employment, current address, phone number, current salary and any additional data on licensing, background, and behavior or job performance pertinent to the provision of this Contract.

6.2. Contractor employee's personnel file shall include, but is not limited to, background investigation report(s), current State of California Self-Insurance Administrators Certificate, verification of post-certification training and training certificates.

6.3. Contractor shall retain and provide to City, upon request, a copy of the Employment Application, Employee Resume and/or all documents included in this Section for all employees assigned to City's Program.

7. Reporting Claims

7.1. Since Fire Department services are seven (7) day, 24 hour operations, Contractor shall have the capacity to accept the reporting of injuries directly from the accident location.

7.2. Contractor shall disseminate to Sworn Fire personnel information about their services and the system for reporting claims. Since City offices are dispersed throughout the City with numerous telephone area codes (including 213, 310, 323, and 818), Contractor must provide toll free telephone and fax communication access for Sworn Fire personnel.

7.3. A Contractor employee at the level of Claims Supervisor or above, who has the authority to act for Contractor shall be immediately available whenever Contractor's offices are normally closed, to respond to urgent requests from the Fire Department Medical Liaison Unit. Contractor shall provide a monthly updated schedule of personnel assigned during non-office hours to the affected offices and the WCA.

7.4. Contractor shall report all indemnity claims to the Insurance Services Offices, Inc. – ISO Claims Search at its own expense, document in City's claims management system (LINX), and assist/prepare all necessary, and/or State mandated reports.

8. Claim File Set-Up and Review

Contractor shall be responsible for creating clear, complete and timely documentation of all investigations, medical reports, evaluations, reserve changes, correspondence, successful and unsuccessful contact attempts and for the creation of a claims management plan of action for each claim. Critical claims information and key elements of the plan of action, as required by City, shall be documented in LINX, or its successor.

8.1. Upon receiving notice of a claim, Contractor shall prepare an individual claim file and enter the claim into City's electronic claims management system within one working day. All claim files shall be reviewed at least every 14 days for active claims and at least every three (3) months for claims that have settled, but are open for the employee's future medical care.

8.2. For active indemnity claims where Labor Code Section 4850/IOD or TD is being paid, Contractor shall contact the injured employee's doctor and the injured employee every 14 days until employee returns to work and document in the claims file.

8.3. If applicable, City will provide orientation to City's workers' compensation claims management and imaging systems for key Contractor personnel prior to the start date of the Contract. Contractor shall not be reimbursed for any expenses during orientation or training. Due to the location of Contractor's office, it may be necessary for Contractor's staff to attend any such meetings at City's Personnel Building or at another location determined by City.

9. Case File Record Retention

All claims files will be retained indefinitely. No claims will be destroyed without CCA approval and Contractor will be responsible for storage of all files within the above criteria during the term of this Contract.

10. Claims Research/Prior Loss History (INDEX)

10.1. Contractor is required to subscribe to ClaimSearch or another comprehensive all- claims database and system for claims processing and fraud detection, at no additional cost to City.

10.2. Contractor will complete a basic claims search for every new claim, and an additional search on the anniversary of injury, at minimum, and yearly thereafter as long as the claim remains open, as part of its basic claims management program, and document all findings in the claim notes.

11. Claims Research/WCAB Cases

Contractor will complete a basic claims search for every indemnity claim, or as necessary, as part of its basic claims management program and document all findings in the claim file, at no additional cost to City. City prefers that Contractor subscribe to the DWC electronic data exchange system (EDEX).

12. Indemnity and Medical Benefits

12.1. Contractor shall determine eligibility for, and authorize temporary disability compensation benefits in accordance with medical advice and return-to-work efforts.

12.2. The City of Los Angeles offers up to one (1) year of salary continuation in lieu of temporary disability benefits per the City's Administrative Code Sections 4.104 and 4.177 California Labor Code. Code 4850 benefits are available to sworn Fire personnel for injuries on/after January 1, 2010.

12.3. Contractor shall determine the extent and degree of permanent disability, utilizing as necessary and desirable, consultative ratings from the California Division of Workers' Compensation - Disability Evaluation Unit. Contractor must ensure apportionment is addressed in all claims involving permanent disability.

12.4. Contractor shall authorize payments, in accordance with approval limits specified in the California Labor Code, for temporary and/or permanent disability compensation, medical care and death benefits in accordance with advisory ratings or orders of the WCAB.

13. Three Point Contact

Contractor shall conduct Three-Point Contact with the injured employee and legal representative (if applicable), employer and medical provider on all new claims. Such contact should be completed within one (1) working day of receiving the claim but no later than two (2) working days. Contact must also be made to the Fire Department through its Medical Liaison Unit.

14. Reserves

It is the policy of City that reserves be set as soon as possible after receiving notice of an injury. If adequate information is unavailable, the initial reserves may be delayed, but are to be set no later than 14 calendar days following receipt of notice of injury. At all times, reserves shall reflect the ultimate probable cost of a claim based on factual evidence known at the time reserves are set and they shall be continually reevaluated and updated as additional information becomes available.

15. Prior Authorization Program

Contractor shall utilize City's Prior Authorization Program which allows providers in the City's First Care Panel to send injured workers to contracted managed care providers for certain routine medical procedures on a pre-approved basis.

16. Managed Care Program

City has a contract with a private firm to provide medical service review and cost containment services. Contractor shall use only this firm. City may implement other cost containment strategies, including, but not limited to a Medical Provider Network. Contractor shall fully cooperate and assist in the development, implementation and utilization of these services.

17. Medical Cost Containment

17.1. Contractor shall ensure that all statements for medical benefits are reviewed and all amounts authorized for payment have been determined in accordance with the Official Medical Fee Schedule adopted by the Administrative Director of the Division of Workers' Compensation, City's Preferred Provider Organization (PPO) discount rate or City's network rate, whichever is lower. Contractor shall ensure that duplicate medical payments are not sent for review. Contractor shall utilize City medical panels, PPOs, provider networks, hospital and other medical utilization review services, and managed medical care services, as directed by City. All subcontractors or vendors shall be subject to prior review and approval by the CCA.

17.2. Should City wish to add City medical panels or a secondary PPO to enhance services provided by City's current fee review/PPO vendor, Contractor will coordinate the services of the primary and secondary providers to achieve seamless integration of their services.

18. Medical Management

It is the responsibility of Contractor to maximize the potential cost savings to City through the use of cost containment services and strategies. Any extraordinary medical expenses such as heart transplants, pain clinic charges, purchases of furniture, waterbeds, home exercise equipment, vehicles, spas or spa memberships, or other costly measures must be approved in advance by the WCA or designee.

19. Authority Limits

The CCA shall establish and provide to Contractor a schedule of authority limits and referrals, for all personnel approving indemnity, medical or City salary continuation benefits.

20. Settlement Negotiations

20.1. Contractor shall obtain written approvals in accordance with approval limits established by City prior to the negotiation of any settlement agreement. Contractor shall present all settlement agreement recommendations to the WCA in a timely manner to permit adequate review. Such presentation shall include a written synopsis of alternatives, risks and options considered, shall serve as the basis to discuss recommended settlements and to obtain the approval of the City Attorney.

20.2. The City Attorney will retain the authority to approve all final settlement recommendations; however, at its own discretion, the City Attorney may delegate portions of this authority to the CCA.

21. Medical Control

Contractor's responsibilities include but are not limited to the following:

21.1. Monitor treatment programs for injured or ill employees, including review of all medical reports to ensure reasonable fees, appropriate medical care and determine need for specialty evaluations.

21.2. Ensure that the treating doctor is complying with the requirements of Title 8, CCR, Section 9785 and file petition to remove treating doctors who fail to comply with CCR, Section 9785.

21.3. Abide by the City's Utilization Review Plan when authorizing or denying all treatment requests.

21.4. Maintain adequate staffing from 9:00 a.m. until 5:30 p.m. on each normal business day to authorize medical treatment and answer questions, in accordance with Labor Code 4600.4.

21.5. Make all necessary medical appointments and ensure that all necessary medical reports are provided to the Primary Treating Physician or consulting doctors.

21.6. Maintain close liaison with treating physicians to provide meaningful guidance to City departments in evaluating employee's ability to return to work, and/or recommend further treatment program.

21.7. Evaluate and make recommendations for the panel of physicians who are utilized for the initial treatment of employees and the panel of physicians used for treatment requiring long-term treatment or specialty care and evaluation, and make regular recommendations for updating of these panels.

21.8. Utilize information provided by and cooperate in the enforcement of any

medical case management program and/or managed care program implemented by the CCA for City claims including, but not limited, to obtaining pre-certification for medical procedures through utilization review and requesting case management on older claims as needed, or at City's request.

21.9. Provide written policies and procedures within three (3) months after Contract commencement to ensure timely referrals of cases to managed care contractors and to maintain close coordination with managed care staff on a continuing basis.

21.10. Process bills and liens for medical treatment expenses so as to either pay the bill or lien in accordance with official fee schedules or object to the bill or lien within the period designated by law, including but not limited to Title 8, California Code of Regulations, Section 9792.5.

21.11. Prepare an affidavit regarding resolution of liens and submit the affidavit to City's representative or defense attorney at least 10 days prior to any Mandatory Settlement Conference.

21.12. Identify claimants who may be Medicare beneficiaries, reimburse Medicare for "conditional payments" in which City is the responsible payer pursuant to 42 C.F.R. Section 411.21, and work with the Federal Centers for Medicare and Medicaid Services (CMS) as appropriate to develop Medicare Set-aside Arrangements (MSAs) on settlements that involve future medical expenses pursuant to 42 C.F.R. Sections 411.46 and 411.47.

21.13. Attendance at all lien meetings by Contractor's representative at no additional expense to City.

22. Return to Work & Supplemental Job Displacement Benefits (SJDB) / Vocational Rehabilitation

22.1. City policy requires that employees who become ill or injured in connection with the performance of their duties be returned to work as soon as possible, with primary emphasis to return employees to their former jobs. However, if this is not possible due to medical restrictions, Contractor must work actively with the Medical Liaison Unit to place employees in modified or alternative assignments compatible with employees' medical capacities.

22.2. Contractor must serve injured workers with a Notice of Offer of Regular, Modified, or Alternative Work as stated in Title 8 CCR Section 10117. Contractor shall reimburse City for any fifteen per cent increase in permanent partial disability as a result of CCR Section 10117(b) (1) which City pays or is required to pay as a result of Contractor's acts, errors and/or omissions. Such reimbursements shall be deducted from Contractor's monthly service fees.

22.3. Contractor shall determine eligibility for and authorize supplemental job displacement benefits as necessary pursuant to Labor Code Section 4658.5, as well as all Vocational Rehabilitation benefits.

22.4. Contractor shall provide injured workers with required supplemental job displacement notices in compliance with State requirements.

23. Rehabilitation Services

23.1. When medically appropriate, Contractor shall coordinate implementation of rehabilitation plans for injured employees for approval by City, the employee and other agencies, to provide rehabilitation, re-training or reassignment for employees with physical or performance limitations resulting from industrial injuries pursuant to Labor Code Section 139.5.

23.2. Contractor shall manage all rehabilitation cases including evaluation, control, monitoring and selection of duly licensed professional rehabilitation service providers.

23.3. Contractor shall determine initial rehabilitation efforts for each injured employee with primary emphasis on returning employees to work in the City through job modification or reassignment to a position compatible with the employee's medical capacities. If placement within the City is not possible, rehabilitation efforts are to be directed at returning employees to other gainful employment.

23.4. Contractor shall determine if injured workers are entitled under provisions of Labor Code Section 139.5 to receive temporary disability or rehabilitation maintenance allowance, the services of a rehabilitation counselor, a program of retraining and placement, and reimbursement for costs directly related to the rehabilitation plan.

23.5. Contractor shall represent the City at formal and informal hearings before the State Rehabilitation Unit.

23.6. Contractor shall determine if injured workers are eligible for supplemental job displacement benefits pursuant to Labor Code Section 4658.5.

23.7. Contractor shall provide injured workers with required rehabilitation and supplemental job displacement notices in compliance with State requirements.

24. Citywide Temporary Modified Duty Program

Under direction of WCA, Contractor will support the Fire Department to ensure aggressive implementation of City's Temporary Modified Duty Program, and compliance with statutory requirements.

25. Customer Service

25.1. Contractor shall provide information and guidance to injured employees on benefits they will receive in accordance with State laws as well as any additional City work injury benefits.

25.2. Contractor shall assist in identifying and resolving employee problems arising out of industrial injuries.

25.3. Contractor shall develop and recommend policies and procedures to ensure that the employee's return to work is consistent with the findings of disability as determined by the WCAB.

25.4. At the request of the WCA, City Attorney or Fire Department, Contractor shall provide responses to inquiries, make available claim status reports, and attend City claim status reviews or other meetings.

25.5. Contractor shall develop written standards for telephone and voice mail use, consistent with those established by City.

26. Litigation Management

The City Attorney's Office or designated private law firms provide legal services for all City workers' compensation claims. Contractor's responsibilities include, but are not limited to, the following:

26.1. Provide all necessary claims information and other assistance to legal counsel for the defense of litigated claims.

26.2. Provide a copy of all notices of conferences, Mandatory Settlement Conferences, trials or various hearings before the WCAB to City's legal counsel within five (5) days from date of receipt.

26.3. Prepare all litigated files and send to City's legal counsel when legal assistance is required. This may include a synopsis of the claim, a summary of all benefits paid, medical reports, and correspondence from applicant or applicant's attorney.

26.4. Provide City Attorney a complete summary of all benefits paid (amounts and periods) to the injured employee along with a completed Balance Sheet, at least 10 days prior to any Mandatory Settlement Conference and provide an updated summary as necessary for other WCAB proceedings.

26.5. Respond to correspondence, telephone calls, and email from defense attorneys within one workday or sooner if the correspondence is urgent in nature, e.g. necessitated by an upcoming WCAB appearance date. All such communication shall be documented in claims notes.

26.6. Provide a written status report on open litigated cases as requested. Parameters of this report will be established by WCA.

27. Subrogation Recovery

27.1. All claims shall be immediately evaluated for subrogation potential, initially from information obtained during the Three-Point Contact for new injuries, and subsequently from other information obtained from supervisors' statements, accident reports, police reports, witness statements, etc. Written notices to appropriate parties will be provided, and Contractor will work closely with City Attorney staff to seek reimbursement from the negligent third party. Notations of potential recovery and all communication with the City Attorney shall be documented in the claim notes.

27.2. Contractor shall utilize City's subrogation recovery procedure, or develop its own, subject to City approval, to determine whether the procedure meets City requirements.

28. Fraud Investigations

28.1. Contractor shall investigate, as necessary and appropriate, questionable cases and the status of disabled employees in order to assist in the adjustment, mediation and litigation of cases, and in the proper referral of potential fraud cases.

28.2. Within 30 days after execution of the Contract, Contractor shall develop written policies and procedures relating to the identification and investigation of potential fraud cases. Within 60 days after execution of this Contract, Contractor shall provide fraud detection training to key personnel to ensure aggressive, cost-effective investigations and timely referral to City and the Office of the City Attorney, Special Investigations Unit (SIU).

28.3. Contractor shall notify City and the Office of the City Attorney, SIU, immediately whenever the possibility of fraud is suspected.

28.4. At no cost to City, Contractor will provide SIU training to Contractor's key personnel within 60 days after Contract commencement to ensure aggressive, cost effective investigation and appropriate referrals to the Department of Insurance, District Attorney, WCA and City Attorney's Office.

29. Claims Payments - Accounting Controls

Contractor shall approve claims for payment and, as directed by the CCA, shall input and process same for payment by City's workers' compensation claims management system, financial or accounts payable system.

30. Claims Processing Responsibilities

30.1. Establish and maintain control procedures and necessary documentation to process and reject, settle, compromise or approve benefit claims against City in accordance with Section 31000.8 of the Government Code.

30.2. Enter payments of benefits and other claims file expenses into City's workers' compensation claims management system.

30.3. Establish an adequate and distinct separation of duties between Contractor personnel who process and enter data. Individuals responsible for the input of transactions shall not be involved in the release of these transactions. In addition, individuals responsible for the creation of a claim file and/or address changes shall not input or release transactions.

30.4. Establish and maintain sufficient checks and balances to ensure compliance with established procedures and controls.

31. Claims Best Practices Review

31.1. Contractor is required to complete a minimum of 10 internal claims audits per month by each supervisor to evaluate individual examiners' compliance with City's performance requirements. Claims supervisor(s) shall randomly select active indemnity claims and utilize City's claims audit form (or customized facsimile) to verify compliance with file documentation requirements, case set-up schedule, file management, utilization review and indemnity payment timeliness.

31.2. Any finding regarding non-compliance with City's requirements, and/or any performance deficiency by the claims examiner, shall be documented in the audit and discussed with employee, along with any corrective action taken. After review by the claims supervisor and/or manager, copies of all completed audits will be transmitted to City's on-site staff, and/or the WCA. Contractor will also summarize audit findings on City's TPA Monthly Audit Summary and transmit to WCA or designee.

31.3. All open claims shall have a complete annual review, at minimum. In addition, on a quarterly basis, City staff will randomly select a sample of multiple claims to determine if the use of industry best practices has been applied. On a monthly basis, random claims of examiner's caseloads will be selected for review. These claims will be formally reviewed with City and Contractor's management and staff as required. Case files and records are subject to audit by City at any reasonable time.

32. Alternate Dispute Resolution Program (ADR)

32.1. The City and Service Employees International Union (SEIU) Local 721 entered into an Agreement establishing an Alternative Dispute Resolution (ADR) Program in accordance with California Labor Code Section 3201.7. This Program currently covers civilian employees in four different unions and applies to all work-related injuries occurring on or after July 1, 2008.

32.2. Employees receive the same benefits that would otherwise be received in the State workers' compensation system, including medical treatment, temporary disability benefits, permanent disability benefits and supplemental job displacement benefits. The ADR Program requires that disputes related to workers' compensation claims be resolved utilizing the steps contained in the ADR Program before proceeding through the WCAB. The Program includes the services of ombudspersons, mediators, arbitrators and advice nurses, all provided by a neutral third party.

32.3. Contractor is required to implement the ADR Program for any Sworn Fire employees represented by any participating unions that provide workers' compensation claims management and benefits.

33. Computerized Claims Administration System (LINX)

33.1. City requires Contractor to utilize City's own proprietary claims administration system known as LINX. Since LINX is owned by City, there are no licensing costs to Contractor to utilize this system. LINX software and training will be provided by City or a vendor of City's choice. Technical support for LINX software-related problems shall remain the ultimate responsibility of City. However, since Contractor will be off-site, Contract shall provide first-tier support by diagnosing and resolving minor problems experienced by Contractor's end-users at no additional cost to City, whereas major problems will be directed to City.

33.2. If, during the term of this Contract, any change of office location, alteration of existing office space, or reconfiguration occurs, it shall be the sole responsibility of Contractor to ensure the maintenance and continuous availability of LINX, or any other City claims administration system, terminals and any other related hardware, for ongoing City business and to directly bear any costs associated with such alteration or reconfiguration.

33.3. City may, at its discretion, replace the LINX system with another computerized claims administration system. When and if this occurs, Contractor shall assist City in the development and implementation of the new system to ensure a smooth transition.

34. Document Management and Workflow System

34.1. City has a web-based document management and workflow system (Imaging System) to electronically store all claims-related documents, route documents for processing, and automate certain claims processes. Currently, the system is an IBM/Filenet system called eFlo, and is used for all civilian claims, except conflict claims.

34.2. Any Contractor administering claims which are currently using eFlo is responsible for prepping, scanning and indexing all claims-related documents into the Imaging System. This includes all incoming mail, as well as all claims-related documents directly received or produced by Contractor.

34.3. City reserves the right to require Contractor to use the Imaging System and to prepare, scan, index, route and process documents, as well as perform other duties as specified by City to maximize the full potential of the System.

34.4. If Contractor is required to scan and index documents, Contractor will be required to provide and install a capture system, and a fax server capable of connecting to the City's document management system (currently Filenet Content Services) at Contractor's site. To ensure timely processing of documents, the capture system, at minimum, will consist of an index workstation and a scan workstation connected to the City's Intranet backbone via a P2P Private Line T1 channel. The scanner of the scan workstation needs to be compatible with Filenet Capture Professional (version 4.0.2 and above).

34.5. City may at its discretion replace the eFlo System with another document imaging and workflow system. If and when this occurs, City reserves the right to require Contractor to use the new system and to purchase and maintain any hardware required to use the system. Contractor shall also assist the City in the development and implementation of the new system to ensure a smooth transition.

The current running specifications for the two workstations in the City are as follows:

Hardware

- Intel Core i3 @ 3.1GHz and 4GB RAM
- 250 GB Hard drive
- Dual Monitor System

Software

- Windows 7
- ODBC connection (SQL driver)
- IBM Filenet Capture Professional (version 4.0.2)
- Office 2010

34.5.1. Since the Imaging System is web-based, end-user client workstations will only require Windows XP operating system, Internet Explorer 6.0, and a minimum of 1GB RAM to utilize the system.

34.5.2. Internet Explorer 8.0 is required for the end-user workstation to access the web-based imaging system.

34.5.3. To ensure efficient claims processing, City reserves the right to modify the imaging system requirements according to the specifications of City.

34.5.4. Software, initial system configuration, and initial training shall be provided by City or a vendor of City's choice. However, Contractor shall be responsible for all equipment, maintenance, future reconfigurations to accommodate Contractor's workflow, and other related costs. Technical support for the imaging software-related problems shall remain the ultimate responsibility of City. However, since Contractor will be off-site, Contractor shall provide first-tier support by diagnosing and resolving minor problems experienced by Contractor's end-users at no additional cost to City, whereas major problems will be directed to City.

34.6. Computer Interface

34.6.1. Contractor shall interface at its cost with City's claims management system (LINX) and Imaging System through the provision of a P2P Private Line T1 channel pointing to City's Intranet backbone, according to specifications provided by City, personal computers equipped with (at minimum) Intel Core i3 @ 3.1 GHz and 4GB of RAM, 250GB disk space, running with Windows 7 and Internet Explorer 8.0.

34.6.2. Contractor shall maintain the capacity to access the Internet and send and receive email for all claims adjusting personnel assigned to City cases. Contractor shall comply with CCA specified email protocol dealing with content and confidentiality when using email for City cases.

34.7. Computer Data Maintenance

Contractor shall, on a daily basis, accurately and thoroughly input, update and maintain all data fields on City's workers' compensation claims management system, as well as City's imaging system for all cases managed by Contractor.

35. Reporting Requirements

Contractor shall prepare required monthly reports and records, with time deadlines, which include, but are not limited to:

- A report detailing the cases received and action taken in accordance with a format and data elements developed by City in cooperation with Contractor
- Statistical and narrative reports to assist City in evaluating its workers' compensation program
- A statistical and narrative report on outstanding issues to be addressed at Performance Evaluation Meetings

35.1. WorkCompStats

City currently utilizes computerized statistics, called WorkCompStats, as a management tool to track and monitor examiners' performance. Such statistics shall include, but not be limited to, bill turnaround time, rejected bill counts, closing ratios, settlement numbers per month, penalties (both medical and indemnity) and three point contact thresholds. Data for these statistics can be generated through LINX, City's bill review vendor and other sources.

Contractor shall compile statistics and charts as required by City, and meet with claims examining staff on a monthly basis to review the data and discuss methods for improvement. Contractor is expected to share such data and discussions with City and to aggressively pursue compliance with minimum goals established by City in the areas City selects for inclusion in WorkCompStats. City may also attend such meetings at its discretion. Contractor shall also provide City with monthly and quarterly reports as determined by City.

35.2. Quarterly Reports

Contractor shall prepare a written status report on selected open cases. Parameters and scope of this report will be established by CCA/WCA.

35.3. Annual Report

Contractor shall prepare a comprehensive annual statistical summary and narrative report to serve as the basis of the workers' compensation program and to permit preparation of reports required by the State Department of Industrial Relations.

SECTION III

CONTRACTOR PAYMENT AND ADJUSTMENTS TO PAYMENT

1. Total Obligation

City's total obligation for the contract period May 3, 2013 through November 21, 2018 not exceed $21,120,696, based upon a staffing model of one claims supervisor managing a total of 1,050 indemnity claims and a caseload level of 150 indemnity claims per claims examiner.

Should City decide to decrease the number of indemnity claims to 140 per claims examiner during the term of this Contract, City agrees to pay Contractor its monthly service fee as specified in Sub-Section 6 below, Method of Payment and adjust its staffing level as specified in Sub-Section 3 below, Number of Staff Positions. For any other permanent adjustment to the caseload level, City and Contractor shall negotiate in good faith an alternate and acceptable fee and staffing level.

2. Payment

2.1 City shall pay Contractor on a fee basis as set forth in this Section. Payment for assumption and administration of all take-over claims is included in this fee.

2.2. Contractor shall facilitate providing additional staff for special projects on an as-needed basis as determined by City. Compensation for such staff, and/or related expenses, shall be mutually agreed upon in writing when the need for such staff arises and is separate from the base monthly fee.

2.3. Contractor shall invoice City monthly in arrears for fees due for the billing period. The invoices shall clearly reflect and provide reasonable detail as determined by City of the services provided.

Effective November 1, 2014 – Total Additional Monthly Payment - $10,381.25

3. Number of Staff Positions

Position	140 Caseload	150 Caseload
Branch Claims Manager	1	1
Supervisor	3	3
Senior Examiner	20	19
Medical Only Examiner	4	4
Support Staff/Clerical	3	3
Total	**31**	**30**

4. Initial Claims Volume Estimate

The current estimate of the initial claims volume Contractor is required to manage is 3,070.

5. Fire Sworn New Claims Per Month (Fiscal Year 2011-12)

July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb	Mar.	Apr.	May	June	Total
119	140	109	114	87	87	143	85	100	110	95	98	1,287

6. Method of Payment

6.1. The monthly service fees shall be dependent on the level of staffing determined by City in accordance with Section III, Sub-Section 3 above, Number of Staff Positions. Depending on the level of staffing, the monthly service fees shall be as follows during the entire term of this Contract:

	140 Caseload Limit	150 Caseload Limit	Other Caseload Limit
Monthly Service Fee	$311,748.94	$300,848.61	To Be Negotiated

6.2. For any portion of a month during which services are provided, the existing monthly service fee shall be pro-rated on a business-day basis. Monthly service fees shall be determined by the number of staff necessary to adequately handle the workers' compensation claims accordance with the caseload limit in Section III, Sub-Section 3 above, referred for service by City and as approved by City, and shall be adjusted, subject to City's agreement as those claim totals affect needed staffing throughout the term of this Contract.

6.3. City shall provide Contractor with a monthly report of the indemnity caseload average. If the indemnity claim caseload average exceeds the adopted caseload limit, its monthly fee for the second month in which average caseloads continue in excess of the limit shall be reduced.

6.4. The amount of the reduction shall be equal to the monthly salary, fringe benefits and overhead of a Senior Examiner. The reduction shall double for the third month of non-compliance, triple for the fourth month of non-compliance and increase in the same manner and amount for each additional month in which Contractor remains out of compliance.

6.5. Monthly service fees shall not be increased during the term of this Contract.

7. Adjustments

Except as provided in Section 6 above, Method of Payment, all other adjustments to staffing shall cause a corresponding change in the monthly service fees, based on the pro-rata average monthly salary plus the cost of fringe benefits and overhead for the position(s) added or deleted, but not to exceed the following rates:

Addition/Deletion of:	Monthly Service Fee Change
Branch Claims Manager	+/- $ 17,302.09
Supervisor	+/- $ 13,149.59
Senior Examiner	+/- $ 10,381.25
Medical Only Examiner	+/- $ 5,536.66
Support Staff/Clerical	+/- $ 3,460.41

8. Invoices and Payment

8.1. Contractor shall invoice City only for providing the tasks, deliverables, goods, services, and other work specified in Exhibit 1 – Statement of Work, and elsewhere hereunder. Contractor shall be paid as set forth in Sub-Sections 3 and 6 above. Contractor shall prepare invoices, which shall include the charges owed to Contractor by City under the terms of this Contract. Contractor shall be paid only for the tasks, deliverables, goods, services, and other work approved in writing by City. If City does not approve work in writing, no payment shall be due to Contractor for that work.

8.2. To ensure that services provided under personal services contracts are measured against services as detailed in Contract, City's Controller has developed a policy requiring that specific supporting documentation be submitted with invoices.

8.3. Contractor is required to submit invoices that conform to City standards and include, at a minimum, the following information:

a. Name and address of Contractor
b. Name and address of City department being billed
c. Date of the invoice and period covered
d. Reference to Contract number
e. Description of completed task and amount due for the task with appropriate and complete supporting documentation
f. Payment terms, total due and due date
g. Certification by a duly authorized officer
h. Discounts and terms (if applicable)
i. Remittance address (if different from Contractor's address)

8.4. All invoices shall be submitted on Contractor's letterhead, contain Contractor's official logo, or contain other unique and identifying information such as name and address of Contractor. Invoices shall be submitted on a calendar month basis and within thirty (30) days after the month of service. Invoices submitted must be accompanied by a report detailing the staff assigned to City's account for that month. Such staffing report shall include the staff member's name, title, date of assignment to position, date of separation or absence from position, number of hours worked, pay rate, amount paid, and how fee adjustments, if any, were derived. City reserves the right to audit staffing reports and adjust billings to recover overpayments, if any. In order to facilitate such audits, Contractor shall provide timesheets and/or payroll records upon City's request.

8.5. Invoices and supporting documentation shall be prepared at the sole expense and responsibility of Contractor. City shall not compensate Contractor for any costs incurred for invoice preparation. City may request, in writing, changes to the content and format of the invoice and supporting documentation at any time.

8.6. Failure to adhere to these policies may result in non-payment or non-approval of demands, pursuant to Charter Section 262(a), which requires City's Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies or equipment received by any office or department of City, and approve demands before they are drawn on the City Treasury.

8.7. City reserves the right to require additional documentation prior to approval of invoice. City reserves the right to request additional supporting documentation to substantiate costs at any time.

8.8. All invoices under this Contract shall be submitted to the following address:

David Noltemeyer, Chief Management Analyst
Workers' Compensation Division Chief
City of Los Angeles Personnel Department
700 E. Temple Street, Room 210
Los Angeles, CA 90012

8.9. City Approval of Invoices

In no event shall payment be made prior to City's verifying and approving: 1) the services were received; 2) the work was approved and; 3) a full and complete invoice has been submitted. Payment shall be made within thirty (30) calendar days of receipt of an approved invoice and only after such invoice has been approved for payment by City's representative. Invoices are considered complete when appropriate documentation is signed off as satisfactory by City's fiscal officer.

8.10. Total Obligation. City's total obligation under this Contract shall be in accordance with Sub-Section 1, Total Obligation.

8.11. City will adjust the invoice if necessary and pay the invoice within thirty (30) days after receipt of a full and complete invoice, and only after such invoice has been approved for payment by City's representative.

9. Adjustments to Payments

Contractor shall reimburse City for any overpayment, fine, penalty or other cost incurred due to Contractor's failure to comply with State of California workers' compensation statutes, codes, regulations, or any term or condition of this Contract. Such failure includes, but is not limited to, the following:

9.1. Late payment or nonpayment of any benefit to any applicant or medical provider resulting in penalty or attorney fees.

9.2. Overpayment of any benefit owed to any applicant, lien claimant, or other party in a case due to Contractor's failure to comply with the standards set forth in Exhibit 1 – Section II, Sub-Section 1, Scope of Work.

9.3. Fines and/or administrative penalties assessed against City due to Contractor's failure to comply with the standards set forth in Exhibit 1, Section II, Sub-Section 1, Scope of Work.

9.4 No reimbursement by Contractor is required under this Section if Contractor's act(s) and/or omission(s) occurred because they were expressly approved or directed by an authorized City representative

10. Notice of Adjustments to Payments

City shall give written notice to Contractor of any adjustments to payments. Contractor shall have two (2) weeks to respond in writing to the notice. If Contractor does not respond to the notice within two weeks, Contractor shall lose its right to dispute the adjustment. The response shall include, but not be limited to, one or more of the following:

10.1. Evidence that a penalty was not incurred or an overpayment or excessive cost was not made.

10.2. Evidence that Contractor's act(s) and/or omission(s) did not cause the penalty, overpayment, or excess cost.

10.3. Evidence that Contractor obtained prior written approval from an authorized City official.

11. Second Level Dispute Resolution Process

If, after receipt of Contractor's response to City's notice of adjustment to payments, City and Contractor are in disagreement, a second-level dispute resolution process will be conducted. The CCA or designee and an appropriate Contractor representative shall review the evidence and resolve the dispute. The second level dispute resolution process shall be completed within two months. At the end of the second-level dispute resolution process, City shall be entitled to reduce Contractor's monthly invoices for assessments of adjustments to payments.

12. Improper Acts or Failure to Act Regarding Claims Administration

12.1. Contractor shall reimburse City for exceeding monthly caseloads, overpayments, fines, penalties, attorney's fees, interest, medical costs, rehabilitation costs and disability benefit payments which City pays or will be required to pay as a result of Contractor's acts, errors, and/or omissions which violate existing law, administrative procedure, or which fail to comply with generally accepted standard practices in the workers' compensation insurance industry, and third party workers' compensation claims administration field. City will offset such reimbursements from Contractor's monthly service fee if not paid separately by Contractor.

12.2. Contractor will not be responsible for reimbursement of overpayments, fines, penalties, attorney's fees, interest, medical costs, rehabilitation costs or disability benefit payments, if the act and/or omission resulted from following the express written instructions of the City.

12.3. Contractor will not be responsible for reimbursement of overpayments, fines, penalties, attorney's fees, interest, medical costs, rehabilitation costs, or disability benefit payments imposed as a result of a retrospective audit by the State Department of Industrial Relations, if the basis of the audit finding precedes the assumption of claim management responsibilities under this Contract with City.

13. Adjustment to Payments Following Audit

13.1. If, at any time during the term of this Contract or three years after the expiration or termination of this Contract, authorized representatives of City conduct an audit of Contractor regarding the services provided to City hereunder and if as a result of such audit it is determined that City's dollar liability for such services is less than payments made by City to Contractor, then Contractor agrees that the difference, at the CCA's option, shall be either: (1) repaid forthwith by Contractor to City by cash payment, or (2) credited against any future payments hereunder to Contractor.

13.2. If as a result of such audit it is determined that City's dollar liability for services provided hereunder is more than payments made by City to Contractor, then the difference shall be paid to Contractor by City provided that in no event

shall City's maximum obligation exceed the amount appropriated by the City Council.

14. Review of Indemnity Claims Volume

14.1 City reserves the right to review the actual claims volume every twelve months to determine if a change in base claims volume is warranted. If a change is warranted, City and Contractor must mutually agree on the new baseline for the indemnity claims volume and any resultant change to staffing.

14.2 The number of Fire Sworn new claims submitted for the twelve months from July, 2011 to June 30, 2012 was 1,287 (Section III, Sub-Section 5, above).For any contract year where the number of new indemnity claims, administered by workers' compensation claims examiners, exceeds 1,287 by 150, City shall pay Contractor an additional $62,000 within 60 days after the end of the contract year. If the total number of indemnity claims exceeds 1,287 by 300, administered by workers' compensation claims examiners, City shall pay Contractor an additional $124,000 after the end of the contract year.

14.3 The open indemnity claims caseload for Sworn Fire personnel was 3,070 (Exhibit 1, Section III, Initial Claims Volume) as of October 1, 2012. Should the open indemnity caseload change at the time of contract inception, then for every increase (or decrease) of 150 claims, the monthly base fee shall be increased (or decreased) by $5,175. Additionally, for any quarter where Contractor's open indemnity caseload decreases by increments of 150, the monthly base fee shall be reduced by increments of $5,175.

14.4 In the future, if City assigns claims from another department(s) to Contractor, City shall determine the number of new claims submitted for that department(s) during the previous twelve months, as well as the current number of open indemnity claims for that department(s). These numbers will be added to the baseline numbers referenced in 14.2 and 14.3 above when calculating fee adjustments per those sections. City shall compensate Contractor for this additional caseload by increasing Contractor's monthly base fee by $95 for each of these current open indemnity claims at the time the department(s) is assigned to Contractor.

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. Construction of Provisions and Titles Herein

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions of this Contract. The language of this Contract shall be construed according to its fair meaning and not strictly for or against **CITY** or **CONTRACTOR**. The word **"CONTRACTOR"** includes the party or parties identified in this Contract. The singular shall include the plural and if there is more than one **CONTRACTOR**, unless expressly stated otherwise, their obligations and liabilities shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC-2. Applicable Law, Interpretation and Enforcement

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

PSC-3. Time of Effectiveness

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR**;

B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;

C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and

D. This Contract has been signed on behalf of **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

PSC-4. Integrated Contract

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in the provisions of PSC-5 hereof.

PSC-5. Amendment

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-3.

PSC-6. Excusable Delays

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

In the event **CONTRACTOR'S** delay or failure to perform arises out of a Force Majeure Event, **CONTRACTOR** agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

PSC-7. Waiver

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

PSC-8. Suspension

At **CITY'S** sole discretion, **CITY** may suspend any or all services provided under this Contract by providing **CONTRACTOR** with written notice of suspension. Upon receipt of the notice of suspension, **CONTRACTOR** shall immediately cease the services suspended and shall not incur any additional obligations, costs or expenses to **CITY** until **CITY** gives written notice to recommence the services.

PSC-9. Termination

A. Termination for Convenience

CITY may terminate this Contract for **CITY'S** convenience at any time by providing **CONTRACTOR** thirty days written notice. Upon receipt of the notice of termination, **CONTRACTOR** shall immediately take action not to incur any additional obligations, costs or expenses, except as may be necessary to terminate its activities. **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to effect the termination. Thereafter, **CONTRACTOR** shall have no further claims against **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights **CITY** is entitled to, shall become **CITY** property upon the date of the termination. **CONTRACTOR** agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

B. Termination for Breach of Contract

1. Except as provided in PSC-6, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, **CITY** may give **CONTRACTOR** written notice of the default. **CITY'S** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **CITY**. Additionally, **CITY'S** default notice may offer **CONTRACTOR** an opportunity to provide **CITY** with a plan to cure the default, which shall be submitted to **CITY** within the time period allowed by **CITY**. At **CITY'S** sole discretion, **CITY** may accept or reject **CONTRACTOR'S** plan. If the default cannot be cured or if **CONTRACTOR** fails to cure within the period allowed by **CITY**, then **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.

2. If the default under this Contract is due to **CONTRACTOR'S** failure to maintain the insurance required under this Contract, **CONTRACTOR** shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subcontractors of the loss of insurance coverage and Contractor's obligation to suspend performance of

services. **CONTRACTOR** shall not recommence performance until **CONTRACTOR** is fully insured and in compliance with **CITY'S** requirements.

3. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then **CITY** may immediately terminate this Contract.

4. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates **CITY'S** laws, regulations or policies relating to lobbying, then **CITY** may immediately terminate this Contract.

5. Acts of Moral Turpitude

   a. **CONTRACTOR** shall immediately notify **CITY** if **CONTRACTOR** or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").

   b. If **CONTRACTOR** or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, **CITY** may immediately terminate this Contract.

   c. If **CONTRACTOR** or a Key Person is charged with or indicted for an Act of Moral Turpitude, **CITY** may terminate this Contract after providing **CONTRACTOR** an opportunity to present evidence of **CONTRACTOR'S** ability to perform under the terms of this Contract.

   d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.

e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of **CONTRACTOR**.

6. In the event **CITY** terminates this Contract as provided in this section, **CITY** may procure, upon such terms and in the manner as **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to **CITY** for all of its costs and damages, including, but not limited to, any excess costs for such services.

7. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-9(A) Termination for Convenience.

8. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

C. In the event that this Contract is terminated, **CONTRACTOR** shall immediately notify all employees and Subcontractors, and shall notify in writing all other parties contracted with under the terms of this Contract within five working days of the termination.

PSC-10. Independent Contractor

CONTRACTOR is an independent contractor and not an agent or employee of **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of **CITY**.

PSC-11. Contractor's Personnel

Unless otherwise approved by **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. **CITY** has the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** shall remove personnel from performing work under this Contract if requested to do so by **CITY**.

CONTRACTOR shall not use Subcontractors to assist in performance of this Contract without the prior written approval of **CITY**. If **CITY** permits the use of Subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of this Contract and paying all Subcontractors. **CITY** has the right to approve **CONTRACTOR'S** Subcontractors, and **CITY** reserves the right to request replacement of any

Subcontractor. **CITY** does not have any obligation to pay **CONTRACTOR'S** Subcontractors, and nothing herein creates any privity of contract between **CITY** and any Subcontractor.

PSC-12. Assignment and Delegation

CONTRACTOR may not, unless it has first obtained the written permission of **CITY**:

A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or

B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

PSC-13. Permits

CONTRACTOR and its directors, officers, partners, agents, employees, and Subcontractors, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance of this Contract. **CONTRACTOR** shall immediately notify **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to **CONTRACTOR'S** performance of this Contract.

PSC-14. Claims for Labor and Materials

CONTRACTOR shall promptly pay when due all amounts owed for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this Contract.

PSC-15. Current Los Angeles City Business Tax Registration Certificate Required

For the duration of this Contract, **CONTRACTOR** shall maintain valid Business Tax Registration Certificate(s) as required by **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

PSC-16. Retention of Records, Audit and Reports

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form or as otherwise approved by **CITY**. These records shall be retained for a period of no less than three years from the later of the following: (1) final payment made by **CITY**, (2) the expiration of this Contract or (3) termination of this Contract. The records will be subject to examination and audit by authorized **CITY** personnel or **CITY'S** representatives at any time. **CONTRACTOR** shall provide any reports requested by **CITY** regarding

performance of this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, **CONTRACTOR** may, upon **CITY'S** written approval, submit the required information to **CITY** in an electronic format, e.g. USB flash drive, at the expiration or termination of this Contract.

PSC-17. Bonds

All bonds required by **CITY** shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 *et seq.*, as amended from to time.

PSC-18. Indemnification

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by **CONTRACTOR,** Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-19. Intellectual Property Indemnification

CONTRACTOR, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **CITY** provided in this section shall not be exclusive

and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-20. Intellectual Property Warranty

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

PSC-21. Ownership and License

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this Contract including, without limitation, documents, materials, data, reports, manuals, specifications, artwork, drawings, sketches, blueprints, studies, memoranda, computation sheets, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas, matters and combinations thereof, and all forms of intellectual property originated and prepared by **CONTRACTOR** or its Subcontractors under this Contract (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of **CITY** for its use in any manner **CITY** deems appropriate. **CONTRACTOR** hereby assigns to **CITY** all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

CONTRACTOR agrees that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **CITY** irreparable harm. **CITY** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **CITY** from seeking or obtaining any other relief to which **CITY** may be entitled.

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract shall include this provision to contractually bind its Subcontractors performing work under this Contract such that **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein.

PSC-22. Data Protection

A. **CONTRACTOR** shall protect, using the most secure means and technology that is commercially available, **CITY**-provided data or consumer-provided data acquired in the course and scope of this Contract, including but not limited to customer lists and customer credit card or consumer data, (collectively, the "City Data"). **CONTRACTOR** shall notify **CITY** in writing as soon as reasonably feasible, and in any event within twenty-four hours, of **CONTRACTOR'S** discovery or reasonable belief of any unauthorized access of City Data (a "Data Breach"), or of any incident affecting, or potentially affecting City Data related to cyber security (a "Security Incident"), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. **CONTRACTOR** shall begin remediation immediately. **CONTRACTOR** shall provide daily updates, or more frequently if required by **CITY**, regarding findings and actions performed by **CONTRACTOR** until the Data Breach or Security Incident has been effectively resolved to **CITY'S** satisfaction. **CONTRACTOR** shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with **CITY**. At **CITY'S** sole discretion, **CITY** and its authorized agents shall have the right to lead or participate in the investigation. **CONTRACTOR** shall cooperate fully with **CITY**, its agents and law enforcement.

B. If **CITY** is subject to liability for any Data Breach or Security Incident, then **CONTRACTOR** shall fully indemnify and hold harmless **CITY** and defend against any resulting actions.

PSC-23. Insurance

During the term of this Contract and without limiting **CONTRACTOR'S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must: (1) conform to **CITY'S** requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

PSC-24. Best Terms

Throughout the term of this Contract, **CONTRACTOR**, shall offer **CITY** the best terms, prices, and discounts that are offered to any of **CONTRACTOR'S** customers for similar goods and services provided under this Contract.

PSC-25. Warranty and Responsibility of Contractor

CONTRACTOR warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

PSC-26. Mandatory Provisions Pertaining to Non-Discrimination in Employment

Unless otherwise exempt, this Contract is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

A. **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and **CITY**. In performing this Contract, **CONTRACTOR** shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.

B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this Contract by reference.

C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Equal Employment Practices" provisions of this Contract.

D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Affirmative Action Program" provisions of this Contract.

Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-27. Child Support Assignment Orders

CONTRACTOR shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, **CONTRACTOR** shall fully comply with all applicable State and Federal employment reporting requirements. Failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract. Failure of **CONTRACTOR** or principal owner to cure

the default within 90 days of the notice of default will subject this Contract to termination for breach. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-28. Living Wage Ordinance

CONTRACTOR shall comply with the Living Wage Ordinance, LAAC Section 10.37 *et seq.*, as amended from time to time. **CONTRACTOR** further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-29. Service Contractor Worker Retention Ordinance

CONTRACTOR shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-30. Access and Accommodations

CONTRACTOR represents and certifies that:

A. **CONTRACTOR** shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 et seq., the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 et seq., the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;

B. **CONTRACTOR** shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;

C. **CONTRACTOR** shall provide reasonable accommodation upon request to ensure equal access to **CITY**-funded programs, services and activities;

D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and

E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that **CITY** is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-31. Contractor Responsibility Ordinance

CONTRACTOR shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 *et seq.*, as amended from time to time.

PSC-32. Business Inclusion Program

Unless otherwise exempted prior to bid submission, **CONTRACTOR** shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal/Qualification process, throughout the duration of this Contract. **CONTRACTOR** shall utilize the Business Assistance Virtual Network ("BAVN") at https://www.labavn.org/, to perform and document outreach to Minority, Women, and Other Business Enterprises. **CONTRACTOR** shall perform subcontractor outreach activities through BAVN. **CONTRACTOR** shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of **CITY**.

PSC-33. Slavery Disclosure Ordinance

CONTRACTOR shall comply with the Slavery Disclosure Ordinance, LAAC Section 10.41 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-34. First Source Hiring Ordinance

CONTRACTOR shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-35. Local Business Preference Ordinance

CONTRACTOR shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-36. Iran Contracting Act

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with **CITY** for goods and services estimated at $1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

PSC-37. Restrictions on Campaign Contributions and Fundraising in City Elections

Unless otherwise exempt, if this Contract is valued at $100,000 or more and requires approval by an elected **CITY** office, **CONTRACTOR**, **CONTRACTOR'S** principals, and **CONTRACTOR'S** Subcontractors expected to receive at least $100,000 for performance under the Contract, and the principals of those Subcontractors (the "Restricted Persons")

shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles **CITY** to terminate this Contract and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected **CITY** officials or candidates for elected **CITY** office for twelve months after this Contract is signed. Additionally, a **CONTRACTOR** subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any **CONTRACTOR** subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least $100,000 for performance under this Contract:

> "Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections
>
> You are a subcontractor on City of Los Angeles Contract #_____. Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("**CITY**") officials and candidates for elected **CITY** office for twelve months after the **CITY** contract is signed. You are required to provide the names and contact information of your principals to the **CONTRACTOR** and to amend that information within ten business days if it changes during the twelve month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at ethics.lacity.org or by calling the Los Angeles City Ethics Commission at (213) 978-1960."

PSC-38. Contractors' Use of Criminal History for Consideration of Employment Applications

CONTRACTOR shall comply with the City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-39. Limitation of City's Obligation to Make Payment to Contractor

Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for **CITY** to comply with its governing legal requirements, **CITY** shall have no obligation to make any payments to **CONTRACTOR** unless **CITY** shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract. **CONTRACTOR** agrees that any services provided by **CONTRACTOR**, purchases made by **CONTRACTOR** or expenses incurred by **CONTRACTOR** in excess of the appropriation(s) shall be free and without charge to **CITY** and **CITY** shall have no obligation to pay for the services, purchases or expenses. **CONTRACTOR** shall have no obligation to provide any services,

provide any equipment or incur any expenses in excess of the appropriated amount(s) until **CITY** appropriates additional funds for this Contract.

PSC-40. Compliance with Identity Theft Laws and Payment Card Data Security Standards

CONTRACTOR shall comply with all identity theft laws including without limitation, laws related to: (1) payment devices; (2) credit and debit card fraud; and (3) the Fair and Accurate Credit Transactions Act ("FACTA"), including its requirement relating to the content of transaction receipts provided to Customers. **CONTRACTOR** also shall comply with all requirements related to maintaining compliance with Payment Card Industry Data Security Standards ("PCI DSS"). During the performance of any service to install, program or update payment devices equipped to conduct credit or debit card transactions, including PCI DSS services, **CONTRACTOR** shall verify proper truncation of receipts in compliance with FACTA.

PSC-41. Compliance with California Public Resources Code Section 5164

California Public Resources Code Section 5164 prohibits a public agency from hiring a person for employment or as a volunteer to perform services at any park, playground, or community center used for recreational purposes in a position that has supervisory or disciplinary authority over any minor, if the person has been convicted of certain crimes as referenced in the Penal Code, and articulated in California Public Resources Code Section 5164(a)(2).

If applicable, **CONTRACTOR** shall comply with California Public Resources Code Section 5164, and shall additionally adhere to all rules and regulations that have been adopted or that may be adopted by **CITY**. **CONTRACTOR** is required to have all employees, volunteers and Subcontractors (including all employees and volunteers of any Subcontractor) of **CONTRACTOR** working on premises to pass a fingerprint and background check through the California Department of Justice at **CONTRACTOR'S** sole expense, indicating that such individuals have never been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2), if the individual will have supervisory or disciplinary authority over any minor.

PSC-42. Possessory Interests Tax

Rights granted to **CONTRACTOR** by **CITY** may create a possessory interest. **CONTRACTOR** agrees that any possessory interest created may be subject to California Revenue and Taxation Code Section 107.6 and a property tax may be levied on that possessory interest. If applicable, **CONTRACTOR** shall pay the property tax. **CONTRACTOR** acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.

PSC-43. Confidentiality

All documents, information and materials provided to **CONTRACTOR** by **CITY** or developed by **CONTRACTOR** pursuant to this Contract (collectively "Confidential Information") are confidential. **CONTRACTOR** shall not provide or disclose any Confidential Information or their contents or any information therein, either orally or in writing, to any person or entity, except as authorized by **CITY** or as required by law. **CONTRACTOR** shall immediately notify **CITY** of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this Contract.

EXHIBIT 1

INSTRUCTIONS AND INFORMATION ON COMPLYING WITH CITY INSURANCE REQUIREMENTS

(Share this information with your insurance agent or broker)

1. **Agreement/Reference** All evidence of insurance should identify the nature of your business with the **CITY**. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) as determined in writing by the CAO-RM.

2. **When to submit** Normally, no work may begin until a **CITY** insurance certificate approval number ("CA number") has been obtained, so insurance documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.

Submitting your documents. **Track4LA®** is the **CITY'S** online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used by insurance brokers and agents as they submit client insurance certificates directly to the **CITY**. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format. Track4LA® advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA®** at http://track4la.lacity.org and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 may be accepted, however ***submissions other than through Track4LA® will significantly delay the insurance approval process as documents will have to be manually processed.*** **CONTRACTOR must provide CITY** a thirty day notice of cancellation (ten days for non-payment of premium) AND an Additional Insured Endorsement naming the **CITY** an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the **CITY** is an automatic or blanket additional insured. An endorsement naming the **CITY** an Additional Named Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Completed **Insurance Industry Certificates other than ACORD 25 Certificates** are sent electronically to CAO.insurance.bonds@lacity.org.

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

Verification of approved insurance and bonds may be obtained by checking **Track4LA®**, the **CITY'S** online insurance compliance system, at http://track4la.lacity.org.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate or edit the existing Acord 25 Certificate through **Track4LA®** at http://track4la.lacity.org.

5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the **CITY** has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (http://cao.lacity.org/risk/InsuranceForms.htm) to the CAO-RM for consideration.

6. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the **CITY** is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of **CITY** premises. Information on two **CITY** insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on **CITY** premises or streets, is available at (www.2sparta.com), or by calling (800) 420-0555.

7. **Automobile Liability** insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on **CITY** premises; it is not required for simple commuting unless **CITY** is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

8. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

9. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (http://cao.lacity.org/risk/InsuranceForms.htm). **A Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on **CITY** premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the **CITY**) any workers' compensation paid to an injured employee of the contractor.

10. **Property** insurance is required for persons having exclusive use of premises or equipment owned or controlled by the **CITY**. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle **CITY** funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at http://cao.lacity.org/risk/BondAssistanceProgram.pdf or call (213) 258-3000 for more information.

12. **Cyber Liability & Privacy** coverage may be required to cover technology services or products for both liability and property losses that may result when a **CITY** contractor engages in various electronic activities, such as selling on the Internet or collecting data within its internal electronic network. **CONTRACTOR'S** policies shall cover liability for a data breach in which the **CITY** employees' and/or **CITY** customers' confidential or personal information, such as but not limited to, Social Security or credit card information are exposed or stolen by a hacker or other criminal who has gained access to the **CITY'S** or **CONTRACTOR'S** electronic network. The policies shall cover a variety of expenses associated with data breaches, including: notification costs, credit monitoring, costs to defend claims by state regulators, fines and penalties, and loss resulting from identity theft. The policies are required to cover liability arising from website media content, as well as property exposures from: (a) business interruption, (b) data loss/destruction, (c) computer fraud, (d) funds transfer loss, and (e) cyber extortion.

Required Insurance and Minimum Limits

Name: _____ Date: _____

Agreement/Reference: _____

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

___ **Workers' Compensation (WC) and Employer's Liability (EL)**

WC *Statutory*

EL _____

☐ Waiver of Subrogation in favor of City ☐ Longshore & Harbor Workers ☐ Jones Act

___ **General Liability** _____

☐ Products/Completed Operations ☐ Sexual Misconduct _____

☐ Fire Legal Liability _____

☐ _____

___ **Automobile Liability** (for any and all vehicles used for this contract, other than commuting to/from work) _____

___ **Professional Liability** (Errors and Omissions) _____

Discovery Period _____

___ **Property Insurance** (to cover replacement cost of building - as determined by insurance company) _____

☐ All Risk Coverage ☐ Boiler and Machinery

☐ Flood _____ ☐ Builder's Risk

☐ Earthquake _____ ☐ _____

___ **Pollution Liability** _____

☐ _____

___ **Surety Bonds -** Performance and Payment (Labor and Materials) Bonds _____

___ **Crime Insurance** _____

Other: _____

DRAFT

FIFTH AMENDED AND RESTATED AGREEMENT BETWEEN

CITY OF LOS ANGELES

AND

ELITE CLAIMS MANAGEMENT, INC.

(Formerly Known as
ACME Administrators, Inc.)

FOR

THIRD-PARTY ADMINISTRATION SERVICES OF WORKERS' COMPENSATION CLAIMS MANAGEMENT AND BENEFITS ADMINISTRATION

CONTRACT NO.: C-121842-5

CITY OF LOS ANGELES
AND
ELITE CLAIMS MANAGEMENT, INC.
FORMELRY KNOWN AS ACME ADMINISTRATORS, INC.

THIRD-PARTY ADMINISTRATION OF WORKERS' COMPENSATION CLAIM MANAGEMENT AND BENEFITS ADMINISTRATION

CONTRACT #: C-121842

This Contract, which includes the attached Exhibits, is made and entered into by and between the City of Los Angeles, a municipal corporation, acting by and through its Personnel Department (hereinafter referred to as "City"), and ACME Administrators, Inc., a California corporation (hereinafter referred to as "Contractor"), with reference to the following:

RECITALS

1. Whereas, City is legally self-insured for its workers' compensation liability and has the need for the services of a third-party administration firm to manage a portion of its civilian workers' compensation claim workload; and

2. Whereas, City performed a 1022 review and determined that it is more economical for City to contract for the required services than to have employees perform the work; and

3. Whereas, City released a Request for Proposals pursuant to Charter Section 372 after determining that the proposed Contract is for expert and technical services of a temporary and occasional character for which bidding under Charter Section 371 is not practical or advantageous; and

4. Whereas, in response to City's Request for Proposal for such services, dated January 5, 2012, Contractor submitted a proposal dated February 29, 2012 which offered to provide the requested services; and

5. Whereas, Contractor is duly licensed and certified under the laws of the State of California to engage in the business of providing Third-Party Administration of Workers' Compensation Claims Management and Benefits Administration, as described hereunder and possesses the competence, expertise and personnel required to provide such services; and

6. Whereas, City selected Contractor for award of a three-year Contract, effective May 3, 2013; and

7. Whereas, effective April 22, 2013 City and Contractor amended the Contract (First Amendment) to change the termination date to April 29, 2016 for administrative purposes; and

8. Whereas, on June 5, 2015, City and Contractor amended the Contract (Second Amendment) to have Contractor provide additional staff to temporarily cover additional City caseloads due to employee retirements and promotions and increased the maximum payable to Contractor from $3,595,971 to $4,679,665; and

9. Whereas, at its meeting of October 27, 2015, (CF15-1146) the City Council authorized the Personnel Department General Manager or designee to extend the Contract for an additional two years; and

10. Whereas, on March 3, 2016 the City and Contractor amended the Contract (Third Amendment) to change the termination date to November 22, 2017; and

11. Whereas, at its meeting on May 25, 2016, (CF15-1146-S2), the City Council authorized the Personnel Department General Manager or designee to increase the maximum payable to Contractor from $4,679,665 to $6,097,591; and

12. Whereas, the Fourth Restated and Amended Contract executed on July 6, 2016 increased the maximum five-year payable to Contractor from $4,679,665 to $6,097,591; and

13. Whereas, at its meeting on _____, 2018, the City Council authorized the Personnel Department General Manager or designee to extend the Contract one additional year through November 21, 2018, to execute this Fifth Restated and Amended Contract and to increase the maximum amount payable to the Contractor under the Contract from $6,097,591 to $7,296,248 and

14. Whereas, on March 30, 2017, ACME Administrators, Inc. changed its name to Elite Claims Management, Inc.

15. Whereas, Elite Claims Management, Inc. will assume all rights and obligations of ACME Administrators, Inc.; and

16. Whereas, Elite Claims Management, Inc. is the sole contracting party, as a result of the aforementioned name change; and

17. Whereas this Fifth Amended and Restated Agreement is amended to delete “Claims Management Program Requirements” as Exhibit 1 and to replace it with “Claims Management Program Requirements 2017”.

18. Whereas this Fifth Amended and Restated Agreement is amended to delete "Standard Provisions for City Contracts (Rev.03/09)" as Exhibit 2 and to replace it with "Standard Provisions for City Contracts (Rev.10/17)”.

19. Whereas, the terms and conditions of the Contract shall remain the same except as modified consistent with recitals number 13 through 19.

NOW THEREFORE, in consideration of the premises and of the terms, covenants, and conditions set forth herein, the parties hereby covenant, represent, and agree as follows:

1. REPRESENTATIVES OF PARTIES

1.1 Representatives of the Parties and Service of Notice.

The representatives of the respective parties authorized to administer this Contract and to whom formal notices, demands, and communications will be given are as follows:

The representative of City is, unless otherwise stated in the Contract:

Wendy G. Macy, General Manager
City of Los Angeles, Personnel Department
700 E. Temple Street, Room 305
Los Angeles, CA 90012

Designee:

David Noltemeyer, Chief Management Analyst
Workers' Compensation Division Chief
City of Los Angeles, Personnel Department
700 E. Temple Street, Room 210
Los Angeles, CA 90012

The representative of Contractor is:

Lora B. DeMuro, Owner and Vice-President
Elite Claims Management, Inc.
28677 Old Town Front Street G
Temecula, CA 92590

1.2. Formal notices and correspondence to be given hereunder by either party must be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and will be deemed communicated three (3) days after the date of mailing.

1.3. If the name of the person designated to receive the notices or correspondence or if the address of such person changes, written notice will be given in accordance with this Section within five (5) working days of said change.

2. DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words as used herein shall be construed to have the following meanings, unless otherwise apparent from the context in which they are used.

2.1. California Code of Regulation (CCR)

The codification of general and permanent rules and regulations of the State of California, including the occupational health and workers' compensation program.

2.2. City

City of Los Angeles, California, a municipal corporation.

2.3. City Attorney

The City of Los Angeles governmental office providing legal counsel and services to City officers and departments.

2.4. City Contract Administrator (CCA)

Person designated by City's Personnel Department General Manager to manage the operations, work or services under this Contract.

2.5. City Contract Monitor

Person designated by City's Personnel Department General Manager with responsibility to oversee the day-to-day activities of this Contract, including inspections of any and all tasks, deliverables, goods, services and other work provided by Contractor.

2.6. City Personnel Department General Manager

Person designated by Mayor of City to manage the Personnel Department. Under this Contract, this person shall have the ultimate authority to resolve matters relating to the Contract that are not resolved by the CCA.

2.7. Contract

This written agreement, including exhibits or attachments, executed between City and Contractor.

2.8. Contract Cost (Base Fee)

The flat, annual fee for the provision of all services.

2.9. Contractor

The sole proprietor, partnership, or corporation that has entered into this Contract with City to perform or execute the work covered by Exhibit 1 – Claims Management Program Requirements.

2.10. Contractor's Contract/Claims Manager

The person designated by Contractor to administer the Contract operations during the term of the Contract.

2.11. Days

Calendar day(s), unless otherwise specified.

2.12. Business Day

With the exception of Saturdays, Sundays and City legal holidays, all other days are considered business days. Contractor's holidays are limited to those actually observed, but may not exceed those observed by City. City will provide a list of City legal holidays to Contractor.

2.13. Division of Workers' Compensation (DWC)

The State of California agency which monitors the administration of workers' compensation claims, and provides administrative and judicial services to assist in resolving disputes that arise in connection with claims for workers' compensation benefits.

2.14. Fiscal Year

The twelve (12) month period beginning July 1st and ending the following June 30th.

2.15. Personnel Department

City of Los Angeles Personnel Department.

2.16. Program/Project

Workers' Compensation Claims Management and Benefits Administration services provided to City by Contractor.

2.17. Workers' Compensation Administrator

The Assistant Division Chief in the Workers' Compensation Division responsible for the technical management of the workers' compensation program.

2.18. Workers' Compensation Appeals Board (WCAB)

A seven-member, judicial body appointed by the Governor and confirmed by the Senate, exercises all judicial powers vested in it by the Labor Code. Its major functions include review of petitions for reconsideration of decisions by workers' compensation administrative law judges of the Division of Workers' Compensation and regulation of the adjudication process by adopting rules of practice.

2.19. Workers' Compensation Division

The organizational unit of City's Personnel Department responsible for the management of City's self-insured program for workers' compensation claims management and benefits administration.

3. WORK

3.1 Pursuant to the provisions of this Contract, Contractor shall fully perform, complete and deliver on time, all required tasks, deliverables, services and other work as set forth in Exhibit 1 – Claims Management Program Requirements 2017.

3.2. If Contractor provides any tasks, deliverables, goods, services, or work, other than as specified in this Contract, the same shall be deemed to be a gratuitous effort on the part of Contractor, and Contractor shall have no claim whatsoever against City.

4. TERM OF CONTRACT AND COMPENSATON

4.1. The term of this Contract commenced on May 3, 2013 and will continue in full force until November 21, 2018, unless earlier terminated under provisions herein.

4.2. In the event of reduction of Work actually required under this Contract, expiration of the term of this Contract, or termination prior to the expiration of the term of this Contract, Contractor shall fully cooperate with City to provide for the transition to whatever service replacement method City determines to be in City's best interest.

4.3. City's total obligation for complete and satisfactory performance of the terms of this Contract as contemplated by the parties and detailed in the "Claims Management Program Requirements 2017" (Exhibit 1) shall not exceed $7,296,248, subject to available funding. Contractor shall be paid as set forth in Exhibit 1, Section III., "Contractor Payment and Adjustments to Payment".

4.4. Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein. Contractor shall employ additional staff for special projects on an as-needed basis as determined by City. Compensation for such staff, and/or related expense, will be mutually agreed upon in writing when the need for such staff arises.

4.5. Assumption or takeover of any of Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall occur only with the CCA's express prior written approval.

5. TERMINATION OF CONTRACT

City may terminate this Contract for City's convenience at any time by giving Contractor 30 days' written notice thereof. Refer to Exhibit 2, Standard Provisions for City Contracts (Rev. 10/17), PSC-9.

6. ADMINISTRATION OF CONTRACT – CITY

The City's Personnel Department General Manager has designated the Workers' Compensation Division Chief as City's Contract Administrator (CCA). The CCA shall have the authority to manage this Contract on behalf of City.

6.1. Personnel Department General Manager

The General Manager has the authority to amend the terms and conditions of this Contract in accordance with Section 8, Amendments.

6.2. Contract Administrator (CCA)

6.2.1. Responsibilities of the CCA include:

- Ensure that the requirements and objectives of this Contract are met;
- Clarify and interpret Contract requirements and provisions;
- Provide direction to Contractor in areas relating to City policy, information requirements and procedural requirements;
- Meet with Contract/Claims Manager on a regular basis; and
- Review and approve any and all services, or other work provided by or on behalf of Contractor.

6.2.2. The CCA is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate City in any respect.

6.3 Workers' Compensation Administrator (WCA)

The CCA shall designate a WCA. The WCA is responsible for overseeing the day-to-day management of this Contract. The WCA reports to the CCA.

7. CONTRACTOR MANAGEMENT AND STAFF

7.1 Branch/Claims Manager

7.1.1. Before performing services under this Contract, Contractor shall designate in writing an account service team and designate a Contract/Claims Manager, each subject to approval of City. If Contractor elects to replace the Contract/Claims Manager, advance notice will be given to City. City reserves the right to meet, review and approve the background, education, and experience of any potential assignee to this position throughout the term of this Contract at its discretion.

7.1.2. The Contract/Claims Manager will serve as the prime contact on behalf of Contractor with City and will have overall management responsibility for the supervision of Contractor's performance under this Contract.

7.1.3. The Contract/Claims Manager will be responsible for maintaining the day-to-day operational control of all ongoing claims management activities related to this Contract. The Contract/Claims Manager will be responsible for ensuring the quality of claims management activities provided to City and for promptly resolving any problem or concern that may develop during the term of this Contract. The Contract/Claims Manager must have a California Self-Insurance Administrator Certificate and a minimum of three (3) years of full-time experience in the supervision of a large (>30) group of claims examiners and related support personnel involved in the independent analysis and administration of a workers' compensation claims caseload. City prefers that the Contract/Claims Manager have a bachelor's degree from an accredited four-year institution.

7.1.4. The Branch/Claims Manager shall meet all of the training and requirements per CCR Section 2592.14.

7.2. Approval of Contractor's Staff

Contractor shall use its own employees to perform the services required under this Contract. City reserves the right to approve Contractor's personnel assigned to City's Program at the level of Assistant Manager and above, if any. Contractor must notify City in writing if such personnel cannot continue on this Contract. Upon receipt, City will respond in writing, either approving or rejecting the replacement personnel. Additionally, City shall

have the right to require Contractor to replace any person, assigned to City's account, found to be in violation of any of the terms of this Contract. Contractor shall immediately deny access to its facility for such personnel no longer performing work on City Contract.

7.3. Background and Security Investigations

7.3.1. At any time prior to or during term of this Contract, City may require that all Contractor staff performing work under this Contract undergo and pass, to the satisfaction of City, a background investigation, as a condition of beginning and continuing to work under this Contract. City shall use its discretion in determining the method of background clearance to be used, up to and including a City performed fingerprint security clearance. The fees associated with obtaining the background information shall be at the expense of Contractor, regardless if Contractor's staff passes or fails the background clearance investigation.

7.3.2. City may request that any member of Contractor's staff be immediately removed from working on the Contract at any time during the term of this Contract. City will not provide to Contractor or to Contractor's staff any information obtained through City conducted background clearance.

7.3.3. Contractor shall immediately deny access to City's dedicated unit for any staff member who does not pass such investigation(s) to the satisfaction of City and whose background is incompatible with City dedicated unit access, at the sole discretion of City.

7.3.4. Disqualification, if any, of Contractor's staff, pursuant to Section 7.3.1., shall not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

8. AMENDMENTS

For any revision to this Contract that affects the scope of work, period of performance, payments, or any term or condition of this Contract, except for those exceptions specifically provided for in this Contract, a negotiated amendment to this Contract shall be written and executed by City and Contractor.

9. AUTHORIZATION WARRANTY

Contractor represents and warrants that the person executing this Contract for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of this Contract and that all requirements of Contractor have been fulfilled to provide such actual authority.

10. BUDGET REDUCTIONS

In the event that the City Council adopts, in any fiscal year, a City Budget which provides for reductions in the salaries and benefits paid to the majority of City employees and imposes similar reductions with respect to City Contracts, City reserves the right to reduce its payment obligation under this Contract correspondingly for that fiscal year and any subsequent fiscal year during the term of this Contract (including any extensions), and the services to be provided by Contractor under this Contract shall also be reduced correspondingly. City's notice to Contractor regarding said reduction in payment obligation shall be provided within 30 calendar days of the City Council's approval of such actions. Except as set forth in the preceding sentence, Contractor shall continue to provide all of the services set forth in this Contract.

11. COMPLAINTS

11.1. Within two (2) weeks after Contract execution date, Contractor shall provide City with Contractor's policy for receiving, investigating and responding to complaints.

11.2. City will review Contractor's policy and provide Contractor with approval of said plan or with requested changes.

11.3. If City requests changes in Contractor's policy, Contractor shall make such changes and resubmit the plan within five (5) business days.

11.4. If, at any time, Contractor wishes to change Contractor's policy, Contractor shall submit proposed changes in writing to City for approval before implementation.

11.5. For complaints that escalate to the attention of Contract/Claims Manager, City official or union representative, Contractor shall preliminarily investigate all complaints and notify the CCA of the status of the investigation within five (5) business days of receiving the complaint. Contractor shall obtain pre-approval from the CCA for all written responses, as well as provide the CCA with a copy of all final written responses. Contractor will provide a copy of all written responses.

11.6. When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.

12. CONFLICT OF INTEREST

12.1. No City employee whose position with City enables such employee to influence the award of this Contract or any competing Contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor or have any other direct or indirect financial

interest in this Contract. No officer or employee of Contractor who may financially benefit from the performance of work hereunder shall in any way participate in City's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence City's approval or ongoing evaluation of such work.

12.2. Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. Contractor warrants that it is not now aware of any facts that create a conflict of interest. If Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to City. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of Section 12 shall be a material breach of this Contract.

13. CONTRACTOR MANAGEMENT AND AUDITS

The City is committed to being an active partner in the third party administration of its workers' compensation claims. To that end, dedicated City Monitors are available to provide advice and historical perspective on the management of all claims. This staff is also responsible to ensure that effective and efficient claims management techniques are consistently applied, and to assess Contractor's compliance with all terms and conditions in this Contract.

13.1 Claims Management Review

13.1.1. To facilitate the review of activities and to establish and maintain effective lines of communication, periodic working meetings will be held with staff of the Personnel Department, as determined by City to be desirable. Additionally, City staff from the Personnel Department and City Attorney's Office may be assigned to Contractor's work site to provide assistance and guidance to Contractor's employees, to review procedures, to audit individual claims files and provide legal and other services. Due to the location of Contractor's office, it may be necessary for Contractor's staff to attend any such meetings at City's Personnel Building or another location determined by City. Contractor shall provide office space for City staff to work at no cost to City (Refer to Section 22).

13.1.2. Working meetings to discuss the Program, policies and any problems that may occur will also be held with designated staff of assigned departments.

13.1.3. Contractor shall maintain its own internal quality control program to monitor the procedures utilized by its supervisory and

management personnel to ensure the quality of services provided to City.

13.2. Periodic Independent Audit

City reserves the right to assign an independent auditor to assess the quality of services being provided and the extent to which Contractor is conducting City business within generally accepted industry standard practices and Contract terms. Contractor is required to cooperate fully with any external claims management audit and provide adequate temporary office space, work stations and free parking, at no additional cost to City.

13.3. Financial Audit

Contractors providing services to City will be responsible for the verification of the legitimacy of payments made to service providers and for the disbursal of benefits to City employees through City's check issuance process. City therefore reserves the right for staff of its Office of the Controller or designee to conduct audits of financial accountability procedures.

13.4. Contractor Evaluation Ordinance

When the term of this Contract has expired, City will conduct an evaluation of Contractor's overall performance. City will also conduct regular evaluations of Contractor's performance during the term of the Contract. As required by Section 10.39.2 of the Los Angeles Administrative Code, Evaluations of City Personal Services Contracts, evaluations will be based on a number of criteria, including the quality of the work product or service performed, the timeliness of performance, financial issues and the expertise of personnel that Contractor assigns to this Contract. A Contractor who receives a "Marginal" or "Unsatisfactory" rating will be provided with a copy of the final City evaluation and allowed 14 calendar days to respond. City will use the final City evaluation and any response from Contractor to evaluate Proposals and to conduct reference checks when awarding future service contracts.

14. GENERAL INSURANCE REQUIREMENTS

14.1. Without limiting Contractor's indemnification of City and during the term of this Contract, Contractor shall provide and maintain, and shall require all of its subcontractors to maintain the programs of insurance listed below. Evidence of this coverage must be submitted by Contractor and approved no later than 30 days prior to the inception of any operations. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by City. Such coverage shall be provided and maintained at Contractor's own expense.

14.2. Insurance policies purchased and maintained under this Contract by Contractor shall include a waiver of subrogation recovery against City and employees.

14.3. The preferred form of evidence of insurance and performance security is an industry ACORD Certificate submitted electronically at http://track4la.lacity.org.

15. INSURANCE COVERAGE AND PERFORMANCE SECURITY REQUIREMENTS

- General Liability insurance with limits of not less than $1,000,000.

- Automobile Liability with a limit of liability of not less than $250,000 for each accident. Such insurance shall include coverage for all "owned," "hired" and "non-owned" vehicles, or coverage for "any auto."

- Workers' Compensation and Employers' Liability insurance providing workers' compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible, with a limit of not less than $1,000,000.

- Professional Liability: Insurance covering liability arising from any error, omission, negligent or wrongful act of Contractor, its officers or employees with limits of not less than $1,000,000 per occurrence and $2,000,000 aggregate. The coverage also shall provide an extended two-year reporting period commencing upon termination or cancellation of this Contract.

- Crime Coverage: Insurance with limits in amounts not less than indicated below covering against loss of money, securities, or other property referred to in this Contract, and naming City as loss payee:

Employee Dishonesty:	One Million Dollars ($1,000,000)
Forgery or Alteration:	One Million Dollars ($1,000,000)
Theft, Disappearance and Destruction:	One Million Dollars ($1,000,000)
Computer Fraud:	One Million Dollars ($1,000,000)
Burglary and Robbery:	One Million Dollars ($1,000,000)

Contractor may provide a fidelity bond of One Million Dollars ($1,000,000) per occurrence in lieu of the above-mentioned crime insurance coverage.

15.1. Performance Security Requirements:

Such surety may be provided by one of the following forms and conditioned upon faithful performance and satisfactory completion of services by Contractor. Surety must be submitted by Contractor and approved no later than 30 days prior to the inception of any operations.

15.2. Performance Bond

A faithful performance bond of not less than $250,000 payable to the City of Los Angeles and executed by a corporate surety licensed to transact business in the State of California, or

15.3. Certificate of Deposit (CD) or Letter of Credit (LOC)

A CD or an irrevocable LOC payable to the City of Los Angeles upon demand in an amount not less than $250,000. Such CD or LOC shall comply with minimum criteria and standards established by City and be maintained throughout the term of the Contract.

16. LEGISLATION REVIEWS

On an ongoing basis, Contractor shall monitor and evaluate any and all proposed legislative changes or State directives, rules, and regulations as they may affect the delivery of services under this Contract and/or as they relate to City's overall responsibility to manage its workers' compensation program, and report to City on the potential effect of proposed changes on City's third party claims administration services and benefits program.

17. MOST FAVORED PUBLIC ENTITY

If Contractor's prices decline, or should Contractor at any time during the term of this Contract provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Contract, then such lower prices shall be immediately extended to City.

18. NON-EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Contractor. This Contract shall not restrict City from acquiring similar, equal or like goods and/or services from other entities or sources.

19. NOTICE OF DELAYS

Except as otherwise provided under this Contract, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within one (1) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

20. NOTICE OF DISPUTES

Contractor shall bring to the attention of the CCA or CCA's designee any dispute between City and Contractor regarding the performance of services as stated in this Contract. If CCA or designee is not able to resolve the dispute, the General Manager or designee shall resolve it.

21. NOTICES

All notices or demands required or permitted to be given or made under this Contract shall be in writing and shall be hand delivered or mailed by first-class mail, postage prepaid, addressed to the parties as identified in Section 1, Representatives of Parties.

22. OFFICE OF CONTRACTOR

22.1. Contractor shall open a specific office to serve City's needs, or identify a clearly definable portion of a larger office space for staff dedicated to serving City's needs. It is preferable that such an office be located within Los Angeles County. However, regardless of its location, it is the responsibility of Contractor to coordinate the transfer of claims information, and to ensure that the communication needs of the Personnel Department, other affected City Departments and injured workers are efficiently and effectively met.

22.2. Contractor shall provide a bonded courier service, or its own employees, to transport claims files and/or related items, as required by the WCA, except weekends and holidays between Contractor's office and City's office at no additional cost to City.

22.3. Contractor shall provide a safe, adequate and ergonomically sound work space, complete ergonomically correct furniture and computer work stations, computers (with access to City's claims management and imaging systems, Internet and email), telephone, facsimile service and free parking for any City monitor(s) and any City Attorney employee, at no additional cost to City. Adequate temporary work space, work stations and free parking shall also be provided for other City staff and City contract personnel as necessary for required program auditing or monitoring, at no additional cost to City.

23. PHYSICAL SECURITY/CONFIDENTIALITY

23.1. Contractor shall be responsible for safeguarding all City claims and property provided for Contractor's use or in Contractor's care, custody and control. At the close of each workday, checks, cases, files, supplies, equipment and computer access shall be secured by Contractor.

23.2. All documents, records and information provided by City to Contractor, or accessed, reviewed or produced by Contractor, during performance of this Contract, including but not limited to employee/claimants' medical information, shall remain the property of City. All documents, records, and information provided by City to Contractor, or accessed, reviewed, or produced by Contractor during performance of this Contract, are

confidential (hereinafter collectively referred to as "Confidential Information").

23.3. Contractor agrees not to provide Confidential Information, or disclose its content or any information contained in it either orally or in writing, to any other person or entity. Contractor agrees that all Confidential Information used or reviewed in connection with Contractor's work for City will be used only for the purpose of carrying out City business and cannot be used for any other purpose. Contractor shall be responsible for protecting the confidentiality and maintaining the security of all Confidential Information in its possession.

23.4. Any Confidential Information provided by City to Contractor, or accessed, reviewed or produced by Contractor, during performance of this Contract, shall be made available to its employees, agents, and subcontractors only on a need-to-know basis. Further, Contractor will provide written instructions to all of its employees, agents and subcontractors with access to the Confidential Information about the penalties for its unauthorized use or disclosure.

23.5. Contractor must not remove Confidential Information or any other documents or information used or reviewed in connection with Contractor's work for City from City facilities or Contractor's office without prior approval from City. Contractor shall, at the conclusion of this Contract, or at the request of City, promptly return to City any and all Confidential Information and all other written materials, notes, documents or other information obtained by Contractor during the course of work under this Contract. Contractor shall not make or retain copies of any such information, materials or documents. Contractor and its employees, agents, and subcontractors may have access to confidential medical records information, which access is controlled by statute. Misuse of such information may adversely affect the subject individual's civil rights and violates the law.

23.6. Contractor shall implement such reasonable and prudent measures to keep secure and private medical history information accessed by its employees, agents and subcontractors during the performance of this Contract as are required by law and this Contract. Contractor shall advise its employees, agents and subcontractors of this confidentiality requirement.

23.7 All of Contractor's employees assigned to perform services, or to provide support to those performing services for City under this Contract shall sign and adhere to a Statement of Confidentiality, provided by City, or Contractor's own statement, approved by City, which includes, but is not limited to, media contacts, nondisclosure of information relating to claims management issues, and prohibited relationships with vendors, and that conforms, to the extent possible, to City's own ethics and confidentiality

statements. Such statements shall be reviewed annually by Contractor with its employees and be available for City review at any reasonable time.

23.8. The provisions of this Section shall survive expiration or termination of this Contract.

24. PUBLIC RECORDS ACT

24.1. Any documents submitted by Contractor and all information obtained in connection with City's right to audit and inspect Contractor's documents, books, and accounting records pursuant to Section 27, Record Retention and Inspection/Audit of this Contract become the exclusive property of City. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret," "confidential," or "proprietary." City shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

24.2. In the event City is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret," "confidential," or "proprietary," Contractor agrees to defend and indemnify City from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

25. PUBLICITY

25.1. Contractor shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing Contractor's need to identify its services and related clients to sustain itself, City shall not inhibit Contractor from publishing its role under this Contract within the following conditions:

- Contractor shall develop all publicity material in a professional manner.

- During the term of this Contract, Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of City without the prior written consent of the CCA. City shall not unreasonably withhold written consent.

25.2. Contractor may, without the prior written consent of City, indicate in its proposals and sales materials that it has been awarded this Contract with

the City of Los Angeles, provided that the requirements of this Section 25 shall apply.

26. RATIFICATION CLAUSE

Due to the need for Contractor's services to be provided, Contractor may have provided services prior to the execution of this Contract. To the extent that said services were performed in accordance with the terms and conditions of this Contract, those services are hereby ratified.

27. RECORD RETENTION AND INSPECTION/AUDIT

27.1. Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. Contractor agrees that City, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or records relating to this Contract. All such material, including, but not limited to, all financial records, timecards and other employment records, and proprietary data and information, shall be kept and maintained by Contractor and shall be made available to City during the term of this Contract and for a period of three (3) years thereafter unless City's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by Contractor at a location in Los Angeles County, or another location approved by City, provided that if any such material is located outside Los Angeles County, then, at City's option, Contractor shall pay City for travel, per diem, and other costs incurred by City to examine, audit, excerpt, copy, or transcribe such material at such other location.

27.2. In the event that an audit of Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by Contractor or otherwise, Contractor shall immediately notify the CCA of such audit. Contractor shall also provide a copy of such audit report to the CCA within thirty (30) days of Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Contract. City shall make a reasonable effort to maintain the confidentiality of such audit report(s).

27.3. Failure on the part of Contractor to comply with any of the provisions of Subsections 27.1 and 27.2 shall constitute a material breach of this Contract upon which City may terminate or suspend this Contract.

28. SUBCONTRACTING

28.1. The requirements of this Contract may not be subcontracted by Contractor without the advance written approval of City. Any attempt by Contractor to subcontract without the prior consent of City may be deemed a material breach of this Contract.

28.2. If Contractor desires to subcontract, Contractor shall promptly provide the following information:

- A description of the work to be performed by the subcontractor
- A draft copy of the proposed subcontract
- Other pertinent information and/or certifications requested by City

28.3. Contractor shall remain fully responsible for all performances required of it under this Contract, including those that Contractor has determined to subcontract, notwithstanding City's approval of Contractor's proposed subcontract

28.4. City's consent to subcontract shall not waive City's right to prior and continuing approval of any and all personnel, including subcontractor employees providing services under this Contract. Contractor is responsible to notify its subcontractors of this City right.

28.5. The CCA is authorized to act for and on behalf of City with respect to approval of any subcontract and subcontractor employees. After approval of the subcontract by City, Contractor shall forward a fully executed subcontract to City for its files.

28.6. Contractor shall be solely liable and responsible for all payments or other compensation to all subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding City's consent to subcontract.

28.7. Contractor shall obtain certificates of insurance, which establish that the subcontractor maintains all the programs of insurance required by City from each approved subcontractor. Contractor shall ensure delivery of all such documents to City before any subcontractor employee may perform any work hereunder.

29. TERMINATION FOR NON-APPROPRIATION OF FUNDS

Notwithstanding any other provision of this Contract, City shall not be obligated for Contractor's performance hereunder or by any provision of this Contract during any of City's future fiscal years unless and until City appropriates funds for this Contract in City's Budget for each such future fiscal year. If no appropriation is made, then Contractor's obligation to perform services shall cease when funding is

exhausted and this Contract will terminate on the last day of the fiscal year for which there was an appropriation. City shall notify Contractor in writing of any such non-allocation of funds at the earliest possible date.

30. TRANSITION

Following the first week of this Contract, and at the end of the term of this Contract, or if this Contract is terminated by City for any reason, City, with the assistance of Contractor, will select a transport vendor to immediately identify, pack and prepare for movement of all necessary City claims files and property and relocate to the new Contractor. Contractor shall be responsible for the entire cost of relocation, which may be paid directly to the transport vendor or deducted from Contractor's final bill for services.

31. USE OF FULL-TIME EMPLOYEES

Contractor shall assign and use full-time employees of Contractor, working a minimum of 75 hours per pay period, to provide services under this Contract unless Contractor can demonstrate to the satisfaction of City that it is necessary to use non-full-time employees based on staffing efficiency or City requirements for the work to be performed under this Contract. It is understood and agreed that Contractor shall not, under any circumstances, use non-full-time employees for services provided under this Contract unless and until City has provided written authorization for the use of same. Contractor submitted with its proposal a full-time employee staffing plan. If Contractor changes its full-time employee staffing plan, Contractor shall immediately provide a copy of the new staffing plan to City.

32. VALIDITY

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby.

33. WARRANTY AGAINST CONTINGENT FEES

33.1. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business.

33.2. For breach of this warranty, City shall have the right to terminate this Contract and, at its sole discretion, deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

34. STANDARD TERMS AND CONDITIONS

Contractor agrees to comply with Exhibit 2 – Standard Provisions for City Contracts (Rev. 10/17), attached hereto and made a part hereof.

35. RESPONSIBILITY TO PROVIDE SERVICES IN ACCORDANCE WITH APPLICABLE STANDARDS AND REQUIREMENT TO POSSESS ALL VALID PERMITS AND LICENSES

Contractor warrants that the work performed hereunder shall be completed in a manner consistent with professional standards among those firms in Contractor's profession, doing the same or similar work, under the same or similar circumstances. Contractor must possess and maintain valid licenses and permits required to perform the services described herein.

36. COMPLIANCE WITH STATUTES AND REGULATIONS

Contractor, in the performance of this Agreement, shall comply with all applicable statutes, rules, regulations, and orders of the United States, the State of California, the County and City of Los Angeles. Contractor shall comply with new, amended, or revised laws, regulations, and procedures that apply to the performance of this Agreement.

37. AMBIGUITY

No ambiguity in this Agreement may be interpreted against any one party by virtue of that party being drafter of the Agreement.

38. ENTIRE AGREEMENT

This Agreement contains the full and complete Agreement between the parties. No verbal agreement or conversation with any officer or employee of either party will affect or modify any of the terms and conditions of this Agreement.

39. ORDER OF PRECEDENCE

In the event of any inconsistency between the provisions in the body of this Agreement and the attachments, the provisions in the body of this Agreement take precedence, followed by Exhibit 2, Standard Provisions for City Contracts (Rev. 10/17).

40. INCORPORATION OF DOCUMENTS

The following documents are attached to and form a part of this Contract.

- Exhibit 1 – Claims Management Program Requirements 2017
- Exhibit 2 – Standard Provisions for City Contracts (Rev. 10/17)

This Contract and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersede all previous Contracts, written and oral, and all communications between the parties relating to the subject matter of this Contract. No change to this Contract shall be valid unless prepared pursuant to Section 8 Amendments, and signed by both parties.

THIS CONTRACT IS EXECUTED IN THREE (3) DUPLICATE ORIGINALS, EACH OF WHICH IS DEEMED TO BE AN ORIGINAL.

SIGNATURE PAGE FOLLOWS

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their respective duly authorized representatives.

CITY OF LOS ANGELES
PERSONNEL DEPARTMENT

By: _____
WENDY G. MACY
General Manager

Date: _____

ELITE CLAIMS MANAGEMENT, INC.

By: _____
LORA B. DEMURO
Owner/President

Date: _____

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: _____
SAMUEL PETTY
Deputy City Attorney

Date: _____

ATTEST:

HOLLY L. WOLCOTT, City Clerk

By: _____
Deputy City Clerk

Date: _____

Approved Signature Methods:

1) Two signatures: One of the Chairman of the Board of Directors, President, or Vice-President, and one of the Secretary, Assistant Secretary, Chief Finance Officer, or Assistant Treasurer.
2) One signature of a Corporate-designated individual together with a properly attested resolution of the Board of Directors authorizing the individual to sign.

City Business License Number _____

Internal Revenue Service Taxpayer Identification Number _____

Contract Number C-121842-5

EXHIBIT 1 – CLAIMS MANAGEMENT PROGRAM REQUIREMENTS

SECTION I - PROGRAM DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words or terms as used herein shall be construed to have the following meanings, unless otherwise apparent from the context in which they are used.

1. Acceptable Quality Level (AQL)

A measure expressing the maximum allowable leeway or variance from a performance standard before City will reject a specified service. An AQL does not mean that Contractor may knowingly perform in a defective way. It means that City recognizes the fact of unintentional human error. Whenever possible, Contractor must re-perform work that fails to meet AQL to correct the identified defect(s).

Recognition of unintentional error does not relieve Contractor from the right of City to make adjustments to payment to Contractor under Exhibit 1 – Contractor Payment and Adjustment to Payment, Section III.

2. Allocated Claim Costs

2.1. Various costs associated with evaluating the compensability of a claim and specific costs incurred in managing a claim may be charged directly to the claim. Allocated claims costs include:

- All carve-out fees and expenses
- Workers' Compensation Appeals Board or court costs, fees and expenses
- Fees for service of process
- Fees to attorneys and paralegals
- Vocational rehabilitation counselors
- Cost of employing independent experts for the purpose of preparing maps, photographs, diagrams, analysis for giving expert advice or opinions
- Cost of copies of transcripts of testimony at Coroner's Inquests for criminal or civil proceedings
- Cost of obtaining copies of any public record
- Any similar cost or expense properly chargeable to the defense of a particular claim or to protect the subrogation rights of City, or
- Other costs determined by City

2.2. Generally, the above services are typically not performed by Contractor responsible for administration of the claims file. Allocated claims costs are not included in the fees paid to Contractor, but are subject to review by City. Any service charged directly to the claim, but for which Contractor is considered responsible, such as using a vendor for routine copying services will be disallowed.

3. Closed Claim

Final closure of a claim after it has been determined that all benefits and legal obligations have been met, all bills have been paid, all reports and documentation are recorded in the claim file and appropriate notification to the claimant of file closure is made.

4. Conflict Claim

A claim submitted for non-sworn City employees, which, if handled by City's in-house claims personnel, would create the potential of a conflict of interest or result in the perception of impropriety.

5. Indemnity or Disability Claim

5.1. An indemnity or disability claim involves one or more of the following: temporary disability or salary continuation due, ratable permanent disability anticipated, death of the claimant, application for adjudication of claim filed, liability undetermined, medical costs over three thousand five hundred dollars ($3,500), benefits due more than six (6) months after opening of case, previously finalized claim re-opened with future medical costs (Take-Over Claim) and/or designation by the claims examiner.

5.2. Indemnity claims requiring the services of experienced claims professionals will be assigned to claims examiners. This includes all lost time claims (claims which incur salary continuation and/or temporary disability payments as required by Labor Code 4850/IOD and all claims for which, in the judgment of the assigned claims professional, there is an issue of permanent disability, litigation, fraud or subrogation.

5.3. Average caseloads for claims examiners must not exceed the caseload limit specified by City. Only open indemnity claims are counted towards the claim examiner's caseload. Contractor shall exercise due diligence in regularly reviewing and closing indemnity claims which no longer require the oversight of claims adjusting personnel to ensure that caseloads are not artificially inflated.

6. Medical Only Claim

6.1. A non-litigated claim involving only medical payments that are not expected to exceed $3,500. Indemnity payments are not expected.

6.2. Medical Only Claims shall be assigned to medical only claims assistants or other staff serving in a training or support role to the examiners. Medical Only claims may be assigned to a claims examiner if to do so will be a sound practice considering the claimant's history and/or the presence of "companion" indemnity claims.

6.3. Whenever a Medical Only Claim is assigned to a claims examiner for management outside of normal procedure, a specific notation for the basis of the assignment will be made in the electronic claim comments.

6.4 Medical Only claims assigned to an examiner shall not be included in the caseload count for that examiner.

7. Quality Assurance Monitor Plan (QAMP)

A variety of Inspection methods to evaluate Contractor's compliance with the Contract.

8. Quality Control Plan

All measures taken by Contractor to assure that the quality of an end-product or service will meet City's Contract requirements regarding timeliness, accuracy, appearance, completeness, consistency and conformity.

9. Random Sample

A sampling method where each service output has an equal chance of being selected.

10. Take-over Claim

Transfer of responsibility for management for a particular claim from City to Contractor.

SECTION II - CONTRACTOR'S SERVICES

1. Scope Of Work

Contractor shall provide workers' compensation claims management services for all existing claims as well as all reopened or new claims reported during the Contract period for the City departments specified in Section III, Sub-Section 4.

Contractor shall provide these services in accordance with the following standards:

- Those specific standards and requirements set forth in this Section.

- To the extent a specific standard or requirement is not set forth in this Section, those standards and requirements set forth in the State of California workers' compensation statutes, codes, regulations, or other governing statutes and regulations, including any amendment to these statutes and regulations during the term of this Contract.

2. Minimum Standards of Performance

2.1. Each party's performance of Contract shall comply with all applicable laws of the United States of America, the State of California, and the City, including, but not limited to laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California. Contractor shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract. If any part, term, or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a Federal, State or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

2.2. Contractor shall utilize industry best practice standards for workers' compensation claims management and shall conduct all claims activities in accordance with the specific technical requirements included in this Section, unless otherwise agreed or specified by City.

3. Program Development

Contractor's responsibilities include but are not limited to the following:

3.1. Monthly review of procedures and practices with City personnel to ensure that City's workers' compensation program is in compliance with State requirements as well as with sound workers' compensation claims management as determined by City.

3.2. Provide assistance in changing City policy and procedures to implement legislative changes or State rules and regulations which impact City's workers' compensation program.

3.3. Attend periodic performance feedback meetings facilitated by the WCA. The meetings will focus on Contractor's and City's performance in fulfilling the service level agreements contained in this Contract. The meetings will provide a forum to informally discuss opportunities for improving Contract terms and conditions, service level agreements and cost reductions for both parties.

3.4. Prepare agendas and distribute minutes to document such meetings within a week after each meeting, as well as any periodic reports required by City.

4. Contractor's Responsibilities

4.1. Review every transferred claim within 90 days after initiation of services. All penalties due on cases must be identified by Contractor within 120 days after Contract inception; otherwise penalties become the sole responsibility of Contractor. Contractor shall also ensure that each claim is properly identified as Medical Only or Indemnity, and to ensure on a continuous basis that all claims are properly categorized and assigned.

4.2. Comply with all City workers' compensation claims management policies and standards and be responsible for overall coordination and integration of claims services.

4.3. Review and process all industrial injury cases in accordance with City standards, state statutes or laws and requirements of the State Department of Industrial Relations for reporting and notification. Conduct a thorough review of facts and develop all information necessary to determine the compensability for injuries and illnesses (accept claim, deny claim, or delay acceptance pending the results of additional investigation) and document the reasons for such determination, in accordance with California workers' compensation laws. All liability decisions and required notices for those decisions will be made within 90 days, or less if required by State of California statutes or regulations, from the date of employer's knowledge of injury in accordance with law, including but not limited to Labor Code Section 5402.

4.4. Determine compensability of injuries and illnesses in accordance with State workers' compensation laws.

4.5. Obtain a medical report addressing the issue of Arising Out of Employment/Course of Employment (AOE/COE) within 90 days, or less as required by law, from the date of employer's knowledge of injury.

4.6. Where there is evidence that a claimed injury is not work related, deny the claim within 90 days, or less as required by law, of filing of the claim or within 90 days or less from the date of employer's knowledge in accordance with law, including but not limited to Labor Code Section 5402. The review shall also include medical release forms, statements from supervisors and co-workers, depositions, etc.

4.7. Determine eligibility for and authorize salary continuation and/or temporary disability compensation benefits in accordance with medical advice and rehabilitation efforts. At no cost to City, Contractor shall report all indemnity workers' compensation claims to the Insurance Services Office, Inc. – ISO Claims Search.

4.8. Obtain City approvals in accordance with approval limits established by the WCA prior to the negotiation of any compromise and release agreement or Stipulation with Request for Award.

4.9. Determine the extent and degree of permanent disability, utilizing, as necessary and desirable, consultative ratings from the Disability Evaluation Unit of the Office of Benefit Determinations. Permanent Disability benefits shall be calculated in accordance with Labor Code Section 4658.

4.10. Authorize payments, in accordance with approval limits, for temporary and/or permanent disability compensation, medical care and death benefits in accordance with advisory ratings, or orders of the WCAB or compromise and release agreements.

4.11. Ensure that all indemnity benefits are paid accurately in accordance with City procedures and timeframes, and in full compliance with City's accounting and record keeping requirements.

4.12. Investigate, as necessary and appropriate, questionable cases and the status of disabled employees in order to assist in the adjustment, mediation and litigation of any such case and in the proper referral of suspected fraudulent cases.

4.13. Take all necessary actions, including timely notification, to assist City in recovering reimbursement for City liability through third-party subrogation, restitution, and/or apportionment on cases involving shared liability.

4.14. Provide the City Employees' Retirement System or the long-term and short-term disability claims adjusting contractor with copies of the employee's report of injury, medical reports from the workers' compensation files, award letter and any other pertinent case information on those workers' compensation claims also having a long-term disability claim with City for the same condition.

4.15. Provide City aid and assistance in returning injured employees to their usual and customary or modified/alternate assignments in a timely manner.

4.16. If required by City, review and process City Attorney or authorized outside counsel invoices.

5. Staffing/Organization

5.1. Contractor shall be responsible for providing sufficient and competent staff to fulfill the Contract and shall have complete flexibility for establishing an effective management and organizational structure.

5.2. Adjustments in staffing based upon fluctuations in caseload shall be subject to

approval of WCA/CCA. Average caseloads for claims examiners shall not exceed 150 open indemnity claims.

5.3. Contractor shall have at least one non-caseload carrying claims supervisor for every nine claims examiners, based upon a staffing model of one claims supervisor managing a total of 1,050 claims. Contractor shall have at least one non-caseload carrying Contract/Claims Manager, who may also act as Contractor's quality assurance auditor. The Contract/Claims Manager shall be assigned to City's account on an exclusive basis.

5.3.1. Contractor shall have at least one non-caseload claims supervisor for every nine (9) claims examiners, based upon a staffing model of one claims supervisor managing a total of 1,050 open indemnity claims. Should Contractor's caseload reach a level of 1,500, Contractor may request authority and funding to add one (1) additional Claims Supervisor. Any additional costs related thereto, including benefits and overhead, shall not exceed the monthly amounts specified in Exhibit 3 – Section III – Adjustments.

5.3.2. In addition to supervising claims examiners, the additional claims supervisor shall assume additional non-supervisory responsibilities and program enhancements, as determined by the WCA. These may include, but not be limited to additional claims management reviews; Quality Control measures; additional fraud detection; subrogation recovery; restitution; and/or apportionment on cases shared liability.

5.4. Except for medical only assistants, and those examiners in training, all claims adjusting personnel, including the Account Manager, shall possess a valid State of California Self-Insurance Administrators Certificate. Copies of the certificates must be submitted prior to the award of Contract or at the time of hire, whichever comes later.

5.5. Medical Only Claims Assistants shall be capable of handling medical only claims and other support duties such as: obtaining medical updates, calculating routine temporary disability payments, identifying cases for assignment to medical case management, etc.

5.6. A clear depiction of Contractor's organizational structure shall be provided to City, updated as necessary, showing the number of Contractor's positions dedicated to City's Project, including span of control for each supervisory position. All support staff and specialist positions shall also be included.

5.7. Experience/Training for Claims Examiner Personnel

5.7.1. To ensure workers' compensation claimants receive appropriate benefits and medical care, all claims examiner personnel assigned to City's Project must meet specific standards of training, experience and skills.

5.7.2. All claims examining personnel engaged in the management of indemnity claims must either be a medical only claims assistant in training, currently taking training as stated in CCR Sections 2592.02(a-c) and 2592.03, as may be amended, or have successfully completed the State of California Self-Insurance Administrator written examination; and worked as a workers' compensation examiner for a minimum of 18 months.

5.7.3. At least 75 percent of the claims examiners shall have a minimum of three years' experience in the adjustment of California workers' compensation indemnity claims. Equivalent or substitute experience may be approved by the WCA.

5.7.4. All claims examining personnel engaged in the management of medical only claims must either have at least 18 months of on-the-job experience adjusting California workers' compensation medical only claims and be within six (6) months of certification by an insurer as an "experienced medical only claim examiner," or be a medical only claims assistant currently taking or have successfully completed the required training as stated in CCR Sections 2592.02(a-c) and 2592.03, as may be amended.

5.7.5. Contractor shall also require a minimum of 30 hours of post-certification training every two (2) years for all claims examiners and twenty hours of training every two (2) years for all medical only claims assistants pursuant to CCR Section 2592.02(d-f), as may be amended, and maintain satisfactory records of this training, to be provided City upon request.

5.8. Claims Examiners in Training

5.8.1. As a general practice, the City believes there is value to the concept of on-the-job development of technical/professional staff. However, this practice must be tempered by the City's need for experienced claims adjusting services.

5.8.2. Contractor may employ examiners who do not possess a State of California Self-Insurance Administrator certificate to handle indemnity claims. However, such examiners must be taking training pursuant to CCR 2592.02(a-c) and 2592.03, as may be amended. Upon completion of such training, examiners must be actively pursuing such certificate by taking every available State of California Self-Insurance Administrator examination until the certificate has been acquired. City reserves the right to request removal of any examiner who fails to pass such examination after multiple attempts.

5.9. Contractor's claims and management staff shall work a minimum of 75 per two-week pay period and exclusively administer City cases in a dedicated unit. Contractor must assure continuation of provision of services to City in the event of an Act of God, employee shortage or strike.

5.10. Claims Supervisors

5.10.1 Claims Supervisors shall have a minimum of five (5) years' experience in adjusting a caseload of California workers' compensation indemnity claims. Equivalent or substitute experience may be approved by the WCA. Supervisors will not be assigned any workers' compensation claims.

5.10.2. Claims Supervisors shall meet all the training and experience requirements per California Code of Regulations Section 2592-2592.14.

6. Employee Records

6.1. Contractor shall keep a current and accurate list of all its employees providing services under this Contract. The list shall include each employee's name, date of employment, current address, phone number, current salary and any additional data on licensing, background, and behavior or job performance pertinent to the provision of this Contract.

6.2. Contractor employee's personnel file shall include, but is not limited to, background investigation report(s), current State of California Self-Insurance Administrators Certificate, verification of post-certification training and training certificates.

6.3. Contractor shall retain and provide to City, upon request, a copy of the Employment Application, Employee Resume and/or all documents included in this Section for all employees assigned to City's Program.

7. Reporting Claims

7.1. Since some civilian services are seven (7) day, 24 hour operations, Contractor shall have the capacity to accept the reporting of injuries directly from the accident location.

7.2. Contractor shall disseminate to City employees information about their services and the system for reporting claims. Since City offices are dispersed throughout the City with numerous telephone area codes (including 213, 310, 323, and 818), Contractor must provide toll free telephone and fax communication access for City offices and employees.

7.3. A Contractor employee at the level of Claims Supervisor or above, who has the authority to act for Contractor shall be immediately available whenever Contractor's offices are normally closed, to respond to urgent requests from civilian employee Personnel Offices, or designated personnel. Contractor shall provide a monthly updated schedule of personnel assigned during non-office hours to the affected offices and the WCA.

7.4. Contractor shall report all indemnity claims to the Insurance Services Offices, Inc. – ISO Claims Search at its own expense, document in City's claims management system (LINX), and assist/prepare all necessary, and/or State mandated reports.

8. Claim File Set-Up and Review

Contractor shall be responsible for creating clear, complete and timely documentation of all investigations, medical reports, evaluations, reserve changes, correspondence, successful and unsuccessful contact attempts and for the creation of a claims management plan of action for each claim. Critical claims information and key elements of the plan of action, as required by City, shall be documented in LINX, or its successor.

8.1. Upon receiving notice of a claim, Contractor shall prepare an individual claim file and enter the claim into City's electronic claims management system within one working day. All claim files shall be reviewed at least every 14 days for active claims and at least every three (3) months for claims that have settled, but are open for the employee's future medical care.

8.2. For active indemnity claims where Labor Code Section 4850/IOD or TD is being paid, Contractor shall contact the injured employee's doctor and the injured employee every 14 days until employee returns to work and document in the claims file.

8.3. City will provide orientation to City's workers' compensation claims management and imaging systems for key Contractor personnel prior to the start date of the Contract. Contractor shall not be reimbursed for any expenses during orientation or training. Due to the location of Contractor's office, it may be necessary for Contractor's staff to attend any such meetings at City's Personnel Building or at another location determined by City.

9. Case File Record Retention

All claims files will be retained indefinitely. No claims will be destroyed without CCA approval and Contractor will be responsible for storage of all files within the above criteria during the term of this Contract.

10. Claims Research/Prior Loss History (INDEX)

10.1. Contractor is required to subscribe to ClaimSearch or another comprehensive all- claims database and system for claims processing and fraud detection, at no additional cost to City.

10.2. Contractor will complete a basic claims search for every new claim, and an additional search on the anniversary of injury, at minimum, and yearly thereafter as long as the claim remains open, as part of its basic claims management program, and document all findings in the claim notes.

11. Claims Research/WCAB Cases

Contractor will complete a basic claims search for every indemnity claim, or as necessary, as part of its basic claims management program and document all findings in the claim file, at no additional cost to City. City prefers that Contractor subscribe to the DWC electronic data exchange system (EDEX).

12. Indemnity and Medical Benefits

12.1. Contractor shall determine eligibility for, and authorize temporary disability compensation benefits in accordance with medical advice and return-to-work efforts.

12.2. The City of Los Angeles offers up to one year of salary continuation in lieu of temporary disability benefits per the City's Administrative Code Sections 4.104 and 4.177 California Labor Code.

12.3. Contractor shall determine the extent and degree of permanent disability, utilizing as necessary and desirable, consultative ratings from the California Division of Workers' Compensation - Disability Evaluation Unit. Contractor must ensure apportionment is addressed in all claims involving permanent disability.

12.4. Contractor shall authorize payments, in accordance with approval limits specified in the California Labor Code, for temporary and/or permanent disability compensation, medical care and death benefits in accordance with advisory ratings or orders of the WCAB.

13. Three Point Contact

Contractor shall conduct Three-Point Contact with the injured employee and legal representative (if applicable), employer and medical provider on all new claims. Such contact should be completed within one (1) working day of receiving the claim but no later than two (2) working days. Contact must also be made for civilian employees through their personnel offices, or designated personnel.

14. Reserves

It is the policy of City that reserves be set as soon as possible after receiving notice

of an injury. If adequate information is unavailable, the initial reserves may be delayed, but are to be set no later than 14 calendar days following receipt of notice of injury. At all times, reserves shall reflect the ultimate probable cost of a claim based on factual evidence known at the time reserves are set and they shall be continually reevaluated and updated as additional information becomes available.

15. Prior Authorization Program

Contractor shall utilize City's Prior Authorization Program which allows providers in the City's First Care Panel to send injured workers to contracted managed care providers for certain routine medical procedures on a pre-approved basis.

16. Managed Care Program

City has a contract with a private firm to provide medical service review and cost containment services. Contractor shall use only this firm. City may implement other cost containment strategies, including, but not limited to a Medical Provider Network. Contractor shall fully cooperate and assist in the development, implementation and utilization of these services.

17. Medical Cost Containment

17.1. Contractor shall ensure that all statements for medical benefits are reviewed and all amounts authorized for payment have been determined in accordance with the Official Medical Fee Schedule adopted by the Administrative Director of the Division of Workers' Compensation, City's Preferred Provider Organization (PPO) discount rate or City's network rate, whichever is lower. Contractor shall ensure that duplicate medical payments are not sent for review. Contractor shall utilize City medical panels, PPOs, provider networks, hospital and other medical utilization review services, and managed medical care services, as directed by City. All subcontractors or vendors shall be subject to prior review and approval by the CCA.

17.2. Should City wish to add City medical panels or a secondary PPO to enhance services provided by City's current fee review/PPO vendor, Contractor will coordinate the services of the primary and secondary providers to achieve seamless integration of their services.

18. Medical Management

It is the responsibility of Contractor to maximize the potential cost savings to City through the use of cost containment services and strategies. Any extraordinary medical expenses such as heart transplants, pain clinic charges, purchases of furniture, waterbeds, home exercise equipment, vehicles, spas or spa memberships, or other costly measures must be approved in advance by the WCA or designee.

19. Authority Limits

The CCA shall establish a schedule of authority limits and referrals, for all personnel approving indemnity, medical or City salary continuation benefits.

20. Settlement Negotiations

20.1. Contractor shall obtain written approvals in accordance with approval limits established by City prior to the negotiation of any settlement agreement. Contractor shall present all settlement agreement recommendations to the WCA in a timely manner to permit adequate review. Such presentation shall include a written synopsis of alternatives, risks and options considered, shall serve as the basis to discuss recommended settlements and to obtain the approval of the City Attorney.

20.2. The City Attorney will retain the authority to approve all final settlement recommendations; however, at its own discretion, the City Attorney may delegate portions of this authority to the CCA.

21. Medical Control

Contractor's responsibilities include but are not limited to the following:

21.1. Monitor treatment programs for injured or ill employees, including review of all medical reports to ensure reasonable fees, appropriate medical care and determine need for specialty evaluations.

21.2. Ensure that the treating doctor is complying with the requirements of Title 8, CCR, Section 9785 and file petition to remove treating doctors who fail to comply with CCR, Section 9785.

21.3. Abide by the City's Utilization Review Plan when authorizing or denying all treatment requests.

21.4. Maintain adequate staffing from 9:00 a.m. until 5:30 p.m. on each normal business day to authorize medical treatment and answer questions, in accordance with Labor Code 4600.4.

21.5. Make all necessary medical appointments and ensure that all necessary medical reports are provided to the Primary Treating Physician or consulting doctors.

21.6. Maintain close liaison with treating physicians to provide meaningful guidance to City departments in evaluating employee's ability to return to work, and/or recommend further treatment program.

21.7. Evaluate and make recommendations for the panel of physicians who are utilized for the initial treatment of employees and the panel of physicians used

for treatment requiring long-term treatment or specialty care and evaluation, and make regular recommendations for updating of these panels.

21.8. Utilize information provided by and cooperate in the enforcement of any medical case management program and/or managed care program implemented by the CCA for City claims including, but not limited, to obtaining pre-certification for medical procedures through utilization review and requesting case management on older claims as needed, or at City's request.

21.9. Provide written policies and procedures within three (3) months after Contract commencement to ensure timely referrals of cases to managed care contractors and to maintain close coordination with managed care staff on a continuing basis.

21.10. Process bills and liens for medical treatment expenses so as to either pay the bill or lien in accordance with official fee schedules or object to the bill or lien within the period designated by law, including but not limited to Title 8, California Code of Regulations, Section 9792.5.

21.11. Prepare an affidavit regarding resolution of liens and submit the affidavit to City's representative or defense attorney at least 10 days prior to any Mandatory Settlement Conference.

21.12. Identify claimants who may be Medicare beneficiaries, reimburse Medicare for "conditional payments" in which City is the responsible payer pursuant to 42 C.F.R. Section 411.21, and work with the Federal Centers for Medicare and Medicaid Services (CMS) as appropriate to develop Medicare Set-aside Arrangements (MSAs) on settlements that involve future medical expenses pursuant to 42 C.F.R. Sections 411.46 and 411.47.

21.13. Attendance at all lien meetings by Contractor's representative at no additional expense to City.

22. Return to Work & Supplemental Job Displacement Benefits (SJDB) / Vocational Rehabilitation

22.1. City policy requires that employees who become ill or injured in connection with the performance of their duties be returned to work as soon as possible, with primary emphasis to return employees to their former jobs. However, if this is not possible due to medical restrictions, Contractor must work actively with City departments to place employees in modified or alternative assignments compatible with employees' medical capacities.

22.2. Contractor must serve injured workers with a Notice of Offer of Regular, Modified, or Alternative Work as stated in Title 8 CCR Section 10117. Contractor shall reimburse City for any fifteen per cent increase in permanent partial disability as a result of CCR Section 10117(b) (1) which City pays or is

required to pay as a result of Contractor's acts, errors and/or omissions. Such reimbursements shall be deducted from Contractor's monthly service fees.

22.3. Contractor shall determine eligibility for and authorize supplemental job displacement benefits as necessary pursuant to Labor Code Section 4658.5, as well as all Vocational Rehabilitation benefits.

22.4. Contractor shall provide injured workers with required supplemental job displacement notices in compliance with State requirements.

23. Rehabilitation Services

23.1. When medically appropriate, Contractor shall coordinate implementation of rehabilitation plans for injured employees for approval by City, the employee and other agencies, to provide rehabilitation, re-training or reassignment for employees with physical or performance limitations resulting from industrial injuries pursuant to Labor Code Section 139.5.

23.2. Contractor shall manage all rehabilitation cases including evaluation, control, monitoring and selection of duly licensed professional rehabilitation service providers.

23.3. Contractor shall determine initial rehabilitation efforts for each injured employee with primary emphasis on returning employees to work in the City through job modification or reassignment to a position compatible with the employee's medical capacities. If placement within the City is not possible, rehabilitation efforts are to be directed at returning employees to other gainful employment.

23.4. Contractor shall determine if injured workers are entitled under provisions of Labor Code Section 139.5 to receive temporary disability or rehabilitation maintenance allowance, the services of a rehabilitation counselor, a program of retraining and placement, and reimbursement for costs directly related to the rehabilitation plan.

23.5. Contractor shall represent the City at formal and informal hearings before the State Rehabilitation Unit.

23.6. Contractor shall determine if injured workers are eligible for supplemental job displacement benefits pursuant to Labor Code Section 4658.5.

23.7. Contractor shall provide injured workers with required rehabilitation and supplemental job displacement notices in compliance with State requirements.

24. Citywide Temporary Modified Duty Program

Under direction of WCA, Contractor will support City departments to ensure aggressive implementation of City's Temporary Modified Duty Program, and compliance with statutory requirements.

25. Customer Service

25.1. Contractor shall provide information and guidance to injured employees on benefits they will receive in accordance with State laws as well as any additional City work injury benefits.

25.2. Contractor shall assist in identifying and resolving employee problems arising out of industrial injuries.

25.3. Contractor shall develop and recommend policies and procedures to ensure that the employee's return to work is consistent with the findings of disability as determined by the WCAB.

25.4. At the request of the WCA, City Attorney or client departments, Contractor shall provide responses to inquiries, make available claim status reports, and attend City claim status reviews or other meetings.

25.5. Contractor shall develop written standards for telephone and voice mail use, consistent with those established by City.

26. Litigation Management

The City Attorney's Office or designated private law firms provide legal services for all City workers' compensation claims. Contractor's responsibilities include, but are not limited to, the following:

26.1. Provide all necessary claims information and other assistance to legal counsel for the defense of litigated claims.

26.2. Provide a copy of all notices of conferences, Mandatory Settlement Conferences, trials or various hearings before the WCAB to City's legal counsel within five (5) days from date of receipt.

26.3. Prepare all litigated files and send to City's legal counsel when legal assistance is required. This may include a synopsis of the claim, a summary of all benefits paid, medical reports, and correspondence from applicant or applicant's attorney.

26.4. Provide City Attorney a complete summary of all benefits paid (amounts and periods) to the injured employee along with a completed Balance Sheet, at least 10 days prior to any Mandatory Settlement Conference and provide an updated summary as necessary for other WCAB proceedings.

26.5. Respond to correspondence, telephone calls, and email from defense attorneys within one (1) workday or sooner if the correspondence is urgent in nature, e.g. necessitated by an upcoming WCAB appearance date. All such communication shall be documented in claims notes.

26.6. Provide a written status report on open litigated cases as requested. Parameters of this report will be established by WCA.

27. Subrogation Recovery

27.1. All claims shall be immediately evaluated for subrogation potential, initially from information obtained during the Three-Point Contact for new injuries, and subsequently from other information obtained from supervisors' statements, accident reports, police reports, witness statements, etc. Written notices to appropriate parties will be provided, and Contractor will work closely with City Attorney staff to seek reimbursement from the negligent third party. Notations of potential recovery and all communication with the City Attorney shall be documented in the claim notes.

27.2. Contractor shall utilize City's subrogation recovery procedure, or develop its own, subject to City approval, to determine whether the procedure meets City requirements.

28. Fraud investigations

28.1. Contractor shall investigate, as necessary and appropriate, questionable cases and the status of disabled employees in order to assist in the adjustment, mediation and litigation of cases, and in the proper referral of potential fraud cases.

28.2. Within 30 days after execution of the Contract, Contractor shall develop written policies and procedures relating to the identification and investigation of potential fraud cases. Within 60 days after execution of this Contract, Contractor shall provide fraud detection training to key personnel to ensure aggressive, cost-effective investigations and timely referral to City and the Office of the City Attorney, Special Investigations Unit (SIU).

28.3. Contractor shall notify City and the Office of the City Attorney, SIU, immediately whenever the possibility of fraud is suspected.

28.4. At no cost to City, Contractor will provide SIU training to Contractor's key personnel within 60 days after Contract commencement to ensure aggressive, cost effective investigation and appropriate referrals to the Department of Insurance, District Attorney, WCA and City Attorney's Office.

29. Claims Payments - Accounting Controls

Contractor shall approve claims for payment and, as directed by the CCA, shall

input and process same for payment by City's workers' compensation claims management system, financial or accounts payable system.

30. Claims Processing Responsibilities

30.1. Establish and maintain control procedures and necessary documentation to process and reject, settle, compromise or approve benefit claims against City in accordance with Section 31000.8 of the Government Code.

30.2. Enter payments of benefits and other claims file expenses into City's workers' compensation claims management system.

30.3. Establish an adequate and distinct separation of duties between Contractor personnel who process and enter data. Individuals responsible for the input of transactions shall not be involved in the release of these transactions. In addition, individuals responsible for the creation of a claim file and/or address changes shall not input or release transactions.

30.4. Establish and maintain sufficient checks and balances to ensure compliance with established procedures and controls.

31. Claims Best Practices Review

31.1. Contractor is required to complete a minimum of 10 internal claims audits per month by each supervisor to evaluate individual examiners' compliance with City's performance requirements. Claims supervisor(s) shall randomly select active indemnity claims and utilize City's claims audit form (or customized facsimile) to verify compliance with file documentation requirements, case set-up schedule, file management, utilization review and indemnity payment timeliness.

31.2. Any finding regarding non-compliance with City's requirements, and/or any performance deficiency by the claims examiner, shall be documented in the audit and discussed with employee, along with any corrective action taken. After review by the claims supervisor and/or manager, copies of all completed audits will be transmitted to City's on-site staff, and/or the WCA. Contractor will also summarize audit findings on City's TPA Monthly Audit Summary and transmit to WCA or designee.

31.3. All open claims shall have a complete annual review, at minimum. In addition, on a quarterly basis, City staff will randomly select a sample of multiple claims to determine if the use of industry best practices has been applied. On a monthly basis, random claims of examiner's caseloads will be selected for review. These claims will be formally reviewed with City and Contractor's management and staff as required. Case files and records are subject to audit by City at any reasonable time.

32. Alternate Dispute Resolution Program (ADR)

32.1. The City and Service Employees International Union (SEIU) Local 721 entered into an Agreement establishing an Alternative Dispute Resolution (ADR) Program in accordance with California Labor Code Section 3201.7. This Program currently covers civilian employees in four different unions and applies to all work-related injuries occurring on or after July 1, 2008.

32.2. Employees receive the same benefits that would otherwise be received in the State workers' compensation system, including medical treatment, temporary disability benefits, permanent disability benefits and supplemental job displacement benefits. The ADR Program requires that disputes related to workers' compensation claims be resolved utilizing the steps contained in the ADR Program before proceeding through the WCAB. The Program includes the services of ombudspersons, mediators, arbitrators and advice nurses, all provided by a neutral third party.

32.3. Contractor is required to implement the ADR Program for any employees represented by any participating unions that provide workers' compensation claims management and benefits.

33. Computerized Claims Administration System (LINX)

33.1. City requires Contractor to utilize City's own proprietary claims administration system known as LINX. Since LINX is owned by City, there are no licensing costs to Contractor to utilize this system. LINX software and training will be provided by City or a vendor of City's choice. Technical support for LINX software-related problems shall remain the ultimate responsibility of City. However, since Contractor will be off-site, Contract shall provide first-tier support by diagnosing and resolving minor problems experienced by Contractor's end-users at no additional cost to City, whereas major problems will be directed to City.

33.2. If, during the term of this Contract, any change of office location, alteration of existing office space, or reconfiguration occurs, it shall be the sole responsibility of Contractor to ensure the maintenance and continuous availability of LINX, or any other City claims administration system, terminals and any other related hardware, for ongoing City business and to directly bear any costs associated with such alteration or reconfiguration.

33.3. City may, at its discretion, replace the LINX system with another computerized claims administration system. When and if this occurs, Contractor shall assist City in the development and implementation of the new system to ensure a smooth transition.

34. Document Management and Workflow System

34.1. City has a web-based document management and workflow system (Imaging System) to electronically store all claims-related documents, route documents for processing, and automate certain claims processes. Currently, the system is an IBM/Filenet system called eFlo, and is used for all civilian claims, except conflict claims.

34.2. Any Contractor administering claims which are currently using eFlo is responsible for prepping, scanning and indexing all claims-related documents into the Imaging System. This includes all incoming mail, as well as all claims-related documents directly received or produced by Contractor.

34.3. City reserves the right to require Contractor to use the Imaging System and to prepare, scan, index, route and process documents, as well as perform other duties as specified by City to maximize the full potential of the System.

34.4. If Contractor is required to scan and index documents, Contractor will be required to provide and install a capture system, and a fax server capable of connecting to the City's document management system (currently Filenet Content Services) at Contractor's site. To ensure timely processing of documents, the capture system, at minimum, will consist of an index workstation and a scan workstation connected to the City's Intranet backbone via a P2P Private Line T1 channel. The scanner of the scan workstation needs to be compatible with Filenet Capture Professional (version 4.0.2 and above).

34.5. City may at its discretion replace the eFlo System with another document imaging and workflow system. If and when this occurs, City reserves the right to require Contractor to use the new system and to purchase and maintain any hardware required to use the system. Contractor shall also assist the City in the development and implementation of the new system to ensure a smooth transition.

The current running specifications for the two workstations in the City are as follows:

Hardware

- Intel Core i3 @ 3.1GHz and 4GB RAM
- 250 GB Hard drive
- Dual Monitor System

Software

- Windows 7
- ODBC connection (SQL driver)
- IBM Filenet Capture Professional (version 4.0.2)
- Office 2010

34.5.1. Since the Imaging System is web-based, end-user client workstations will only require Windows XP operating system, Internet Explorer 6.0, and a minimum of 1GB RAM to utilize the system.

34.5.2. Internet Explorer 8.0 is required for the end-user workstation to access the web-based imaging system.

34.5.3. To ensure efficient claims processing, City reserves the right to modify the imaging system requirements according to the specifications of City.

34.5.4. Software, initial system configuration, and initial training shall be provided by City or a vendor of City's choice. However, Contractor shall be responsible for all equipment, maintenance, future reconfigurations to accommodate Contractor's workflow, and other related costs. Technical support for the imaging software-related problems shall remain the ultimate responsibility of City. However, since Contractor will be off-site, Contractor shall provide first-tier support by diagnosing and resolving minor problems experienced by Contractor's end-users at no additional cost to City, whereas major problems will be directed to City.

34.6. Computer Interface

34.6.1. Contractor shall interface at its cost with City's claims management system (LINX) and Imaging System through the provision of a P2P Private Line T1 channel pointing to City's Intranet backbone, according to specifications provided by City, personal computers equipped with (at minimum) Intel Core i3 @ 3.1 GHz and 4GB of RAM, 250GB disk space, running with Windows 7 and Internet Explorer 8.0.

34.6.2. Contractor shall maintain the capacity to access the Internet and send and receive email for all claims adjusting personnel assigned to City cases. Contractor shall comply with CCA specified email protocol dealing with content and confidentiality when using email for City cases.

34.7. Computer Data Maintenance

Contractor shall, on a daily basis, accurately and thoroughly input, update and maintain all data fields on City's workers' compensation claims management system, as well as City's imaging system for all cases managed by Contractor.

35. Reporting Requirements

35.1. Within two (2) weeks after Contract execution, Contractor and the WCA shall prepare a list of required reports and records, with time deadlines. Monthly reports required to be provided by Contractor may include, but are not limited to:

- A report detailing the cases received and action taken in accordance with a format and data elements developed by City in cooperation with Contractor
- Statistical and narrative reports to assist City in evaluating its workers' compensation program
- A statistical and narrative report on outstanding issues to be addressed at Performance Evaluation Meetings

35.2. WorkCompStats

City currently utilizes computerized statistics, called WorkCompStats, as a management tool to track and monitor examiners' performance. Such statistics shall include, but not be limited to, bill turnaround time, rejected bill counts, closing ratios, settlement numbers per month, penalties (both medical and indemnity) and three point contact thresholds. Data for these statistics can be generated through LINX, City's bill review vendor and other sources.

Contractor shall compile statistics and charts as required by City, and meet with claims examining staff on a monthly basis to review the data and discuss methods for improvement. Contractor is expected to share such data and discussions with City and to aggressively pursue compliance with minimum goals established by City in the areas City selects for inclusion in WorkCompStats. City may also attend such meetings at its discretion. Contractor shall also provide City with monthly and quarterly reports as determined by City.

35.3. Quarterly Reports

Contractor shall prepare a written status report on selected open cases. Parameters and scope of this report will be established by CCA/WCA.

35.4. Annual Report

Contractor shall prepare a comprehensive annual statistical summary and narrative report to serve as the basis of the workers' compensation program and to permit preparation of reports required by the State Department of Industrial Relations.

SECTION III

CONTRACTOR PAYMENT AND ADJUSTMENTS TO PAYMENT

1. Total Obligation

City's total obligation for the contract period May 3, 2013 through November 21, 2018 not exceed $7,296,248, based upon a staffing model of one claims supervisor managing a total of 1,050 open indemnity claims and a caseload level of one hundred fifty (150) indemnity claims per claims examiner.

Should City decide to decrease the number of indemnity claims to 140 per claims examiner during the term of this Contract, City agrees to pay Contractor its monthly service fee as specified in Sub-Section 6 below, Method of Payment and adjust its staffing level as specified in Sub-Section 3 below, Number of Staff Positions. For any other permanent adjustment to the caseload level, City and Contractor shall negotiate in good faith an alternate and acceptable fee and staffing level.

2. Payment

2.1 City shall pay Contractor on a fee basis as set forth in this Section. Payment for assumption and administration of all take-over claims is included in this fee. City will not make and Contractor is not entitled to any additional payment for the assumption of any takeover costs.

2.2. Contractor shall facilitate providing additional staff for special projects on an as-needed basis as determined by City. Compensation for such staff, and/or related expenses, shall be mutually agreed upon in writing when the need for such staff arises and is separate from the base monthly fee.

Effective August 1, 2014 – Total Additional Monthly Payment - $24,171.51

Effective October 1, 2014 – Total Additional Monthly Payment - $54,492.12

2.3. Contractor shall invoice City monthly in arrears for fees due for the billing period. The invoices shall clearly reflect and provide reasonable detail as determined by City of the services provided.

3. Number of Staff Positions

Position	140 Caseload	150 Caseload
Claims/Account Manager	.5	.5
Supervisor	1	1
Senior Examiner	2	2
Examiner	6	5
Medical-Only/Claims Assistant	2	2
Clerical Support	1	1
Total	**12.5**	**11.5**

4. Initial Claims Volume Estimate

DEPARTMENT	CLAIMS
City Attorney	84
Personnel	70
Police - Civilian	850
Total	**1,004**

5. New Claims Per Month (Fiscal Year 2011-12)

Department	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
City Attorney	2	2	2	3	3	3	2	1	1	3	1	5	**28**
Personnel	4	1	1	1	2	1	1	1	2	0	0	0	**14**
Police - Civilian	29	51	51	33	32	42	43	38	43	18	34	45	**459**
Total	**35**	**54**	**54**	**37**	**37**	**46**	**46**	**40**	**46**	**21**	**35**	**50**	**501**

6. Method of Payment

6.1. The monthly service fees shall be dependent on the level of staffing determined by City in accordance with Section III, Sub-Section 3 above, Number of Staff Positions. Depending on the level of staffing, the monthly service fees shall be as follows during the entire term of this Contract:

Monthly Service Fee*	140 Caseload Limit	150 Caseload Limit	Other Caseload Limit

*Inc. 3% Profit	$108,647,34	$99,888.96	To Be Negotiated

6.2. For any portion of a month during which services are provided, the existing monthly service fee shall be pro-rated on a business-day basis. Monthly service fees shall be determined by the number of staff necessary to adequately handle the workers' compensation claims accordance with the caseload limit in Section III, Sub-Section 3 above, referred for service by City and as approved by City, and shall be adjusted, subject to City's agreement as those claim totals affect needed staffing throughout the term of this Contract.

6.3. City shall provide Contractor with a monthly report of the indemnity caseload average. If the indemnity claim caseload average exceeds the adopted caseload limit, its monthly fee for the second month in which average caseloads continue in excess of the limit shall be reduced.

6.4. The amount of the reduction shall be equal to the monthly salary, fringe benefits and overhead of a claims examiner. The reduction shall double for the third month of non-compliance, triple for the fourth month of non-compliance and increase in the same manner and amount for each additional month in which Contractor remains out of compliance.

6.5. Monthly service fees shall not be increased during the term of this Contract.

7. Adjustments

Except as provided in Section 6 above, Method of Payment, all other adjustments to staffing shall cause a corresponding change in the monthly service fees, based on the pro-rata average monthly salary plus the cost of fringe benefits and overhead for the position(s) added or deleted, but not to exceed the following rates:

Addition/Deletion of:	Monthly Service Fee Change
Claims/Account Manager	$ 8,177.08
Supervisor	$12,429.16
Senior Examiner	$10,205.00
Examiner	$ 8,504.16
Medical-Only/Claims Assistant	$ 4,758.33
Clerical/Support	$ 3,925.00

8. Invoices and Payment

8.1. Contractor shall invoice City only for providing the tasks, deliverables, goods, services, and other work specified in Exhibit 1 – Statement of Work, and elsewhere hereunder. Contractor shall be paid as set forth in Sub-Sections 3 and 6 above. Contractor shall prepare invoices, which shall include the charges owed to Contractor by City under the terms of this Contract.

Contractor shall be paid only for the tasks, deliverables, goods, services, and other work approved in writing by City. If City does not approve work in writing, no payment shall be due to Contractor for that work.

8.2. To ensure that services provided under personal services contracts are measured against services as detailed in Contract, City's Controller has developed a policy requiring that specific supporting documentation be submitted with invoices.

8.3. Contractor is required to submit invoices that conform to City standards and include, at a minimum, the following information:

a. Name and address of Contractor
b. Name and address of City department being billed
c. Date of the invoice and period covered
d. Reference to Contract number
e. Description of completed task and amount due for the task with appropriate and complete supporting documentation
f. Payment terms, total due and due date
g. Certification by a duly authorized officer
h. Discounts and terms (if applicable)
i. Remittance address (if different from Contractor's address)

8.4. All invoices shall be submitted on Contractor's letterhead, contain Contractor's official logo, or contain other unique and identifying information such as name and address of Contractor. Invoices shall be submitted on a calendar month basis and within thirty (30) days after the month of service. Invoices submitted must be accompanied by a report detailing the staff assigned to City's account for that month. Such staffing report shall include the staff member's name, title, date of assignment to position, date of separation or absence from position, number of hours worked, pay rate, amount paid, and how fee adjustments, if any, were derived. City reserves the right to audit staffing reports and adjust billings to recover overpayments, if any. In order to facilitate such audits, Contractor shall provide timesheets and/or payroll records upon City's request.

8.5. Invoices and supporting documentation shall be prepared at the sole expense and responsibility of Contractor. City shall not compensate Contractor for any costs incurred for invoice preparation. City may request, in writing, changes to the content and format of the invoice and supporting documentation at any time.

8.6. Failure to adhere to these policies may result in non-payment or non-approval of demands, pursuant to Charter Section 262(a), which requires City's Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies or equipment received by any office or department of City, and approve demands before they are drawn on the City Treasury.

8.7. City reserves the right to require additional documentation prior to approval of invoice. City reserves the right to request additional supporting documentation to substantiate costs at any time.

8.8. All invoices under this Contract shall be submitted to the following address:

David Noltemeyer, Chief Management Analyst
Workers' Compensation Division Chief
City of Los Angeles Personnel Department
700 E. Temple Street, Room 210
Los Angeles, CA 90012

8.9. City Approval of Invoices

In no event shall payment be made prior to City's verifying and approving: 1) the services were received; 2) the work was approved and; 3) a full and complete invoice has been submitted. Payment shall be made within thirty (30) calendar days of receipt of an approved invoice and only after such invoice has been approved for payment by City's representative. Invoices are considered complete when appropriate documentation is signed off as satisfactory by City's fiscal officer.

8.10. Total Obligation. City's total obligation under this Contract shall be in accordance with Sub-Section 1, Total Obligation.

8.11. City will adjust the invoice if necessary and pay the invoice within thirty (30) days after receipt of a full and complete invoice, and only after such invoice has been approved for payment by City's representative.

9. Adjustments to Payments

Contractor shall reimburse City for any overpayment, fine, penalty or other cost incurred due to Contractor's failure to comply with State of California workers' compensation statutes, codes, regulations, or any term or condition of this Contract. Such failure includes, but is not limited to, the following:

i. Late payment or nonpayment of any benefit to any applicant or medical provider resulting in penalty or attorney fees.

ii. Overpayment of any benefit owed to any applicant, lien claimant, or other party in a case due to Contractor's failure to comply with the standards set forth in Exhibit 1 – Section II, Sub-Section 1, Scope of Work.

iii. Fines and/or administrative penalties assessed against City due to Contractor's failure to comply with the standards set forth in Exhibit 1, Section II, Sub-Section 1, Scope of Work.

iv. No reimbursement by Contractor is required under this Section if Contractor's act(s) and/or omission(s) occurred because they were expressly approved or directed by an authorized City representative.

10. Notice of Adjustments to Payments

City shall give written notice to Contractor of any adjustments to payments. Contractor shall have two (2) weeks to respond in writing to the notice. If Contractor does not respond to the notice within two weeks, Contractor shall lose its right to dispute the adjustment. The response shall include, but not be limited to, one or more of the following:

10.1. Evidence that a penalty was not incurred or an overpayment or excessive cost was not made.

10.2. Evidence that Contractor's act(s) and/or omission(s) did not cause the penalty, overpayment, or excess cost.

10.3. Evidence that Contractor obtained prior written approval from an authorized City official.

11. Second Level Dispute Resolution Process

If, after receipt of Contractor's response to City's notice of adjustment to payments, City and Contractor are in disagreement, a second-level dispute resolution process will be conducted. The CCA or designee and an appropriate Contractor representative shall review the evidence and resolve the dispute. The second level dispute resolution process shall be completed within two months. At the end of the second-level dispute resolution process, City shall be entitled to reduce Contractor's monthly invoices for assessments of adjustments to payments.

12. Improper Acts or Failure to Act Regarding Claims Administration

12.1. Contractor shall reimburse City for exceeding monthly caseloads, overpayments, fines, penalties, attorney's fees, interest, medical costs, rehabilitation costs and disability benefit payments which City pays or will be required to pay as a result of Contractor's acts, errors, and/or omissions which violate existing law, administrative procedure, or which fail to comply with generally accepted standard practices in the workers' compensation insurance industry, and third party workers' compensation claims administration field. City will offset such reimbursements from Contractor's monthly service fee if not paid separately by Contractor.

12.2. Contractor will not be responsible for reimbursement of overpayments, fines, penalties, attorney's fees, interest, medical costs, rehabilitation costs or disability benefit payments, if the act and/or omission resulted from following the express written instructions of the City.

12.3. Contractor will not be responsible for reimbursement of overpayments, fines, penalties, attorney's fees, interest, medical costs, rehabilitation costs, or disability benefit payments imposed as a result of a retrospective audit by the State Department of Industrial Relations, if the basis of the audit finding precedes the assumption of claim management responsibilities under this Contract with City.

13. Adjustment to Payments Following Audit

13.1. If, at any time during the term of this Contract or three years after the expiration or termination of this Contract, authorized representatives of City conduct an audit of Contractor regarding the services provided to City

hereunder and if as a result of such audit it is determined that City's dollar liability for such services is less than payments made by City to Contractor, then Contractor agrees that the difference, at the CCA's option, shall be either: (1) repaid forthwith by Contractor to City by cash payment, or (2) credited against any future payments hereunder to Contractor.

13.2. If as a result of such audit it is determined that City's dollar liability for services provided hereunder is more than payments made by City to Contractor, then the difference shall be paid to Contractor by City provided that in no event shall City's maximum obligation exceed the amount appropriated by the City Council.

14. Review of Indemnity Claims Volume

14.1. City reserves the right to review the actual claims volume every twelve months to determine if a change in base claims volume is warranted. If a change is warranted, City and Contractor must mutually agree on the new baseline for the indemnity claims volume and any resultant change to staffing.

14.2. The number of new claims submitted for the twelve months from July 1, 2011 to June 30, 2012 was 501 (Section III, Sub-Section 5, above). For any contract year where the number of new indemnity claims, administered by workers' compensation claims examiners, exceeds 641 by 150, City shall pay Contractor an additional $62,000 within sixty days after the end of the contract year. If the total number of indemnity claims exceeds 641 by 300, administered by workers' compensation claims examiners, City shall pay Contractor an additional $124,000 after the end of the contract year.

14.3. The open indemnity claims caseload for was 1,004 (Exhibit 1, Section III (4), Initial Claims Volume Estimate) as of October 1, 2012. Should the open indemnity caseload change at the time of contract inception, then for every increase (or decrease) of 150 claims, the monthly base fee shall be increased (or decreased) by $5,102. Additionally, for any quarter where Contractor's open indemnity caseload decreases by increments of 150, the monthly base fee shall be reduced by increments of $5,102.

14.4. In the future, if City assigns claims from another department(s) to Contractor, City shall determine the number of new claims submitted for that department(s) during the previous twelve months, as well as the current number of open indemnity claims for that department(s). These numbers will be added to the baseline numbers referenced in 14.2 and 14.3 above when calculating fee adjustments per those sections. City shall compensate Contractor for this additional caseload by increasing Contractor's monthly base fee by $95 for each of these current open indemnity claims at the time the department(s) is assigned to Contractor.

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. Construction of Provisions and Titles Herein

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions of this Contract. The language of this Contract shall be construed according to its fair meaning and not strictly for or against **CITY** or **CONTRACTOR**. The word **"CONTRACTOR"** includes the party or parties identified in this Contract. The singular shall include the plural and if there is more than one **CONTRACTOR**, unless expressly stated otherwise, their obligations and liabilities shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC-2. Applicable Law, Interpretation and Enforcement

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

PSC-3. Time of Effectiveness

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR**;

B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;

C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and

D. This Contract has been signed on behalf of **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

PSC-4. Integrated Contract

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in the provisions of PSC-5 hereof.

PSC-5. Amendment

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-3.

PSC-6. Excusable Delays

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

In the event **CONTRACTOR'S** delay or failure to perform arises out of a Force Majeure Event, **CONTRACTOR** agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

PSC-7. Waiver

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

PSC-8. Suspension

At **CITY'S** sole discretion, **CITY** may suspend any or all services provided under this Contract by providing **CONTRACTOR** with written notice of suspension. Upon receipt of the notice of suspension, **CONTRACTOR** shall immediately cease the services suspended and shall not incur any additional obligations, costs or expenses to **CITY** until **CITY** gives written notice to recommence the services.

PSC-9. Termination

A. Termination for Convenience

CITY may terminate this Contract for **CITY'S** convenience at any time by providing **CONTRACTOR** thirty days written notice. Upon receipt of the notice of termination, **CONTRACTOR** shall immediately take action not to incur any additional obligations, costs or expenses, except as may be necessary to terminate its activities. **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to effect the termination. Thereafter, **CONTRACTOR** shall have no further claims against **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights **CITY** is entitled to, shall become **CITY** property upon the date of the termination. **CONTRACTOR** agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

B. Termination for Breach of Contract

1. Except as provided in PSC-6, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, **CITY** may give **CONTRACTOR** written notice of the default. **CITY'S** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **CITY**. Additionally, **CITY'S** default notice may offer **CONTRACTOR** an opportunity to provide **CITY** with a plan to cure the default, which shall be submitted to **CITY** within the time period allowed by **CITY**. At **CITY'S** sole discretion, **CITY** may accept or reject **CONTRACTOR'S** plan. If the default cannot be cured or if **CONTRACTOR** fails to cure within the period allowed by **CITY**, then **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.

2. If the default under this Contract is due to **CONTRACTOR'S** failure to maintain the insurance required under this Contract, **CONTRACTOR** shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subcontractors of the loss of insurance coverage and Contractor's obligation to suspend performance of

services. **CONTRACTOR** shall not recommence performance until **CONTRACTOR** is fully insured and in compliance with **CITY'S** requirements.

3. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then **CITY** may immediately terminate this Contract.

4. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates **CITY'S** laws, regulations or policies relating to lobbying, then **CITY** may immediately terminate this Contract.

5. Acts of Moral Turpitude

   a. **CONTRACTOR** shall immediately notify **CITY** if **CONTRACTOR** or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").

   b. If **CONTRACTOR** or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, **CITY** may immediately terminate this Contract.

   c. If **CONTRACTOR** or a Key Person is charged with or indicted for an Act of Moral Turpitude, **CITY** may terminate this Contract after providing **CONTRACTOR** an opportunity to present evidence of **CONTRACTOR'S** ability to perform under the terms of this Contract.

   d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.

e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of **CONTRACTOR**.

6. In the event **CITY** terminates this Contract as provided in this section, **CITY** may procure, upon such terms and in the manner as **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to **CITY** for all of its costs and damages, including, but not limited to, any excess costs for such services.

7. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-9(A) Termination for Convenience.

8. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

C. In the event that this Contract is terminated, **CONTRACTOR** shall immediately notify all employees and Subcontractors, and shall notify in writing all other parties contracted with under the terms of this Contract within five working days of the termination.

PSC-10. Independent Contractor

CONTRACTOR is an independent contractor and not an agent or employee of **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of **CITY**.

PSC-11. Contractor's Personnel

Unless otherwise approved by **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. **CITY** has the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** shall remove personnel from performing work under this Contract if requested to do so by **CITY**.

CONTRACTOR shall not use Subcontractors to assist in performance of this Contract without the prior written approval of **CITY**. If **CITY** permits the use of Subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of this Contract and paying all Subcontractors. **CITY** has the right to approve **CONTRACTOR'S** Subcontractors, and **CITY** reserves the right to request replacement of any

Subcontractor. **CITY** does not have any obligation to pay **CONTRACTOR'S** Subcontractors, and nothing herein creates any privity of contract between **CITY** and any Subcontractor.

PSC-12. Assignment and Delegation

CONTRACTOR may not, unless it has first obtained the written permission of **CITY**:

A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or

B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

PSC-13. Permits

CONTRACTOR and its directors, officers, partners, agents, employees, and Subcontractors, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance of this Contract. **CONTRACTOR** shall immediately notify **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to **CONTRACTOR'S** performance of this Contract.

PSC-14. Claims for Labor and Materials

CONTRACTOR shall promptly pay when due all amounts owed for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this Contract.

PSC-15. Current Los Angeles City Business Tax Registration Certificate Required

For the duration of this Contract, **CONTRACTOR** shall maintain valid Business Tax Registration Certificate(s) as required by **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

PSC-16. Retention of Records, Audit and Reports

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form or as otherwise approved by **CITY**. These records shall be retained for a period of no less than three years from the later of the following: (1) final payment made by **CITY**, (2) the expiration of this Contract or (3) termination of this Contract. The records will be subject to examination and audit by authorized **CITY** personnel or **CITY'S** representatives at any time. **CONTRACTOR** shall provide any reports requested by **CITY** regarding

performance of this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, **CONTRACTOR** may, upon **CITY'S** written approval, submit the required information to **CITY** in an electronic format, e.g. USB flash drive, at the expiration or termination of this Contract.

PSC-17. Bonds

All bonds required by **CITY** shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 *et seq.*, as amended from to time.

PSC-18. Indemnification

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by **CONTRACTOR,** Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-19. Intellectual Property Indemnification

CONTRACTOR, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **CITY** provided in this section shall not be exclusive

and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-20. Intellectual Property Warranty

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

PSC-21. Ownership and License

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this Contract including, without limitation, documents, materials, data, reports, manuals, specifications, artwork, drawings, sketches, blueprints, studies, memoranda, computation sheets, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas, matters and combinations thereof, and all forms of intellectual property originated and prepared by **CONTRACTOR** or its Subcontractors under this Contract (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of **CITY** for its use in any manner **CITY** deems appropriate. **CONTRACTOR** hereby assigns to **CITY** all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

CONTRACTOR agrees that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **CITY** irreparable harm. **CITY** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **CITY** from seeking or obtaining any other relief to which **CITY** may be entitled.

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract shall include this provision to contractually bind its Subcontractors performing work under this Contract such that **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein.

PSC-22. Data Protection

A. **CONTRACTOR** shall protect, using the most secure means and technology that is commercially available, **CITY**-provided data or consumer-provided data acquired in the course and scope of this Contract, including but not limited to customer lists and customer credit card or consumer data, (collectively, the "City Data"). **CONTRACTOR** shall notify **CITY** in writing as soon as reasonably feasible, and in any event within twenty-four hours, of **CONTRACTOR'S** discovery or reasonable belief of any unauthorized access of City Data (a "Data Breach"), or of any incident affecting, or potentially affecting City Data related to cyber security (a "Security Incident"), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. **CONTRACTOR** shall begin remediation immediately. **CONTRACTOR** shall provide daily updates, or more frequently if required by **CITY**, regarding findings and actions performed by **CONTRACTOR** until the Data Breach or Security Incident has been effectively resolved to **CITY'S** satisfaction. **CONTRACTOR** shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with **CITY**. At **CITY'S** sole discretion, **CITY** and its authorized agents shall have the right to lead or participate in the investigation. **CONTRACTOR** shall cooperate fully with **CITY**, its agents and law enforcement.

B. If **CITY** is subject to liability for any Data Breach or Security Incident, then **CONTRACTOR** shall fully indemnify and hold harmless **CITY** and defend against any resulting actions.

PSC-23. Insurance

During the term of this Contract and without limiting **CONTRACTOR'S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must: (1) conform to **CITY'S** requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

PSC-24. Best Terms

Throughout the term of this Contract, **CONTRACTOR**, shall offer **CITY** the best terms, prices, and discounts that are offered to any of **CONTRACTOR'S** customers for similar goods and services provided under this Contract.

PSC-25. Warranty and Responsibility of Contractor

CONTRACTOR warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

PSC-26. Mandatory Provisions Pertaining to Non-Discrimination in Employment

Unless otherwise exempt, this Contract is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

A. **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and **CITY**. In performing this Contract, **CONTRACTOR** shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.

B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this Contract by reference.

C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Equal Employment Practices" provisions of this Contract.

D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Affirmative Action Program" provisions of this Contract.

Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-27. Child Support Assignment Orders

CONTRACTOR shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, **CONTRACTOR** shall fully comply with all applicable State and Federal employment reporting requirements. Failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract. Failure of **CONTRACTOR** or principal owner to cure

the default within 90 days of the notice of default will subject this Contract to termination for breach. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-28. Living Wage Ordinance

CONTRACTOR shall comply with the Living Wage Ordinance, LAAC Section 10.37 *et seq.*, as amended from time to time. **CONTRACTOR** further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-29. Service Contractor Worker Retention Ordinance

CONTRACTOR shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-30. Access and Accommodations

CONTRACTOR represents and certifies that:

A. **CONTRACTOR** shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 et seq., the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 et seq., the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;

B. **CONTRACTOR** shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;

C. **CONTRACTOR** shall provide reasonable accommodation upon request to ensure equal access to **CITY**-funded programs, services and activities;

D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and

E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that **CITY** is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-31. Contractor Responsibility Ordinance

CONTRACTOR shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 *et seq.*, as amended from time to time.

PSC-32. Business Inclusion Program

Unless otherwise exempted prior to bid submission, **CONTRACTOR** shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal/Qualification process, throughout the duration of this Contract. **CONTRACTOR** shall utilize the Business Assistance Virtual Network ("BAVN") at https://www.labavn.org/, to perform and document outreach to Minority, Women, and Other Business Enterprises. **CONTRACTOR** shall perform subcontractor outreach activities through BAVN. **CONTRACTOR** shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of **CITY**.

PSC-33. Slavery Disclosure Ordinance

CONTRACTOR shall comply with the Slavery Disclosure Ordinance, LAAC Section 10.41 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-34. First Source Hiring Ordinance

CONTRACTOR shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-35. Local Business Preference Ordinance

CONTRACTOR shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-36. Iran Contracting Act

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with **CITY** for goods and services estimated at $1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

PSC-37. Restrictions on Campaign Contributions and Fundraising in City Elections

Unless otherwise exempt, if this Contract is valued at $100,000 or more and requires approval by an elected **CITY** office, **CONTRACTOR**, **CONTRACTOR'S** principals, and **CONTRACTOR'S** Subcontractors expected to receive at least $100,000 for performance under the Contract, and the principals of those Subcontractors (the "Restricted Persons")

shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles **CITY** to terminate this Contract and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected **CITY** officials or candidates for elected **CITY** office for twelve months after this Contract is signed. Additionally, a **CONTRACTOR** subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any **CONTRACTOR** subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least $100,000 for performance under this Contract:

> "Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections
>
> You are a subcontractor on City of Los Angeles Contract #_____. Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("**CITY**") officials and candidates for elected **CITY** office for twelve months after the **CITY** contract is signed. You are required to provide the names and contact information of your principals to the **CONTRACTOR** and to amend that information within ten business days if it changes during the twelve month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at ethics.lacity.org or by calling the Los Angeles City Ethics Commission at (213) 978-1960."

PSC-38. Contractors' Use of Criminal History for Consideration of Employment Applications

CONTRACTOR shall comply with the City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-39. Limitation of City's Obligation to Make Payment to Contractor

Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for **CITY** to comply with its governing legal requirements, **CITY** shall have no obligation to make any payments to **CONTRACTOR** unless **CITY** shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract. **CONTRACTOR** agrees that any services provided by **CONTRACTOR**, purchases made by **CONTRACTOR** or expenses incurred by **CONTRACTOR** in excess of the appropriation(s) shall be free and without charge to **CITY** and **CITY** shall have no obligation to pay for the services, purchases or expenses. **CONTRACTOR** shall have no obligation to provide any services,

provide any equipment or incur any expenses in excess of the appropriated amount(s) until **CITY** appropriates additional funds for this Contract.

PSC-40. Compliance with Identity Theft Laws and Payment Card Data Security Standards

CONTRACTOR shall comply with all identity theft laws including without limitation, laws related to: (1) payment devices; (2) credit and debit card fraud; and (3) the Fair and Accurate Credit Transactions Act ("FACTA"), including its requirement relating to the content of transaction receipts provided to Customers. **CONTRACTOR** also shall comply with all requirements related to maintaining compliance with Payment Card Industry Data Security Standards ("PCI DSS"). During the performance of any service to install, program or update payment devices equipped to conduct credit or debit card transactions, including PCI DSS services, **CONTRACTOR** shall verify proper truncation of receipts in compliance with FACTA.

PSC-41. Compliance with California Public Resources Code Section 5164

California Public Resources Code Section 5164 prohibits a public agency from hiring a person for employment or as a volunteer to perform services at any park, playground, or community center used for recreational purposes in a position that has supervisory or disciplinary authority over any minor, if the person has been convicted of certain crimes as referenced in the Penal Code, and articulated in California Public Resources Code Section 5164(a)(2).

If applicable, **CONTRACTOR** shall comply with California Public Resources Code Section 5164, and shall additionally adhere to all rules and regulations that have been adopted or that may be adopted by **CITY**. **CONTRACTOR** is required to have all employees, volunteers and Subcontractors (including all employees and volunteers of any Subcontractor) of **CONTRACTOR** working on premises to pass a fingerprint and background check through the California Department of Justice at **CONTRACTOR'S** sole expense, indicating that such individuals have never been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2), if the individual will have supervisory or disciplinary authority over any minor.

PSC-42. Possessory Interests Tax

Rights granted to **CONTRACTOR** by **CITY** may create a possessory interest. **CONTRACTOR** agrees that any possessory interest created may be subject to California Revenue and Taxation Code Section 107.6 and a property tax may be levied on that possessory interest. If applicable, **CONTRACTOR** shall pay the property tax. **CONTRACTOR** acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.

PSC-43. Confidentiality

All documents, information and materials provided to **CONTRACTOR** by **CITY** or developed by **CONTRACTOR** pursuant to this Contract (collectively "Confidential Information") are confidential. **CONTRACTOR** shall not provide or disclose any Confidential Information or their contents or any information therein, either orally or in writing, to any person or entity, except as authorized by **CITY** or as required by law. **CONTRACTOR** shall immediately notify **CITY** of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this Contract.

EXHIBIT 1

INSTRUCTIONS AND INFORMATION ON COMPLYING WITH CITY INSURANCE REQUIREMENTS

(Share this information with your insurance agent or broker)

1. **Agreement/Reference** All evidence of insurance should identify the nature of your business with the **CITY**. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) as determined in writing by the CAO-RM.

2. **When to submit** Normally, no work may begin until a **CITY** insurance certificate approval number ("CA number") has been obtained, so insurance documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.

Submitting your documents. **Track4LA®** is the **CITY'S** online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used by insurance brokers and agents as they submit client insurance certificates directly to the **CITY**. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format. Track4LA® advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA®** at http://track4la.lacity.org and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 may be accepted, however ***submissions other than through Track4LA® will significantly delay the insurance approval process as documents will have to be manually processed.*** **CONTRACTOR must provide CITY** a thirty day notice of cancellation (ten days for non-payment of premium) AND an Additional Insured Endorsement naming the **CITY** an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the **CITY** is an automatic or blanket additional insured. An endorsement naming the **CITY** an Additional Named Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Completed **Insurance Industry Certificates other than ACORD 25 Certificates** are sent electronically to CAO.insurance.bonds@lacity.org.

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

Verification of approved insurance and bonds may be obtained by checking **Track4LA®**, the **CITY'S** online insurance compliance system, at http://track4la.lacity.org.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate or edit the existing Acord 25 Certificate through **Track4LA®** at http://track4la.lacity.org.

5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the **CITY** has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (http://cao.lacity.org/risk/InsuranceForms.htm) to the CAO-RM for consideration.

6. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the **CITY** is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of **CITY** premises. Information on two **CITY** insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on **CITY** premises or streets, is available at (www.2sparta.com), or by calling (800) 420-0555.

7. **Automobile Liability** insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on **CITY** premises; it is not required for simple commuting unless **CITY** is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

8. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

9. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (http://cao.lacity.org/risk/InsuranceForms.htm). **A Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on **CITY** premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the **CITY**) any workers' compensation paid to an injured employee of the contractor.

10. **Property** insurance is required for persons having exclusive use of premises or equipment owned or controlled by the **CITY**. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle **CITY** funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at http://cao.lacity.org/risk/BondAssistanceProgram.pdf or call (213) 258-3000 for more information.

12. **Cyber Liability & Privacy** coverage may be required to cover technology services or products for both liability and property losses that may result when a **CITY** contractor engages in various electronic activities, such as selling on the Internet or collecting data within its internal electronic network. **CONTRACTOR'S** policies shall cover liability for a data breach in which the **CITY** employees' and/or **CITY** customers' confidential or personal information, such as but not limited to, Social Security or credit card information are exposed or stolen by a hacker or other criminal who has gained access to the **CITY'S** or **CONTRACTOR'S** electronic network. The policies shall cover a variety of expenses associated with data breaches, including: notification costs, credit monitoring, costs to defend claims by state regulators, fines and penalties, and loss resulting from identity theft. The policies are required to cover liability arising from website media content, as well as property exposures from: (a) business interruption, (b) data loss/destruction, (c) computer fraud, (d) funds transfer loss, and (e) cyber extortion.

Form Gen. 146 (Rev. 6/12)

Required Insurance and Minimum Limits

Name: _____ Date: _____

Agreement/Reference: _____

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

___ **Workers' Compensation (WC) and Employer's Liability (EL)**

WC *Statutory*

EL _____

☐ Waiver of Subrogation in favor of City ☐ Longshore & Harbor Workers ☐ Jones Act

___ **General Liability** _____ _____

☐ Products/Completed Operations ☐ Sexual Misconduct _____

☐ Fire Legal Liability _____

☐ _____

___ **Automobile Liability** (for any and all vehicles used for this contract, other than commuting to/from work) _____

___ **Professional Liability** (Errors and Omissions) _____

Discovery Period _____

___ **Property Insurance** (to cover replacement cost of building - as determined by insurance company) _____

☐ All Risk Coverage ☐ Boiler and Machinery

☐ Flood _____ ☐ Builder's Risk

☐ Earthquake _____ ☐ _____

___ **Pollution Liability** _____

☐ _____

___ **Surety Bonds** - Performance and Payment (Labor and Materials) Bonds _____

___ **Crime Insurance** _____

Other: _____

_____

_____

_____

TEMPLATE