



## CITY OF PRESCOTT NOTICE OF REQUEST FOR PROPOSALS (RFP)

**Solicitation Number:** 12RMD0052

**Title:** WORKER'S COMPENSATION ADMINISTRATION SERVICES

**DUE IN AND OPENS:** JULY 13, 2012 AT OR BEFORE 2:00 P.M. LOCAL ARIZONA TIME (MST)

**Submit Proposal to:**

**CITY OF PRESCOTT  
PURCHASING DEPARTMENT  
201 S CORTEZ ST.  
PRESCOTT, AZ 86303**

**SOLICITATION:** The City of Prescott is soliciting proposals from qualified firms, willing to provide the following services in compliance with all solicitation specifications and requirements contained or referenced herein.

**GENERAL DESCRIPTION:** Worker's Compensation Administration Services, as per the specifications and requirements called for herein.

You may download a full copy of this solicitation at <http://www.cityofprescott.net/business/bids> and selecting the solicitation number. Offerors are required to check this website for addenda prior to the Due In and Opens Date and Time to assure that the proposal incorporates all addenda. Prospective Offerors may also pick up a copy, Monday through Friday excluding legal holidays, 8 am to 5 pm LOCAL ARIZONA TIME (MST), at the address listed above.

Proposals shall be submitted as defined in the Instructions to Offerors, in accordance with the Standard Terms and Conditions, and all solicitation documents either referenced or included herein. Failure to do so may be cause for rejection.

Offerors must complete and return those documents identified in the Instruction to Offerors Submission of Proposals instruction.

Proposals may not be withdrawn for 60 days after opening except as allowed by the City of Prescott Procurement Code.

Bonds are not required.

**OFFERORS ARE REQUIRED TO READ THE ENTIRE SOLICITATION, INCLUDING ALL REFERENCED DOCUMENTS, TO ASSURE THAT THEY CAN AND ARE WILLING TO COMPLY, AND TO INCORPORATE ALL ASSOCIATED COSTS IN THEIR PROPOSAL.**

Questions and Deviation requests shall be submitted in writing to Purchasing Department, Attention: Dawn Foster. All submittals shall reference the Solicitation Number and Title; Questions or Deviation Requests submitted within 5 days of the solicitation *Due In and Opens Date and Time* may not be answered.

**Fax:** (928) 777-1241    **email:** [Dawn.Foster@prescott-az.gov](mailto:Dawn.Foster@prescott-az.gov)

**USPO Mail to the following address:**

City of Prescott Purchasing Department, 201 S Cortez, Prescott, AZ 86303

**VERBAL REQUESTS FOR CLARIFICATIONS OR INTERPRETATIONS WILL NOT BE ANSWERED.**

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Dawn Foster  
Purchasing Manager

**Publish:** The Daily Courier: June 18, 2012

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## **INSTRUCTIONS TO OFFERORS**

### **1. PREPARATION OF RESPONSES**

All proposals shall be made using the forms provided in this package. All prices and notations must be printed in ink or typewritten. **No erasures are permitted.** Errors may be crossed out and corrections printed in ink or typewritten adjacent to error and shall be initialed in ink by person signing the proposal. Typewritten responses are **preferred**.

### **2. PRICING and OFFER DOCUMENTS**

Throughout this solicitation document, the meaning of *proposal* and *offer* are intended to be synonymous.

Offerors shall complete and submit their offers utilizing the forms provided by this solicitation. Requested information and data shall be provided in the precise manner requested. Product descriptions shall provide sufficient information to precisely document the product being offered. Failure to comply may cause the proposal to be improperly evaluated or deemed non-responsive.

The proposal/offer certification document must be completed and signed by an authorized representative certifying that the firm can and is willing to meet all requirements of the solicitation. Failure to do so may be cause to reject the proposal as non-responsive.

All unit prices shall remain firm for the initial term of the executed agreement, with the exception that should offeror during the term of the agreement offer to another buyer pricing for like or similar quantity, products or services at price more favorable than those given to the City of Prescott, that offeror shall offer same pricing to City of Prescott effective on the date offered to other buyer. Unit prices given by offeror shall include all costs required to implement and actively conduct and document cost control and reduction activities. Unit Prices shall include all costs and, unless otherwise specified, shall be F.O.B. Destination & Freight Prepaid Not Billed ("F.O.B. Destinations"). Unit prices shall prevail in the event of an extension error. Price each item separately. Delivery time if stated as a number of days shall mean "calendar" days. The City of Prescott reserves the right to question and correct obvious errors.

### **3. GENERAL SPECIFICATIONS & DEVIATIONS**

The specifications included in this solicitation are intended to identify the kind and quality of goods and/or services to be provided without being unnecessarily restrictive, and as required to provide the information needed for the development of consistent and comprehensive proposals.

Equipment brand names, models and numbers, when given are intended to identify a level of quality, equivalent performance and dimensional specifications, and are for reference only, unless otherwise specified in the solicitation.

Failure to perform appropriate research, discovery, examine any drawings, specifications, and instructions will be at the offeror's sole risk. Items included in the proposal shall meet the specifications and requirements set forth by the solicitation.

Deviation requests shall specifically document and clearly illustrate the deviation to the particular specification or the requirement, set forth by this solicitation and fully explain the requested deviation's impact on the end performance of the item. Deviation requests shall be submitted prior to the initial solicitation due date. Requests submitted within 8 days of the solicitation due date may not be answered. Acceptance or rejection of said deviation request shall be at the sole discretion of the City of Prescott and in accordance with City of Prescott Procurement Code.

Offerors are advised that conditional offers that do not conform to or that request exceptions to the published solicitation and addendums may be considered non-responsive and not evaluated.

### **4. SOLICITATION SCHEDULE**

Publication of Notice	06/18/2012
Submittals Due	07/13/2012 no later than 2:00 PM MST
Submittals Recorded	07/13/2012 2:00 PM MST or shortly thereafter
Review of Submittals/Interviews Scheduled	07/16/2012
Interview (if Necessary)	07/23 and 07/24/2012 for local firms 08/1 and 08/2/2012 for 'out-of-town' firms
Recommendation of Award to City Council	08/28/2012

**4. OFFERORS MINIMUM QUALIFICATIONS**

In order for proposals to be evaluated and considered for award, proposals must be deemed **Responsive and Responsible**. To be deemed **“Responsive”**, the submitted offer documents shall conform in all material respects to the requirements stated by the solicitation. To be deemed **“Responsible”**, offerors shall document and substantiate their capability to fully perform all requirements defined by the solicitation. Factors considered include and may not be limited to experience, integrity, perseverance, reliability, capacity, facilities, equipment, credit, and other factors required to provide the performance defined by the solicitation.

Offeror shall certify that they possess the minimum qualifications contained in **Exhibit B: Minimum Qualifications Verification Form (x Pages)**. Offeror shall provide the requested documents that substantiate their satisfaction of the Minimum Qualifications. Failure to provide the information required by these Minimum Qualifications and required to substantiate *responsibility* may be cause for the offeror's proposal to be rejected as **Non-Responsive and/or Non-Responsible**.

**5. EVALUATION AND AWARD CRITERIA**

The City of Prescott shall evaluate proposals deemed **Responsive and Responsible**. Proposals shall be evaluated according to the evaluation criteria set forth herein. Evaluation of cost shall be made without regard to applicable taxes.

**The evaluation process is divided into two steps.**

**First Step in Evaluation Criteria:** Review and score the written proposals. Scoring will be based on the following criteria and points.

Criteria	Criteria description	Max. Points Available
a.	Cost	31
b.	Project Plan	30
c	Key Personnel Experience	16
d.	Company Experience	12
e.	References	6
f.	Sustainability	5
	<b>Total Points</b>	<b>100</b>

The evaluation criteria will be used by the evaluation panel when scoring the offeror's answers to the questions contained in Appendix III: Questionnaire. Offeror should respond in the form of a thorough narrative to each specification as guided by the Questionnaire. The narratives along with required supporting materials should be evaluated and awarded points accordingly. Forms provided and requested for inclusion in this proposal shall not be modified.

**Evaluation Criteria**

The evaluation committee will assign points to each proposal submitted on the basis of the following evaluation criteria, unless otherwise indicated:

**A. Cost (0 - 31 points)**

Points for the cost will be calculated by the Purchasing Manager based on the Total Price Proposed (TPP) using the following formula:  $\text{Lowest Total Price Proposed Amount (LTPP) will receive the maximum quantity of points. Other proposals will be allocated points using the following formula: } (LTPP / \text{Other TPP}) \times \text{Maximum Points} = \text{Score.}$

Complete Appendix III Questionnaire Section A as requested

**B. Project Plan (0 - 30 points)**

Proposers shall provide a thorough project plan that should include but not limited to:

- A general description of your firm's proposed approach to the project as it relates to the scopes of services requested by the City of Prescott Risk Management as outlined in this Request for Proposals.
- An explanation of your firm's philosophy regarding the role of the various participants assisting the injured worker: department staff, City of Prescott Risk Management Division, and your claims staff.
- In addition to the general description of the plan, respond to the questions provided in the questionnaire providing a description of each of the following as part of your workers' compensation services:
  1. Claims Administrator Responsibilities

2. General File Control
3. General Claims Management
4. Investigation
5. Reserving
6. Data Management
7. Reporting (standard reports & regulatory reporting/compliance)
8. Subrogation
9. City of Prescott Records
10. Cost Containment/ Management Care
11. Litigation Management
12. Finance/Bank Reconciliation

Points for the project plan will be based on the quality and thoroughness of the project plan and product information.

**C. Key Personnel Experience (0 to 16 points)**

Proposers should provide resumes for the following proposed key personnel who will be performing services under the contract:

- Management for this account
- Claims Manager
- Claims Staff
- IT personnel

Experience narratives shall describe the specific relevant experience in relation to the work to be performed in this contract as well as their certifications or other professional credentials that clearly show how they meet and/or exceed the minimum requirements set forth in this RFP.

Proposers should also:

- Identify all the proposed team members that would be involved in providing the services to the City of Prescott as requested in this RFP.
- Submit statements or resumes detailing each team member's qualifications. Include information on each member's education, the position each person currently occupies in your organization, the length of time they have been with the company, and detailed descriptions of their involvement with projects of similar or identical scopes. For the claims personnel also include years and type of claims handling experience.
- Identify the IT personnel assigned to the City of Prescott and the experience each person has in doing data conversion.
- Identify positions to be filled, if your company is awarded this contract.
- Is your firm willing to hire claims adjusters recommended by the City of Prescott?

Points for the Key Personnel will be based on each staff member's experience as it relates to their role and the needs of this contract.

**D. Company Experience (0 to 12 points)**

Proposers shall provide:

- A statement of the firm's experience and qualifications to include a general overview and history of your company, number of years in business, number of employees, corporate headquarters' location, type of business, names of the firm's chief officers (include an organizational chart if possible), and where you do business.
- Include the firm's latest SAS Report.
- Offerors may include an annual report or statement of finances, if available, but it shall not substitute for the written narrative requested under the evaluation criteria.

Points for the company experience will be based on documented successful experience on similar projects and engagements.

**E. References (0 to 6 points)**

Proposer shall have five (5) professional references documenting the proposer's ability and expertise in providing the similar services in this RFP. Three references will be from current clients and two references will be from prior clients.

Provide details regarding your firm's experience in providing the services requested for similar customers including counties or municipalities of similar size, with dates of performance and/or completion, customer name, contact person, and telephone number(s).

By providing such references you agree that neither the City of Prescott nor the clients referenced shall have any liability regarding the provision of such references or the City of Prescott's use of such references in making selections under this Request for Proposals.

Points for the references will be based on the proposer's work for its clients receiving similar services to this RFP.

#### **F. Sustainability (0 to 5 points)**

Proposers should respond in the form of a thorough narrative to each specification as guided by the questionnaire included as **Appendix II**. The narratives along with required supporting materials will be evaluated and awarded points accordingly. Forms provided and requested for inclusion in this proposal shall not be modified.

#### **Second Step in the evaluation process: Oral Presentation and Software demonstration (100 pts).**

As a result of Step One of the Evaluation process, the top three scoring firms may be invited to present an oral presentation to the Evaluation Panel.

A review of the standard reports will be a part of presentation. In addition, the software demonstration of the company's software system will include how the City of Prescott Risk Management Division will be able to access and use the software system. The firm may be asked questions regarding their proposal by the panel. The data conversion will also be discussed in detail. Be prepared to discuss the timeline and requirements for data and claims transfer to include the data conversation as a new account. Be prepared to explain any additional services or features that your company can provide to the City of Prescott to assist in making the Workers' Compensation program better by reducing costs or providing better services.

Final selection will be based on the Panel's evaluation of the presentations and demonstrations (if applicable).

The City of Prescott reserves the right to request additional information and/or clarification. Any clarification of a proposal shall be in writing. Recommendation for award will be to the most responsive and responsible offeror whose proposal is determined to be the most advantageous to the City of Prescott taking into consideration the evaluation criteria set forth in this solicitation.

If an award is made, the City of Prescott will enter into an agreement with the one Offeror(s) that submitted the highest scoring responsive and responsible offer(s) by executing and transmitting a contract that incorporates the Offer without further action by the Offeror. The City of Prescott may conduct discussions with the Offeror to clarify the Offer and Agreement details provided that they do not substantially change the intent of the solicitation. Unless otherwise specified, relative ranking of proposal(s) will be made considering the average of total points given to each proposal by evaluators.

#### **6. SUBMISSION OF OFFERS**

Offerors are to complete, execute and submit **one original and 4 copies** of the required documents. The submittal shall include all information requested by the solicitation, and utilize without modification the forms provided by the solicitation that include and may not be limited to the following:

- A. PROPOSAL CERTIFICATION FORM**, fully completed as requested.
- B. APPENDIX I: MINIMUM QUALIFICATIONS VERIFICATION FORM** (ONE PAGE), fully completed as requested, including the required documentation.
- C. APPENDIX II: REFERENCE FORM** (FIVE PAGES), fully completed as requested. Failure to provide current contact information and failure of any reference to respond after a reasonable number of attempts by the City of Prescott Risk Management and to provide satisfactory feedback may be cause for submittal to be deemed non-responsive and/or responsible and not further evaluated.
- D. APPENDIX III: QUESTIONNAIRE** (FOUR PAGES), fully completed as requested, including the required documentation.

The proposal shall be bound and indexed in the order as indicated above with the exception of Exhibit D

Reference documents which shall be submitted by the selected Reference Firms. Please do not use 3-ring hard cover binders.

Proposals must be received and time stamped at the specified location at or before the Due Date/Time as defined by the *Request for Proposals*. Facsimiles will not be accepted. The "time-stamp" provided by the City of Prescott shall be the official time used to determine the timeliness of the submittal. Proposals and modifications received after the Due Date/Time will not be accepted, or will be returned unopened. Timely submittals will be opened and recorded promptly after the Due Date/Time.

Proposals must be signed by an authorized agent of the offeror and submitted in a sealed envelope marked or labeled with the offeror's firm name, solicitation number, title, solicitation due date and time, to the location and not later than the Due Date/ Time specified by the *Request for Proposals*.

Failure to comply with the solicitation requirements may be cause for the offeror's proposal to be rejected as *non-responsive* and not evaluated.

## **7. BEST AND FINAL OFFER**

The City of Prescott reserves the right to request additional information and/or clarification with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements.

In the event that discussions are held and clarifications are requested that substantially affect the specifications or Scope of Work requirements, a written request for best and final offers shall be issued. The request shall set forth the date, time, and place for the submission of best and final offers. If offerors fail to respond to the request for best and final offer or fail to submit a notice of withdrawal, their immediate previous offer will be construed as their best and final offer.

## **8. COMPLIANCE WITH AGREEMENT**

The City of Prescott will execute an agreement with the successful offeror by issue of a contract. The offeror agrees to establish, monitor, and manage an effective administration process that assures compliance with all requirements of the agreement. In particular, the offeror agrees that they shall not provide goods or services in excess of the executed agreement items, item quantity, item amount, or agreement amount without prior written authorization by revision or change order properly executed by the City of Prescott. Any items provided in excess of the quantity stated in the agreement shall be at the Offeror's own risk. Offerors shall decline verbal requests to deliver items in excess of the agreement and shall report all such requests in writing to the City of Prescott Purchasing Division within one (1) workday of the request. The report shall include the name of the requesting individual and the nature of the request.

## **9. INQUIRIES**

Offerors may submit questions until the close of business five (5) days prior to the Proposal Due Date (July 13, 2012). If a prospective offeror believes a requirement of the solicitation documents to be needlessly restrictive, unfair, or unclear, the offeror shall notify the City of Prescott Purchasing Manager in writing identifying the issue with suggested solution prior to the closing time set for receipt of the solicitation proposal. Issues identified less than 5 days prior to the solicitation opening date may not be answered.

Any question related to this solicitation shall be directed to the Purchasing Manager of this RFP. The offeror shall not contact or ask questions of the department for whom the requirement is being procured. The questions must be submitted in writing. Any correspondence related to a solicitation should refer to the appropriate solicitation number, page, and paragraph number. The City of Prescott may issue a formal written addendum containing clarifications or modifications of the RFP requirements, if deemed advantageous or necessary. Only questions or issues answered by formal written addendum will be binding. Addendum will be posted on the City of Prescott's Website: <http://www.cityofprescott.net/business/bids/>

Results of this procurement will not be given in response to telephone inquiries. Interested parties are invited to attend the public opening at the time and date stated in this solicitation. A tabulation of submittals will be posted on the City website at [www.prescott-az.gov/business/bids](http://www.prescott-az.gov/business/bids).

No oral interpretations or clarifications will be made to any offeror as to the meaning of any of the solicitation documents.

## **10. VENDOR RECORD MAINTENANCE**

By submitting a response to this solicitation, the submitter agrees to establish and maintain a complete City of Prescott Vendor record, including the provision of a properly completed and executed "Request for Taxpayer Identification Number and Certification" document (Form W-9), within ten calendar days of the solicitation due date. The Vendor also agrees to update the information within ten calendar days of any change in that information and prior to the submission of any invoice or request for payment.

## **BACKGROUND INFORMATION**

### **Summary of the City of Prescott's Workers' Compensation Program:**

#### **1. Overview.**

It is the intent of the City of Prescott to solicit proposals from specialist firms to provide Third Party Claims Administration services (hereinafter referred to as "Claims Administrator") for the City of Prescott's Workers' Compensation Claims. The service provider will be overseen and work directly with personnel in the City of Prescott's Risk Management (COPRM) Division. COPRM reserves the right to review all claim files being handled by the successful offeror within 24 hours of notice.

#### **2. Background.**

The City of Prescott is an incorporated municipality. Traditional public services include: Police, Fire protection (this includes a seasonal Wild Land crew that is dispatched all over the US during wildfire season), Commercial & Residential Sanitation collection, Streets, Water Production & Distribution, Wastewater Collections, Wastewater Treatment Plants, an Airport, a Library, a Theater, a Golf Course & Restaurant, a Fleet Maintenance facility for City equipment and vehicles, Parks & Recreation over multiple public parks and lakes, and a municipal court. The City of Prescott maintains its own in-house financial accountants to interface with the Workers' Compensation program.

On-the-job injuries are an inherent risk in many of the City of Prescott's operations. When injuries occur, the COPRM expects its Claims Administrator to treat City of Prescott employees with the utmost respect and consideration when providing the required services. When making contact with City of Prescott employees who are applying for, or receiving, Workers' Compensation benefits, the Claims Administrator's representatives will introduce themselves, provide clear information about the role and responsibilities of the Claims Administrator, and provide clear and complete information concerning the content, purpose, and schedule of future contacts to be made with the employee. Because the laws and rules regarding workers' compensation are complex and sometimes confusing, injured employees will have questions regarding their claims. The Claims Administrator's claim adjusters and related staff must make reasonable effort to explain pertinent rights, regulations, and responsibilities to these employees in a professional and courteous manner.

The Claims Administrator will be responsible for ensuring that their representatives provide the required positive and productive services to the City of Prescott's employees.

#### **3. Claims Data – Historical Summary**

The following table is a historical summary of the City of Prescott's workers' compensation claims. No guarantee of the actual service requirement is implied or expressed. Service requirements shall be determined by actual need.

The City of Prescott became self-insured on July 1, 1996 and, therefore, requires that the Claims Administrator addresses all historical information in its data base

**Table 1: Workers' Compensation Claims  
Remaining Open Claims – 7/1/1996-6/30/2011  
(As of June 30, 2011)**

FY	OPEN	PAID LOSS	INCURRED
7/1/1996 to 5/31/2012	42	4,397,830.18	5,506,032.98

**Table 2: Workers' Compensation Claims  
All Claims – 7/1/1996-5/31/2012**

FY	OPEN	CLOSED	Med Only	LT	TOTAL	PAID LOSS	INCURRED
7/1/1996 to 6/30/1997	0	53	48	5	53	108,136.82	108,136.82
7/1/1997 to 6/30/1998	3	44	38	9	47	458,434.65	717,476.00
7/1/1998 to 6/30/1999	0	51	42	9	51	109,211.62	109,211.62
7/1/1999 to 6/30/2000	1	61	54	8	62	265,759.94	393,745.90
7/1/2000 to 6/30/2001	1	56	51	6	57	538,453.68	583,189.96
7/1/2001 to 6/30/2002	0	82	65	17	82	272,597.23	272,597.23
7/1/2002 to 6/30/2003	1	57	43	15	58	199,408.15	199,408.15
7/1/2003 to 6/30/2004	0	71	60	11	71	176,039.65	176,039.65
7/1/2004 to 6/30/2005	1	68	57	12	69	420,544.01	601,447.62
7/1/2005 to 6/30/2006	0	69	57	12	69	140,273.84	140,273.84
7/1/2006 to 6/30/2007	2	83	60	25	85	624,202.49	787,373.99
7/1/2007 to 6/30/2008	1	76	52	25	77	349,519.33	369,820.06
7/1/2008 to 6/30/2009	1	82	69	14	83	316,859.39	319,182.89
7/1/2009 to 6/30/2010	2	65	54	13	67	295,388.10	334,459.53
7/1/2010 to 6/30/2011	11	60	52	19	71	499,159.80	641,977.69
7/1/2011 to 5/31/2012	18	38	47	9	56	178,385.55	243,211.86

**CITY OF PRESCOTT'S STANDARD TERMS AND CONDITIONS**

**1. OPENING:**

Responses will be publicly opened and respondent's name, and if a Bid the amount, will be read on the date and at the location defined in the *Request For Proposals (RFP)*. Proposals shall be opened so as to avoid disclosure of the contents of any proposal to competing Offerors during the process of negotiation. All interested parties are invited to attend.

**2. EVALUATION:**

Responses shall be evaluated to determine which response is most advantageous to the City of Prescott considering evaluation criteria, conformity to the specifications and other factors.

If an award is made, the City of Prescott (CITY) will enter into an agreement with the one or multiple respondent(s) that submitted the lowest bid(s) and determined responsible for supplying the required goods or services. Unless otherwise specified on the Bid/Offer document determination of the low/lowest bids will be made considering the total bid amount.

The City of Prescott reserves the following rights: 1) to waive informalities in the bid or bid procedure; 2) to reject the response of any persons or corporations that have previously defaulted on any contract with City of Prescott; 3) to reject any and all responses; 4) to re-advertise for bids previously rejected; 5) to otherwise provide for the purchase of such services as may be required herein; 6) to award on the basis of price and other factors, including but not limited to such factors as delivery time, quality, uniformity of product, suitability for the intended task, and bidder's ability to supply; 7) to increase or decrease the quantity herein specified. Pricing evaluations will be based on pre-tax pricing offered by vendor.

### **3. AWARD:**

Awards shall be made by the CITY COUNCIL in accordance with the City of Prescott Procurement Code. Unless expressly agreed otherwise, resulting agreements are not exclusive, are for the sole convenience of City of Prescott, and City of Prescott reserves the right to obtain like services from other sources.

### **4. WAIVER:**

Each respondent, by submission of an offer, bid or proposal proclaims and agrees and does waive any and all claims for damages against City of Prescott or its officers or employees when any of the rights reserved by the City of Prescott may be exercised.

### **5. ACKNOWLEDGEMENT AND ACCEPTANCE:**

If Contractor's terms of sale are inconsistent with the terms of the resultant agreement, the terms herein shall govern, unless Contractor's terms are accepted in writing by City of Prescott. No oral agreement or understanding shall in any way modify this order or the terms and conditions herein. Contractor's acceptance, delivery, or performance called for herein shall constitute unqualified acceptance of the terms and conditions of the resultant agreement.

### **6. INTERPRETATION and APPLICABLE LAW:**

The contract shall be interpreted, construed, and given effect in all respects according to the laws of the State of Arizona. If any of Contractors' terms or conditions is not in agreement with City of Prescott's terms and conditions as set forth herein, City of Prescott's shall govern. This Agreement incorporates the complete agreement of the parties with respect to the subject matter of this Agreement. No oral agreement or other understanding shall in any way modify these terms and conditions.

### **7. DELIVERY:**

On-time delivery of services is an essential part of the consideration to be received by the City of Prescott.

A guaranteed delivery date, or interval period from order release date to delivery, must be given if requested by the Price offer document. Upon receipt of notification of delivery delay, City of Prescott at its sole option and at no cost to the City of Prescott may cancel the order or extend delivery times. Such extension of delivery times will not be valid unless extended in writing by an authorized representative of the City of Prescott.

To mitigate or prevent damages caused by delayed delivery, City of Prescott may require Contractor to deliver additional quantity utilizing express modes of transport, and or overtime, all costs to be Contractor responsibility. City of Prescott reserves the right to cancel any delinquent order, procure from alternate source, and/or refuse receipt of or return delayed deliveries, at no cost to City of Prescott. City of Prescott reserves the right to cancel any order and/or refuse delivery upon default by Contractor concerning time, cost, or manner of delivery.

Contractor will not be held responsible for unforeseen delays caused by fires, strikes, acts of God, or other causes beyond Contractor's control, provided that Contractor provide immediate notice of delay.

### **8. SPECIFICATION CHANGES:**

City of Prescott shall have the right to make changes in the specifications, services, or terms and conditions of an order. If such changes cause an increase or decrease in the amount due under an order or in time required for performance, an acceptable adjustment shall be made and the order shall be modified in writing. Any agreement for adjustment must be made in writing. Nothing in this clause shall reduce Contractor's' responsibility to proceed without delay in the delivery or performance of an order.

### **9. PAYMENT TERMS:**

Payment terms are net 30, unless otherwise specified by the agreement documents.

### **10. ACCEPTANCE OF MATERIALS AND SERVICES:**

City of Prescott will not execute an acceptance or authorize payment for any service, equipment or component prior to delivery and verification that all specification requirements have been met.

### **11. RIGHTS AND REMEDIES OF COPRM FOR DEFAULT:**

In the event any item furnished by the Contractor in the performance of the agreement should fail to conform to the specifications thereof, or to the sample submitted by the Contractor, City of Prescott may reject same, and it shall thereupon become the duty of the Contractor to reclaim and remove the same, without expense to City of Prescott, and immediately replace all such rejected items with others conforming to the specifications or samples.

Should the Contractor fail, neglect, or refuse immediately to do so, City of Prescott, shall have the right to purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct from any monies due or that may become due to the Contractor the difference between the price named in the contract or purchase order and actual cost to City of Prescott. In the event the Contractor shall fail to make prompt delivery as specified of any item, the same conditions as to the rights of City of Prescott to purchase in the open market and invoke the reimbursement condition above shall apply, except when delivery is delayed by fire, strike, freight embargo, or acts of god or of the government. In the event of cancellation of the contract or purchase order, either in whole or in part, by reason of the default or breach by the Contractor, any loss or damage sustained by City of Prescott in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of City of Prescott provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract.

**12. FRAUD AND COLLUSION:**

Each Contractor, by submission of a bid, proclaims and agrees that no officer or employee of City of Prescott or of any subdivision thereof has: 1) aided or assisted the Contractor in securing or attempting to secure a contract to furnish labor, materials or supplies at a higher price than that proposed by any other Contractor; 2) favored one Contractor over another by giving or withholding information or by willfully misleading the bidder in regard to the character of the material or supplies called for or the conditions under which the proposed work is to be done; 3) will knowingly accept materials or supplies of a quality inferior to those called for by any contract; 4) any direct or indirect financial interest in the offer or resulting agreement. Additionally, during the conduct of business with City of Prescott, the Contractor will not knowingly certify, or induce others to certify, to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount or different kind of material or supplies that has been actually received. If at any time it shall be found that the awardee(s) has in presenting any offer(s) colluded with any other party or parties for the purpose of preventing any other offer being made, then the agreement so awarded shall be terminated and that person or entity shall be liable for all damages sustained by City of Prescott.

**13. COOPERATIVE USE OF RESULTING AGREEMENT:**

As allowed by law, the City of Prescott has entered into cooperative procurement agreements that enable other Public Agencies to utilize procurement agreements developed by the City of Prescott. The Contractor may be contacted by participating agencies and requested to provide services and products pursuant to the pricing, terms, and conditions defined by the City of Prescott blanket contract, purchase order, or contract. Minor adjustments are allowed subject to agreement by both Contractor and Requesting Party to accommodate additional cost or other factors not present in the City of Prescott agreement and required to satisfy particular Public Agency code or functional requirements and are within the intended scope of the solicitation and resulting agreement. Any such usage shall be in accordance with State, City of Prescott, and other Public Agency procurement rules, regulations and requirements and shall be transacted by blanket contract purchase order or contract between the requesting party and Contractor. Contractor shall hold harmless City of Prescott, its officers, employees, and agents from and against all liability, including without limitation payment and performance associated with such use.

**14. INDEMNIFICATION:**

To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of this Agreement, Contractor's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Agreement including any employee of the Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable.

The Contractor shall obtain and maintain in effect during the term of this Agreement liability insurance policy(ies) with limits not less than those set forth in this Agreement. The amount and type of insurance coverage requirements set forth herein are the minimum requirements and will in no way be construed as limiting the scope of indemnity covenants contained in this Agreement.

**15. UNFAIR COMPETITION AND OTHER LAWS:**

Responses shall be in accordance with Arizona trade and commerce laws (Title 44 A.R.S.) and all other applicable City of Prescott, State, and Federal laws and regulations.

**16. COMPLIANCE WITH LAWS:**

Contractor shall comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation. The laws and regulations of the State of Arizona shall govern the rights, performance and disputes of and between the parties. Any action relating to this Contract shall be brought in a court of the State of Arizona in COPRM.

Any changes in the governing laws, rules, and regulations during an agreement shall apply, but do not require an amendment/revisions.

**17. ASSIGNMENT:**

Contractor shall not assign its rights to the resultant agreement, in whole or in part, without prior written approval of the City of Prescott. Approval may be withheld at the sole discretion of City of Prescott, provided that such approval shall not be unreasonably withheld.

**18. CONFLICT OF INTEREST:**

All agreements are subject to the provisions of A.R.S. § 38-511, the pertinent provisions of which are incorporated into and made part of all resultant contracts or purchase orders as if set forth in full herein.

**19. NON-APPROPRIATION OF FUNDS:**

Pursuant to the provisions of A.R.S. § 11-251, sub-section 42, this agreement may be canceled if for any reason the City of Prescott, City Council does not appropriate funds for the stated purpose of maintaining any agreement. In the event of such cancellation, the City of Prescott shall have no further obligation, other than for services or goods that have already been received.

**20. PUBLIC INFORMATION:**

Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all information submitted in response to this solicitation, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and upon request, is subject to release and/or review by the general public including competitors.

Any records submitted in response to this solicitation that Contractor reasonably believes constitute proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as CONFIDENTIAL by Contractor **prior** to the close of the solicitation.

Notwithstanding the above provisions, in the event records marked CONFIDENTIAL are requested for public release pursuant to A.R.S. § 39-121 et seq., The COPRM shall release records marked CONFIDENTIAL ten (10) business days after the date of notice to the Contractor of the request for release, unless Contractor has, within the ten day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release shall not be counted in the time calculation. Contractor shall be notified of any request for such release on the same day of the request for public release or as soon thereafter as practicable.

The City of Prescott shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked CONFIDENTIAL, nor shall the City of Prescott be in any way financially responsible for any costs associated with securing such an order.

**21. AMERICANS WITH DISABILITIES ACT:**

Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (public law 101-336, 42 USC 12101-12213) and all applicable federal regulations under the act, including 28 CFR parts 35 and 36.

**22. NON-EXCLUSIVE:**

Agreements resulting from this solicitation are non-exclusive and are for the sole convenience of the COPRM which reserves the right to obtain like goods and services from other sources for any reason.

### **23. PROTESTS:**

An interested party may file a protest regarding any aspect of a solicitation, evaluation, or recommendation for award. Protests must be filed in accordance with the City of Prescott Procurement Code.

### **24. EVENTS OF DEFAULT AND TERMINATION:**

- A. The occurrence of any or more of the following events shall constitute a material breach of and default under the Contract. The City reserves the right to terminate the whole or any part of the Contract due to Contractor's failure to fully comply with any term or condition herein.
- i) Any failure by Contractor to furnish services that fail to conform to any requirement of this Contract or provide personnel that do not meet Contract requirements;
  - ii) Any failure by Contractor to observe, perform or undertake any provision, covenant or condition of this Contract to be observed or performed by Contractor herein, including but not limited to failing to submit any report required herein;
  - iii) Any failure to make progress in the performance required pursuant to the Contract and/or gives the City reason to believe that Contractor cannot or will not perform to the requirements of the Contract; or,
  - iv) Any failure of Contractor to commence services within the time specified herein, and to diligently undertake Contractor's work to completion.
- B. Upon and during the continuance of an event of default, the City, at its option and in addition to any other remedies available by law or in equity, without further notice or demand of any kind to Contractor, may do the following:
- i) Terminate the Contract;
  - ii) Pursue and/or reserve any and all rights for claims to damages for breach or default of the Contract; and/or,
  - iii) Recover any and all monies due from Contractor, including but not limited to, the detriment proximately caused by Contractor's failure to perform its obligations under the Contract, or which in the ordinary course would likely result there from, including, any and all costs and expenses incurred by the City in: (a) costs incurred in selecting and retaining substitute Contractor for the purchase of services from another source; and/or (b) attorneys' fees and costs in pursuing any remedies under the Contract and/or arising there from.
- C. The exercise of any one of the City's remedies as set forth herein shall not preclude subsequent or concurrent exercise of further or additional remedies. The City may terminate this Contract for default, non-performance or breach, or pursuant to A.R.S. § 38-511, or abandon any portion of the project for which services have not been fully and/or properly performed by the Contractor.
- D. Termination shall be commenced by delivery of written notice to Contractor by the City personally or by certified mail, return receipt requested. Upon notice of termination, Contractor shall immediately stop all work, services and/or shipment of goods hereunder and cause its suppliers and/or subcontractors to cease work pursuant to the Contract. Contractor shall not be paid for work or services performed or costs incurred after receipt of notice of termination, nor for any costs incurred that Contractor could reasonably have avoided.
- E. The City, in its sole discretion, may terminate or reduce the scope of this Contract if available funding is reduced for any reason.
- F. The City at its sole discretion may terminate this Contract for convenience with thirty (30) days advance notice to Contractor. Contractor shall be reimbursed for all appropriate costs as provided for within the Contract up to the termination date specified.

**25. ORDER OF PRECEDENCE-CONFLICTING DOCUMENTS:**

In the event that there are inconsistencies between agreement documents, following is the order of precedence, superior to subordinate, that shall be applied to resolve the inconsistency: blanket contract; purchase order; offer agreement or contract attached to a contract or purchase order; standard terms and conditions; other solicitation documents.

**26. INDEPENDENT CONTRACTOR:**

The status of the Contractor shall be that of an independent Contractor. Neither Contractor nor Contractor officer's agents or employees shall be considered an employee of the City of Prescott or be entitled to receive any employment-related fringe benefits under the City of Prescott Merit System. Contractor shall be responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Contract and shall indemnify and hold the City of Prescott harmless from any and all liability which the City of Prescott may incur because of Contractor's failure to pay such taxes. Contractor shall be solely responsible for program development and operation.

**27. BOOKS AND RECORDS:**

Contractor shall keep and maintain proper and complete books, records and accounts, which shall be open at all reasonable times for inspection and audit by duly authorized representatives of the City of Prescott. In addition, Contractor shall retain all records relating to this contract at least 5 years after its termination or cancellation or, if later, until any related pending proceeding or litigation has been closed.

**28. Counterparts:**

The contract awarded pursuant to this solicitation may be executed in any number of counterparts and each counterpart shall be deemed an original, and together such counterparts shall constitute one and the same instrument. For the purposes of the blanket contract, purchase order or contract, the signed offer of Respondent and the signed acceptance of the COPRM shall each be deemed an original and together shall constitute a binding blanket contract, purchase order or contract, if all other requirements for execution have been met.

**29. AUTHORITY TO CONTRACT:**

Contractor warrants its right and power to enter into the blanket contract, purchase order or contract. If any court or administrative agency determines that the City of Prescott does not have authority to enter into the blanket contract, purchase order or contract, the City of Prescott shall not be liable to Contractor or any third party by reason of such determination or by reason of the blanket contract, purchase order or contract.

**30. FULL AND COMPLETE PERFORMANCE:**

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of the blanket contract, purchase order or contract to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

**31. SUBCONTRACTOR:**

CONTRACTOR shall be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor, and of persons for whose acts CONTRACTOR may be liable to the same extent that the CONTRACTOR is responsible for the acts and omissions of persons directly employed by it. Nothing in this contract shall create any obligation on the part of the City of Prescott to pay or see to the payment of any money due any subcontractor, except as may be required by law or except those vendors performing services related to the administration of claims, in which case such expenses shall be paid out of the claim file as an allocated expense.

**32. SEVERABILITY:**

Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

**33. LEGAL ARIZONA WORKERS ACT COMPLIANCE**

CONTRACTOR hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). CONTRACTOR shall further ensure that each subcontractor who performs any work for CONTRACTOR under this contract likewise complies with the State and Federal Immigration Laws.

The City of Prescott shall have the right at any time to inspect the books and records of CONTRACTOR and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting CONTRACTOR to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, CONTRACTOR shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion.

CONTRACTOR shall advise each subcontractor of the City of Prescott's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"SUBCONTRACTOR hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). SUBCONTRACTOR further agrees that City of Prescott may inspect the Subcontractor's books and records to insure that SUBCONTRACTOR is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR will be deemed to be a material breach of this contract subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of CONTRACTOR. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Contractor's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which CONTRACTOR shall be entitled to an extension of time, but not costs.

**34. CONTROL OF DATA PROVIDED BY THE COPRM:**

For those projects and contracts where the City of Prescott has provided data to enable the Contractor to provide contracted services or products, unless otherwise specified and agreed to in writing by the City of Prescott, Contractor shall treat, control and limit access to said information as confidential and under no circumstances release any data provided by the City of Prescott during the term of this agreement and thereafter, including but not limited to personal identifying information as defined by A.R.S. § 44-1373, except as required by law and except as necessary in order to perform the obligations of Contractor pursuant the agreement for claims administrative services, and is further prohibited from selling such data directly or through a third party. Upon termination of the associated agreement or completion of the required contractual intent whichever occurs sooner, Contractor shall either return all data to the COPRM or shall destroy such data and confirm destruction in writing in a timely manner not to exceed 60 calendar days.

**PROPOSAL CERTIFICATION FORM**

**RESPONDENT SHALL COMPLETE THE FOLLOWING INFORMATION IN INK AND SUBMIT WITH THEIR PROPOSAL.** Print or type in ink the requested information. **TYPEWRITTEN RESPONSES ARE PREFERRED.**

**PROPOSAL SUBMITTED BY:**

COMPANY LEGAL NAME: \_\_\_\_\_

CONTACT PERSON FOR SOLICITATION PURPOSES: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_ FAX NUMBER: \_\_\_\_\_

**CORPORATE HEADQUARTERS LOCATION:**

CITY, STATE, ZIP: \_\_\_\_\_

**ACKNOWLEDGEMENT of SOLICITATION ADDENDA:**

Supplier acknowledges that the following solicitation addenda have been incorporated in their offer and this agreement:

Addendum #	Date	Addendum #	Date	Addendum #	Date

**VENDOR RECORD MAINTENANCE:**

In accordance with Instructions to Offeror's #10., the submitter has established a complete City of Prescott Vendor record, including the provision of a properly completed and executed "Request for Taxpayer Identification Number and Certification" document (Form W-9).

By signing and submitting these Offer Agreement documents, the undersigned certifies that they are legally authorized to represent and bind the "Supplier" to legal agreements, that all information submitted is accurate and complete, that the firm has reviewed the Procurement website for solicitation addenda and incorporated to their offer, that the firm is qualified and willing to provide the items requested, and that the firm will comply with all requirements of the solicitation. The Unit Pricing includes all costs incidental to the provision of the items in compliance with the above documents; no additional payment will be made. Conditional offers that modify the solicitation requirements may be deemed not 'responsive' and may not be evaluated. The undersigned hereby offers to furnish the material or service in compliance with all terms, conditions, specifications, defined or referenced by the solicitation, which includes the COPRM'S Standard Terms & Conditions, this Offer Agreement and other documents listed in this Offer Agreement's Other Documents article.

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
PRINTED NAME & TITLE OF AUTHORIZED SUPPLIER REPRESENTATIVE EXECUTING OFFER

PHONE AND E-MAIL: \_\_\_\_\_

Is your company represented by at least one Arizona agent duly qualified, at the time of the Agency's submitted response, under the laws of Arizona to act as an agent for worker's compensation and employer's liability insurance in Arizona?

**APPENDIX I: MINIMUM QUALIFICATIONS VERIFICATION FORM (ONE PAGE)**

**PROPOSER'S NAME:** \_\_\_\_\_

Proposals not meeting the minimum qualifications will be deemed *NON RESPONSIVE* and will not be considered for further evaluation. If defined in this solicitation, provide documented and verifiable evidence that your firm satisfies the Minimum Requirements, and indicate what/if attachments are submitted.

ITEM NO.	MINIMUM QUALIFICATIONS	COMPLIANCE YES/NO (SELECT ONE)	DOCUMENT TITLE AND NUMBER OF PAGES SUBMITTED FOR EACH DOCUMENT
1	Claims Adjusters: Trained, competent and licensed claims adjusters to perform the services outlined in this RFP in a manner commensurate with the highest professional standards, in good faith and in accordance with all applicable laws and regulations.		
1a	<b>Claims Manager</b> has at least ten (10) years experience managing workers' compensation accounts and experience managing public entity accounts in the last two (2) years.	Yes / No	
1b	<b>Claims Supervisor</b> has at least ten (10) years of experience in investigation, evaluation, and settlement negotiation of workers compensation claims and at least five years of experience as a claims supervisor over Arizona Public Entity accounts.	Yes / No	
1c	<b>Loss Time</b> adjusters have at least three (3) years of experience in investigation, evaluation, and settlement negotiation of workers' compensation claims under Arizona statutes and at least five (5) years of experience handling loss-time cases. Lost-time case diary count for this Project should not exceed 160.	Yes / No	
1d	<b>Medical Only Claim</b> adjusters must have at least two years of experience working with workers' compensation medical only claims. Adjuster's medical only case diary count for this Project should not exceed 200. Should this limit be reached, additional adjusting staff shall be assigned to the City's account. While we do not expect this limit to be reached in the near future, this is intended to ensure there are no undue delays in processing claims pursuant to this contract.	Yes / No	
2	<b>Firms Capabilities;</b> Firm <b>CERTIFIES</b> at a minimum it is able to perform the services specified below and in a manner commensurate with the highest professional standards, in good faith and in accordance with all applicable laws and regulations.		
2a	Provide agent services for COPRM as the Responsible Reporting Entity (RRE) for compliance with the Medicare, Medicaid, and SCHIP Extension Act of 2007, referred to as MMSEA Mandatory Insurer Reporting or SCHIP Reporting: Section 111 of the Act, codified at 42, U.S.C 1395y(h)(8).	Yes / No	
2b	Must be able to document activity and adjust loss time and medical-only claims including paying claims expenses, etc. using an on-line automated computer system and provide access of that system to COPRM.	Yes / No	
2c	Must be able to store and retrieve information from both the paper and electronic claims files/data for all open and closed claims. Electronic files are backed up at an off-site location.	Yes / No	
2d	Must be able to provide monthly, quarterly, and annual management reports electronically. The costs for standard reports must be included in the proposal as part of the annual administrative costs. The COPRM will work with Contractor to finalize formats for standard reports. The COPRM has final approval for standardized reports.	Yes / No	
2e	Must be able to provide Professional Liability insurance coverage in an amount not less than \$2,000,000.	Yes / No	
2f	Company is represented by at least one Arizona agent duly qualified, under the laws of Arizona, to act as an agent for worker's compensation and employer's liability insurance in Arizona.	Yes / No	
3	Must provide three (3) professional references of current clients and two (2) of prior clients documenting the proposer's ability and expertise in providing similar service in this RFP.	Yes / No	Appendix II is complete and attached.

Submitted by (Printed Name and Title): \_\_\_\_\_ Initial: \_\_\_\_\_ Date: \_\_\_\_\_

**APPENDIX II: REFERENCE FORM**

**(A minimum of three references from current clients and two references from prior clients must be provided.** Provide the names, addresses, contact persons, and telephone numbers of at least three current clients and two prior clients that the COPRM may contact as professional references. References must have received the same or substantially similar services to those offered to the COPRM. Include a client from the Arizona office)

Name of Firm Submitting: \_\_\_\_\_

**Reference 1:**

Organization's business name: \_\_\_\_\_

Current Contact Name and title: \_\_\_\_\_

Telephone number: \_\_\_\_\_ E-Mail address: \_\_\_\_\_

- Has your firm provided the above mentioned organization with Workers' Compensation Claims Administration Services for at least a one year period?  
Yes \_\_\_ No \_\_\_ If yes, specify the dates of contract performance (month/year):

FROM \_\_\_\_\_ TO \_\_\_\_\_ TOTAL NUMBER OF YEARS \_\_\_\_\_

- Circle as applicable:    Public entity    Private entity
- Size of organization: \_\_\_\_\_
- Please briefly describe the scope of work, dollar value of the contract with organization, and number of participants in workers' compensation program in a given contract year:

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

**Reference 2:**

Organization's business name: \_\_\_\_\_

Current Contact Name and title: \_\_\_\_\_

Telephone number: \_\_\_\_\_ E-Mail address: \_\_\_\_\_

- Has your firm provided the above mentioned organization with Workers' Compensation Claims Administration Services for at least a one year period?

Yes \_\_\_ No \_\_\_ If yes, specify the dates of contract performance (month/year):

FROM \_\_\_\_\_ TO \_\_\_\_\_ TOTAL NUMBER OF YEARS \_\_\_\_\_

- Circle as applicable:    Public entity    Private entity

- Size of organization: \_\_\_\_\_

- Please briefly describe the scope of work, dollar value of the contract with organization, and number of participants in workers' compensation program in a given contract year:

Your Signature \_\_\_\_\_

**Reference 3:**

Organization's business name: \_\_\_\_\_

Current Contact Name and title: \_\_\_\_\_

Telephone number: \_\_\_\_\_ E-Mail address: \_\_\_\_\_

- Has your firm provided the above mentioned organization with Workers' Compensation Claims Administration Services for at least a one year period?

Yes \_\_\_ No \_\_\_ If yes, specify the dates of contract performance (month/year):

FROM \_\_\_\_\_ TO \_\_\_\_\_ TOTAL NUMBER OF YEARS \_\_\_\_\_

- Circle as applicable:    Public entity    Private entity

- Size of organization: \_\_\_\_\_

- Please briefly describe the scope of work, dollar value of the contract with organization, and number of participants in workers' compensation program in a given contract year:

Your signature: \_\_\_\_\_

**Reference 4:** \_\_\_\_\_

Organization's business name: \_\_\_\_\_

Current Contact Name and title: \_\_\_\_\_

Telephone number: \_\_\_\_\_ E-Mail address: \_\_\_\_\_

- Has your firm provided the above mentioned organization with Workers' Compensation Claims Administration Services for at least a one year period?

Yes \_\_\_ No \_\_\_ If yes, specify the dates of contract performance (month/year):

FROM \_\_\_\_\_ TO \_\_\_\_\_ TOTAL NUMBER OF YEARS \_\_\_\_\_

- Circle as applicable:    Public entity    Private entity

- Size of organization: \_\_\_\_\_

- Please briefly describe the scope of work, dollar value of the contract with organization, and number of participants in workers' compensation program in a given contract year:

Your signature: \_\_\_\_\_

**Reference 5:**

Organization's business name: \_\_\_\_\_

Current Contact Name and title: \_\_\_\_\_

Telephone number: \_\_\_\_\_ E-Mail address: \_\_\_\_\_

- Has your firm provided the above mentioned organization with Workers' Compensation Claims Administration Services for at least a one year period?

Yes \_\_\_ No \_\_\_ If yes, specify the dates of contract performance (month/year):

FROM \_\_\_\_\_ TO \_\_\_\_\_ TOTAL NUMBER OF YEARS \_\_\_\_\_

- Circle as applicable:    Public entity    Private entity

- Size of organization: \_\_\_\_\_

- Please briefly describe the scope of work, dollar value of the contract with organization, and number of participants in workers' compensation program in a given contract year:

Your signature: \_\_\_\_\_

## **APPENDIX III: QUESTIONNAIRE**

**PROPOSER'S NAME:** \_\_\_\_\_

### **A. Cost (0 to 31points)**

- A1.** Detail in the proposal what services are provided in the annual administrative costs. The explanation should be an itemized breakdown of services provided under this line item.
- A2.** Provide a detailed list of the other anticipated services as listed in the Item Price List.
- A3.** Provide a detailed fee schedule of the proposed "Take Over" of the City of Prescott's account and the potential "Run Off" charges proposed to finalize pending files, including LEC and SCA claims, after the termination of this contract.
- A4.** Include definition for lost time and medical only claims, if claim type affects pricing.
- A5.** Please complete the attached price sheet (EXHIBIT B – Price Sheet). Provide unit costs for the services, products and equipment you are offering. A range of fees may be submitted for the various services, products and equipment, including all required hardware, software and license fees. The schedule of fees must also include travel, lodging, and fee associated with training of COPRM staff.

### **B. Project Plan (0 to 30 points)**

Proposers should provide a thorough project plan to include a milestone chart including tasks to be performed, the time frame and proposed staff member designated for the completion of each task. Project plan should take into consideration detailed responses to the following:

#### **B1. Conversion Plan and Timeline:**

- a. Describe your expected data conversion process and time line of transferring the City of Prescott account to your firm. Include in the takeover plan, a tentative schedule for taking over the project (start up) from the present provider. Describe the turn over (run-off) plan to a new provider at termination of this contract (including a data conversion time line).
- b. Explain any experience you have had in transferring claims data into your system from the system used by Frank Gates/AVIZENT system. What experience does your IT department have converting data from the FRANK GATES/AVIZENT system to your system?
- c. Identify any problems anticipated in the transfer of either paper or electronic files (paper files include open and closed claims files). Note: the COPRM has many closed claim files stored in 22 boxes that will need to be transferred to your storage facility.
- d. Explain your firm's expectations regarding the current provider's role, your firm's role and the COPRM'S role in the conversion.

#### **B2. Claims Administrator:**

- a. Describe your firm's proposed approach to handling workmen's compensation claims for the COPRM. What is your firm's general approach to claims administration?
- b. Explain your firm's philosophy regarding the role of the claims adjustor and the various participants assisting the injured worker (COPRM, employee's department, medical management, etc.).
- c. Proposal shall include: explanation regarding standards of performance with respect to the claims administration, data management, accounting and loss run formats, and other services provided by the contractor.
- d. Discuss the firm's service benchmarks and criterion as it relates to claims management and reporting.
- e. If services are contracted out, does your firm receive commissions and/or any other type of compensation from the companies used? Please explain.

#### **B3. Claims Management:**

- a. Does your firm have the ability for 24-hour claims reporting, please describe the process and identify entities where it is being used.
- b. Does your firm have written claims procedures for the adjusters? Provide a short summary of the claims adjusting procedures for lost time and medical only claims. Explain the adjuster's responsibilities in initial claims set up and claims handling process (first 3 days).
- c. Explain how your firm can assist the COPRM with its OSHA Log Reporting, reporting of recordable injuries.
- d. For lost time claims, explain how the claim is managed once the injured worker (IW) is on modified duty.
- e. How are modified duty days tracked by the adjuster and the RMIS?
- f. In general, what are the expectations (claims procedures) of the loss time adjuster to get the IW back to work or off restricted duty?
- g. Explain how medical only claims are identified that may become problematic. How are they handled?

**B4. Claims Software:**

- a. Describe and provide examples of the electronic claims administration system that the claim adjusters use. What tables do they use in data entry and can you tailor the tables (or their data entry) to the COPRM's needs?
- b. What level of access to the system will be given to COPRM? What report writing access will be given to COPRM?
- c. Describe the training and reference material COPRM will be provided regarding use of the system.
- d. Include a description of its capabilities, whether it was developed in-house or purchased commercially and, if purchased, what changes have been made to the system by your company.
- e. Please list the off-the-shelf Risk Management systems your firm has transferred data into. When was it last done; how often do are data transfers done to other systems?
- f. Explain how your firm will allow flexibility in data collection so COPRM can have input regarding the data elements that are collected, entered and then reported by the system.
- g. Explain your firm's disaster plan for the paper files and the electronic data. Do you have off-site storage, where is it located and how is it maintained? How often are backups done?

**B5. Managed Care/Cost Containment:**

Describe and demonstrate the capabilities and cost savings of your managed care/medical cost containment program including, but not limited to:

- a. PPO networks.
- b. Medical case management.
- c. Prescription drug programs.
- d. Physical Therapy Networks
- e. Utilization review, including the percent savings, on average, found with other Arizona entities.
- f. Medical bill review: Include percent savings, on average, found with other Arizona entities.
- g. Identify which services are owned by your firm and which services are contracted out. If services are contracted out, does your firm receive commissions and/or any other type of compensation from the companies used? Please explain.

**B6. Additional Services:**

- a. If there is a better way for the COPRM to package or define the services that it has requested under this Request for Proposals in order to obtain better pricing and/or service, please explain what modifications would be necessary to achieve better pricing and/or service.
- b. In addition to the specified service proposals identified in this RFP, please recommend any additional or innovative services and products provided by your firm that may be related to or helpful in a comprehensive Workers' Compensation Third Party Administration Program.
- c. List the services that your firm is including in Claims Administration Fee. Also list the activities that your firm considers to be allocated expenses to be paid against the claim file.

If a specific question was not asked in the questions above regarding an item listed under Scope of Services that your firm would like to address, it can be provided in this section. Identify the item in the Scope of Work that is being addressed. Provide a short description of the services that are offer to the COPRM. If there is a cost, list the item and the related cost on the pricing sheet in under Section C.2.

**C. Key Personnel (0 to 16 points)**

Submit resumes of all proposed key personnel who will be performing services under the contract. Experience narratives shall be attached that describe the **specific relevant experience** of the key personnel in relation to the role that personnel will perform for this contract.

**C1.** Identify all the proposed team members that would be involved in providing the services to the COPRM as requested in this RFP. Provide an organizational chart. Identify personnel and their role in overseeing the account.

**C2.** Submit statements or resumes detailing each team member's qualifications, including years and types of claim handling experience. Include information on each member's education, the position each person currently occupies in your organization, the length of time they have been with the company and detailed descriptions of their involvement with projects of similar or identical scopes.

**C3.** Provide a thorough description of your firm's experience, including your COPRM account team's experience, providing the services as described in this RFP. Include the experience working with public entities.

**C4.** Who within your company is responsible for IT? Please explain the IT department's responsibilities and the support the firm's IT personnel will provide to this account. Identify the IT personnel assigned to the COPRM and the experience each person has in doing data conversion. Provide resumes.

**C6.** Provide the total turnover ratio for the period 7/1/2005 through 6/30/2011 for the office that will be handling the COPRM's account. What is the firm's procedure if one of the claim adjusters resigns, or needs to be out for an extended period?

**C7.** Identify positions to be filled, if your company is awarded this contract. Explain how the positions will be filled.

**C8.** Provide average case load for medical only adjuster's and lost time adjuster's. Provide your firm's definition of lost time and medical only, as it pertains to the adjuster's case loads. Identify if an adjuster will be working on non-COPRM claims. Provide the total average number of claims each adjuster will be carrying.

**D. Company Experience (0 to 12 points)**

Proposers should include in their proposals documentation describing the extent of their experience and expertise for work related to for the services described herein. The documentation shall include, but is not limited to responses to the following:

**D1.** Provide a brief history of your firm including name of firm, address, how long the Company has been in business. Provide an overview of worker's compensation related activity in Arizona. List the location(s) of your office(s) that will serve the COPRM, including the address of each location. What percentage of your business is done in Arizona; what percentage of your overall business is public entity business?

**D2.** Describe your firm's management and claims handling philosophy; also include your firm's mission statement and approach to the delivery of workers' compensation claims services to your clients. Has your firm recently (last 2 years) lost any large clients and why?

**D3.** Describe your firm's organizational structure; include the Arizona office and the people in management positions (supporting the COPRM account).

**D4.** Provide a summary of the independent financial auditor's findings in the last SAS report. Explain any deficiencies or findings that might impact the claims process.

**D5.** Identify any of the work that you intend to sub-contract to others and identify the proposed sub-contractors including names, specific assignments, and the qualifications of the sub-contracting firm and its key personnel. Has your company, or any of your proposed sub-contractors, ever filed for reorganization or bankruptcy? If so, please provide dates and resolution.

**D6.** Is your company currently involved in arbitration and/or litigation for any reason? If so, please elaborate.

**E. References (0 to 6 points)**

**APPENDIX II: REFERENCE FORM**, Workers' Compensation: Third Party Claims Administration must be completed as requested. A minimum of three references must be provided from current clients and two references from prior clients for a total of five references.. Provide the names, addresses, contact persons, and telephone numbers of at least three current clients and two prior clients that the COPRM may contact as professional references. References must have received the same or substantially similar services to those offered to the COPRM. Include a client from the Arizona office)

Submitted by (Printed Name and Title): \_\_\_\_\_ Initial: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT A - SCOPE OF SERVICES

**Contractor** shall provide Workers' Compensation Claims Administration for the COPRM Risk Management Department. The responsibilities of the Contractor shall include, but shall not be limited to, the following full services:

**A. Claims Administrator Responsibilities:**

1. Administer workers' compensation claims in accordance with the laws, rules and regulations of the State of Arizona.
2. Work in conjunction with the COPRM.
3. Provide agent services for COPRM as the Responsible Reporting Entity (RRE) for compliance with the Medicare, Medicaid, and SCHIP Extension Act of 2007, referred to as MMSEA Mandatory Insurer Reporting or SCHIP Reporting: Section 111 of the Act, codified at 42, U.S.C 1395y(h)(8).
4. Allow access, within 48 hours of notice, to files for periodic audits at the City of Prescott's request and expense.
5. Implement and adhere to the following outline of the Scope of Services.

**B. Claim Administrators' Responsibilities for General File Control:**

1. Twenty-four (24) hour reporting service for the COPRM and its employees.
2. Promptly return all phone calls from COPRM injured workers within 24 hours receipt of the call (excluding weekends and legal holidays).
3. Establish claim files within one day of receiving notification of a claim. All claims files shall include full claim documentation in chronological order within 3 days.
4. Request any needed information from the COPRM including wage information.
5. All claim notes shall be available to COPRM on the system within seven days of entry; or a download of information made available in a timely manner.
6. Respond to written correspondence from COPRM workers within three working days of receipt of correspondence.
7. Review all active claims at a minimum of every 30 days. Open claims shall be maintained on a regular diary and the claim file shall be documented in a computer database. This documentation shall include the status of the claim, with an action plan outlining objectives to bring the claim to a successful conclusion. Claims Administrator's computer database shall be made accessible to the COPRM.
8. Document all pertinent telephone conversations, discussions, correspondence and medical reports in the computer database on all claims.
9. Perform all necessary work required to effectively handle each claim. Claims Administrator shall not perform services (i.e. surveillance, nurse consulting) outside of their core business of adjusting workers' compensation claims.
10. Contact COPRM within 24 hours of receipt of a Form 102 if a Form 101 has not been received. *Claims are not to be denied based solely on the absence of a Form 101 without approval of Risk Management.*
11. Work closely with COPRM and the Employee's home department to pursue any opportunities to return injured employees to modified duty.
12. All claims (medical only and loss time) shall be documented in the computer notes regarding compensability.
13. Each physical file shall be maintained in an orderly and logical manner.

**C. Claims Administrator Responsibilities for Claims Management:**

1. Contact with the injured worker within 24 hours of notice (3 point contact within 24 hours). Three-point contact within one working day of receipt of claims is mandatory on all loss time claims. Claims Administrator shall contact the Employee's home, COPRM department, the Employee, and the Treating Physician, and shall document the information received in the claim file and/or the computer notes.
2. Complete the initial claim investigation on loss time cases within first 3 days after receipt of claim including 3 point contact and taking of all recorded statements and requests for information from COPRM and the departments. Each investigation should be completed within 20 days of assignment.
3. Provide information to COPRM immediately if a COPRM employee refuses to cooperate, e.g. fails to appear for an Independent Medical Exam (IME), and other infractions.

4. Ensure that all claims payments are paid in a timely manner and in accordance with applicable state law and procedures as agreed upon between the Contractor and the COPRM.
5. Notify the COPRM of all releases to modified or regular assigned duty within 24 hours of their knowledge of release.
6. Provide all physicians a copy of the Physical Description Questionnaire of the employee's current position as soon as possible.
7. Where possible, return employees to work in tandem with COPRM's modified duty program. The lost-time claims adjuster or nurse/care manager shall actively assist in returning an employee to work as soon as medically appropriate. This process shall include such activities as:
  - a. Gaining an understanding of regular and modified duty positions available at the COPRM.
  - b. Immediate consultation with treating medical provider for diagnosis and determination whether the employee can be returned to work or not.
  - c. Coordination with COPRM personnel to assure the employee returns to work.
  - d. Monitoring modified-duty position to ensure employee returns to work without restrictions as soon as medically possible.
8. Claims Administrator shall contact all Loss of Earning Capacity (LEC) claimants at a minimum of once every twelve months. Activity checks should also be completed annually.
9. Close all medical only claims within twelve (12) months from the date of injury. If a claim cannot be closed or status is transferred as a loss time claim, a status report shall be provided to the COPRM addressing the exception and discussed at the weekly meeting.
10. All medical only claims involving work restrictions shall be handled the same as loss time claims as respects for diary, medical management and release to regular duty and claim adjuster should work with doctor and employee to get the restrictions lifted as soon as medically possible.
11. Provide notice to the COPRM Fax or other acceptable electronic medium (electronic mail) if a COPRM employee goes from "no loss time status" to "lost time status" or returns to "lost time" (always identify the loss time and the medical only claims as defined by Industrial Commission of Arizona).
12. Any changes in adjustors' caseloads, from the numbers initially agreed upon by Claims Administrator and COPRM will require notification and approval by Pima COPRM whenever there is a material change in workloads. Notice shall be before adjustment is made or within 24 hours of change.
13. For any change in personnel, Claims Administrator will need to contact COPRM within 24 hours of the change or notice of the need for a change.
14. Review all death benefit claims at a minimum of once every 12 months. A widow/widower affidavit shall be submitted annually on all death claims. Claims Administrator shall also monitor all minors receiving benefits and require documentation of college attendance semi-annually for dependents receiving benefits after age 18. Claims Administrator shall contact COPRM on any claims wherein the widow/widower has remarried; the dependent has ceased to attend college full time; or has achieved the age of 21.
15. An Annual Report of income shall be submitted annually on all LEC claims. All LEC claims shall be reviewed annually to determine any potential changes in the earning capacity, within the labor market. The Claims Administrator shall contact COPRM with their findings and any potential cases involving rearrangement.
16. Review all Loss of Earning Capacity (LEC) claims for potential apportionment opportunities prior to issuing any notices. Claims Administrator shall contact COPRM on any claims wherein the Special Fund has accepted apportionment.
17. Reporting: Claim Adjustors will attend meetings with the COPRM and prepare summaries for claims to be reviewed.
18. Reporting: Provide status reports for all time-lost claims to the COPRM every 30-60 days, or as agreed upon with the COPRM, if a claim remains open longer than 30 days.
19. Reporting: Provide immediate notification to the COPRM of any adverse developments such as low-back surgery or other case-related surgical events.
20. Surveillance: Make arrangements for a surveillance service as pre-approved on a case-by-case basis by the COPRM.
21. Vocational Rehabilitation: Coordinate vocational rehabilitation when necessary and pre-approved by the COPRM.

22. Reserve: Provide notification to COPRM in writing whenever a reserve is increased or decreased by more than \$25,000.
23. Settlement: Provide notice and sufficient information for the COPRM's approval of any settlement.
24. Aggressively seek subrogation and recovery of monies due to the COPRM.
25. Provide timely notice and coordination with the COPRM regarding any dispute relating to the determination of compensability, settlement, or excess coverage.
26. Provide notice to excess carrier of claims as outlined in the claims reporting section of their policy. Notify the COPRM annually to see if there are any changes in reporting to the excess carrier.
27. Issue 104 Report within 5 days receipt of initial medical report, issue 104 Report within 5 days of closing medical report, and close claims within 5 days of final billing.
28. Reserving: Ensure that all "Open Claims" older than six months or with reserves in excess of \$25,000.00 are reviewed by a senior claims supervisor every 30 days. Such reviews shall look at the appropriateness of the file reserves and the claims handling strategy.

**D. Claims Administrators Responsibilities for Investigation:**

1. Complete an investigation for all loss time claims, each investigation being completed within 20 days of assignment in accordance with Arizona state law.
2. The list below identifies unusual cases that may need a more detailed investigation to determine cause and thus the Claims Administrator may need to work with COPRM in the investigation. The claims shall be established as lost time and shall be thoroughly investigated by the Claims Administrator to confirm compensability, prior to denial or acceptance.
  - a. Occupational disease and/or accidents
  - b. Cumulative or repetitive injuries
  - c. Claims that may meet indicators of insurance fraud
  - d. Stress or psychological claims
  - e. Subrogation
  - f. Serious Injuries
3. Questionable claims shall be investigated to include, but not limited to, on site investigations; recorded statements of all parties involved; medical record reviews; and possibly Independent Medical Exams (IME). These investigations shall commence prior to issuance of any denial, time permitting.
4. All stress claims shall be established as loss-time and shall be thoroughly investigated by the Claims Administrator for compensability, prior to denial or acceptance.
5. All potential subrogation claims shall be established as loss-time and shall be thoroughly investigated by the Claims Administrator for recovery.
6. All requests for surveillance shall be pre-approved by the COPRM.

**E. Claim Administrators Responsibilities for Reserving:**

1. Reserves, including reserve worksheets, shall be reviewed at diary and reserve analysis shall be documented in the claim notes reflecting all reserve changes.
2. All reserve increases of \$25,000 or more shall be communicated in writing and approved by COPRM.

**F. Claims Administrators Responsibilities for Data Management:**

1. Provide claims data management in order to:
  - a. Transfer the COPRM's current and historical claims data from its form at the time this contract begins to a form suitable and compatible with the contractor's electronic claims management system.
  - b. Keep the COPRM's claims data up to date and to ensure that the data is backed up and stored on at least a weekly if not daily basis.
  - c. Provide accurate data input on active cases and input of historical data as well as periodic data reviews by the assigned adjuster to ensure that the reserve, payment history, cause of loss, accounting codes and other essential claim data is accurate and up to data.
2. Provide on-line access to employees of COPRM and provide training for the COPRM's employees in the use of the claims software.
3. Provide computer support for the COPRM's interface with the Claims Administrator including software installation, and troubleshooting if applicable.

4. Provide access to claim notes to review adjustor's notes and for COPRM's approved personnel to enter notes into COPRM's claims.
5. Monthly loss runs shall be sorted by fiscal year, location and department in a summary and detail format as required by the COPRM.
6. Provide access for COPRM employees access to report writing and templates to allow the City to design AD Hoc reports.
7. Contractor shall ensure the COPRM has on-line access to financial claims data and file notes, throughout the duration of subject contract.

**G. Claims Administrator Responsibilities for Reporting:**

1. Annual reports for outside agencies: Claims Administrator shall complete and submit to COPRM or the requesting agency (at the COPRM's direction), in a timely manner, the following reports and applications:
  - a. Governmental accounting Standards Board (GASB) 10 (stated reserves).
  - b. Information and reports as requested by internal and external auditors.
  - c. 1099 preparation and delivery to the proper agency.
  - d. All Occupational Safety & Health Administration (OSHA) required reports.
  - e. National Council on compensation Insurance (NCCI) filings and rankings.
  - f. State self-insured renewal submissions.
  - g. State self-insured tax preparation and submission.
  - h. MMSEA (SCHIP) Reporting.
2. Provide data elements in standardized format - provide examples of loss history reports/loss runs, thru paper reports and graphics. Include, at a minimum, the data elements identified below:
  - a. Injury type.
  - b. Injury cause.
  - c. Injury body part.
  - d. Frequency.
  - e. Severity.
  - f. Amount paid.
  - g. Amount reserved.
  - h. Amount incurred.
  - i. COPRM Department and Division involved.
  - j. Location (on/off COPRM property).
  - k. Time, day month and year of incident(s).
  - l. Employee class code.
  - m. Date range (snapshot).
  - n. Initial reserves vs. final amount paid.
  - o. Other parameters established by COPRM.
3. Generate color graphs and charts in both paper and electronic formats according to specifications set by COPRM. Reports shall be in a format subject to final approval by COPRM.
4. Below is a list of required standard reports - reports are to be sent electronically and provided in a format ready for printing and distribution by COPRM, as well as provide the ability to sort the data (in the electronic format). Reports shall be sent monthly and annually unless otherwise stated.
  - Claims Management Reports For City of Prescott's Workers Compensation Program
    - a. Shall submit status reports to COPRM Management on all open claims with an incurred reserve of \$25,000 or more every 90 days.
    - b. Shall fax or email to COPRM weekly a report of all employees on an off-work status or modified duty status weekly. The report shall monthly include a short summary as to why: the employee continues on an off-work status; the date the employee was released to modified duty and the number of monthly attempts made to accommodate restrictions.
    - c. Submit reports on all applicable claims to the appropriate City of Prescott's excess insurance carrier based on their criteria. COPRM shall be copied on all correspondence directed to the excess carrier.

- d. Loss Control/Safety Reports by cause, type of injury and body part injured shall be reported to COPRM monthly, without fail.
  - e. Individual case reports shall be provided (upon COPRM request).
  - f. Provide to COPRM on a quarterly basis a list of all subrogation activity (by claim and dollars recovered).
- Reports for Risk Management – electronic reports
    - a. Claims summary by department and loss type and comparison to claims history one year ago – including total number, dollars paid and dollars reserved. Both detail and short summary reports.
    - b. Lag time report by department.
    - c. Loss ratio by department.
    - d. New claims, closed claims
    - e. High dollars claims
    - f. Cause of loss, claim detail report
    - g. Open/closed claims – summary report
    - h. Subrogation report
    - i. Cause of loss, claim detail report
    - j. Reports for ICA, Actuary, OSHA, auditors – requirements as outlined by the requesting entity
  - Reports for Departmental Distribution – electronic reports
    - a. Claims summary by department and loss type and comparison to claims history one year ago – including total #, \$\$ paid and \$\$ reserved.
    - b. Safety/Loss Control Reports – to be determined by COPRM
    - c. OSHA Reports, Recorded Injury Data
5. Provide other ad hoc reports as requested by COPRM.

**H. Claim Administrators Responsibilities for Subrogation:**

1. Pursue every avenue necessary to recover funds and protect the lien rights of the COPRM.
2. Investigate for potential third party recovery. Once a third party has been identified, the Claims Administrator shall submit a status report to COPRM advising of potential subrogation and recommending an approach to collection.
3. Copy COPRM on all correspondence regarding notice of lien rights on all aspects of the third party recovery.
4. Submit a report to COPRM on each claim closed without recovery on all claims identified as possible subrogation.
5. All recovery checks shall be made payable to COPRM and mailed to the COPRM Risk Management Office.

**I. Claims Administrators Responsibilities of Ownership and Disclosure of COPRM Records:**

Any and all work product prepared by the contractor, its employees and/or agents and consultants, under this contract shall be the property of the City of Prescott. Within thirty (30) days of the time of expiration of the term of this contract, or in the event this contract is terminated, the contractor agrees to deliver to the City of Prescott all property as defined herein.

1. Since the City of Prescott owns the documents generated by the contractor pursuant to this Request for Proposal and ensuing contractual agreement, the contractor agrees that it shall not, without written approval by the City of Prescott, disclose publicly said records. The contractor understands that the information obtained in the performance of this contract shall be confidential and may be shared with employees of the City of Prescott or others only on a need-to-know basis.
2. Contractor shall provide storage of the City of Prescott's closed workers' compensation claims and records.
3. Contractor shall follow the City of Prescott's record retention guidelines.

**J. Claims Administrators Responsibilities for Cost Containment:**

1. Claims Administrator and COPRM shall be responsible for providing the City of Prescott with a comprehensive program designed to contain the medical costs. These services shall include, but are not limited to:
  - a. Medical Bill Review.
  - b. Case Management/Rehabilitation Services.

- c. Hospital Bill Auditing.
  - d. Prescription Management Services.
  - e. Annuity Costs.
  - f. A PPO Network - (If Claims Administrator cannot arrange for a suitable PPO Network, COPRM Risk Management reserves the right to make those arrangements; and the Claims Administrator shall be required to work with that designated PPO organization.).
  - g. Billing payment program.
2. Ensure the reduction of all medical bills to lower negotiated rates through application of fee guidelines and contracted PPO networks.
  3. Oversee and ensure that the proper reduction of all medical bills to lower negotiated rates is being done for the COPRM.
  4. All medical bills shall be reviewed for processing within three working days at the lowest possible rate (Fee Schedule and any applicable cost containment programs).
  5. Establish and maintain prescription drug utilization and discount program.
  6. Establish and/or maintain a managed care/medical cost containment program including PPO networks, case management services, utilization and bill reviews, and a prescription drug savings.
  7. Coordinate with the Occupational Health Providers to provide services such as, but not limited to:
    - a. On-site case management with medical providers, the injured employee, and other parties involved in the claim.
    - b. Coordination of patient referrals.
    - c. Coordinate modified duty program with medical providers, COPRM, and department personnel.
    - d. Quarterly file and service review meetings.
    - e. On-site statements or interviews as needed.
    - f. Safety and risk management meetings to produce best possible outcome on each claim.  
Copies of medical records for the file
    - g. Coordination in release of medical information.
  8. Ensure the network provides sufficient staffing to ensure that employees have access to specialist and ancillary services as authorized by COPRM.
  9. If the Claims Administrator provides the PPO Network, they shall ensure that the Network can fulfill all obligations specified herein. The Claims Administrator shall solicit the services of another PPO Network and shall be responsible for all costs, fees or resources necessary to complete the obligations of this Agreement, if the Network is unable to provide quality health care to COPRM employees.

**K. Claims Administrators Responsibilities for Litigation Management:**

1. Advise COPRM representatives of all hearings, depositions, mediations, and related actions immediately upon receipt of notice.
2. COPRM shall approve assignment of the defense counsel.
3. Copies of all legal status reports received by the Claims Administrator, along with other related correspondence shall be copied to the COPRM.
4. Assignment of defense counsel does not eliminate the Claim Administrator's responsibility for prompt investigation, claim evaluation, and disposition. Normal claims handling functions are not to be transferred to defense counsel subsequent to the initiation of litigation.

**L. Claims Administrators Responsibilities for Settlement Authority:**

1. Request for settlement authority shall be in writing, accompanied by a written recommendation and status report, and sent to COPRM.
2. COPRM shall provide prior approval to the Claims Administrator to obtain annuity quotes from Structured Settlement Vendors.
3. COPRM maintains the right to obtain structured settlements independent of the Claims Administrator.
4. Final approval of the recommended annuity quotes is at COPRM's discretion.

**M. Claims Administrators Responsibilities for Claim Audit:**

COPRM shall conduct a Claim Review (audit) of the Claims Administration on an annual basis, as well as quarterly mini-audit.

**N. Claims Administrators Responsibilities for Meetings:**

1. Telephonic weekly meetings with COPRM representatives, attendees include claims adjusters and claims supervisor, to discuss pending action and approval on specific claims as selected by the Claims Administrator and the COPRM. Average meeting lasts less than one hour. Meeting time, date and location shall be determined by the COPRM with input from claims administrator.
2. Quarterly claim review meetings shall be required on specific open claims selected by COPRM Risk Management.
3. Claims Administrator will prepare summaries of the claims to be reviewed to include the current action plan.
4. Claims Administrator's staff shall meet with COPRM at least once a year to discuss trends, recommend improvements, etc. These discussions should focus on statistics/trends noticed within individual departments and should be used as preliminary information for the annual reporting process. Meeting time, date and location shall be determined by the COPRM.
5. Claims Administrator and individual claims adjusters shall attend meetings as requested by the City of Prescott.

**O. Claims Administrators Responsibilities for Finance:**

1. Contractor shall cooperate with City of Prescott Finance Department when needed in the process of Bank Reconciliation.
2. The City of Prescott has an established bank account for all workers compensation checks. If this is not acceptable please advise and explain the current system for check issuance.
3. Claims Administrator shall send via e-mail electronic version of the check register on Friday afternoons, when all of the checks have been issued for the week, to COPRM & City of Prescott Finance Department.. The check register is a listing of all TTD, TPD, medical, and expense payments that the Claims Administrator has made in that week. The check register shall contain the check number, check amount, issue date, payment type (indemnity, medical, legal expense, etc.), the claim number, claimant name, loss date, payee, and a total of all checks issued in the week so the City of Prescott can replenish the City's workers compensation account if needed.
4. Claims Administrator shall do a reconciliation of the account on a monthly basis and provide the results to City of Prescott Finance Department and research any exceptions identified by the City of Prescott in the reconciliation.
5. Claims Administrator shall provide monthly invoices of their claims administration service fees with adequate back up documentation to COPRM Risk Management on a timely basis. The Claims Administrator shall also provide projections of claims administration service fees when requested for budgeting purposes.
6. Claims Administrator shall provide a monthly summary report to the COPRM Risk Management that shows the total paid, total outstanding reserve balance and total incurred at the end of each month and the end of the fiscal year.

**P. Claims Administrator and Required Approvals from COPRM:**

1. Obtain approval from COPRM prior to increasing claim reserves to \$25,000 or more on a claim. These claims shall also require status reports every 90 days.
2. Obtain authority and approval from COPRM prior to any settlement.
3. Obtain pre-approval from COPRM on all requests for surveillance or any outside investigation. The Claims Administrator is expected to manage all investigations.
4. Obtain pre-approval from COPRM on all requests for assignments of defense counsel.
5. No assignment is made to outside Case Management without prior approval of COPRM.
6. Approval required from COPRM prior to litigation assignment to legal counsel.

**7. Claims Administrator Responsibilities for Staffing:**

1. Maintain the appropriate number and experience level of qualified workers' compensation personnel to adequately handle all claims on behalf of COPRM. COPRM shall have the right of pre-approval for all adjusters to be assigned to COPRM.
2. Communicate with COPRM whenever there is an anticipated change in personnel.

3. Case loads:
4. Medical only adjuster case load shall not exceed 200 claims.
5. Lost time adjuster caseload shall not exceed 160 claims (total over all claims-including supportive care, loss of earnings, and total permanent impairment claims).
6. Claims Administrator is responsible for providing additional staff to assist COPRM injured workers if assigned staff is unavailable due to training, annual leave, illness, or any extended absence.
7. Claims Administrator shall provide to COPRM the average total workers' compensation claim caseload for the medical-only and indemnity claims adjusters at the quarterly meetings.
8. If the Claims Administrator is unable to perform any functions of this Agreement to the satisfaction of the COPRM, they shall be responsible for putting forth all resources necessary to fulfill the obligations stated within this Agreement. The Claims Administrator shall be responsible for any costs incurred by the COPRM as a result of their failure to fulfill any obligation stated within this Agreement.
9. If the Claims Administrator is unable to perform any functions of this Agreement to the satisfaction of the COPRM, they shall be responsible for putting forth all resources necessary to fulfill the obligations stated within this Agreement. The Claims Administrator shall be responsible for any costs incurred by the COPRM as a result of their failure to fulfill any obligation stated within this Agreement.

**8. COPRM Responsibilities to Claims Administrator**

1. Ensure adjusters get timely notice of injury and injury reports from COPRM departments.
2. Provide adjusters with approval decisions within 24 hours of request.
3. Work with adjusters and COPRM departments on modified duty and loss time cases in order to get employee back to work and to full duty as soon as medically possible.
4. Assist adjusters with investigations as needed.
5. Provide information to adjusters from departments as quickly as possible.
6. Follow up with departments as needed for claims adjusters.
7. Assist adjusters with injured workers that are not cooperating, including not keeping medical appointments.
8. Assist adjusters in facilitating communication with employees, departments, occupational providers, etc.

**9. Scope of Pricing:**

The price per claim shall be for the life of the contract. There shall be no anniversary loss date, no re-bills, no reopen charges to the COPRM. Average number of monthly new claims through the period.

Claims Administrator costs incurred for initial "set-up" shall be inclusive within the processing fee per claim. The initial set-up shall include, but is not limited to clerical/typing fees, initializing claim within the computer system, contact letter or any initial correspondence directed to the claimant, postage for such correspondence, standard reports, etc.

COPRM shall pay the reasonable expenses for the data tape transfer. It is the responsibility of the Claims Administrator to coordinate with the previous Administrator in converting the data from the previous system and insuring the integrity of COPRM's worker's compensation claims history after the data conversion is complete.

**10. Claims Administrator's Responsibilities for Quality Assurance:**

1. Administration of claimant service satisfaction surveys on monthly or quarterly basis as agreed upon with the COPRM.
2. Establishment of service benchmarks and criterion as required by COPRM.
3. Guarantee "live body" telephone service from 7:45 A.M. to 5:00 P.M. for every COPRM workday and automatic reporting systems such as telephonic or Internet based access available 24 hours a day, 7 days a week.
4. Twenty-four hour contact with employees whose injuries require treatment beyond first aid.
5. Twenty-four hour return phone call guarantee.
6. Claim process and general workers' compensation training programs for new and existing COPRM employees, upon request.

**EXHIBIT B – PRICE SHEET**

Using the format listed below, please provide a schedule of fees for the services offered in response to this Request for Proposals. This format shall be followed and information shall be completed for each offeror and staff member who will be providing services for billing under this contract. Provide all costs associated with providing the services, as specified in this Request for Proposals. (32 Total Points)

**Annual Fees:**

Annual Flat Fee: \$ \_\_\_\_\_

**Annual Fees:**

Annual Flat Fee \$ \_\_\_\_\_

Per Claim Fee \$ \_\_\_\_\_

Per Claim Fee: \$ \_\_\_\_\_

Up to \_\_\_\_\_ Claims \$ \_\_\_\_\_

Over \_\_\_\_\_ Claims \$ \_\_\_\_\_

**Fees for Take-Over Claims:**

Take Over Flat Fee \$ \_\_\_\_\_

Take over Per Claim Fee:

Up to \_\_\_\_\_ Claims \$ \_\_\_\_\_

Over \_\_\_\_\_ Claims \$ \_\_\_\_\_

Over \_\_\_\_\_ days old \$ \_\_\_\_\_

\*Other Take Over Fees: \$ \_\_\_\_\_

\*Attach itemized per fee cost.

**Additional Fees:**

Vocational Rehabilitation Referral \$ \_\_\_\_\_

Obtain prior claim/medical history \$ \_\_\_\_\_

Subrogation and/or Recovery \$ \_\_\_\_\_

1099 Form Preparation \$ \_\_\_\_\_

Determination of, or adjustment to reserves \$ \_\_\_\_\_

Internal Legal Assistance \$ \_\_\_\_\_

External Legal Assistance \$ \_\_\_\_\_

Working with City-appointed Attorneys \$ \_\_\_\_\_

Second Injury Fund Recovery \$ \_\_\_\_\_

Internal Case Management Assistance \$ \_\_\_\_\_

External Case Management Assistance \$ \_\_\_\_\_

Working with City-appointed Case Management \$ \_\_\_\_\_

City access to claims information system \$ \_\_\_\_\_

Cost for and description of any reports: (include how many can be provided after initial access and what charges would apply) \$ \_\_\_\_\_

City requested, custom reports	\$ _____
PPO programs/networks	\$ _____
Medical Bill Reviews	\$ _____
Hospital Bill Review	\$ _____

**Other Services and Fees Not Listed:**

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

## INSURANCE REQUIREMENTS

The successful respondent shall maintain during the term of this contract the following insurance policies issued by companies licensed in Arizona with an A.M. Best rating of A-VII or better. Prior to commencing services, the respondent shall furnish the Risk Manager with Certificate(s) of Insurance evidencing the required coverage, conditions and limits outlined below. The Certificate(s) of Insurance for General Liability shall be endorsed to name the City of Prescott as an additional insured, to the fullest extent allowable by law.

The insurance policies shall be endorsed stating that they shall not expire, be cancelled, suspended, voided or materially changed without 30 calendar days written notice by certified mail to the Risk Manager. The respondent's insurance must be primary and any insurance or self-insurance maintained by the City shall not contribute to it. If any part of the contract for these services is sub-contracted, these insurance requirements also apply to all sub-contractors:

**COMMERCIAL GENERAL LIABILITY:** Minimum \$1,000,000 per occurrence/\$2,000,000 aggregate for bodily injury, property damage, personal injury, products and completed operations and blanket contractual coverage.

**AUTOMOBILE LIABILITY (OWNED, NON-OWNED AND HIRED):** CSL for bodily injury and property of a minimum of \$1,000,000 per occurrence.

**WORKERS' COMPENSATION:** Statutory limits, and Employer's Liability minimum of \$100,000 per accident, \$100,000 disease per employee and \$500,000 disease policy limit.

**PROFESSIONAL LIABILITY:** Minimum of \$5,000,000 per occurrence for any acts, errors, mistakes and omissions arising out of the work or services performed by the contractor, or any person employed by the contractor.

**Right to Revise or Reject** City reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the criteria stated herein. Additionally, City reserves the right, but not the obligation, to review and reject any insurer providing coverage due of its poor financial condition or failure to operating legally.

## DRAFT SERVICE AGREEMENT

WHEREAS the City of Prescott (hereinafter referred to as "City") is in need of certain services; and

WHEREAS \_\_\_\_\_ (hereinafter referred to as "Contractor ") has expertise in providing Third Party Workers' Compensation Administration Services;

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS HEREIN CONTAINED, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, it is hereby agreed as follows:

### SCOPE OF WORK

1. The Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities as identified in Exhibit "A", attached hereto and made a part hereof, and to completely and totally provide the same to the CITY, in a good and workmanlike and substantial manner and to the satisfaction of the CITY through its agents and under the direction and supervision of the Risk Manager or his properly authorized agent(s), hereinafter referred to as the Project Director or his designee, subject to those limitations and modifications as contained in Exhibits "A" and "B", attached hereto and made a part hereof.

2. In addition to those services identified in the attached Exhibits "A" and "B", the Contractor shall also perform all subordinate tasks not specifically referenced but necessary to the full and effective performance of those tasks specifically referenced. In the event of a discrepancy between this Agreement and Exhibits "A" and "B", this Agreement shall control. In the event of a discrepancy between Exhibits "A" and "B", Exhibit "A" shall control over Exhibit "B".

3 Contractor shall provide sufficient qualified personnel, upon reasonable notice to perform any and all services as required herein, including but not limited to preparation of reports, as reasonably requested by representatives of the City.

### TIME OF COMPLETION/TERM

4. (a) The term of this agreement shall be from **START DATE** through **END DATE** (5 years). All services identified in Paragraphs 1 and 2 above shall be completed to the satisfaction of the City no later than mutually agreed upon dates.

(b) The parties may, by mutual consent, extend this contract for an additional two (2) one-year terms under the same terms and conditions as contained herein.

(c) Events of Default and Termination:

- A. The occurrence of any or more of the following events shall constitute a material breach of and default under the Contract. The City reserves the right to terminate the whole or any part of the Contract due to Contractor's failure to fully comply with any term or condition herein.
- i) Any failure by Contractor to furnish services that fail to conform to any requirement of this Contract or provide personnel that do not meet Contract requirements;

- ii) Any failure by Contractor to observe, perform or undertake any provision, covenant or condition of this Contract to be observed or performed by Contractor herein, including but not limited to failing to submit any report required herein;
  - iii) Any failure to make progress in the performance required pursuant to the Contract and/or gives the City reason to believe that Contractor cannot or will not perform to the requirements of the Contract; or,
  - iv) Any failure of Contractor to commence services within the time specified herein, and to diligently undertake Contractor's work to completion.
- B. Upon and during the continuance of an event of default, the City, at its option and in addition to any other remedies available by law or in equity, without further notice or demand of any kind to Contractor, may do the following:
  - i) Terminate the Contract;
  - ii) Pursue and/or reserve any and all rights for claims to damages for breach or default of the Contract; and/or,
  - iii) Recover any and all monies due from Contractor, including but not limited to, the detriment proximately caused by Contractor's failure to perform its obligations under the Contract, or which in the ordinary course would likely result there from, including, any and all costs and expenses incurred by the City in: (a) costs incurred in selecting and retaining substitute Contractor for the purchase of services from another source; and/or (b) attorneys' fees and costs in pursuing any remedies under the Contract and/or arising there from.
- C. The exercise of any one of the City's remedies as set forth herein shall not preclude subsequent or concurrent exercise of further or additional remedies. The City may terminate this Contract for default, non-performance or breach, or pursuant to A.R.S. § 38-511, or abandon any portion of the project for which services have not been fully and/or properly performed by the Contractor.
- D. Termination shall be commenced by delivery of written notice to Contractor by the City personally or by certified mail, return receipt requested. Upon notice of termination, Contractor shall immediately stop all work, services and/or shipment of goods hereunder and cause its suppliers and/or subcontractors to cease work pursuant to the Contract. Contractor shall not be paid for work or services performed or costs incurred after receipt of notice of termination, nor for any costs incurred that Contractor could reasonably have avoided.
- E. The City, in its sole discretion, may terminate or reduce the scope of this Contract if available funding is reduced for any reason.
- F. The City at its sole discretion may terminate this Contract for convenience with thirty (30) days advance notice to Contractor. Contractor shall be reimbursed for all appropriate costs as provided for within the Contract up to the termination date specified.

5. Pursuant to A.R.S. Section 38-511, the City of Prescott may cancel this agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the City is, at any time while the agreement or any extension of the agreement is in effect, an employee or agent of any other party to the agreement in any capacity or a Agency/Contractor/Vendor to any other party of the agreement with respect to the subject matter of the agreement. In the foregoing event, the City of Prescott further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this agreement on behalf of the City of Prescott from any other party to the agreement arising as a result of this agreement.

6. Any notices to be given by either party to the other must be in writing, and personally delivered or mailed by prepaid postage and certified mail, at the following addresses:

City of Prescott  
Risk Manager  
PO Box 2059  
Prescott, AZ 86302

With a copy to:

City of Prescott  
City Clerk  
PO Box 2059  
Prescott, AZ 86302

Agency/Contractor/Vendor:

CONTRACTOR  
Street  
City, State, Zip

#### INDEPENDENT CONTRACTOR STATUS

7. It is expressly agreed and understood by and between the parties that Contractor is an independent Contractor, and as such Contractor shall not become a City employee, and is not entitled to payment or compensation from the City or to any fringe benefits to which other City employees are entitled. As an independent Agency/Contractor/Vendor, Contractor further acknowledges that it is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement. As an independent Agency/Contractor/Vendor, Contractor further agrees that it will conduct itself in a manner consistent with such status, and that it will neither hold itself out nor claim to be an officer or employee of the City by reason thereof, and that it will not make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the City, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

8. This Agreement is non-assignable by the Agency/Contractor/Vendor.

#### COMPENSATION

9. (A) The City shall pay to the Contractor a total sum not to exceed \$\_\_\_\_\_ for the complete performance of all services specified in Sections 1, 2 and 3 of this Agreement.

(B) Should the City request in writing additional services beyond that specified in Sections 1, 2 and 3, then Contractor shall charge and City shall pay a mutually agreed fee.

#### AMBIGUITY/VENUE

10. This Agreement is the result of negotiations by and between the parties. Although it has been drafted by the Prescott City Attorney, it is the result of the negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.

11. This agreement shall be construed under the laws of the State of Arizona.

12. This Agreement and Exhibit "A" represent the entire and integrated Agreement between the City and the Agency/Contractor/Vendor and supersede all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and the Agency/Contractor/Vendor. Written and signed amendments shall automatically become part of the Agreement, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

13. In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provisions, term, condition, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

14. The Agency/Contractor/Vendor shall, within ten (10) calendar days after the execution of the Agreement and before awarding any subcontract, furnish the City with a list of proposed subcontractors, and shall not employ any that the City may object to as incompetent or unfit.

15. To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of this Agreement, Contractor's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Agreement including any employee of the Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable.

The Contractor shall obtain and maintain in effect during the term of this Agreement liability insurance policy(ies) with limits not less than those set forth in this Agreement. The amount and type of insurance coverage requirements set forth herein are the minimum requirements

and will in no way be construed as limiting the scope of indemnity covenants contained in this Agreement.

16. No oral order, objection, claim, or notice by any party to the other shall affect or modify any of the terms or obligations contained in this Agreement, and none of the provisions of this Agreement shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written notice, waiver, or modifications shall be introduced in any proceeding.

### INSURANCE

17. Contractor is required to keep in full force during the term of this Agreement, the Insurance coverage as set forth in Appendix 1, incorporated herewith and made part of this Agreement. Failure to maintain the insurance required in Appendix 1 by Contractor, is reason for immediate termination of this Agreement by Licensor. Licensor reserves the right to require Licensee to make changes to insurance coverage including, but not limited to, increasing limits of insurance coverage under this Agreement.

### NONDISCRIMINATION

18. The Agency/Contractor/Vendor, with regard to the work performed by it after award and during its performance of this contract, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Agency/Contractor/Vendor will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and Executive Order 99-4.

19. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. The Agency/Contractor/Vendor further agrees that this provision shall be contained in all subcontracts related to the project which is the subject of this Agreement. The parties hereto further expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorneys fees, either pursuant to the Agreement, pursuant to ARS Section 12-341.01(A) and (B), or pursuant to any other state or federal statute. The Agency/Contractor/Vendor further agrees that this provision shall be contained in all subcontracts related to the project that is the subject of this Agreement.

### IMMIGRATION WARRANTY

20. The Contractor understands and acknowledges the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The following is only applicable to construction contracts: The Contractor must also comply with A.R.S. §34-301, "Employment of Aliens on Public Works Prohibited," and A.R.S. §34-302, as amended, "Residence Requirements for Employees."

Under the provisions of A.R.S. §41-4401, Contractor hereby warrants to the City that the Contractor and each of its Subcontractors ("Subcontractors") will comply with, and are contractually obligated to comply with all Federal Immigration laws and regulations that relate to their employees and A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the City.

The City retains the legal right to inspect the papers of any Contractor or Subcontractor's employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections.

The City may, at its sole discretion, conduct random verification of the employment records of the Contractor and any of its Subcontractors to ensure compliance with the Contractors Immigration Warranty. Contractor agrees to assist the City in regard to any random verifications performed.

Neither the Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if the Contractor or Subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214 Subsection A.

The provisions of this Article must be included in any contract the Contractor enters into with any and all of its Subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a Contractor or Subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
City Manager

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
ELIZABETH BURKE  
City Clerk

\_\_\_\_\_  
GARY D. KIDD  
City Attorney

Contractor

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

Printed Name: \_\_\_\_\_

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

EXHIBIT 'A'  
(insert RFP here)

EXHIBIT 'B'  
(insert Proposal Response here)