



REQUEST FOR PROPOSAL (RFP) FOR

Consultant Services for

WORKERS' COMPENSATION CLAIMS ADMINISTRATION

Bid File No. 12700211

CITY OF FRESNO

FALL 2026

Proposals Due: by October 1, 2026 by 3:00PM (PST)

PROPOSAL CONTACT: Steve Emerzian, Principal Risk Analyst
Personnel Services Department
(559) 621-6903, steven.emerzian@fresno.gov

NOTICE INVITING PROPOSALS
FOR WORKERS' COMPENSATION CLAIMS ADMINISTRATION
CITY OF FRESNO
FALL 2026

The City of Fresno is soliciting proposals from qualified firms to provide claims administration of a self-insured workers' compensation program for the City of Fresno.

The deadline for submission of proposals for this work is 3:00 PM on October 1, 2026. Please mail five (5) copies of your proposal, marked clearly on the outside "Workers' Compensation Claims Administration RFP" to:

Steven Emerzian, Principal Risk Analyst
Risk Management Division
Personnel Services Department
City of Fresno
2600 Fresno Street, Room 1030
Fresno, CA 93721-3612

Additionally, please email an electronic copy of your proposal to Steven.Emerzian@fresno.gov.

The City of Fresno hereby notifies all proposers that no person shall be excluded from participation in, denied any benefits of, or otherwise discriminated against in connection with the award and performance of any contract on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.

The City reserves the right to reject any and all proposals.

TABLE OF CONTENTS

SECTION	PAGE
NOTICE INVITING PROPOSALS.....	i
I. INTRODUCTION	1
II. BACKGROUND INFORMATION	1
III. SUBMISSION OF PROPOSAL	2
IV. INFORMATION AND GENERAL CONDITIONS	2
V. QUESTIONS FOR RESPONSE	6
VI. MINIMUM REQUIRED CLAIM ADMINISTRATION SERVICES.....	8
VII. HEALTH AND WELFARE REPORTS.....	15
VIII. FINANCIAL STATEMENT.....	15
IX. OWNERSHIP OF DATA.....	15
X. INSURANCE AND INDEMNIFICATION REQUIREMENTS.....	15
XI. SELECTION PROCESS AND EVALUATION CRITERIA.....	20
XII. LIMITATIONS	20
XIII. PUBLIC RECORDS ACT	21
XIV. CONFLICT OF INTEREST STATEMENT	21
XV. LOCAL PREFERENCE	21
XVI. REQUIREMENTS OF SUCCESSFUL PROPOSER	22
XVII. CONSULTANT SERVICES AGREEMENT	22
XVIII. SUBMITTALS BY PROPOSERS	28

APPENDIX A – COF and FPOA ADR Program
APPENDIX B – Section II “Consolidated Liabilities” SIP Annual Report

ATTACHMENT I - STATEMENTS OF ACCEPTANCE

ATTACHMENT II - DISCLOSURE OF CONFLICT OF INTEREST

ATTACHMENT III - LOCAL PREFERENCE CERTIFICATION

ATTACHMENT IV - NON-COLLUSION AFFIDAVIT FOR WORKERS'
COMPENSATION CLAIMS SERVICES

ATTACHMENT V - PROPOSAL SIGNATURE PAGE

ATTACHMENT VI – SAMPLE CONSULTANT SERVICES AGREEMENT

CITY OF FRESNO

WORKERS' COMPENSATION CLAIMS ADMINISTRATION REQUEST FOR PROPOSAL (RFP)

I. INTRODUCTION

This RFP, and all subsequent modifications hereto, is hereby designated as the sole reference and authority for the preparation of proposals. The release of this RFP supersedes all other documents that may exist relative to the work to be done. The contents of this RFP and subsequent modifications hereto take precedence over any and all information related to the claims administration of a self-insured workers' compensation program obtained from any source, either by written or verbal communications.

This Request for Proposals (RFP) contains specifications and related documents covering claims administration of a self-insured workers' compensation program for the City of Fresno, hereinafter also referred to as the "City." Responders to this RFP shall hereinafter be referred to as "Proposer."

II. BACKGROUND INFORMATION

The City has a population of approximately 550,105 and is located in the central San Joaquin Valley of California. The City operates under its own charter with a Council-Strong Mayor form of government. Fresno is a full-service City providing water, wastewater, solid waste collection services, and bus transit services, public works services in addition to Police and Fire services. The City also owns and operates two airports. The City employs approximately 5,555 employees and had a payroll of \$441,074,643.00 in fiscal year 2024-2025.

The City of Fresno has been a permissibly self-insured public entity since 1973 and maintains a self-insured retention of \$2,000,000. The City's workers' compensation program is divided into two sections, the Alternative Dispute Resolution (ADR) program and the statutory program.

The City of Fresno and Fresno Police Officers Association (FPOA) have agreed to an Alternative Dispute Resolution program. The ADR program accelerates the delivery of quality medical treatment, return to work and overall claim resolution, and seeks to reduce excessive costs and delays in delivering medical care. Please see Appendix A for a copy of the full ADR agreement between the City of Fresno and Fresno Police Officers Association.

The statutory workers' compensation program includes all employees except for FPOA members and jurisdiction for the program is with the Workers' Compensation Appeals Board.

Currently the City of Fresno coordinates all workers' compensation claim activities with its designated independent claims Administrator. The information that flows from City

administration to the claims Administrator includes employer's first reports, information about employee contact, lost time employer-provided, benefits, and modified work programs. City Risk Management staff are also actively involved in claims management on certain select claims.

New claims filed annually are approximately 937 with 688 being indemnity and 249 medical only. There are approximately 2,774 open claims (tail claims including medical only) that will be the responsibility of the claims Proposer. A copy of Section II "Consolidated Liabilities" from the Self-Insurers Annual Report is included in the Request for Proposals and marked Appendix B.

The contract for workers' compensation claims services will commence July 1, 2027, for a period of three years and, at the option of the City of Fresno, may be extended year to year for up to four additional years.

III. SUBMISSION OF PROPOSAL

The City of Fresno will accept proposals in accordance with the instructions and specifications in this Request for Proposal.

Send five (5) hard copies and one electronic copy of your proposal to:

**Steven Emerzian, Principal Risk Analyst
Steven.Emerzian@fresno.gov
Risk Management Division
Personnel Services Department
City of Fresno
2600 Fresno Street, Room 1030
Fresno, CA 93721-3612**

To ensure consideration, proposals must be received at the above office no later than 3:00 PM, on October 1, 2026. Any proposal received after that time will be rejected.

Questions regarding the provisions of this RFP shall be directed in writing to Steven Emerzian, Principal Risk Analyst, City of Fresno, 2600 Fresno Street, Fresno, CA 93721-3612 or by email to steven.emerzian@fresno.gov.

Firms whose written response clearly indicates they possess the full ability to meet the requirements and needs of the City may be invited to make an oral presentation. Site visits to each proposer may be conducted.

The City of Fresno notifies all proposers that no person shall be excluded from participation in, denied any benefits of, or otherwise discriminated against in connection with the award and performance of any contract on the basis of race, religious creed, color, national origin,

ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, or any other basis prohibited by law.

A Blanket Fidelity Bond of not less than \$1,000,000 is required prior to commencing work if awarded the contract.

Notwithstanding other provisions of this RFP, Proposers are hereby advised that this RFP is not intended, nor is it to be construed, as engaging in formal competitive bidding pursuant to any statute, ordinance, policy or regulation.

The City of Fresno reserves the right to reject any and all proposals.

IV. INFORMATION AND GENERAL CONDITIONS

Proposal Guidelines

1. Covenant against Contingent Fees

The Proposer warrants that no person or selling agency has been employed or retained to solicit or secure any contract to be executed as a result of this RFP upon an agreement or understanding for a commission percentage, brokerage or contingent fee, commercial or selling agencies retained by the Proposer for the purpose of securing business. For breach or violation of this warranty, the City shall have the right to terminate any contract that may be entered into with the Proposer and, in its sole discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

2. Debarment

Debarment: A Bidder may be debarred from bidding or proposing upon or being awarded any contract with the City, or from being a subcontractor or supplier at any tier upon such contract, in accordance with the procedures in Fresno Municipal Code Section 4-104 adopted by Council on May 17, 2018. The initial period of any such debarment shall not be less than one year and may be permanent depending on the violation. A Bidder may request a hearing, in accordance with the Fresno Municipal Code Section 4-104, upon receipt of a notice of proposed debarment from the City Manager or designee. A copy of the Resolution may be obtained from the City Clerk's Office, 2600 Fresno Street, Fresno, California 93721.

3. Regulated Communications in City Procurement Process Ordinance

The Regulated Communications in City Procurement Process Ordinance (Article 6, Chapter 4 of the Fresno Municipal Code) became effective May 7, 2004. With certain specified exceptions, the Ordinance provides that no Respondent, Bidder, Proposer (as the case may be) shall initiate, engage in, or continue any

communication to or with any City elected official concerning or touching upon any matter which is the subject of this competitive procurement process.

Any Respondent, Bidder, Proposer or elected official (as the case may be) who initiates, engages in, continues in, or receives any regulated communication shall file the written disclosure required by the Regulated Communications in City Procurement Process Ordinance.

Any Respondent, Bidder, or Proposer violating the Regulated Communications in City Procurement Process Ordinance may be disqualified from participating in this procurement process and/or determined to be non-responsible. Additionally, the City may set aside the award of a contract, prior to its execution, to a party found to have violated the Ordinance.

Note: The full text of Fresno Municipal Code Chapter 4, Article 6 may be obtained at the City Clerk's office and may be viewed on the City's website at: <http://www.fresno.gov>, reference from there the "Government" heading, "City Clerk," and then click on "Fresno Municipal Code and City Charter" to the right of the page, or view the Fresno Municipal Code directly at: https://library.municode.com/ca/fresno/codes/code_of_ordinances.

4. Submittal of Proposal

This solicitation for proposals does not commit the City of Fresno to enter into a contract or to pay any costs incurred in the preparation of responses to the request. The City of Fresno reserves the right to accept or reject any proposals, and to negotiate with any qualified source, or to cancel in part or in its entirety this Request for Proposals. It may accept the proposal that it considers to be in the interest of the City of Fresno, with or without negotiation.

The City reserves the right to waive any informality or minor irregularity when it is in the best interest of the City to do so, to negotiate for the modification of any proposal with mutual consent of the Proposer, to re-advertise for proposals if desired, and to accept the proposal which in the judgment of the City, even though it does not offer the lowest cost, is nevertheless deemed to offer the best value for the public and City. Any proposal which is incomplete, conditional, obscure, or which contains irregularities of any kind, may be cause for rejection.

5. Questions Regarding the Request for Proposals

Questions regarding the provisions of this RFP shall be directed in writing to Steven Emerzian, Principal Risk Analyst, City of Fresno, 2600 Fresno Street, Fresno, CA 93721-3612 or by email to steven.emerzian@fresno.gov.

6. Preparation of Proposal Documents

Submit five (5) hard copies of your proposal and one electronic copy. Proposals must be received no later than 3:00 PM, October 1, 2026. Hard copies of the

proposals shall be delivered to Steven Emerzian, Principal Risk Analyst, Risk Management Division, Personnel Services Department, City of Fresno, Room 1030, 2600 Fresno Street, Fresno, CA 93721-3612. The electronic copy shall be emailed to Steven.Emerzian@fresno.gov. It is the sole responsibility of the person submitting the proposal to ensure that it is received on time. Any proposal received after 3:00 PM, October 1, 2026, shall be returned, unopened.

7. Signature

The proposal must be signed in the name of the Proposer and must bear the original signature of the person authorized to sign proposals on behalf of the Proposer.

8. Completion of Proposals

Proposals shall be complete in all respects, as required by the instructions herein. A proposal may be rejected if it is conditional or incomplete, or if it contains alterations of form or irregularities of any kind.

A proposal will be rejected if, in the opinion of the City, the information contained therein was intended to erroneously and fallaciously mislead the City in the evaluation of the proposal or is deemed to be unresponsive.

9. Erasures

The proposal submitted must not contain erasures, interlineations, or other corrections, unless the person signing the proposal authenticates each correction by signing, in the margin immediately opposite the correction, the name of the person signing the proposal.

10. Rejection of Proposals

City reserves the right to reject any or all proposals received as a result of this Request for Proposal, or to negotiate separately with any Proposer when it is determined to be in the best interest of the City. The City reserves the right to make no changes in its policies, procedures, practices or vendor agreements as a result of this RFP or subsequently received responses thereto.

11. Misunderstandings

The RFP documents will be clarified by City (see item 5) upon written request from a Proposer. The City's decision shall be final in any matter of interpretation of the documents.

12. Award of Contract

If the contract is awarded, it will be to the responsible Proposer whose proposal is deemed to offer the best value to the public and the City, and whose proposal best meets the requirements of the RFP documents, and any addenda thereto, except for irregularities waived by City. It is anticipated that award of the contract will be made within approximately sixty (60) days after the closing date for the submission of Proposals. Written notification will be made to all Proposers.

13. Errors in Proposal

Proposers shall be bound by the terms and conditions of their proposals, notwithstanding the fact that errors are contained therein. However, if immaterial errors are found in a proposal, the City may notify the Proposer that the submitted proposal contains errors, and require the Proposer to correct the errors.

14. Related Experience

All Proposers must submit information that indicates specific qualifications to complete the work to be done as defined herein. Specifically, the City is interested in contracting with a Proposer which has had experience in claims administration for a public entity self-insured workers' compensation program, including the size of the organization similar to the City in terms of payroll dollars and number of employees. Each Proposer shall submit, with his/her proposal, a list of public entity and private enterprise clients for whom similar work has been performed in the past two (2) years. The reference list shall include the names and addresses of the client, the name, title, and telephone number of each client's manager, and the dates the work was performed. During the evaluation and selection process, the City may contact each or any of the referenced clients. Proposers are hereby advised that the City shall maintain the sole and exclusive right to determine whether or not the Proposer can perform the work to be done.

15. Tentative Schedule of Events

Issue RFP => **8/1/26**
Receive Proposals => **10/1/26**
Complete Evaluation of Proposals => **10/15/26**
Interview Finalist Proposers (at City option) => **week of 11/9/26**

Award of contract to selected firm with an expected service assumption date of **7/1/27**.

V. QUESTIONS FOR RESPONSE

Your proposal must address the following questions. Please respond to them in the order asked. Feel free to provide any additional information concerning your firm's services or

qualifications you believe to be pertinent. Please make sure that you provide sufficient information to enable the City to evaluate your firm's approach, personnel, management experience, financial status, and pricing.

1. Describe your firm's philosophy and approach to providing comprehensive claim management services.
2. Describe who you believe your customer(s) to be and your philosophy and/or approach to working with them.
3. Describe the ownership structure of your firm. Does the principal(s) participate in its day-to-day operation? If so, describe how. If not, what is his or her involvement? If someone other than a principal has been delegated responsibility for day-to-day operations, please provide information on his or her relevant experience.
4. Would the selection of your firm present a conflict of interest, either perceived or in actuality, with work performed for any other client of your firm, past or present? If so, please describe the potential conflict as well as the steps, if any, you would propose to take to mitigate it.
5. Describe your internal process for evaluating the performance of adjusters and support staff assigned to the City's account.
6. Describe your practice and plan for regular ongoing education and training of claims staff.
7. It is a requirement that all lost time claims be checked through the Index Bureau. Do you subscribe to The Index System? If not, please explain. Would you be willing to do so? Would this require any additional fee or charge to the City? If so, please indicate what the charge would be.
8. Provide a detailed description of your computer support services, including information on your systems security and backup procedures. Can your system deliver:
 - a) the City with detailed loss reports, designed to its specification, by the third working day of each month for the previous calendar month?
 - b) special reports as requested by the City's staff on an as needed basis?
 - c) the City with ad hoc or special reports as may be requested?
 - d) claim filings electronically?
 - e) City staff access to on-line inquiries including the ability to produce, print, and email reports?
 - f) computerized claim data that is easily searchable including check registers formatted to City specifications?
 - g) electronic claims and payment data on files in a format compatible with Microsoft Excel?

If computer support services are available, are these services included in your base price for providing claims service? If available but not included, please provide your proposed charge for providing each service. If you are not capable of providing one or more of these services, please indicate.

9. The City requires that all reasonable efforts be made to handle litigated claims in-house, only referring to outside counsel (designated by the City Attorney) essential cases for which you have obtained the City's prior consent. Describe the skill and experience of the adjusters that would be assigned exclusively to the City to perform work which includes but is not limited to the following:
 - a) File answers and information response forms.
 - b) Issue objection letters to lien claimants.
 - c) Coordinate negotiation of settlements.
 - d) Rate all medical reports.
 - e) Object to treating physician's findings if necessary.
 - f) Attend Workers Compensation Appeals Board conferences and trials when called upon.
 - g) Negotiate selection of Agreed Medical Examiners
 - h) Navigate and strike panel evaluators
 - i) Prepare settlement documents for cases handled in-house.
 - j) File settlement documents for cases handled in-house.
10. Describe your experience in providing claims handling services for an organization that has an Alternate Dispute Resolution (ADR) program. Please also describe your experience with the following:
 - a) Working with an ADR Ombudsperson towards claim resolution.
 - b) Understanding and successfully navigating through the dispute resolution process within an ADR program.
 - c) Providing reports capable of monitoring the status of the ADR program.
11. Describe your experience in claims administration in regards to Labor Code 4850 application and benefit administration.
12. Describe your experience in regards to working with a public entity's retirement administrator other than CalPers, in regards to the medical disability retirement process.
13. Describe any ancillary services that your firm offers. Which, if any, of these services are included in your base quote? If not, include pricing information for any of these services that you can provide.

14. To maintain continuity of claims service and minimize disruption, describe in detail the steps and procedures your firm would implement, complete with timelines, to assume responsibility for the payment and continued administration of all open claims.
15. Are you capable and willing to provide all of the services included in the section below entitled "Minimum Required Claim Administration Services"? Are all of these services included in your base quote? Indicate any exceptions. Can these exceptions be provided at an additional cost? If so, please indicate the additional cost and fee structure.
16. Your quote must be an all-inclusive flat fee for each of the three years of the contract. Annual price increases must be clearly identified.
17. Is there a take-over fee for assuming responsibility for existing claims? If so, please provide your specific cost for this service.
18. Provide an overview and detailed cost breakdown for providing bill review services.
19. The City of Fresno expects that the Proposer will identify potential subrogation opportunities for recovery of monies owed to the City. Beyond this service, the City of Fresno wishes to explore the cost of having the Third-Party Proposer completely perform the full range of services in this area including appropriate staffing and administration to obtain the actual recovery. This service would include all necessary notices, initial telephonic and written requests for reimbursement, negotiation, and court appearances.
20. Describe the dollar value performance guarantee your organization will provide if the standards of performance outlined in this request for proposal are not met.
21. Provide a list of references with names and phone numbers of individuals to be contacted. Include the name, contact, and phone number for all clients who have discontinued services with your firm over the past 12 months, as well as the reason(s) why.
22. Provide any other information you believe to be relevant not included above.

VI. MINIMUM REQUIRED CLAIM ADMINISTRATION SERVICES

PROGRAM ADMINISTRATION

Proposer agrees to:

1. Provide a local service office in the Fresno Metropolitan area. Provide staff as required to administer the workers' compensation program in full compliance with all the terms and conditions of the Request for Proposal, express or implied. All staff

assigned to provide direct service to the City of Fresno shall be subject to the approval of City staff.

2. A dedicated claims unit shall be provided to the City of Fresno. The unit shall be composed of State Certified claims adjusters who have a targeted case load of 150 but not to exceed 165 claims per adjuster. The unit shall have at least two supervisors who have no assigned claim load. A state-certified claims adjuster is one who has successfully completed the certification requirements outlined by the State of California Self Insurance Plans. Each adjuster must have at least five (5) years of workers' compensation claims experience with public entities. A dedicated support staff to service City claims is required.
3. Review with City's representatives program progress, including identification of problem areas and recommend solutions there to and provide consultative services as necessary.
4. Provide the City complete access to its claims data pertaining in any way to the Workers' Compensation Claims Management Program referred to herein. Any system providing such information shall be secure and shall contain the applications necessary to prohibit access by unauthorized individuals.
5. Provide information and guidance to City regarding workers' compensation claims and inquiries on specific claims.
6. Assist in the development of policies and procedures to ensure that the Workers' Compensation Claims Management Program is operated in a manner that meets the objectives of the City.
7. Proposer to track, monitor, and have the ability to report on real time balances of all employees who are using LC 4850 leave time, On the Job Injury pay leave time, and TD leave time.
8. Design and print Employer's reports, Doctor's First Reports, treatment and authorization slips, posting notices and warrants, as well as any other forms required by the City or State of California.
9. Review and recommend physicians to be added to the City's Medical Provider Network (MPN) and IME list. In addition to this, also monitor to ensure proper compliance and credentialing with the physicians on the MPN and IME list.
10. Establish a banking arrangement and coordinate payment through City's Personnel, Finance, and Payroll Departments with proper audit trail.
11. Establish all database coding requirements in conjunction with City staff.
12. Provide staff orientation and training of City personnel as required.

13. Maintain needed records and information and complete the Self Insurers Annual Report in accordance with all State of California requirements. Provide the completed TPA portion of the annual report to the City for approval no less than 30 days before the date on which the annual report is due at the State.
14. Seek settlement authority on all claims from City RISK staff.
15. Notify all vendors of change of claims administrator.
16. Proposer to prepare and provide any and all required Federal and State financial and tax reports, including but not limited to IRS Form 1099 to vendors and service Proposers.
17. Assemble and submit claims data to the City as required for the completion of the Department of Industrial Relations, Self-Insurance Plans Annual Report and for actuarial studies performed regarding the City's Workers' Compensation Program.
18. Proposer will have a contractual duty and accountability to report required claims data to the Centers for Medicare and Medicaid Services (CMS) in accordance with the MMSEA Act of 2007.
19. Proposer shall comply with any and all federal, state, or local laws, now in effect or hereafter promulgated, which apply to the services herein specified.

CLAIMS ADMINISTRATION

Proposer agrees to:

1. Review and adjust all workers' compensation claims in accordance with all applicable state laws as well as the terms of the contract.
2. Determine liability for claims brought against City as a result of the workers' compensation laws of the State of California.
3. Continue to administer and adjust all existing open files.
4. Obtain expert medical opinion when necessary and as authorized by City to evaluate the nature, extent, and causation of injuries.
5. Provide recommendations on legal services for cases requiring legal work to City Risk staff and City Attorney's Office staff who will ultimately make the selection.
6. Assist the attorneys in the preparation of all litigation and negotiations of settlements including, but not limited to, actions against third parties. Cases must be referred to legal counsel at least four weeks in advance of all discovery cut-off dates.

7. Investigate, or with approval of City's representative, arrange for investigation of cases where City's liability is questionable and assist in the settlement or trial of litigated cases.
8. Report all claims that may reach the excess layer of insurance coverage to the appropriate insurance carrier in accordance with their respective requirements. Proposer also agrees to maintain records, and effect collection from the excess insurance carrier on behalf of City.
9. Attend meetings at the request of City.
10. Proposer will pay all fines and penalties incurred due to errors or omissions on the part of Proposer from Proposer's own funds and will not in any way charge these expenses to the City. Proposer will provide a quarterly report to City of all penalties paid and the party (City or Proposer) liable for payment.
11. Proposer must also indicate that they have the capability to utilize electronic mail (e-mail) between their offices and City of Fresno.
12. Coordinate return-to-work and medical rehabilitation programs with City's staff.
13. Provide City Retirement Board with all necessary documentation when requested and on an ongoing basis.
14. Participate fully in on-site file reviews and audits and respond promptly to written inquiries.
15. Monitor the condition of injured workers by reviewing medical reports and special examinations. Provide City, at no cost, copies of all narrative reports including but not limited to medical, physical therapy, vocational rehabilitation, Appeals Board, and any other reports requested by City as permitted by law.
16. Provide City staff with a recommended list of qualified medical evaluators. This report should identify the medical evaluator's treatment philosophy, timeliness, and areas of medical expertise.
17. Provide copies in each claim file of all checks, vouchers, or warrants drawn to pay benefits and claims expenses on behalf of City.
18. Medical case management shall be provided by each adjuster except in instances where outside case management services are justified and approved by City staff.

ADJUSTMENT SERVICES

Proposer agrees to:

1. Maintain a claim file on each potential or actual claim reported to Proposer.
2. Establish and maintain case reserves for workers' compensation claims which accurately reflect the ultimate probable exposure of the claim.
3. Act as a liaison between the excess insurance carriers(s) and City on matters affecting the adjustment of claims.
4. Provide a copy of your claims administration manual to City as a part of this proposal, marked as proprietary if appropriate.
5. Maintain records on all claims and notify City when the City is entitled to reimbursement for loss in excess of their retention.
6. Provide claims review of all claim files at the request of City.
7. Negotiate appropriate agreements on all claims to effect settlements in a timely manner.
8. Upon the request of City, provide quarterly review of claims with lost time in excess of thirty days.
9. Provide injured workers with benefits as required by the California Labor Code.
10. Pay all approved medical expenses in accordance with the official California fee schedule or a negotiated medical provider fee schedule, which recognizes a discount for medical services.
11. Pay all approved medical legal expenses in accordance with fees established by the California Division of Workers' Compensation.
12. Adjusters will be expected to make court appearances when called upon before the Workers' Compensation Appeals Board as may be required to represent City's interest.
13. Standards of Performance:
 - a) Case Load - Proposer shall assign a sufficient number of adjusters to ensure that each adjuster's targeted caseload is 150 but to not exceed 165 claims. Where caseloads include future medical and medical only claims, these claims will be counted as a 2:1 in the caseload limit. Proposer shall report monthly to the City each adjuster's assigned caseload.
 - b) Case Make-Up - New claims case files will be created within one (1) working day of receipt of the first notice of claim. Each claim file will have the date of creation

clearly identifiable in a uniform location. A level of accomplishment of 100% is required within one day.

- c) **Compensability** - The compensability determination (accept, deny, or delay-pending the results of additional investigation) and the reasons for such a determination will be made and documented in the file within fourteen (14) calendar days of the filing of the claim with the City of Fresno. All benefit notices shall be mailed in compliance with California Labor Code and all applicable State regulations. A compensability decision will be made within ninety (90) calendar days from receipt of the Employee Claim Form (DWC-1). All benefits that are due and payable shall be made in accordance with all applicable State regulations. A level of accomplishment of 100% shall be considered acceptable.
- d) **Review** - The claim files should be reviewed at intervals not to exceed 45 calendar days. Future medical claims should be reviewed at the interval's not to exceed 90 calendar days.
- e) **Three Point Contact** - In cases involving anticipated loss of time from work beyond the date of loss, contact will be established with attending physician, the injured worker, and the employer within two (2) days of case make-up as needed to ensure effective medical case management. Such contacts will continue as needed during the course of claim development to assure that treatment is reasonable and necessary. An accomplishment level of 100% shall be considered acceptable.
- f) **Litigated Cases** - Subject to the concurrence of the City Attorney, Proposer shall establish written in-house guidelines for referral of (essential) litigated cases to defense counsel. Such guidelines shall require, at a minimum: (1) prompt recognition of issues; (2) timely referral to defense counsel; (3) control of litigation expenses; (4) file documentation of a litigation plan. Medical control of litigated claims will remain with Proposer. Proposer will make all reasonable efforts to settle litigated claims without assigning to outside counsel. All settlements must be first approved and authorized in writing by City RISK staff. After referral, Proposer will continue to assist in the preparation of litigated cases, negotiations of settlements, and subrogation actions.
- g) Proposer shall determine if applicant is eligible for supplemental job displacement benefit voucher and shall administer such benefits in accordance with all applicable statutes and regulations.
- h) **Excess Insurance** - Potential excess cases shall be reported to the appropriate excess carrier in accordance with the carrier's reporting criteria.
- i) **Penalties** - Proposer shall advise City in writing of the assessment of any penalty for delayed payment and the reason thereof and Proposer's plan for

payment of such penalty within five (5) days of assessment. An accomplishment level of 100% shall be required. Proposer will be liable for all penalties except those that are the result of City's sole negligence.

- j) Reserves - At the time of case make-up, claims shall be reserved at the most probable, ultimate loss cost. "Stair stepping" of reserves shall not be permitted.
- k) Case Closure - All medical-only cases will be closed or transferred to an indemnity status by the ninetieth day following case make-up. All indemnity cases will be closed within sixty (60) days of the final fiscal transaction with the exception of future medical awards. A level of accomplishment of 95% is acceptable.
- l) Telephone Inquiries - All telephone inquiries requiring return calls will be answered within twenty-four (24) hours of the original inquiry. A level of accomplishment of 100% is acceptable.
- m) Incoming Correspondence - All correspondence received will have the date of receipt clearly stamped on the front side. A level of accomplishment of 100% is required.
- n) Return Correspondence - All correspondence requiring a written answer will have such answer completed and transmitted within three (3) days of receipt. A level of accomplishment of 100% is acceptable.
- o) Settlements - Proposer shall obtain City's authorization on all settlements or stipulations in accordance with Fresno Municipal Code (FMC) Section 7-903. Proposer shall not enter into any stipulation or settlement involving liability of City's excess insurer without the advance written consent of the City and excess insurer. Proposer shall not have subrogation settlement authority unless specifically notified by City. A level of accomplishment of 100% is required.

City reserves the right to perform frequent scheduled and unscheduled general audits and/or assessment reviews of the claims administered by Proposer. The contractor or person performing the review will be selected by City and shall have full access to all documents, practices and procedures used by Proposer. The review may entail interviews with Proposer's claims staff and management, examination of physical or electronic claim files and review of policies and procedures.

INVESTIGATIVE SERVICES

Proposer agrees to coordinate external investigative services including, but not limited to:

1. Receipt and examination of all reports of accidents, incidents, claims or cases which are or may be the subject of claims.

2. The investigation of accidents, incidents, claims or cases where Proposer's initial examination indicates such action is warranted. Said investigation to include on-site investigation, photographs, interviewing of witnesses, determination of losses, but not to include extraordinary investigative services outside the expertise of Proposer.
3. Undertaking special investigations at the direction of City.
4. All investigative services, including selection of the firm to be used, must be selected from the City's pre-designated vendor list with advanced approval by the City of Fresno.

EMPLOYEE SERVICES

1. Provide information and guidance to City's employees regarding workers' compensation benefits, inquiries on specified injuries and permanent disability ratings in accordance with policies of the City.
2. Assist in resolving employee problems related to an industrial injury in non-litigated cases.
3. Assist in the development of policies and procedures to ensure that the employee's ability to work is consistent with the findings of the Workers' Compensation Appeals Board.

LEGAL SERVICES ADMINISTRATION

Proposer agrees to:

1. Consult with City and all attorneys involved as necessary to ensure that all facts and investigations are available for use by the defense attorney.
2. Ensure that any attorneys working on claims are informed of all relevant facts so that the necessary subpoenas for records and/or witnesses are issued and depositions taken.
3. Review and consult with City on proposed settlements and secure approval of City before agreement of any settlement in accordance with Fresno Municipal Code Section 7-903.
4. Assist attorneys in protecting the interests of City, including but not limited to, City's interests in third-party cases. Additionally provide a referral for legal services to City's Attorney Office who will make final determination on selection.
5. With prior approval from City, refer cases to defense attorneys (designated by the City Attorney) only when the expertise of an attorney is required to resolve issues.

6. Review and document subrogation potential on all files. Proposer will accurately document and report loss history, costs, and expenses to support subrogation claims. Subrogation efforts on injuries wherein there is also property loss to City shall be coordinated with City and/or its property loss adjuster.

MEDICAL BILL REVIEW, UTILIZATION, AND RELATED COST CONTAINMENT SERVICES

Proposers are advised that any contract entered into between the City of Fresno and the selected Proposer are specific to these parties only and do not encompass agreements or covenants between Proposer and providers of other services. The City of Fresno hereby advises that arrangements for such outside services are independent and not binding upon City and that City reserves the right to seek alternative providers for these services at its option.

Proposer may include pricing quotations for medical bill review and/or utilization review and/or medical case management services as part of this proposal. These quotations should be separately identified from the cost quotation provided for the claims administration services.

VII. HEALTH AND WELFARE REPORTS

Prepare a separate monthly report organized by Division/Department which will outline the status of each new claim as being accepted, denied, or delayed, the number of new indemnity claims, the number of medical only claims, and the number of first-aid claims for review by City's health and welfare carrier. The report shall be updated with a change in claim status as appropriate.

VIII. FINANCIAL STATEMENT

Please provide a copy of your most recent financial statement or other acceptable evidence of your firm's financial ability to complete the terms and conditions of a contract of up to three (3) years with the City of Fresno for Workers' Compensation claims administration services.

IX. OWNERSHIP OF DATA

It is to be agreed that all data is proprietary by nature and is the sole property of City. It is further agreed that such data will be presented to City on demand in a format acceptable to City.

X. INSURANCE AND INDEMNIFICATION REQUIREMENTS

Proposers must submit a statement (Attachment I) that the Proposer can and will meet the following insurance and indemnification requirements prior to performing any services for the City of Fresno:

(a) Throughout the life of this Agreement, PROPOSER shall pay for and maintain in full force and effect all insurance as required herein with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than "A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by CITY'S Risk Manager or his/her designee at any time and in his/her sole discretion. The required policies of insurance as stated herein shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to CITY, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.

(b) If at any time during the life of the Agreement or any extension, PROPOSER or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to PROPOSER shall be withheld until notice is received by CITY that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to CITY. Any failure to maintain the required insurance shall be sufficient cause for CITY to terminate this Agreement. No action taken by CITY pursuant to this section shall in any way relieve PROPOSER of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by CITY that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

(c) The fact that insurance is obtained by PROPOSER shall not be deemed to release or diminish the liability of PROPOSER, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify CITY shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by PROPOSER. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of PROPOSER, vendors, suppliers, invitees, contractors, sub-contractors, subcontractors, or anyone employed directly or indirectly by any of them.

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual

2. liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under "Minimum Limits of Insurance."
3. The most current version of ISO *Commercial Auto Coverage Form CA 00 01, providing liability coverage arising out of the ownership, maintenance or use of automobiles in the course of your business operations. The Automobile Policy shall be written on an occurrence form and shall provide coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto).
4. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
5. Professional Liability (Errors and Omissions) and Cyber Liability (Privacy and Data Breach) insurance appropriate to CONSULTANT'S profession. Cyber Liability shall cover claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of privation information (including credit monitoring costs), alteration of electronic information, extortion and network security.

MINIMUM LIMITS OF INSURANCE

PROPOSER, or any party the PROPOSER subcontracts with, shall maintain limits of liability of not less than those set forth below. However, insurance limits available to CITY, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. **COMMERCIAL GENERAL LIABILITY:**
 - (i) \$1,000,000 per occurrence for bodily injury and property damage;
 - (ii) \$1,000,000 per occurrence for personal and advertising injury;
 - (iii) \$2,000,000 aggregate for products and completed operations; and,
 - (iv) \$2,000,000 general aggregate applying separately to the work performed under the Agreement.
2. **COMMERCIAL AUTOMOBILE LIABILITY:**

\$1,000,000 per accident for bodily injury and property damage.
3. **WORKERS' COMPENSATION INSURANCE**

as required by the State of California with statutory limits.

4. **EMPLOYER'S LIABILITY:**

- (i) \$1,000,000 each accident for bodily injury;
- (ii) \$1,000,000 disease each employee; and,
- (iii) \$1,000,000 disease policy limit.

5. **PROFESSIONAL LIABILITY** (Errors and Omissions):

- (i) \$2,000,000 per claim/occurrence; and,
- (ii) \$4,000,000 policy aggregate.

6. **CYBER LIABILITY** insurance with limits of not less than:

- (i) \$5,000,000 per claim/occurrence; and,
- (ii) \$5,000,000 policy aggregate,

UMBRELLA OR EXCESS INSURANCE

In the event PROPOSER purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the CITY, its officers, officials, employees, agents and volunteers.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

PROPOSER shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and PROPOSER shall also be responsible for payment of any self-insured retentions. UMBRELLA OR EXCESS INSURANCE

In the event CONSULTANT purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the CITY, its officers, officials, employees, agents and volunteers.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

CONSULTANT shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and CONSULTANT shall also be responsible for payment of any self-insured retentions.

OTHER INSURANCE PROVISIONS/ENDORSEMENTS

1. CITY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the General Liability and Auto Liability policies. CONSULTANT shall establish additional insured status for the City and for all ongoing and completed operations

by use of endorsements providing additional insured status as broad as that contained in ISO Form CG 20 10 11 85 or CG 20 10 04 13.

2. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, officials, employees, agents and volunteers. Any available insurance proceeds in excess of the specified minimum limits and coverage shall be available to the Additional Insured.

3. CONSULTANT'S insurance coverage shall be primary insurance with respect to the CITY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents and volunteers shall be excess of CONSULTANT'S insurance and shall not contribute with it. CONSULTANT shall establish primary and non-contributory status on the General Liability policy by use of ISO Form CG 20 01 04 13, or by an executed endorsement that provide primary and non contributory status as broad as that contained in ISO Form CG 20 01 04 13.

4. The General Liability, Auto Liability and Worker's Compensation are to contain, or be endorsed to contain, the following provision: CONSULTANT and its insurer shall waive any right of subrogation against CITY, its officers, officials, employees, agents and volunteers.

5. All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar days written notice by certified mail, return receipt requested, has been given to CITY. CONSULTANT is also responsible for providing written notice to the CITY under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, CONSULTANT shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, CONSULTANT shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy of not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.

6. Should any of the required policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by any defense costs, then the requirement for the Limits of Liability of these policies will be twice the above stated limits.

7. The fact that insurance is obtained by CONSULTANT shall not be deemed to release or diminish the liability of CONSULTANT, including, without limitation, liability under the indemnity provisions of this Agreement. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of CONSULTANT, its principals, officers, agents, employees, persons under the supervision of CONSULTANT, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

If the *Professional (Errors and Omissions) and/or Cyber Liability insurance policy(ies)* are written on a claims-made form:

- (i) The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by PROPOSER.
- (ii) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement work or termination of the Agreement, whichever occurs first, or, in the alternative, the policy shall be endorsed to provide not less than a five (5) year discovery period.
- (iii) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by PROPOSER, PROPOSER must purchase "extended reporting" coverage for a minimum of five (5) years completion of the Agreement work or termination of the Agreement, whichever occurs first.
- (iv) A copy of the claims reporting requirements must be submitted to CITY for review.
- (v) These requirements shall survive expiration or termination of the Agreement.

VERIFICATION OF COVERAGE

PROPOSER shall furnish CITY with all certificate(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the CITY'S Personnel Services Director or his/her designee prior to CITY'S execution of the Agreement and before work commences. All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon request of CITY, PROPOSER shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

SUBCONTRACTORS

If PROPOSER subcontracts any or all of the services to be performed under this Agreement, PROPOSER shall require, at the discretion of the CITY Risk Manager or designee, subcontractor(s) to enter into a separate Side Agreement with the City to provide required indemnification and insurance protection. Any required Side Agreement(s) and associated insurance documents for the subcontractor must be reviewed and preapproved by CITY Risk Manager or designee. If no Side Agreement is required, PROPOSER will be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant

industry.

INDEMNIFICATION

To the furthest extent allowed by law, PROPOSER shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CITY, PROPOSER or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees, litigation expenses, and costs to enforce this agreement), arising or alleged to have arisen directly or indirectly out of performance of this Contract. PROPOSER'S obligations under the preceding sentence shall apply regardless of whether CITY or any of its officers, officials, employees, agents or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or the willful misconduct, of CITY or any of its officers, officials, employees, agents or volunteers.

If PROPOSER should subcontract all or any portion of the work to be performed under this Contract, CONTRACTOR shall require each subcontractor to indemnify, hold harmless and defend CITY and each PROPOSER of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Contract.

XI. SELECTION PROCESS AND EVALUATION CRITERIA

1. To receive proper consideration, the proposal must meet the requirements of this RFP. The evaluation process will provide credit only for those capabilities and advantages which are clearly stated in Proposer's written proposal. In other words, advantages which are not stated will not be considered in the evaluation process.
2. Proposers whose proposals include a failure to comply with or take exception to these Specifications may be considered nonresponsive and dropped from the evaluation process.
3. Proposals will be evaluated on the following criteria:
 - a. Cost as shown on the proposal form.
 - b. Ability to meet the stated service requirements including, without limitation, professional qualifications and availability of staff.
 - c. Past Performance and Experience including, without limitation, the level of staff experience in providing services to other public agencies.

- d. Customer Service ability in working with City staff to address areas of concern including, without limitation, service levels, conflict resolution, response times, etc.
 - e. Conformance to the terms and conditions of the RFP.
 - f. Experience with an Alternative Dispute Resolution (ADR) program.
 - g. Financial Stability.
 - h. Other related information.
- 4. City reserves the right to accept or reject any or all proposals and may select, and negotiate with one or more Proposers concurrently, and enter into a contract with such Proposer who is determined by City to provide the services which are in the best interest for the City of Fresno. City may agree to such terms and conditions as it may determine to be in its best interest.
 - 5. City reserves the right to request additional information from Proposers, to negotiate terms and conditions of the contract, to request oral presentations, or ask Proposers to clarify points of their proposal.
 - 6. Selection will be based on qualitative analysis and cost. Any award shall be on the basis of the criteria specified and made to Proposer whose proposal is judged as providing the best value in meeting the interest of City and its objectives. City reserves the right to make the selection of a Proposer based on any or all factors of value, whether quantitatively identifiable or not, including, but not limited to, the anticipated initiative and ability of Proposer to perform the services set forth herein.

XII. LIMITATIONS

- 1. All proposals received and opened shall become the sole property of City.
- 2. The Request for Proposal does not commit City to award a contract or to pay any cost incurred in the preparation of a proposal in response to this Request for Proposal.

City reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with qualified Proposers, or to cancel in part or its entirety the Request for Proposal. City further reserves the right to award a contract for any part or all of the services outlined in this proposal based upon the evaluation of proposals without negotiating with any Proposers.

- 3. City will reserve the right to accept or reject the services of any employee or staff employed by Proposer.
- 4. City may require Proposers, before entering into a contract, to provide additional information as may be required to satisfactorily and conclusively indicate that Proposer is adequately prepared to fulfill the contract.

XIII. NOTICE TO PROPOSERS REGARDING THE PUBLIC RECORDS ACT

The proposals received shall become the property of City and are subject to public disclosure. Those parts of a proposal which are defined by Proposer as business or trade secrets as that term is defined in California Evidence Code, Section 3426.1, and are reasonably marked "Trade Secrets", "Confidential", or "Proprietary", and placed in a separate envelope shall only be disclosed to the public if such disclosure is required or permitted under the California Public Records Act or otherwise by law. Proposers who indiscriminately and without justification identify most or all of their proposal as exempt from disclosure may be deemed non-responsive. Proposals, excluding confidential information, will be available for review after posting of staff recommendation.

XIV. CONFLICT OF INTEREST STATEMENT

Proposers are required to complete Disclosure of Conflict Interest (Attachment II), and return it with proposal.

XV. LOCAL PREFERENCE

Fresno Municipal Code Section 4-109, LOCAL PREFERENCE IN CONTRACTS FOR CONSULTANT SERVICES, provides for a local preference. Portions pertinent to this Agreement are paraphrased as follows:

Except for those contracts funded by the federal or state government when such funding would be jeopardized because of this preference, the City of Fresno shall contract for professional consulting services by giving a primary preference to local firms, when such firms have the necessary qualifications, experience and expertise to complete the project(s) being proposed for work, as determined by the City. A secondary preference shall be similarly given to non-local firms which form an association for pecuniary profit with local firms for the projects being proposed wherein the benefit to the local firm(s) is an amount greater than fifteen (15) percent of the total contract price for the project(s).

Notwithstanding the preceding, the above preferences shall not be applicable whenever, to the best knowledge of the City, the number of local firms providing the specific consulting service within the area of expertise for the subject matter of the work is less than three.

A "Local firm" shall mean a firm with a fixed primary or branch office within a twenty-five mile radius of Fresno City Hall, located at 2600 Fresno Street in the City of Fresno, and a majority of the work on the project will be performed by employees who are permanently assigned to such office prior to the City requesting proposals for the project and whose regular duties would include local work on other than City projects.

Proposers seeking local preference must complete the CERTIFICATION FOR LOCAL PREFERENCE form (ATTACHMENT III) and submit it with their proposal. The preference is waived if the certification is not included with the proposal.

XVI. REQUIREMENTS OF SUCCESSFUL PROPOSER

Upon City's award of a contract, the successful Proposer will be required to execute and return a contract furnished by City, along with a Blanket Fidelity Bond of not less than One Million Dollars (\$1,000,000), and all certificates of insurance with appropriate endorsements within 15 days from notice of award of the contract by City. Should the successful proposer fail or refuse to execute the contract, City reserves the right to award a contract to another proposer to City.

XVII. Consultant Services Agreement

A copy of the City's standard Consulting Services Agreement ("Agreement") is attached as Attachment VI to this RFP and incorporated herein. By submitting a Proposal, the Proposer agrees that it will enter into the Agreement using the attached form with no exceptions to the form of the Agreement. The City may determine the sample agreement will not be used and will provide an alternative Consultant Services Agreement.

Any contract exceeding \$100,000 shall be subject to the approval of the City Council in accordance with the Fresno Municipal Code.

XVIII. SUBMITTALS BY PROPOSER

Proposer shall submit with its proposal each of the following:

ATTACHMENT I - STATEMENTS OF ACCEPTANCE

ATTACHMENT II - DISCLOSURE OF CONFLICT OF INTEREST

ATTACHMENT III - LOCAL PREFERENCE CERTIFICATION (*if applicable*)

ATTACHMENT IV - NON-COLLUSION AFFIDAVIT FOR WORKERS' COMPENSATION
CLAIMS SERVICES

ATTACHMENT V - PROPOSAL SIGNATURE PAGE

ATTACHMENT VI – SAMPLE CONSULTANT SERVICES AGREEMENT

--END--

City of Fresno and Fresno Police Officers Association

Workers' Compensation Alternative Dispute Prevention and Resolution Program Agreement

This Workers' Compensation Alternative Dispute Prevention and Resolution Agreement ("Agreement") is entered into by and between the City of Fresno ("City") and the Fresno Police Officers Association ("FPOA") on behalf of its represented members, pursuant to the authority granted to the parties in California Labor Code section 3201.7.

RECITALS

Whereas, the parties are desirous of entering into an agreement whereby represented employee members of FPOA will receive benefits and resolve all disputes for claims arising under Division 4 the California Labor Code ("Workers' Compensation Law") pursuant to the process and procedures authorized under California Labor Code section 3201.7; and,

Whereas, the parties intend that this Agreement not diminish certain statutorily guaranteed rights of employees or the City; erode or impair the rights of individual employees to compensation payments for total or partial disability, supplemental job displacement benefits, medical treatment and any other benefits as may be required by California law; and

Whereas, the parties intend that the implementation of an alternative dispute resolution program ("ADR program") will generate savings to the City, and as the agreement of the FPOA is required to implement this ADR program, it is agreed that the FPOA will receive an agreed upon portion of the net savings to the extent allowed by law. It is agreed that the factors to be considered, and the manner by which the savings shall be calculated, and the manner in which the

parties will share, will be contained in a separate agreement approved by the FPOA and the City.

Wherefore, the parties hereto agree as follows:

PURPOSE AND INTENT

The parties to this Agreement recognize that delay in case resolution resulting from the technical and complex nature of the statutory dispute resolution process inhibits the ability of the City to provide service to the public and injured members covered by this Agreement to promptly and efficiently access all Workers' Compensation benefits, including quality medical treatment and timely return to work in order to resolve their Workers' Compensation claims in an efficient manner. The parties to this Agreement also recognize that a program that accelerates the delivery of quality medical treatment, return to work and overall claim resolution, also reduces loss development that in some cases grows at a protracted rate over time.

The parties also seek to eliminate and reduce the waste, excessive costs and delays in delivering medical care historically associated with the delivery of Workers' Compensation benefits to injured employees. Such waste, excessive costs and delays are direct symptoms of the current statutory system established by the California Legislature. The parties acknowledge that the City and its third party administrator have been attempting to achieve program efficiencies but are constrained by the current California law and procedures administering Workers' Compensation benefits. Further, the parties seek to improve labor-management relations between the City and the FPOA through the cooperation necessary to construct and oversee this program.

It is the intent of the parties to this Agreement to construct an alternative dispute resolution program ("ADR program") authorized by California law which will provide that those injured FPOA active (in-service including DROP) and retired members,

covered by this Agreement, who claim to have sustained injuries or illnesses compensable pursuant to the Workers' Compensation laws of the State of California with:

- a) timely and efficient determination of claims status;
- b) timely and efficient access to high quality medical care;
- c) the best opportunity reasonably possible to return to work in a timely fashion;
- d) an alternative dispute resolution program that provides the best opportunity reasonably possible to:
 - 1. promote the efficient, timely and fair resolution of all disputes that do arise in the processing of claims, including, but not limited to the compensability of claims within the jurisdiction of this program; and
 - 2. prevent disputes, and reduce the frequency and severity of those disputes that do arise, that otherwise delay treatment, a timely return to work and the ultimate resolution of the claim.
- e) provide the foregoing on a stable and long-term basis.

The parties intend that this Agreement will not:

- a) diminish, erode or impair the substantive rights of the City or of individual retirees or active (in-service including DROP) employees to compensation payments for total or partial disability, supplemental job displacement benefits, medical treatment, and any other benefits as required by California law to be fully paid for by the City; or
- b) impair, restrict or condition the rights of the City or of a retired or active (in-service including DROP) employee member to be represented by legal counsel of their choosing throughout the entire alternative dispute resolution program; or
- c) impair, restrict or condition the rights of the City or of a retired or active (in-service including DROP) employee to pursue legal remedies and

appeals after exhausting the alternative dispute resolution program procedures as allowed under the Labor Code.

The parties further intend that this Agreement create and accommodate an enhanced method to provide Workers' Compensation benefits in a way that improves labor management relationships, efficiencies of benefit to all parties and organizational effectiveness. The parties also recognize that there will be certain Departmental and City efficiencies associated with the implementation of this Agreement. Such efficiencies shall be recognized by the parties through ongoing communication, participation and assessment of the effectiveness of the alternative dispute resolution program.

It is agreed that the parties will make every good faith effort to apply the terms of this Agreement consistent with the intent of the parties as expressed above.

1. General Provisions

1.1 This Agreement shall become effective on the issuance of a recognition letter by the Administrative Director of the Division of Workers' Compensation of the Department of Industrial Relations and is subject to approval of the City Council of the City of Fresno, the Fresno POA, and the California Department of Industrial Relations. The Agreement shall remain in effect for at least one year from the date of execution, continuing year to year thereafter, unless terminated by one of the parties by giving sixty (60) days written notice to the other party. Unless otherwise specifically noted in this Agreement, any reference to "days" shall mean calendar days not working days. Should this program be terminated it is the intent of the parties that those claims (including cumulative injuries that allegedly began before the Agreement but the claim was not filed until after the Agreement was in effect) with dates of injury or illness occurring during the period of the program, or those claims which have been submitted pursuant to the "opt in" provision of Section 1.3(b) shall continue to be covered by the terms of this Agreement. Regardless of the effective

date of this Agreement, the formal jurisdiction of this program shall commence on a date agreed upon by the Joint Committee ("JC") and reduced to writing in a memorandum issued by the JC to the City and the FPOA.

1.2 This Agreement shall constitute the complete understanding of the parties with regard to the issues addressed herein. Nothing in this Agreement shall be considered or construed as a modification of the substantive provisions of California Workers' Compensation Law except as specifically set forth herein in accordance with Labor Code section 3201.7 or any rules adopted pursuant to this Agreement.

1.3 As to all claims with dates of injury on or after the effective date of this ADR program, as agreed to by the City and the FPOA, it is the intent of the parties to replace all dispute resolution procedures set forth in the California Labor Code with those dispute resolution procedures outlined herein to the greatest extent allowed by law. In any conflict, the provisions of this Agreement shall take precedence over the provisions of the California Labor Code, but only so far as permitted by Labor Code section 3201.7. This program shall be used in place of the filing of an application with the State of California Workers' Compensation Appeals Board ("WCAB") for any injuries or claims that would otherwise be subject to the initial jurisdiction of the WCAB. This program is the sole means of dispute resolution and no dispute shall proceed to the WCAB until it has completed the processes defined and established by this Agreement.

- a) Any Application filed with the WCAB with an alleged date of injury occurring on or after the effective date of this ADR program shall be dismissed and removed to the jurisdiction of this ADR program unless this program is terminated in accordance with the terms of the Agreement.
- b) Any retired or active (in-service including DROP) employee with an active or pending claim filed with the WCAB before the effective date

of this ADR program may be permitted to "opt in" to the ADR program. Upon written request by the retired or active (in-service including DROP) employee to the City and the ADR Director of the intent to participate in the ADR program, the ADR Director shall take all necessary and appropriate steps to evaluate the feasibility of transitioning the previously filed claim(s) and proceedings to the ADR program. As a condition of the retired or current employee participating in the ADR program, the Joint Committee shall establish conditions and requirements for participation, including but not limited to dismissing any and all pending applications with the WCAB (see Section 2.8), executing written acknowledgements of the terms of this ADR Agreement and waivers of certain procedural Workers' Compensation rights. The ADR Director shall make recommendations to the Joint Committee as to whether a previously filed claim shall be accepted into the ADR program.

This Agreement is not intended to diminish any right to compensation that injured employees or the City as the employer are entitled to under the Workers' Compensation laws of the State of California. The parties acknowledge that no retired or active (in-service including DROP) employee covered by this Agreement or the program established herein will lose or compromise any rights to Labor Code section 4850 pay, any presumptions allowed by California Law, or any other substantive right allowed by law.

1.4 The terms of this Agreement shall apply only to City of Fresno employees and retirees who are, or upon retirement were, members of Fresno City bargaining units 4 and 9, represented by the FPOA.

1.5 This Agreement shall apply only to injuries or illnesses compensable or alleged to be compensable under the Workers' Compensation laws of the State of California, including all claims, defenses, lien claims and Serious and Willful

Misconduct claims (Labor Code Section 4551, et seq.). Further, this Agreement applies to injuries, as defined by Workers' Compensation Law, claimed by 1) active (in-service including DROP) employees; 2) retirees who, while active (in-service including DROP) employees, made a claim alleging injury or illness; 3) retirees who, while active (in-service including DROP) employees, made a report, consistent with Department policy, of an industrial incident that may lead to injury or illness; 4) retirees, who were active (in-service including DROP) employees on or after the effective date of this Agreement, and claim a new presumptive injury as defined by Labor Code section 3212, et seq.; and 5) any retiree or active (in-service including DROP) employee who "opts in" to the ADR program pursuant to Section 1.3(b) above. Subject to the "opt in" provisions of Section 1.3(b), this Agreement does not cover post-retirement amendments to claims filed prior to the term of the Agreement. This Agreement does not apply to any other retired employees. Since section 132a of the Labor Code is not contained within Division 4 of the Labor Code, and since section 3201.7 applies only to Division 4 of the Labor Code, discrimination claims filed under section 132a may be litigated only within the program by the written agreement of the injured member/employee and the City of Fresno.

1.6 The City may delegate to its third party administrator ("TPA") the performance of its obligations under this Agreement, but it may not relieve itself of the legal responsibility for those obligations.

1.7 Joint Committee

This Agreement establishes a Joint Committee ("JC") which holds the exclusive authority to administer the ADR program; including but not limited to the authority to enforce the terms of the Agreement, establish policies, manage the implementation of the ADR program, promulgate and modify any rules of the program. The JC shall be made up of three (3) members selected by the FPOA and three (3) members selected by the City. The City Manager, or his/her designee shall select two (2) members and the Chief of Police shall select one member. The

Chief's selection shall be a full-time employee member of the Police Department, but is not required to be a sworn member. The JC shall meet as they deem necessary, but no less than once each month for the first six (6) months from the date of this Agreement, and quarterly thereafter. The JC will establish rules and procedures to guide the internal governance of the JC. The meetings shall be held alternatively, at the City offices and the FPOA office unless otherwise agreed by the parties. An agenda of each meeting shall be provided to all members of the JC at least one (1) week prior to the meeting date. Any disputes that arise between the members of the JC where action must be taken to administer the Program and cannot be resolved, shall be submitted to a three member "Dispute Resolution Committee" comprised of the ADR Director, and one JC member each from the FPOA and City. Any two members shall be authorized to seek resolution of a dispute by the Dispute Resolution Committee upon impasse. The Dispute Resolution Committee is to be guided by the terms of this Agreement and authorized to interpret this Agreement but not create additional terms. Unless agreed by the parties, any meetings of the Dispute Resolution Committee shall be scheduled within sixty (60) days and an award issued thirty (30) days after submission.

1.8 If any provision of this Agreement or its application is held invalid, the invalidity will not affect other provisions or applications of this Agreement that can be given without the invalid provisions or applications, and thus the provisions of this Agreement are deemed to be severable.

1.9 From time to time, this Agreement may be modified by the mutual written agreement of the City and FPOA or unanimous written consent of the JC.

2. Workers' Compensation Claim Dispute Prevention and Resolution

2.1 All disputes involving Workers' Compensation claims within the jurisdiction of this ADR program, including medical disputes, shall be subject to this dispute prevention and resolution process.

2.2 The component steps of this dispute prevention and resolution process are:

- a. The Ombudsperson
- b. The ADR Director/Mediator
- c. Arbitration
- d. Appeal by Petition for Reconsideration to the Workers' Compensation Appeals Board

2.3 The Joint Committee shall select an ADR Director/Mediator, Ombudsperson, and the arbitrators. The Joint Committee also has the authority to adopt rules of practice and procedure for the ADR Director/Mediator, Ombudsperson, and the arbitrators as they deem necessary to execute the letter and spirit of this Agreement. The JC may establish other positions which are necessary to effectively accomplish the goals and purposes of this Agreement.

2.4 The ADR Director/Mediator shall oversee the work of the Ombudsperson and other ADR professionals on an ongoing basis, train the other ADR professionals in conjunction with training the claims staff assigned to this program, attend all JC meetings and assist in the gathering and submission of data required to be provided to the Division of Workers' Compensation annually or as required by law. The ADR Director/Mediator shall also conduct all mediations and shall provide a written report outlining the issues in dispute and the disposition of the mediation session. The JC may establish other duties and assignments consistent with the position of ADR Director/Mediator.

2.5 The Ombudsperson shall consider the interests of the City and the injured FPOA members in performing his/her duties. In that regard, he/she should provide aid, counsel and advocacy for an individual injured FPOA member in an effort to establish common interests with the City so that disputes can be prevented or efficiently resolved within the Program. The Ombudsperson shall be proactive and seek to identify disputes before they occur where possible and attempt to ensure that all injured FPOA members are receiving the

compensation to which they are entitled. The City shall compensate the Ombudsperson and his/her services are free of cost to the injured FPOA member. The Ombudsperson is not responsible for timely completing or filing ADR forms or other documents for the employee, as this is the employee's responsibility. However, the Ombudsperson may assist in the completion of forms if requested.

The Ombudsperson will also receive all documents filed with the ADR program and will assign case numbers to each claim filed and will keep an electronic claims file containing all documents related to the claim. To the extent possible, claim numbers shall be consistent with claim numbers customarily established by the third party administrator, the WCAB, or the City. The JC may establish other duties and assignments consistent with the position of the Ombudsperson.

2.6 Three (3) arbitrators shall be selected and assigned to the Arbitrators Panel by the JC. The arbitrators shall be attorneys or retired Workers' Compensation Judges knowledgeable in the field of California Workers' Compensation. The arbitrators shall be responsible for adjudicating all disputes between the injured employee and the City arising out of the submission and processing of Workers' Compensation claims covered by this Agreement. The arbitrator is authorized to include in any award all relief available from a Workers' Compensation Judge including but not limited to enhancements to compensation due to any unreasonable delay in the payment of compensation by the City as provided for by law, and/or Labor Code section 4553 and/or attorneys' fees and costs. The arbitrator is authorized to resolve all liens not settled by the parties, provided that written notice of the time and place of the arbitration is given to the lienholders advising them of the right to appear and present argument and testimony in support of their lien claim.

2.7 In the event of the reporting of an injury or illness regarding an employee covered by this Agreement, the City, or its third party administrator,

shall notify the Ombudsperson within one (1) working day of receipt by the third party administrator of the first notice of injury/illness, and provide the name, address and telephone number of the injured employee. Thereafter, copies of the initial claim form, all medical treatment reports, all medical-legal reports, all notices to the injured employee denying, reducing, terminating or renewing compensation, all pleadings and any other documents of significance, other than documents that constitute attorney work product or other privileged documents, shall be served on the Ombudsperson electronically as soon as possible, but no later than five (5) days of receipt.

The Ombudsperson shall contact each injured member within the jurisdiction of the program as soon as possible, but no later than five (5) days of receipt of notice of the injury. Conversations between the Ombudsperson and the injured member, or the Ombudsperson and the City, or its third party administrator, are confidential (see Evidence Code section 1115, et seq.). Injured members may contact the Ombudsperson with any questions, to seek clarification or when they believe they are not receiving compensation to which they are entitled or have any other concern or dispute arising out of the processing of any claim.

2.8 Applications filed with the WCAB with an alleged date(s) of injury occurring on or after the effective date of this ADR program, and those applications that were filed prior to the effective date and have been accepted by the JC, shall be immediately dismissed and removed to the jurisdiction of this ADR program which is the sole means of dispute resolution for claims within the jurisdiction of this program. Every issue regarding the transfer of a claim from the WCAB to this program shall first be submitted to the Ombudsperson who shall seek a voluntary resolution of the issue, prior to filing any petitions, motions, declarations of readiness to proceed or any other documents or actions with the WCAB.

2.9 Where there is an acceptance, delay, or denial of a claim, or there is a change of position by the claims examiner, the Ombudsperson shall be advised

forthwith by the claims department and shall then advise each injured member no later than five (5) working days of the stated position of the claims administrator. The 5-day period may be extended by agreement, or on a showing of good cause.

2.10 No dispute may proceed to mediation until the Ombudsperson has been advised of all the issue(s) in dispute and has had an opportunity to resolve the dispute. Where the Ombudsperson is unable to resolve a dispute, any party, including the Ombudsperson, may request mediation of the dispute. The Ombudsperson shall, in his/her discretion, schedule a mediation where it is necessary to move a case toward resolution or is in the best interest of the program. Except where good cause exists, or unless the parties agree otherwise, the mediation process will be concluded within thirty (30) calendar days of the request for mediation.

2.11 With the approval of the ADR Director, the Ombudsperson may in his/her discretion attend any mediation if necessary to move the claim toward resolution or if necessary to further the interests of the program.

2.12 In the event that any dispute is not resolved in mediation, the matter may be set for arbitration at the request of either party. The Ombudsperson shall, as soon as practical, appoint an arbitrator from the list of those arbitrators chosen by the JC.

2.13 The Ombudsperson may in his/her discretion attend any arbitration if necessary to move the claim toward resolution or if necessary to further the interests of the program. The Ombudsperson shall secure the approval of the ADR Director when attending an arbitration. The Ombudsperson may provide general assistance to the injured member, if unrepresented, but may not act as the injured member's attorney.

2.14 The arbitrator shall apply the same presumptions of compensability,

statutory construction and rules of admissibility of evidence as would a Workers' Compensation Administrative Law Judge, and shall have the same authority as a Workers' Compensation Administrative Law Judge over discovery, the production of documents, the issuance of subpoenas and other procedural matters related to the hearing.

2.15 The JC shall promulgate specific rules for the location of the hearings, but unless good cause exists, all arbitration hearings must be venued in the greater Fresno area.

2.16 All arbitration hearings shall be recorded by a certified court reporter and such record, including documentary evidence, shall be retained by the arbitrator unless the parties agree to other methods of creating a record.

2.17 The arbitrator shall file with the Ombudsperson and serve on the parties and counsel his or her findings of fact, conclusions of law, orders and opinion within thirty (30) days of the submission of the matter for decision which shall be final and binding except for any appeal to the WCAB Appellate Panel. Any such appeal to the California Workers' Compensation Appeals Board shall be in the same manner as provided for reconsideration of a final order, decision or award made and filed by a Workers' Compensation Judge and by the California Court of Appeal. Any finding of fact, award, order or decision of the arbitrator shall be in the same form and have the same force and effect as findings of fact, and award, order or decision of a California Workers' Compensation Judge.

2.18 Nothing in this Agreement shall be interpreted as restricting in any way the City's or an injured member's right to retain legal counsel, per Labor Code section 3201.7. The FPOA, the City of Fresno, and the JC shall not be responsible or liable for any attorneys' fees associated with representation of any member. Attorneys' fees shall be established consistent with California Workers' Compensation law. The terms and conditions of any agreement between an employee and the employee's retained legal counsel are not

subject to this Agreement nor does this Agreement in any fashion alter or replace any or all California law applicable to an agreement between an attorney and a worker pursuing Workers' Compensation benefits.

2.19 All parties shall have the right to discovery as per the California Labor Code and California Code of Regulations.

2.20 In the event of a lien dispute, any lien claimant allowed to file a lien claim in the statutory system shall be allowed to file a lien claim in this alternative dispute resolution program where the alleged right to file stems from activity in a claim within the jurisdiction of this Program. The Ombudsperson, at the request of the City or a lien claimant may bypass the mediation step, in the dispute resolution process and set the lien dispute immediately for arbitration, if the Ombudsperson is unable to resolve the dispute.

2.21 The scheduling and cost of interpreters will be handled pursuant to Workers' Compensation law. The ADR Director and/or Ombudsperson shall have the authority to select an appropriate interpreter if one is required.

2.22 The ADR Director and/or Ombudsperson shall have the authority to appoint assigned permanent disability raters as necessary.

2.23 The ADR Director or an assigned arbitrator must approve all settlements by determining their adequacy based upon the evidentiary record and standards consistent with the Workers' Compensation laws.

2.24 All documents filed by any party with the ADR program regarding claims within the ADR program shall be filed with the Ombudsperson or any other place or designee as determined by the JC.

2.25 The City shall pay all costs incurred in retaining the ADR professionals necessary to carry out the responsibilities set forth in this Agreement.

2.26 The Ombudsperson, and all other ADR professionals retained to

provide professional ADR services within the jurisdiction of this ADR program, shall exercise independent discretion in fulfilling the responsibilities required under this ADR Agreement on a case-by-case basis. While the JC holds the responsibility for supervising these ADR professionals to assure quality performance in fulfilling their obligations under this ADR Agreement, it is also understood by the parties to this ADR Agreement that in order for these ADR professionals to maximize their effectiveness, their independence and credibility with all parties involved in claims within the jurisdiction of this ADR program must be protected.

3. Medical Treatment

3.1 The JC shall establish a network of health care providers authorized to provide treatment to those injured within the jurisdiction of the alternative dispute resolution program. This network shall be identified in writing and made available to those utilizing this program.

3.2 The JC shall select a nurse advocate who shall be accessible to those City employees and representatives whom are responsible for processing, facilitating, or evaluating injured workers' claims; any injured employee within the jurisdiction of this ADR program; the Ombudsperson; and the claims examiner, for the purpose of answering medical questions and interacting with medical providers as medically appropriate for the purpose of facilitating the provision of the best possible medical care as efficiently as possible. The nurse advocate shall both promptly respond to any contact by an injured employee within the jurisdiction of the program and contact injured employees when instructed to do so by the Ombudsperson or the ADR Director. The dissemination of information from any communications between the nurse advocate and the City representative is subject to the privacy rights of the injured worker. This Agreement is not meant in any way to abrogate, impair, or curtail the privacy rights of an injured worker.

3.3 An injured employee shall have the right to choose any of the

authorized medical providers that offer treatment consistent with the nature of the injuries.

3.4 In an emergency, an injured employee covered by this Agreement may seek treatment from a health care provider or facility not authorized by this Agreement for the purpose of obtaining emergency treatment only. Treatment shall be transferred to an authorized provider as soon as possible, consistent with sound medical practices.

3.5 In the event that there is no authorized provider within the appropriate medical specialty to provide the treatment required, the authorized primary treating physician shall recommend a provider or providers that he/she believes is best qualified to provide the treatment required.

3.6 Where compensability is in dispute and the City is denying responsibility for the payment of medical treatment, the injured employee is not required to obtain treatment by an authorized provider, pending the resolution of the issue of compensability.

3.7 It is the intent of the parties and a primary goal of the ADR program, and therefore a directive to the JC, that to the greatest extent reasonably possible injured employees shall be returned to work as soon as practical. Such early return to work shall occur only where the light or modified work offered is consistent with any restrictions imposed by the injured employee's treating physician.

4. Medical Evaluation

4.1 The JC shall establish a network of medical-legal examiners to serve as the exclusive source of comprehensive medical-legal evaluations within the jurisdiction of this program. Any issue of the appropriateness of medical treatment shall be resolved in this program and shall be submitted to the appointed medical-legal examiner. It is the parties' intention to not utilize the independent medical review provisions of Labor Code section 4616.4 and the

regulations thereunder.

4.2 The injured employee and the City of Fresno may each schedule an appointment with a medical-legal examiner in any medical specialty relevant to the case in dispute. Absent good cause to the contrary, the injured employee shall be entitled to one examination with a medical-legal examiner in each relevant specialty. Any dispute regarding whether a report in any particular medical specialty is relevant shall be submitted to mediation and, if necessary, arbitration. The Ombudsperson shall also have the authority to schedule a medical-legal exam if necessary to move the case toward resolution or it is found to be in the best interests of the program. The selected medical-legal examiner in each case has the authority to resolve any question that requires independent medical-legal review.

Executed at Fresno, California.

CITY OF FRESNO:

FRESNO POLICE OFFICERS
ASSOCIATION:

Dated: 6/53/15

Dated: _____

Bruce Rudd
By: Bruce Rudd
City Manager

By: Jacky Parks
President, FPOA

By: Andrew J. Hall
President, FPOA Management

regulations thereunder.

4.2 The injured employee and the City of Fresno may each schedule an appointment with a medical-legal examiner in any medical specialty relevant to the case in dispute. Absent good cause to the contrary, the injured employee shall be entitled to one examination with a medical-legal examiner in each relevant specialty. Any dispute regarding whether a report in any particular medical specialty is relevant shall be submitted to mediation and, if necessary, arbitration. The Ombudsperson shall also have the authority to schedule a medical-legal exam if necessary to move the case toward resolution or it is found to be in the best interests of the program. The selected medical-legal examiner in each case has the authority to resolve any question that requires independent medical- legal review.

Executed at Fresno, California.

CITY OF FRESNO:

FRESNO POLICE OFFICERS
ASSOCIATION:

Dated: _____

Dated: 06/22/15

By: Bruce Rudd
City Manager

By: Jacky Parks
President, FPOA

By: Andrew J. Hall
President, FPOA Management

APPROVED AS TO FORM AND CONTENT:

DOUGLAS T. SLOAN

City Attorney

Dated: _____

James R. Libien
Renne Sloan Holtzman Sakai LLP
Legal Counsel for the City of Fresno

APPROVED AS TO FORM AND CONTENT:

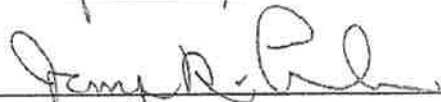
Dated: 6/23/15

Rockne A. Lucia, Jr.
Rains Lucia Stern, PC
Legal Counsel for the Fresno Police Officers
Association

060815 ver 1

APPROVED AS TO FORM AND CONTENT:
DOUGLAS T. SLOAN
City Attorney

Dated: June 16, 2015



James R. Libien
Renne Sloan Holtzman Sakai LLP
Legal Counsel for the City of Fresno

APPROVED AS TO FORM AND CONTENT:

Dated: _____

Rockne A. Lucia, Jr.
Rains Lucia Stern, PC
Legal Counsel for the Fresno Police Officers
Association

060815 ver 1

State of California

Report Location Number:

Identification of Location

Certificate Holder

7116-02-234 A

TRISTAR CLAIMS MANAGEMENT SERVICES, INC. at
FRESNO

City of Fresno

CASES AND BENEFITS (to the nearest dollar)				From Date-	07/01/2024	To Date-	06/30/2025
		Incurred Liability		Paid To Date		Future Liability	
Date	#	Indemnity	Medical	Indemnity	Medical	Indemnity	Medical
1) Cases open as of 06/30/2025 reported prior to 2020/21	975	\$67,736,158	\$95,838,388	\$54,037,847	\$58,883,227	\$13,698,311	\$36,955,161
2) Open and closed Liabilities							
A) All Cases reported in 2020/21	890	\$19,226,486	\$14,101,401	\$14,391,605	\$6,817,718	\$4,834,881	\$7,283,683
2020/21 Cases open	256	\$16,143,340	\$12,563,540	\$11,308,459	\$5,279,857	\$4,834,881	\$7,283,683
B) All Cases reported in 2021/22	1,090	\$16,290,557	\$16,195,581	\$11,943,356	\$8,275,828	\$4,347,201	\$7,919,753
2021/22 Cases open	230	\$15,055,634	\$15,256,846	\$10,708,433	\$7,337,093	\$4,347,201	\$7,919,753
C) All Cases reported in 2022/23	812	\$15,463,436	\$13,465,994	\$9,969,445	\$5,889,568	\$5,493,991	\$7,576,426
2022/23 Cases open	292	\$14,756,149	\$12,559,762	\$9,262,158	\$4,983,336	\$5,493,991	\$7,576,426
D) All Cases reported in 2023/24	895	\$12,804,277	\$15,645,480	\$7,614,194	\$5,764,803	\$5,190,083	\$9,880,677
2023/24 Cases open	382	\$12,231,289	\$14,852,350	\$7,041,206	\$4,971,673	\$5,190,083	\$9,880,677
E) All Cases reported in 2024/25	922	\$6,305,311	\$10,887,873	\$2,702,143	\$2,307,376	\$3,603,168	\$8,580,497
2024/25 Cases open	601	\$6,055,914	\$10,585,755	\$2,452,746	\$2,005,258	\$3,603,168	\$8,580,497

	\$ Indemnity	\$ Medical
SUBTOTAL	\$37,167,635	\$78,196,197

3) Estimate Future Liability (Indemnity Plus Medical)

TOTAL \$115,363,832

4) Total Benefits Paid During 2024/25 (Including all case expenditures). The indemnity amount includes the amount of LC § 4800/4850 benefits paid for the year (total of Lines 11 and 12)

\$ Indemnity	\$ Medical
\$18,850,830	\$15,602,033

5) Number of MEDICAL-ONLY Cases Reported in 2024/25

218

6) Number of INDEMNITY Cases Reported in 2024/25

704

7) Total of 5 and 6 (Also entered in 2E above)

922

8) Total Number of open Indemnity Cases (All Years)

2,629

9) Number of Fatality Cases Reported In 2024/25

0

10) (a) Number of FY 2024/25 claims for which the employer or administrator was notified of representation by an attorney or legal representative in 2024/25

33

10) (a) Number of non-FY 2024/25 claims for which the employer or administrator was notified of representation by an attorney or legal representative in 2024/25

38

11) Amount from salary continuation payments made pursuant to LC § 4800/4850 that is in excess of the applicable temporary disability rate for the period paid.

\$2,468,389

12) Amount from salary continuation payments made pursuant to LC § 4800/4850 capped at the temporary disability rate for the period paid.

\$4,633,221

Files Uploaded

ALL Open Indemnity Claims (by reporting and by year) reported and with claims: SIP_Open Indem-City of Fresno_2024-2025.pdf

ATTACHMENT I

**STATEMENT OF ACCEPTANCE OF THE INDEMNIFICATION
AND INSURANCE REQUIREMENTS
FOR
WORKERS' COMPENSATION ADMINISTRATION SERVICES**

The Proposer shall sign below that the Proposer accepts in whole the Indemnification and Insurance Requirements set forth in these specifications. If the Proposer takes exception to some portions, those portions shall be listed here below and the Proposer shall sign that the Proposer accepts all portions of the requirements not listed.

Note: Any exceptions may render the proposal non-responsive.

☐ ACCEPT
☐ DO NOT ACCEPT

If "DO NOT ACCEPT" is checked, please list exceptions:

Name of Proposer

Signature of Authorized Person

Type or Print Name of Authorized Person

CITY OF FRESNO
DISCLOSURE OF CONFLICT OF INTEREST
Workers' Compensation Claims Administration
 PROJECT TITLE

		YES*	NO
1	Are you currently in litigation with the City of Fresno or any of its agents?	☐	☐
2	Do you represent any firm, organization or person who is in litigation with the City of Fresno?	☐	☐
3	Do you currently represent or perform work for any clients who do business with the City of Fresno?	☐	☐
4	Are you or any of your principals, managers or professionals, owners or investors in a business which does business with the City of Fresno, or in a business which is in litigation with the City of Fresno?	☐	☐
5	Are you or any of your principals, managers or professionals, related by blood or marriage to any City of Fresno employee who has any significant role in the subject matter of this service?	☐	☐
6	Do you or any of your subcontractors have, or expect to have, any interest, direct or indirect, in any other contract in connection with this Project?	☐	☐
* If the answer to any question is yes, please explain in full below.			

Explanation: _____

☐ Additional page(s) attached.

Signature

Date

(name)

(company)

(address)

(city state zip)

Local Preference

Fresno Municipal Code Section 4-109, LOCAL PREFERENCE IN CONTRACTS FOR CONSULTANT SERVICES, provides for a local preference. Portions pertinent to this Agreement are paraphrased as follows:

Except for those contracts funded by the federal or state government when such funding would be jeopardized because of this preference, the City of Fresno shall contract for professional consulting services by giving a primary preference to local firms, when such firms have the necessary qualifications, experience and expertise to complete the project(s) being proposed for work, as determined by the City. A secondary preference shall be similarly given to non-local firms which form an association for pecuniary profit with local firms for the projects being proposed wherein the benefit to the local firm(s) is an amount greater than fifteen (15) percent of the total contract price for the project(s).

Notwithstanding the preceding, the above preferences shall not be applicable whenever, to the best knowledge of the City, the number of local firms providing the specific consulting service within the area of expertise for the subject matter of the work is less than three.

A "Local firm" shall mean a firm with a fixed primary or branch office within a twenty-five mile radius of Fresno City Hall, located at 2600 Fresno Street in the City of Fresno, and a majority of the work on the project will be performed by employees who are permanently assigned to such office prior to the City requesting proposals for the project and whose regular duties would include local work on other than City projects.

Proposers seeking local preference must complete the CERTIFICATION FOR LOCAL PREFERENCE form and submit it with their proposal. The preference is waived if the certification is not included with the proposal.

ATTACHMENT III

**CERTIFICATION FOR LOCAL PREFERENCE
FOR: WORKERS' COMPENSATION CLAIMS ADMINISTRATION RFP**

- [] We certify that we qualify as a local firm pursuant to Fresno Municipal Code Section 4-109(b)(1).
- [] We certify that we qualify as a non-local firm which has formed an association for pecuniary profit with the local firm listed below for the project being proposed wherein the benefit to the local firm is an amount greater than 15% of the total contract price for the project (as provided in Fresno Municipal Code Section 4-109(b)(2)).

Location of Proposer's Business:

(Please provide street address, no PO Box)

Primary Office []

Branch Office []

(Please mark as applicable)

Address: _____

Phone: _____

Name and Location of Associated Local Firm's Business:

Primary Office []

Branch Office []

Name: _____

(Please mark as applicable)

(Please provide street address, no PO Box)

Address: _____

Phone: _____

The undersigned Proposer hereby certifies under penalty of perjury under the laws of the State of California that the information contained on this CERTIFICATION FOR LOCAL PREFERENCE is correct and complete.

The above Statement is part of the proposal. Signing this proposal on the signature page thereof shall also constitute signature of this Certification. Proposers are cautioned that making a false certification may subject the certifier to criminal prosecution.

ATTACHMENT IV

NON-COLLUSION AFFIDAVIT FOR WORKERS' COMPENSATION CLAIMS SERVICES

Proposer's Name: _____

Proposer declares under penalty of perjury under the laws of the State of California that this proposal is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization, or corporation; that such proposal is genuine and not collusive or sham; that said Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal and has not directly or indirectly colluded, conspired, connived, or agreed with any Proposer or anyone else to put in a sham proposal, or that anyone shall refrain from submitting a proposal; that said Proposer has not in any manner directly or indirectly sought by agreement, communication, or conference with anyone to fix the proposal price of said proposer or of any other proposer, or to fix any overhead profit, or cost element of such proposal price, or of that of any other Proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in such proposal are true, and further, that said Proposer has not directly or indirectly submitted his proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid and will not pay any fee in connection therewith, to any corporation, partnership, company, association, organization, proposal depository, or to any member or agent thereof, or to any other individual except to any person or persons who have a partnership or other financial interest with said proposer in this general business.

The above Non-Collusion Affidavit is part of the proposal. Signing this proposal on the signature page thereof shall also constitute signature of this Non-Collusion Affidavit.

Proposers are cautioned that making a false certification may subject the certifier to criminal prosecution.

ATTACHMENT V

WORKERS' COMPENSATION ADMINISTRATION SERVICES

PROPOSAL SIGNATURE PAGE - MUST SUBMIT WITH PROPOSAL

PROPOSER'S NAME: _____

REPRESENTATIONS MADE HEREIN ARE MADE UNDER PENALTY OF PERJURY

(Please follow the instructions for each line, as explained below.)

PROPOSAL SUBMITTED BY:

Proposing Firm Area Code/Telephone Number FAX Number

(Corporation) (Individual) (Partner) (Other)

Business Address

City of Fresno Business License Number

By: _____

Signature of Authorized Person

Date

Federal Tax I.D. No.: _____

INSTRUCTIONS FOR SIGNATURE PAGE

PLEASE FOLLOW THE INSTRUCTIONS BELOW REFERENCING THE ABOVE.

- Line 1: The name of the Proposer must be same as that under which a license is issued, if a license is required. If the Proposer is a CORPORATION, enter the exact name of the corporation under which it is incorporated. If Proposer is an INDIVIDUAL, enter name; or if the proposer is an individual operating under a trade name, enter name and DBA (trade name in full). If a PARTNERSHIP, enter the correct trade style of the partnership. If a JOINT VENTURE, enter exact names of entities joining in the venture.
- Line 2: Identify here the character of the name shown under (1); i.e., corporation (including state of incorporation), individual, partnership, or joint venture.
- Line 3: Enter the address to which all communications and notices regarding the Proposal and any contract awarded thereunder are to be addressed.
- Line 4: (a) If the Proposer is a CORPORATION, the proposal must be signed by an officer or employee authorized to sign contracts on behalf of the corporation evidenced by inclusion of one of the following, certified by the secretary of the corporation authorizing the officer or employee to sign contracts: a copy of the Articles of Incorporation, a copy of the Bylaws or a copy of the Board Resolution or Minutes.
- (b) If the Proposer is an individual, he/she must sign the Bid Proposal, or if the Bid Proposal is signed by an employee or agent on behalf of the Proposer, a copy of a power of attorney must be on file with the City of Fresno prior to the time set for the opening of the bids or must be submitted with the Bid Proposal.
- (c) If the Proposer is a PARTNERSHIP, the Bid Proposal must be signed by all general partners or by a general partner(s) authorized to sign Contracts on behalf of the partnership evidenced by inclusion of either a copy of the Partnership Agreement or a recorded Statement of Partnership.
- (d) If the Proposer is a JOINT VENTURE, the Bid Proposal must be signed by all joint venturers; or by a joint venturer(s) authorized to sign Contracts on behalf of the joint venture evidenced by inclusion of either a copy of the Joint Venture Agreement or a recorded Statement of Joint Venture; and if the joint venturer(s) is a corporation or a partnership signing on behalf of the joint venture, then paragraphs (a) and (c) above apply respectively.

Where Proposer is a partnership or a corporation, the names of all other general partners or the names of the president and secretary of the corporation, and their business addresses must be shown below:

NAME

ADDRESS

NOTE: All signatures must be typewritten under written signature.

NOTE: Addresses must be complete with street number, city, state, and zip code.

**SAMPLE AGREEMENT
CITY OF FRESNO, CALIFORNIA
CONSULTANT SERVICES**

THIS AGREEMENT (Agreement) is made and entered into, effective on _____, by and between the CITY OF FRESNO, a California municipal corporation (City), and [Consultant Name], [Legal Identity] (Consultant).

RECITALS

WHEREAS, the City desires to obtain professional [Kind of Service] services for [Describe Project] (Project); and

WHEREAS, the Consultant is engaged in the business of furnishing services as a [Consultant's Profession] and hereby represents that it desires to and is professionally and legally capable of performing the services called for by this Agreement; and

WHEREAS, the Consultant acknowledges that this Agreement is subject to the requirements of Fresno Municipal Code Section 4-107 and Administrative Order No. 6-19; and

WHEREAS, this Agreement will be administered for the City by its [SELECT] (Administrator) or designee.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises hereinafter contained to be kept and performed by the respective parties, it is mutually agreed as follows:

1. Scope of Services. The Consultant shall perform to the satisfaction of the City the services described in **Exhibit A**, including all work incidental to, or necessary to perform, such services even though not specifically described in **Exhibit A**.
2. Term of Agreement and Time for Performance. This Agreement shall be effective from the date first set forth above (Effective Date) and shall continue in full force and effect through [End Date], subject to any earlier termination in accordance with this Agreement. The services of the Consultant as described in **Exhibit A** are to commence upon the Effective Date and shall be completed in a sequence assuring expeditious completion, but in any event, all such services shall be completed prior to expiration of this Agreement and in accordance with any performance schedule set forth in **Exhibit A**.
3. Compensation.
 - (a) The Consultant's sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement shall not exceed [Fee Amount: e.g. \$500], paid on the basis of the rates set forth in the schedule of fees and expenses contained in **Exhibit A**.
 - (b) Detailed statements shall be rendered monthly for services performed in the

preceding month and will be payable in the normal course of City business. The City shall not be obligated to reimburse any expense for which it has not received a detailed invoice with applicable copies of representative and identifiable receipts or records substantiating such expense.

- (c) The parties may modify this Agreement to increase or decrease the scope of services or provide for the rendition of services not required by this Agreement, which modification shall include an adjustment to the Consultant's compensation. Any change in the scope of services must be made by written amendment to the Agreement signed by an authorized representative for each party. The Consultant shall not be entitled to any additional compensation if services are performed prior to a signed written amendment.

4. Termination, Remedies, and Force Majeure.

- (a) This Agreement shall terminate without any liability of the City to the Consultant upon the earlier of: (i) the Consultant's filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against the Consultant; (ii) seven calendar days prior written notice with or without cause by the City to the Consultant; (iii) the City's non-appropriation of funds sufficient to meet its obligations hereunder during any City fiscal year of this Agreement, or insufficient funding for the Project; or (iv) expiration of this Agreement.
- (b) Immediately upon any termination or expiration of this Agreement, the Consultant shall (i) immediately stop all work hereunder; (ii) immediately cause any and all of its subcontractors to cease work; and (iii) return to the City any and all unearned payments and all properties and materials in the possession of the Consultant that are owned by the City. Subject to the terms of this Agreement, the Consultant shall be paid compensation for services satisfactorily performed prior to the effective date of termination. The Consultant shall not be paid for any work or services performed or costs incurred which reasonably could have been avoided.
- (c) In the event of termination due to failure of the Consultant to satisfactorily perform in accordance with the terms of this Agreement, the City may withhold an amount that would otherwise be payable as an offset to, but not in excess of, the City's damages caused by such failure. In no event shall any payment by the City pursuant to this Agreement constitute a waiver by the City of any breach of this Agreement which may then exist on the part of the Consultant, nor shall such payment impair or prejudice any remedy available to the City with respect to the breach.
- (d) Upon any breach of this Agreement by the Consultant, the City may (i) exercise any right, remedy (in contract, law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law; (ii) proceed by appropriate court action to enforce the terms of the Agreement; and/or (iii) recover all direct, indirect, consequential, economic and incidental damages for the breach of the Agreement. If it is

determined that the City improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.

- (e) The Consultant shall provide the City with adequate written assurances of future performance, upon Administrator's request, in the event the Consultant fails to comply with any terms or conditions of this Agreement.
- (f) The Consultant shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Consultant and without its fault or negligence such as, acts of God or the public enemy, acts of the City in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Consultant shall notify Administrator in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Administrator of the cessation of such occurrence.

5. Confidential Information and Ownership of Documents.

- (a) Any reports, information, or other data prepared or assembled by the Consultant pursuant to this Agreement shall not be made available to any individual or organization by the Consultant without the prior written approval of the Administrator. During the term of this Agreement, and thereafter, the Consultant shall not, without the prior written consent of the City, disclose to anyone any Confidential Information. The term Confidential Information for the purposes of this Agreement shall include all proprietary and confidential information of the City, including but not limited to business plans, marketing plans, financial information, materials, compilations, documents, instruments, models, source or object codes and other information disclosed or submitted, orally, in writing, or by any other medium or media. All Confidential Information shall be and remain confidential and proprietary in the City.
- (b) Any and all writings and documents prepared or provided by the Consultant pursuant to this Agreement are the property of the City at the time of preparation and shall be turned over to the City upon expiration or termination of the Agreement. The Consultant shall not permit the reproduction or use thereof by any other person except as otherwise expressly provided herein.
- (c) If the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the Consultant shall cause each subcontractor to also comply with the requirements of this Section 5.
- (d) This Section 5 shall survive expiration or termination of this Agreement.

6. Professional Skill. It is further mutually understood and agreed by and between the parties hereto that inasmuch as the Consultant represents to the City that the Consultant and its subcontractors, if any, are skilled in the profession and shall perform in accordance with the standards of said profession necessary to perform the services agreed to be done by it under this Agreement, the City relies upon the

skill of the Consultant and any subcontractors to do and perform such services in a skillful manner and the Consultant agrees to thus perform the services and require the same of any subcontractors. Therefore, any acceptance of such services by the City shall not operate as a release of the Consultant or any subcontractors from said professional standards.

7. Indemnification. To the furthest extent allowed by law, the Consultant shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees, litigation expenses and cost to enforce this Agreement) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the Consultant, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

If the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the Consultant shall require each subcontractor to indemnify, hold harmless and defend the City and each of its officers, officials, employees, agents, and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

8. Insurance.

- (a) Throughout the life of this Agreement, the Consultant shall pay for and maintain in full force and effect all insurance as required in **Exhibit B**, which is incorporated into and part of this Agreement, with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than "A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by the City's Risk Manager or designee at any time and in its sole discretion. The required policies of insurance as stated in **Exhibit B** shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to the City, its officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.
- (b) If at any time during the life of the Agreement or any extension, the Consultant or any of its subcontractors/sub-consultants fail to maintain any required insurance, all services and work under this Agreement shall be discontinued immediately, and all payments due, or that become due, to the Consultant shall be withheld until insurance is in compliance with the requirements. Any failure to maintain the required insurance shall be sufficient cause for the City to terminate this Agreement. No action taken by the City pursuant to this section shall in any way relieve the Consultant of its responsibilities under this Agreement. The phrase "fail to maintain any

required insurance” shall include, without limitation, notification received by the City that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

- (c) The fact that insurance is obtained by the Consultant shall not be deemed to release or diminish the liability of the Consultant, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify the City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Consultant. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of the Consultant, its principals, officers, agents, employees, persons under the supervision of the Consultant, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

9. Conflict of Interest and Non-Solicitation.

- (a) Prior to the City’s execution of this Agreement, the Consultant shall complete a City of Fresno conflict of interest disclosure statement in the form as set forth in **Exhibit C**. During the term of this Agreement, the Consultant shall have the obligation and duty to immediately notify the City in writing of any change to the information provided by the Consultant in such statement.
- (b) The Consultant shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state, and local conflict of interest laws and regulations including, without limitation, California Government Code Section 1090 et. seq., the California Political Reform Act (California Government Code Section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq.). At any time, upon written request of the City, the Consultant shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, the Consultant and the respective subcontractor(s) are in full compliance with all laws and regulations. The Consultant shall take, and require its subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, the Consultant shall immediately notify the City of these facts in writing.
- (c) Consultant’s duties and services under this Agreement shall not include preparing or assisting the City with any portion of the City’s preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the City. The City entering this Agreement shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of this Project. Consultant’s participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or

specifications. Consultant shall cooperate with the City to ensure that all bidders for a subsequent contract on any subsequent phase of this Project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by Consultant pursuant to this Agreement.

- (d) In performing the work or services to be provided hereunder, the Consultant shall not employ or retain the services of any person while such person either is employed by the City or is a member of any City council, commission, board, committee, or similar City body. This requirement may be waived in writing by the City Manager, if no actual or potential conflict is involved.
 - (e) The Consultant represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, direct or indirect, to solicit, or procure this Agreement or any rights/benefits hereunder.
 - (f) Neither the Consultant, nor any of the Consultant's subcontractors performing any services on this Project, shall bid for, assist anyone in the preparation of a bid for, or perform any services pursuant to, any other contract in connection with this Project unless fully disclosed to and approved by the City Manager, in advance and in writing. The Consultant and any of its subcontractors shall have no interest, direct or indirect, in any other contract with a third party in connection with this Project unless such interest is in accordance with all applicable law and fully disclosed to and approved by the City Manager, in advance and in writing. Notwithstanding any approval given by the City Manager under this provision, the Consultant shall remain responsible for complying with Section 9(b), above.
 - (g) If the Consultant should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, the Consultant shall include the provisions of this Section 9 in each subcontract and require its subcontractors to comply therewith.
 - (h) This Section 9 shall survive expiration or termination of this Agreement.
10. Recycling Program. In the event the Consultant maintains an office or operates a facility(ies), or is required herein to maintain or operate same, within the incorporated limits of the City of Fresno, the Consultant at its sole cost and expense shall:
- (a) Immediately establish and maintain a viable and ongoing recycling program, approved by the City's Solid Waste Management Division, for each office and facility. Literature describing the City recycling programs is available from the City's Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.
 - (b) Immediately contact the City's Solid Waste Management Division at (559) 621-1452 and schedule a free waste audit, and cooperate with such Division in their conduct of the audit for each office and facility.
 - (c) Cooperate with and demonstrate to the satisfaction of the City's Solid Waste Management Division the establishment of the recycling program in

paragraph (a) above and the ongoing maintenance thereof.

11. General Terms.

- (a) Except as otherwise provided by law, all notices expressly required of the City within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the Administrator or designee.
- (b) Records of the Consultant's expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the City or its authorized representatives upon request during regular business hours throughout the life of this Agreement and for a period of three years after final payment or, if longer, for any period required by law. In addition, all books, documents, papers, and records of the Consultant pertaining to the Project shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. If any litigation, claim, negotiations, audit or other action is commenced before the expiration of said time period, all records shall be retained and made available to the City until such action is resolved, or until the end of said time period whichever shall later occur. If the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the Consultant shall cause each subcontractor to also comply with the requirements of this paragraph. This Section 11(b) shall survive expiration or termination of this Agreement.
- (c) Prior to execution of this Agreement by the City, the Consultant shall have provided evidence to the City that the Consultant is licensed to perform the services called for by this Agreement (or that no license is required). If the Consultant should subcontract all or any portion of the work or services to be performed under this Agreement, the Consultant shall require each subcontractor to provide evidence to the City that subcontractor is licensed to perform the services called for by this Agreement (or that no license is required) before beginning work.

12. Nondiscrimination. To the extent required by controlling federal, state and local law, the Consultant shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, the Consultant agrees as follows:

- (a) The Consultant will comply with all applicable laws and regulations providing that no person shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.

- (b) The Consultant will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. The Consultant shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Such requirement shall apply to the Consultant's employment practices including, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.
- (c) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant in pursuit hereof, state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.
- (d) The Consultant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising such labor union or workers' representatives of the Consultant's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (e) If the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the Consultant shall cause each subcontractor to also comply with the requirements of this Section 12.

13. Independent Contractor.

- (a) In the furnishing of the services provided for herein, the Consultant is acting solely as an independent contractor. Neither the Consultant, nor any of its officers, agents, or employees shall be deemed an officer, agent, employee, joint venturer, partner or associate of the City for any purpose. The City shall have no right to control or supervise or direct the manner or method by which the Consultant shall perform its work and functions. However, the City shall retain the right to administer this Agreement so as to verify that the Consultant is performing its obligations in accordance with the terms and conditions thereof.
- (b) This Agreement does not evidence a partnership or joint venture between the Consultant and the City. The Consultant shall have no authority to bind the

City absent the City's express written consent. Except to the extent otherwise provided in this Agreement, the Consultant shall bear its own costs and expenses in pursuit thereof.

- (c) Because of its status as an independent contractor, the Consultant and its officers, agents, and employees shall have absolutely no right to employment rights and benefits available to the City employees. The Consultant shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare and retirement benefits. In addition, together with its other obligations under this Agreement, the Consultant shall be solely responsible, indemnify, defend and save the City harmless from all matters relating to employment and tax withholding for and payment of the Consultant's employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers' compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in the City employment benefits, entitlements, programs and/or funds offered employees of the City whether arising by reason of any common law, de facto, leased, or co-employee rights or other theory. It is acknowledged that during the term of this Agreement, the Consultant may be providing services to others unrelated to the City or to this Agreement.
- 14. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.
- 15. Binding. Subject to Section 16, below, once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees, and representatives.
- 16. Assignment.
 - (a) This Agreement is personal to the Consultant and there shall be no assignment by the Consultant of its rights or obligations under this Agreement without the prior written approval of the City Manager or designee. Any attempted assignment by the Consultant, its successors or assigns, shall be null and void unless approved in writing by the City Manager or designee.
 - (b) The Consultant hereby agrees not to assign the payment of any monies due the Consultant from the City under the terms of this Agreement to any other individual(s), corporation(s) or entity(ies). The City retains the right to pay any

and all monies due the Consultant directly to the Consultant.

17. Compliance With Law. In providing the services required under this Agreement, the Consultant shall at all times comply with all applicable laws of the United States, the State of California and the City, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.
18. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.
19. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.
20. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.
21. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability of any one provision in this Agreement shall not affect the other provisions.
22. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.
23. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.
24. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.
25. Precedence of Documents. In the event of any conflict between the body of this Agreement and any Exhibit or Attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or Attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.

26. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.
27. No Third Party Beneficiaries. The rights, interests, duties and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.
28. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both the City and the Consultant.

[SIGNATURES FOLLOW ON THE NEXT PAGE.]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a California municipal corporation

[CONSULTANT NAME],
[Legal Identity]

By: _____
[Name]
[Title]

By: _____
Name: _____

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

Title: _____
(If corporation or LLC., Board Chair, Pres.
or Vice Pres.)

By: _____
Sukhman S. Sekhon Date
Deputy City Attorney

By: _____
Name: _____

ATTEST:
AMY K. ALLER
Interim City Clerk

Title: _____
(If corporation or LLC., CFO, Treasurer,
Secretary or Assistant Secretary)

By: _____
Deputy Date

Any Applicable Professional License:
Number: _____
Name: _____
Date of Issuance: _____

Addresses:

CITY:
City of Fresno
Attention: [Name], [Title]
[Street Address]
Fresno, CA [Zip]
Phone: (559) [#]
E-mail: [E-mail address]

CONSULTANT:
[Consultant Name]
Attention: [Name], [Title]
[Street Address]
[City, State Zip]
Phone: [area code and #]
E-mail: [E-mail address]

Attachments:

1. Exhibit A - Scope of Services
2. Exhibit B - Insurance Requirements (See Section X of the RFP)
3. Exhibit C – Disclosure of Conflict of Interest (See Attachment II of the RFP)