

# **EXHIBIT 1**

## **CONTRACT SERVICES AGREEMENT**

**By and Between**

**CITY OF CARSON**

**and**

**CARL WARREN & COMPANY, LLC**

**AGREEMENT FOR CONTRACT SERVICES  
BETWEEN THE CITY OF CARSON AND  
CARL WARREN & COMPANY, LLC**

THIS AGREEMENT FOR CONTRACT SERVICES (herein “Agreement”) is made and entered into effective the 1st day of October, 2024 by and between the CITY OF CARSON, a California municipal corporation (“City”) and Carl Warren & Company, LLC, a California limited liability company (“Consultant”). City and Consultant may be referred to, individually or collectively, as “Party” or “Parties.”

**RECITALS**

A. City has sought the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Carson’s Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

**OPERATIVE PROVISIONS**

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

**ARTICLE 1. SERVICES OF CONSULTANT**

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by this reference, which may be referred to herein as the “services” or “work” hereunder. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase “highest

professional standards” shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

#### 1.2 Consultant’s Proposal.

The Scope of Service shall include the Consultant’s scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

#### 1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

#### 1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant’s performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

#### 1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at Consultant’s risk until written instructions are received from the Contract Officer.

#### 1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City’s own negligence.

1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum or \$25,000, whichever is less; or, in the time to perform of up to one hundred eighty (180) days, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.9 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

**ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.**

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed the following amount: **(1) Three Hundred Eighty-Nine Thousand Seventy-Four Dollars (\$389,074); plus (2) Eighteen percent (18%) of the net recovery from subrogation claims as set forth in Section I of Exhibit "C"** (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.8. In the event City exercises one or both of its options to extend the Term of this Agreement pursuant to Section 3.4, the Contract Sum

shall be increased for such option period(s) by the applicable amount(s) set forth in Section I of Exhibit "C."

## 2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

## 2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

## 2.4 Invoices.

Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and subcontractor contracts. Subcontractor charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant's correct and undisputed invoice; however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City for any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

**ARTICLE 3. PERFORMANCE SCHEDULE**

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

## ARTICLE 4. COORDINATION OF WORK

### 4.1 Representatives and Personnel of Consultant.

The following principals of Consultant (“Principals”) are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

|                        |  |
|------------------------|--|
| <u>Angelique King</u>  | <u>Executive Vice President</u>            |
| (Name)                 | (Title)                                    |
| <u>Brett Vermeulen</u> | <u>Claims Examiner (Primary)</u>           |
| (Name)                 | (Title)                                    |
| <u>Suzie Spencer</u>   | <u>Vice President Business Development</u> |
| (Name)                 | (Title)                                    |
| <u>Joe Mercado</u>     | <u>Client Service Manager</u>              |
| (Name)                 | (Title)                                    |

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

### 4.2 Status of Consultant.

Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant’s officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Consultant, nor any of Consultant’s officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City’s employees. Consultant expressly waives any claim Consultant may have to any such rights.

### 4.3 Contract Officer.

The Contract Officer shall be Roobik Galoosian, Risk Manager, or such person as may be designated by the City Manager. It shall be the Consultant’s responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the

Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

#### 4.4 Independent Consultant.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

#### 4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

### **ARTICLE 5. INSURANCE AND INDEMNIFICATION**

#### 5.1 Insurance Coverages.

The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) General Liability Insurance (Coverage Form ISO CGL CG 00 01 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in

an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Consultant against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement, with Employer's Liability insurance coverage limits of at least \$1,000,000.00.

(c) Automotive Insurance (Coverage Form ISO CA 00 01 including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Consultant's profession as determined by the City's Risk Manager, provided that the limits shall be no less than \$1,000,000 per claim and no less than \$1,000,000 general aggregate. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant's services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

(g) Broader Coverages and Higher Limits. Notwithstanding anything else herein to the contrary, if Consultant maintains broader coverages and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverages and/or higher limits maintained by Consultant.

## 5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective

insurers. Moreover, the insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention.

All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer.

No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed]

\_\_\_\_\_  
Consultant Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or any automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the

Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3.

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

### 5.3 Indemnification.

To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Consultant is legally liable ("indemnitors"), or arising from Consultant's or indemnitors' reckless or willful misconduct, or arising from Consultant's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Consultant shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional

services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

#### 5.4 Sufficiency of Insurer.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the risk manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

### **ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION**

#### 6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to City, and access shall be provided by Consultant's successor in interest. Notwithstanding the above, the Consultant shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

#### 6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or

will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

### 6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the “documents and materials”) prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City’s sole risk and without liability to Consultant, and Consultant’s guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom. Moreover, Consultant with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the City.

### 6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant’s conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

## **ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION**

### **7.1 California Law.**

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Los Angeles, State of California.

### **7.2 Disputes; Default.**

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

### **7.3 Retention of Funds.**

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear

to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

#### 7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

#### 7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

#### 7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue a legal action under this Agreement.

#### 7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer

thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.8 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.9 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

**ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION**

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

### 8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

### 8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

## **ARTICLE 9. MISCELLANEOUS PROVISIONS**

### 9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Carson, 701 East Carson, Carson, California 90745 and in the case of the Consultant, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

### 9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

### 9.3 Counterparts.

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, whether the signatures are originals, electronic, facsimiles or digital. All such counterparts shall together constitute but one and the same Agreement.

### 9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

### 9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

### 9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "non-interests" pursuant to Government Code Sections 1091 or 1091.5. Consultant warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Consultant further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Consultant is aware of and understands that any such act(s), omission(s) or other conduct resulting in such

payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Consultant's Authorized Initials \_\_\_\_\_

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date and year set forth below, with express intent that this Agreement be effective as of October 1, 2024.

**CITY:**

CITY OF CARSON, a municipal corporation

\_\_\_\_\_  
Lula Davis-Holmes, Mayor

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

**ATTEST:**

\_\_\_\_\_  
Dr. Khaleah K. Bradshaw, City Clerk

APPROVED AS TO FORM:  
ALESHIRE & WYNDER, LLP

\_\_\_\_\_  
Sunny K. Soltani, City Attorney  
[BRJ; PKS]

**CONSULTANT:**

CARL WARREN & COMPANY, LLC, a California limited liability company

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

Name:

Title:

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

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

Name:

Title:

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

Address: 175 N. Riverview Dr, Unit A  
Anaheim, CA 92808

**If Consultant is a limited liability company, any one of the following options will satisfy City’s signature requirements pursuant to the Corporations Code. Option A: One signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any**

**Assistant Treasurer. Option B: Signatures required from two managers unless the LLC is managed by one manager per its articles of organization, in which case only one signature from that manager is required. Option C: One signature required from any member unless the LLC is manager-managed per its articles of organization. Option D: One signature required from any manager if the LLC is manager-managed per its articles of organization. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF ORGANIZATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.**

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On \_\_\_\_\_, 2024 before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

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

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

|  |  |
|--|--|
| <p><input type="checkbox"/> <b>CAPACITY CLAIMED BY SIGNER</b></p> <p><input type="checkbox"/> INDIVIDUAL</p> <p><input type="checkbox"/> CORPORATE OFFICER</p> <p>_____</p> <p><input type="checkbox"/> PARTNER(S) <input type="checkbox"/> TITLE(S) LIMITED</p> <p><input type="checkbox"/> <input type="checkbox"/> GENERAL</p> <p><input type="checkbox"/> ATTORNEY-IN-FACT</p> <p><input type="checkbox"/> TRUSTEE(S)</p> <p><input type="checkbox"/> GUARDIAN/CONSERVATOR</p> <p><input type="checkbox"/> OTHER _____</p> <p>_____</p> <p><b>SIGNER IS REPRESENTING:</b><br/>(NAME OF PERSON(S) OR ENTITY(IES))</p> <p>_____</p> <p>_____</p> | <p><b>DESCRIPTION OF ATTACHED DOCUMENT</b></p> <p>_____</p> <p>TITLE OR TYPE OF DOCUMENT</p> <p>_____</p> <p>NUMBER OF PAGES</p> <p>_____</p> <p>DATE OF DOCUMENT</p> <p>_____</p> <p>SIGNER(S) OTHER THAN NAMED ABOVE</p> |
|--|--|

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On \_\_\_\_\_, 2024 before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

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

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

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| <p><input type="checkbox"/> <b>CAPACITY CLAIMED BY SIGNER</b></p> <p><input type="checkbox"/> INDIVIDUAL</p> <p><input type="checkbox"/> CORPORATE OFFICER</p> <p>_____</p> <p><input type="checkbox"/> PARTNER(S) <input type="checkbox"/> TITLE(S) LIMITED</p> <p><input type="checkbox"/> <input type="checkbox"/> GENERAL</p> <p><input type="checkbox"/> ATTORNEY-IN-FACT</p> <p><input type="checkbox"/> TRUSTEE(S)</p> <p><input type="checkbox"/> GUARDIAN/CONSERVATOR</p> <p><input type="checkbox"/> OTHER _____</p> <p>_____</p> <p><b>SIGNER IS REPRESENTING:</b><br/>(NAME OF PERSON(S) OR ENTITY(IES))</p> <p>_____</p> <p>_____</p> | <p><b>DESCRIPTION OF ATTACHED DOCUMENT</b></p> <p>_____</p> <p>TITLE OR TYPE OF DOCUMENT</p> <p>_____</p> <p>NUMBER OF PAGES</p> <p>_____</p> <p>DATE OF DOCUMENT</p> <p>_____</p> <p>SIGNER(S) OTHER THAN NAMED ABOVE</p> |
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**EXHIBIT "A"**  
**SCOPE OF SERVICES**

**I. Consultant will perform the following Services:**

- A. General Overview.** Act as the City's Third Party Claims Administrator for administration of City self-insured general liability claims. The services shall include, without limitation, investigative, claim adjustment, administrative and legal support services. A "claim," for purposes of this Agreement, means and refers to a City-approved "claim for damages" form that has been completed and filed or submitted with the City Clerk in accordance with applicable City policies, procedures, laws, rules or regulations, unless otherwise indicated in writing by the Contract Officer. The parties acknowledge that communication (written, oral, and in-person) with City staff by Consultant is an important element of the services.
- B. Program Administration:** Program administration services including the following, without limitation:
1. Provide professional and technical staff to perform the services as the City's Third Party Claims Administrator;
  2. Represent the City in all matters related to the setup, investigation, adjustment processing, negotiation and resolution of liability claims against the City;
  3. Represent the City in matters related to the setup, investigation, adjustment processing, negotiation and resolution of subrogation claims and loss recovery for the City;
  4. Inform the City of changes or proposed changes in statutes, rules and regulations and case law affecting the general liability program;
  5. Assist in the development of policies and procedures relating to the general liability claims program;
  6. Provide information and guidance regarding the general liability program and specified claims;
  7. Inform the City of problem areas or trends, both potential and perceived, and provide recommendations and/or solutions to address problem areas or trends;
  8. Provide copies of file correspondence and documentation as requested.
  9. Attend appointments, including but not limited to meetings, conferences, court appearances, and scene investigations, at request of the City.

10. Conduct risk management-related seminars for department heads and/or the City staff at request of the City; and
11. Maintain and store all hardcopy files for five (5) years after file is closed, notwithstanding any termination or expiration of this Agreement.
12. Any services of non-subcontractor third parties recommended by Consultant in the course of performing the services will be subject to proper authorization by City prior to performance thereof.

**C. Claims Administration:** Claims administration services including the following, without limitation:

1. Create and enter new claim files into Consultant's RMIS (as defined below) within 48 hours of receipt of loss notice from the City.
2. Maintain an electronic file for each claim, which shall be created within 24 hours of receipt of the first report.
3. Review all new claims for liability and provide an assessment of liability to the City no later than 30 days from receipt of loss notice from the City.
4. Identify and notify possible co-defendants.
5. Tender claims to other potentially responsible parties.
6. Process all claims in accordance with the City's instructions and policies.
7. At the direction of the City, contact claimant, or claimant's attorney, within five (5) days of receipt of claim and maintain appropriate contact until the claim is closed.
8. Review status of claims and adequacy of reserves on all active cases at least every 90 days.
9. Provide narrative reports to the City when recommending disposition of a claim, when a claim goes to trial, or any other significant events that have occurred or will occur. Reports must be clear and concise and be provided in a format as approved by the City.
10. Negotiate settlements within authority limits. Consultant shall have a standing settlement authority of \$2,500. Any settlement above that level will require City approval.
11. Obtain a signed release upon settlement of claims and required tax forms.
12. Review vendors for appropriateness of work and cost-effectiveness.

13. Diary all files at appropriate intervals to allow for timely completion of required activity.
14. Files will clearly and concisely document action taken on the claim.
15. Telephone calls received from City staff, claimants or claimant's attorneys shall be returned within 24 hours. If Consultant's appropriate staff member is not available to return the call within this time frame, another designated staff member shall return the call.
16. Provide translators available to assist with non-English speaking claimants.
17. Penalties incurred as a result of the failure of Consultant to comply with any statutory laws and regulations shall be the sole responsibility of Consultant. Consultant shall notify City in writing within 30 days of any penalty paid by Consultant and the reason for the penalty.
18. Send all mandated notices under Government Code Section 910 (i.e. rejection, late notices, insufficient claims, etc.) with a copy to the City. Recommendations from Consultant will be sent to the City's Risk Manager for consideration.
19. Comply with mandatory reporting requirements of Section 111 ("Medicare Secondary Payer") of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA).
20. Administer subrogation claims on behalf of the City.
21. Provide all services which may be required to respond to a major emergency or catastrophe involving the City to expedite claims processing, as requested or approved by the Contract Officer.
22. Expedite responses to high priority requests, as approved by the Contract Officer. Such requests will generally involve an onsite visit necessary to evaluate settlement.
23. Provide a call-in number at which Consultant can be contacted on a 24/7 basis to have Consultant respond to a claim. Consultant shall provide the Contract Officer with the necessary contact information, including a 24-hour phone number and telephone numbers at which key personnel can be reached in the event they need to be contacted after hours. This is in addition to the dedicated email address that will be available for new claims reporting on a 24/7 basis. The 24-hour call-in service responses may include, but not be limited to, responding to an incident scene, attending meetings, and conducting investigations. Consultant's in-house staff will be used during business hours, and a subcontractor, Harmon Solutions Group, will be used after hours.

**D. Investigations:** Investigative services including the following, without limitation:

1. Take statements of facts from all claimants not represented by an attorney or with the attorney's permission. Statements shall be preserved by recording or by taking handwritten, signed statements.
2. All file investigations including determining if subrogation or tenders exist. Consultant's subrogation team will identify, pursue and collect subrogation on City's behalf.
3. As deemed warranted by Consultant or City and as approved by the City, conduct further investigation of a claim. Advise the City when further investigation is deemed warranted. Further investigation may include, but not be limited to, on-site investigation, photographs, interviewing witnesses, verification of damage or loss, taking measurements, obtaining maps/diagrams from the City or other sources, obtaining medical releases, police reports, paramedics reports, marine department or other reports as may be necessary, or obtaining building permits or other records as required.
4. If claimant is represented by an attorney, direct all communication to the claimant's attorney regarding the investigation, negotiation, and evaluation of any claim(s) leading to a settlement as may be appropriate.
5. Report all Bodily Injury claims to the Index Bureau. Conduct Index Bureau searches for repeat claimants. Conduct additional Index Bureau searches at request of the City.
6. Obtain approval from the City before engaging the services of an outside vendor for an investigative assignment.
7. At the request of the City, investigate inverse condemnation claims.
8. Arrange, with prior City approval, for expert services, including but not limited to professional photography, independent medical examinations, professional engineering services, and laboratory services.

**E. Litigation Management:** Litigation management services including the following, without limitation:

1. As requested by the City, contact the City Attorney assigned to handle the case and provide any and all information concerning the claim and investigation.
2. Maintain liaison with the City Attorney's Office and any outside defense counsel, and provide such investigation as required during the entire litigation process, including but not limited to additional investigations

pursuant to Section I.D.3 for pre-trial and trial, as may be requested by either the City Attorney's Office or defense counsel.

3. Assist the City Attorney and/or defense counsel in preparing and/or answering discovery as requested.
4. Represent the City, or assist City personnel, in Small Claims Court actions filed by and against the City, including but not limited to obtaining witness information, evidence, assistance in preparing the case for trial and appearance at the trial if deemed necessary by the City.
5. Settlement authority on litigated claims must be discussed with City staff and/or City Attorney prior to being presented or negotiated with claimant's attorney.
6. Prior to any settlement conference, Consultant and/or legal counsel, whichever is appropriate, will provide a written analysis of the case, including options and recommendation for settlement.
7. City shall be informed of all settlement offers received from claimant or claimant's attorney.
8. When a claim is filed, Consultant is expected to attempt settlement of the claim before recommending assignment to defense counsel.

**F. Excess Insurance Reporting:** Excess insurance reporting services including the following, without limitation:

1. Report to any excess insurance carrier(s) in accordance with policy provisions. The City will provide the names and addresses of excess insurance carriers. Provide the City with written notification that the required notice has been made to the excess carrier within ten (10) days of the notice of claim.
2. Seek reimbursement from the excess insurance carrier for any losses in excess of the City's self-insured retention.

**G. Trust Account:** If authorized by the City pursuant to Section 1.8 of this Agreement, establish and maintain a separate trust account, at a financial institution approved by City, to process claims settlement and expense payments under this Agreement.

**H. RMIS:** Implement, operate and maintain, with respect to all claims administered as part of the services, Consultant's new online Risk Management Information System ("RMIS"), known as Filehandler Enterprise (FHE), to be available to the City at all times throughout the Term of this Agreement, and provide access and training to five (5) approved City users at any given time. Provision of access and training to additional users beyond the five (5) approved uses may be authorized by

the City pursuant to Section 1.8 of this Agreement. Through the RMIS, City shall at all times have access, without restriction, to all data and information relating to all claims administered under this Agreement.

**II. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City apprised of the status of performance by delivering the following reports, in addition to complying with the recording and recordkeeping requirements stated elsewhere in this Agreement:**

- A. Monthly statistical reports throughout the term of this Agreement, which shall indicate the status and detail of every open claim assigned to Consultant, including but not limited to the reserves assigned for each claim, summary of each loss by type, department, year, litigation status, and coded as to cause.
- B. Consultant will enter into its electronic records any and all files handled in-house by the City, and will provide such information to City upon request. City will provide Consultant with all information necessary for such input.
- C. Special reports as requested by the City.
- D. Consultant will be available to conduct quarterly in-person claim review meetings with City.
- E. Specialized/standard reports must be received within 10 days after the end of the month or other applicable reporting period, unless otherwise requested by the Contract Officer and mutually agreed upon by the parties.
- F. Audit Documentation: Consultant will conduct and provide reports on in-house quality assurance audits, and will cooperate with the City in making available any and all claim files and records necessary for audits as requested by the City. The City will have reasonable access to the necessary portions of Consultant's facilities, records and files for review or audit purposes.

**III. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.**

**IV. Consultant will utilize the following personnel to accomplish the Services:**

- A. Angelique King, Executive Vice President
- B. Beth Tavares, Claims Manager
- C. Brett Vermeulen, Claims Examiner (Primary)
- D. Suzie Spencer, Vice President Business Development
- E. Rebecca Hartman, Sr. Claims Examiner (Property Damage and Backup)

- F.** Vincent King, Claims Adjuster (Property Damage)
- G.** Joe Mercado, Client Service Manager
- H.** Assigned and qualified personnel acting under the direction and supervision of one or more of the foregoing individuals. All Claims Adjusters performing Services pursuant to this Agreement shall have a minimum of five (5) years full-time experience as a general liability adjuster and a minimum of three (3) years of experience with public agency liability claims adjusting. Having an “Associate in Claims” designation is preferred. City must approve the Principal Adjuster and any other personnel assigned to perform services for the City pursuant to this paragraph.

Notwithstanding any other provision of this Agreement, if for any reason the City determines, in its sole discretion, that the service provided by any of Consultant’s personnel pursuant to this Agreement is unsatisfactory, Consultant shall assign replacement personnel approved by the City.

**EXHIBIT “B”**  
**SPECIAL REQUIREMENTS**  
**(Superseding Contract Boilerplate)**

I. Section 3.4 (“Term”) of the Agreement is hereby amended to read in its entirety as follows (additions shown in *bold italics*, deletions in ~~strikethrough~~):

“Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding ~~one (1)~~ *three (3)* years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit “D”). *At City’s option, and upon execution of a written amendment to this Agreement, the foregoing Term may be extended for up to two (2) one-year extension periods. In the event of such an extension, the compensation for services rendered during the extension period(s) shall be at the rates specified in the Schedule of Compensation (Exhibit “C”) for the applicable extension period(s) (e.g., Option Year 1, Option Year 2).*”

**EXHIBIT "C"**  
**SCHEDULE OF COMPENSATION**

**I. Consultant shall perform the Services at the following rates:**

| CLAIMS ADMINISTRATION SERVICES   | Fixed Annual Pricing - 3% CPI Increase year over year |  |  |  |  |
|--|---|--|--|--|--|
|  | YEAR 1  | YEAR 2   | YEAR 3   | OPTION YEAR 4                                      | OPTION YEAR 5                                      |
| <b>Annual Fee</b> (Sub-Total): 250 total claims, 85% PD at \$416.00 per feature, 15% BI at \$832.00 per feature  | \$119,392.00  | \$122,974.00                                       | \$126,663.00                                       | \$130,463.00                                       | \$134,377.00                                       |
| <b>Not to Exceed 250 features annually - pricing</b><br>Billed separately outside of Fixed Annual Fee, if features reported exceed 250 in a contract year                    | \$832.00 per BI feature<br>\$416.00 per PD feature    | \$832.00 per BI feature<br>\$416.00 per PD feature | \$832.00 per BI feature<br>\$416.00 per PD feature | \$832.00 per BI feature<br>\$416.00 per PD feature | \$832.00 per BI feature<br>\$416.00 per PD feature |
| <b>Annual Admin Fees:</b><br>- Quality Assurance<br>- Client Services<br>- Accounting<br>- Data Management<br>- Operations<br>- Claim Set-up<br>- Postage and Office Expense | \$6,500   | \$6,680  | \$6,865  | \$7,056  | \$7,253  |
| <b>Total (Excluding potential Not to Exceed fee)</b>   | <b>\$125,892.00</b>                                   | <b>\$129,654.00</b>                                | <b>\$133,528.00</b>                                | <b>\$137,519.00</b>                                | <b>\$141,630.00</b>                                |
| <b>Field Work Services</b>   |   |  |  |  |  |
| Vendor<br>(Independent Adjusters, SIU/Surveillance, Auto/Property Damage Appraisals)   | At Cost   | At Cost  | At Cost  | At Cost  | At Cost  |
| Mileage  | IRS Rate  | IRS Rate   | IRS Rate   | IRS Rate   | IRS Rate   |
| <b>Ancillary Services</b>  |   |  |  |  |  |
| Misc./Allocated Loss Adjustment Expenses<br>(i.e. police reports, medical records, auto appraisals, glass, salvage, etc.)  | At Cost   | At Cost  | At Cost  | At Cost  | At Cost  |
| MMSEA Per Submission   | \$5.00  | \$5.00   | \$5.00   | \$5.00   | \$5.00   |
| Index/OFAC Per Submission  | \$20.00   | \$20.00  | \$20.00  | \$20.00  | \$20.00  |
| Subrogation Set-up fees  | Included  | Included   | Included   | Included   | Included   |
| Subrogation services (if utilized)<br><b>Not included in Fixed Annual Fee</b>  | 18% of net recovery                                   | 18% of net recovery                                | 18% of net recovery                                | 18% of net recovery                                | 18% of net recovery                                |
| <b>Risk Management Information System Services</b>   |   |  |  |  |  |
| RMS Account Set-up   | Included  | Included   | Included   | Included   | Included   |
| Training/Technical Support   |   |  |  |  |  |
| 5 User RMS Access  |   |  |  |  |  |
| Standard and Custom Loss Runs  |   |  |  |  |  |
| Client Dashboards  |   |  |  |  |  |
| Carrier/client requirements<br>(Data extracts /Feeds, audits, compliance and reporting)  | \$250/user annually                                   | \$250/user annually                                | \$250/user annually                                | \$250/user annually                                | \$250/user annually                                |
| Additional RMS Users<br>(over first 5 users)<br><b>Not included in Fixed Annual Fee</b>  |   |  |  |  |  |
| <b>Banking/Trust Account Services</b>  |   |  |  |  |  |
| Trust Accounts Set/Up  | Retained Earned Interest                              | Retained Earned Interest                           | Retained Earned Interest                           | Retained Earned Interest                           | Retained Earned Interest                           |
| Monthly account management   |   |  |  |  |  |
| Monthly reconciliations  |   |  |  |  |  |
| Check Issuance   |   |  |  |  |  |
| 1099 Reporting, including IRS File (if requested)  |   |  |  |  |  |

Notwithstanding the foregoing:

A. The Parties acknowledge and agree that the Contract Sum would need to be increased via written amendment to this Agreement or City approval pursuant to Section 1.8 to authorize funding for the claims administration services for any and all claims above the 250 per-contract-year limit; Accordingly, Consultant shall notify the Contract Officer when the number of claims opened in any contract year reaches 200, and such services shall be considered extra work beyond that specified in the Scope of Services for purposes of Section 1.8 of this Agreement, notwithstanding any provision of Section I of Exhibit “A” to the contrary.

B. The Parties acknowledge and agree that the Contract Sum would need to be increased via written amendment to this Agreement or City approval pursuant to Section 1.8 to authorize funding for any additional RMIS users or banking/trust account services for which additional compensation to Consultant (i.e., compensation beyond the Fixed Annual Fee) is identified in the table above, and such services shall be considered extra work beyond that specified in the Scope of Services for purposes of Section 1.8 of this Agreement, notwithstanding any provision of Section I of Exhibit “A” to the contrary.

C. With regard to the “Subrogation Set-up fees” and “Subrogation services” identified in the table above, the Parties acknowledge and agree that all such costs/fees and services (including the remittance by Consultant of the 82% of the net recovery which is due to City) are included within the Scope of Services and the Contract Sum.

D. With regard to the expenses for “Field Work Services” and the “Misc./Allocated Loss Adjustment Expenses” listed under “Ancillary Services” in the table above, the Parties acknowledge and agree that such charges will only be incurred to the extent such services are both (i) authorized pursuant to subparagraphs (3), (6) or (8) of subsection (D) of Section I of Exhibit “A,” and (ii) not otherwise included within the Scope of Services. The Parties acknowledge and agree that any such incurred charges will be considered “claim-level expenses” which are charged to the relevant claim to be paid by the City out of the City’s claim trust account, and therefore are not included in the Contract Sum and will not be added to or paid out of the Contract Sum, and are not subject to the Contract Officer approval authority limitations for extra work as set forth in Section 1.8.

E. With regard to the expenses for “MMSEA” and “Index/OFAC” listed under “Ancillary Services” in the table above, the Parties acknowledge and agree that: (i) MMSEA is to be submitted on every injury claim over \$700; (ii) OFAC is to be submitted on every settlement check; (iii) indexing is part of the investigation to confirm other losses; and (iv) the expenses only apply to the Consultant’s initial submittal, and Consultant will make all necessary and appropriate resubmittals at no additional charge.

**II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.**

**III. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include, to the extent applicable:**

- A.** Line items for all personnel describing the work performed, the number of hours worked, and the applicable hourly or fixed rate.
- B.** Line items for all materials and equipment properly charged to the Services.
- C.** Line items for all other approved reimbursable expenses claimed, with supporting documentation.
- D.** Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

**IV. The total compensation for the Services shall not exceed the Contract Sum as provided in Section 2.1 of this Agreement.**

**EXHIBIT “D”**  
**SCHEDULE OF PERFORMANCE**

**I. Consultant shall perform the Services on an ongoing basis throughout the term of this Agreement. When a new claim is reported, the following timeline shall apply to Consultant’s activities from the time of receipt of the claim:**

- Within 24 hours: Contact with claimant, witness and City (by Examiner);
- 24-48 hours: Review of new matter and assignment of file by Supervisor;
- Within 48 hours: Examiner enters claims information into MyCarlWarren;
- Within 7 days: Plan of Action provided to City by Examiner;
- Within 7 days: File reserves are established by Examiner;
- Within 7 days: Indexing completed by Examiner;
- Within 7 days: Initial investigation findings reported to City by Examiner;
- Within 45 days: Complete investigative report provided to City by Examiner;
- Every 30 days: Plan of Action and reserves reviewed by Supervisor;
- Every 30 days: 5-6 tiles audited by or at direction of Supervisor.
- As Applicable - MMSEA Filings completed by Examiner.

**II. The Contract Officer may approve extensions for performance of the Services in accordance with Section 3.2.**