

**CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
WITH
CARL WARREN COMPANY**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 1st day of October, 2022 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and Carl Warren Company, a California Limited Liability Company (entity information) ("Consultant").

RECITALS

A. City proposes to utilize the services of Consultant as an independent contractor to supervise and administer programs for commercial general liability self-insurance, as more fully described herein; and

B. Section 2-165 of the Costa Mesa Municipal Code permits the City to purchase services through competitively awarded agreements of other local, state or federal government agencies, a process known as "piggybacking"; and

C. The City of Salinas competitively awarded to Consultant a contract for services to administer a program of self-insurance ("Salinas Contract"); and

D. Pursuant to the Salinas Contract, Consultant has agreed to extend the same scope of services and pricing to the City; and

E. The City desires to "piggyback" onto the Salinas Contract, and Consultant consents to such "piggybacking"; and

F. Consultant represents that it has that degree of specialized expertise contemplated within California Government Code section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

G. City and Consultant desire to contract for the specific services described in Exhibit "A," and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

H. No official or employee of City has a financial interest, within the provisions of sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in the Salinas Contract and attached hereto as Exhibit "A."

1.2. Professional Practices. All professional services to be provided by Consultant

pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-Discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status, except as permitted pursuant to section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and

employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "B." Consultant's annual compensation shall not exceed Seventy-Five Thousand Dollars (\$ 75,000.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal unless the City Manager or designee, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times from the Effective Date until three (3) years after termination of this Agreement.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. Unless otherwise agreed to in writing by the parties, the professional services to be performed pursuant to this Agreement shall commence on October 1, 2022. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, pandemics, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party (each, a "Force Majeure Event"). If a party experiences a Force Majeure Event, the party shall, within five (5) days of the occurrence of the Force Majeure Event, give written notice to the other party stating the nature of the Force Majeure Event, its anticipated duration and any action being taken to avoid or minimize its effect. Any suspension of performance shall be of no greater scope and of no longer duration than is reasonably required and the party experiencing the Force Majeure Event shall use best efforts without being obligated

to incur any material expenditure to remedy its inability to perform; provided, however, if the suspension of performance continues for sixty (60) days after the date of the occurrence and such failure to perform would constitute a material breach of this Agreement in the absence of such Force Majeure Event, the parties shall meet and discuss in good faith any amendments to this Agreement to permit the other party to exercise its rights under this Agreement. If the parties are not able to agree on such amendments within thirty (30) days and if suspension of performance continues, such other party may terminate this Agreement immediately by written notice to the party experiencing the Force Majeure Event, in which case neither party shall have any liability to the other except for those rights and liabilities that accrued prior to the date of termination.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of three (3) years, ending on September 30, 2025, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. This Agreement may be extended by two (2) additional one (1) year terms upon mutual written agreement of both Parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. GENERAL PROVISIONS

5.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

5.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

5.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: (a) at the time of delivery if such communication is sent by personal delivery, and (b) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Carl Warren Company
PO Box 102320
Pasadena, CA 91189
Tel: (949) 622-4332
Attn: Richard McAbee

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: (714) 754-5228
Attn: Ruth Wang

Courtesy copy to:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Attn: Finance Dept. | Purchasing

6.5. Drug-Free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "C" and incorporated herein. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the

exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to

indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.14. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all

information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code sections 81000, *et seq.*) and Government Code section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.17. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.20. Binding Effect. This Agreement binds and benefits the parties and their respective permitted successors and assigns.

6.21. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.22. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.23. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement and have had an adequate opportunity to review each and every provision of the Agreement and submit the same to counsel or other consultants for review and comment. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.24. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.25. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.26. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.27. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.28. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CONSULTANT

Richard McAbee
Signature

Date: October 4, 2020

Richard McAbee, chief marketing officer
[Name and Title]

CITY OF COSTA MESA

Daniel Stefano
Daniel Stefano
Acting City Manager

Date: 10/18/2022

ATTEST:

Brenda Green 10/24/2022
Brenda Green
City Clerk



APPROVED AS TO FORM:

Kimberly Hall Barlow
Kimberly Hall Barlow
City Attorney

Date: 10/18/22

APPROVED AS TO INSURANCE:

Ruth Wang
Ruth Wang
Risk Management

Date: 10/13/22

APPROVED AS TO CONTENT:



Ruth Wang
Project Manager

Date: 10/13/22


DEPARTMENTAL APPROVAL:



Kasama Lee
Human Resources Manager

Date: 10/13/22

APPROVED AS TO PURCHASING:



Carol Molina
Finance Director

Date: October 13, 2022

EXHIBIT A
SCOPE OF SERVICES



CARL WARREN & COMPANY
Claims Management and Solutions

A  **VENBROOK** Company

THIRD PARTY CLAIMS ADMINISTRATION CONTRACT

THIS AGREEMENT, entered into effective **JUNE 30, 2022** by and between **CITY OF SALINAS**, hereinafter called the "PRINCIPAL," and **CARL WARREN & COMPANY, LLC**, hereinafter called "CONTRACTOR," is for certain services as outlined in connection with the duties and responsibilities of administering a program of self-insurance.

WITNESSETH

WHEREAS, PRINCIPAL has undertaken to administer the entitled matters and is in need of a qualified third party to whom to delegate the responsibilities and duties of administering said partially or totally funded program, and

WHEREAS, CONTRACTOR is engaged in the supervision and administration of programs for commercial general liability self-insurance,

NOW, THEREFORE, PRINCIPAL and CONTRACTOR mutually understand and agree as follows:

1. GENERAL

CONTRACTOR shall:

- (a) Supervise and administer the self-insurance program for PRINCIPAL:
- (b) Represent the PRINCIPAL in all matters related to the investigation, adjustment, processing, supervision, and resolution of liability claims for money damages asserted by third parties against the PRINCIPAL (and other participants in the program as specified); and
- (c) Provide to PRINCIPAL during the Term (as defined below) all the services more particularly set forth hereinafter.

2. INVESTIGATIVE SERVICES

CONTRACTOR shall provide complete investigative and analytical services including, but not limited to:

- (a) Receipt and examination of all reports of accidents, incidents, claims or cases which are or may be the subject of such claims reported by PRINCIPAL to CONTRACTOR and;
- (b) The investigation of such accidents, incidents, claims or cases where examination warrants such investigation or when requested by PRINCIPAL, such investigation to include on-site investigation, photographs, interviewing of witnesses,

determination of losses and other such investigative services necessary to determine liability and loss.

3. SETTLEMENT AUTHORITY

CONTRACTOR shall promptly provide PRINCIPAL written notice of any claim which CONTRACTOR reasonably expects to result in a total settlement payment exceeding the settlement authority limit agreed upon by the Parties (the "Authority Limit"), excluding PRINCIPAL's payments to CONTRACTOR for CONTRACTOR's scope of services, and other costs and expenses agreed by the Parties to be reasonably related to CONTRACTOR's services to PRINCIPAL. The Payment Guidelines incorporated into this Agreement are binding once this Agreement is executed by the Parties. The Payment Guidelines may be adjusted during the Term by mutual agreement of the Parties. Each mutually agreed upon revision of the Payment Guidelines, when executed by both Parties, shall be binding, and incorporated into this Agreement, superseding any antecedent versions of the Payment Guidelines.

Contractor Settlement Authority: \$ per suffix.

4. CLAIMS ADJUSTMENT SERVICES

CONTRACTOR shall provide complete claims adjustment services on each accident or incident that may be the subject of a claim against the PRINCIPAL which is reported to CONTRACTOR by the PRINCIPAL. Such services shall include, but not be limited to:

- (a) the maintenance of a claim file on each potential or actual claim reported to CONTRACTOR;
- (b) whenever its investigation results in a determination that PRINCIPAL has sustained a liability to a third party, CONTRACTOR shall process any such claim or potential claim for settlement in accordance with the PRINCIPAL'S instructions for settlement of such claims, as set forth in the Payment Guidelines; and
- (c) obtaining all release agreements or proofs of loss on settlement of any claim or potential claim. If subrogation is pursued, the rates in Section 9 will apply unless a separate contingency fee agreement is agreed to by PRINCIPAL and CONTRACTOR.

5. ADMINISTRATIVE SERVICES

CONTRACTOR shall provide the following administrative services:

- (a) Assignment of a Principal Account Adjuster to the PRINCIPAL;
- (b) Providing PRINCIPAL with electronic access to all reported claims during the term of this Agreement, indicating the status of each reported open claim assigned to CONTRACTOR, the details of each such claim, the outstanding reserves for each claim and details of all claim payments; and

- (c) Periodic review and adjusting of reserves on all open claims. Account specific reports and attendance at meetings (including round trip travel) shall be provided by CONTRACTOR at the rates provided in Section 9 under ancillary services.

6. LEGAL SUPPORT SERVICES

CONTRACTOR shall provide the following legal support services on each claim wherein the claimant has commenced litigation:

- (a) Upon notification by PRINCIPAL that litigation has been filed on an open claim, CONTRACTOR shall notify PRINCIPAL and, in accordance with PRINCIPAL'S instructions, the PRINCIPAL'S excess insurance carrier and/or excess reporting authority, pool or group (the "excess entity") and/or trial attorney assigned by PRINCIPAL to handle the case and provide such excess entity and/or trial attorney with all information and files concerning claim;
- (b) Maintain liaison with PRINCIPAL'S excess entity and/or trial attorney and provide such investigation services as are required by such attorney during pre-trial and trial stages; and
- (c) Assist PRINCIPAL'S excess entity and/or trial attorney with discovery and other legal processes.

7. SUBROGATION SERVICES

If the Fee Schedule in Section 9 shows that CONTRACTOR will be providing subrogation services, CONTRACTOR shall: Supervise and administer the subrogation program for PRINCIPAL, represent PRINCIPAL in all matters related to the investigation, collecting processing, supervision and resolution of subrogation claims, against third parties, for damage to PRINCIPAL'S property. This Agreement does not include recovery of damages or cost relating to Workers Compensation Claims, presented by PRINCIPAL'S employees.

CONTRACTOR shall provide complete collection services to PRINCIPAL, including receipt and examination of all reports of accident, incidents, claims or cases which are or may be the subject of a subrogation claim. The investigation of such accidents, incidents, claims or cases will include determining responsibility, establishing damage amount, pursuing collection, negotiating settlements and processing of monetary recovery.

8. TERM OF AGREEMENT

The term of the Agreement (the "Term") shall commence on **JUNE 30, 2022** and continue until **JUNE 29, 2025**, unless terminated earlier as provided in Section 13 herein.

9. PRICING

PRINCIPAL agrees to pay the following claim handling and service fees for CONTRACTOR'S services:

| CLAIMS ADMINISTRATION SERVICES | FIXED ANNUAL PRICING | | |
|--|---------------------------------|-------------------------|-------------------------|
| | INITIAL CONTRACT 2022 - 2025 | OPTION 1 2025 - 2028 | OPTION 2 2028 - 2031 |
| Fixed Annual Rate | \$143,789.96 | \$150,930 | \$162,288 |
| Incident Report/Record Only | Included | Included | Included |
| Take Over Claims | Included | - | - |
| Telephone | Included | Included | Included |
| Copy Work | | | |
| Stenographs | | | |
| Postage | | | |
| Office Expense | | | |
| Claims Set-Up Fee | | | |
| Data Processing | | | |
| Index Bureau (ISO Claims Search and OFAC) | | | |
| MMSEA Filing Fee (liability claims) | | | |
| Misc./Allocated Loss Adjustment Expenses (i.e., police reports, medical records, etc.) | At Cost | At Cost | At Cost |
| Field Work Services | | | |
| General Liability Adjuster Services | \$90 per hour | \$96 per hour | \$100 per hour |
| Mileage | IRS Rate | IRS Rate | IRS Rate |
| Photographs/Duplicate Photographs | Included | Included | Included |
| Ancillary Services | | | |
| Subrogation Setup Fee (one-time charge) | Included | Included | Included |
| Subrogation (if utilized) | 18% of net recovery | 18% of net recovery | 18% of net recovery |
| Outside Investigations | At Cost | At Cost | At Cost |
| Auto/Property Damage Appraisals | | | |
| Surveillance/Fraud Unit | | | |
| Annual Administration Services | | | |
| <ul style="list-style-type: none"> • Data Management • Account Management • Annual Stewardship • Claims Review | Included | Included | Included |
| Risk Management Information System Services | | | |
| <ul style="list-style-type: none"> • Setup (First Year) • Training/Technical Support • 3 Users RMIS Access • Standard Loss Runs • Report Programming • Carrier TPA Oversight (Data Extract, Feeds, Audits, Compliance & Reporting) | Included | Included | Included |
| Data Intake of Existing Claims (one-time charge in first year) | included | - | - |

| | | | |
|--|---------------------|---------------------|---------------------|
| Additional Users (over first 5 users) | \$250/user per year | \$250/user per year | \$250/user per year |
| Custom Report Development (2+ hours) | \$250 per hour | \$250 per hour | \$250 per hour |
| Other IT Services (Exit, Final Termination etc.) | \$250 per hour | \$250 per hour | \$250 per hour |
| Banking/Trust Account Services | | | |
| Trust Account Maintenance | Included | Included | Included |
| Check Issuance & Reconciliations | | | |
| 1099 Reporting, including IRS File (if requested) | | | |

CONTRACTOR has the right to revise this fee schedule at no more frequently than one (1) year intervals. CONTRACTOR will provide a minimum of thirty (30) days prior notice of any such revision to the fee schedule to PRINCIPAL, which notice shall state the effective date of the revised fee schedule. Unless PRINCIPAL exercises its right to terminate this Agreement pursuant to Section 13(a) prior to the effective date of the revised fee schedule, such revised fee schedule shall govern for the remainder of the Term (or until further adjusted pursuant to this Section 9). If PRINCIPAL does exercise its right to terminate this Agreement pursuant to Section 9 during the period between receipt of any such revised fee schedule and the effective date of such revised fee schedule, the existing fee schedule (and not the revised schedule) shall govern for the remainder of the Term.

The above fee schedule for the services does not include "Allocated Expenses", defined to mean customary and usual costs and expenses incurred and/or paid by CONTRACTOR on PRINCIPAL'S behalf in connection with the investigation, adjustment, settlement or defense of a claim. Such costs and expenses include, but are not limited to, professional photography, police reports, independent medical examinations, professional engineering services, laboratory services, bulk copy jobs, private investigators, legal costs and fees and work performed by accountants. CONTRACTOR shall charge PRINCIPAL for non-staff investigators or adjusters when, in the opinion of CONTRACTOR, such assistance is necessary and reasonably related to the monetary exposure. Allocated Expenses do not include the fees payable to CONTRACTOR pursuant to the fee schedule in this Section 9, nor the salaries, wages or benefits paid to CONTRACTOR'S employees or office and other overhead expenses associated with the performance of the services hereunder by CONTRACTOR. PRINCIPAL agrees to pay for the cost of all reasonable and supportable Allocated Expenses incurred in connection with the services under this Agreement.

Charges for non-file-related professional services performed at the specific request of PRINCIPAL will be billed on an as quoted basis.

10. DATA PROCESSING

- a. The following standard services are included in these services provided pursuant to this Agreement - claims data electronically for up to five recipients and access to FileHandler Enterprise for up to five users. For security purposes, access to FileHandler Enterprise and any subscriptions will automatically terminate at the end of twelve (12)

months. PRINCIPAL shall be responsible for notifying CONTRACTOR to renew user subscriptions and access or to substitute users.

- b. Additional users or recipients shall be charged on a per person basis at an annual fee of \$250.
- c. Special reports, new reports and data feeds can also be requested. They are subject to a cost per quote at a rate per project or per hour once the scope has been agreed upon. CONTRACTOR does not possess any interest, title, lien or right to any client data or records. Therefore, upon termination of the contract, CONTRACTOR is relieved of all obligations to provide data processing services to PRINCIPAL and will deliver to PRINCIPAL all data and records in a readily available excel or PDF format. If a different format is desired by PRINCIPAL, CONTRACTOR will provide it to PRINCIPAL at an agreed upon and reasonable cost and timeline.

11. PRINCIPAL'S RESPONSIBILITIES

PRINCIPAL shall provide CONTRACTOR with copies of all relevant documents upon request and without charge and shall make available any PRINCIPAL employee for interviews by CONTRACTOR at reasonable times concerning any investigation of a claim or incident pursuant to this Agreement.

CONTRACTOR shall bill PRINCIPAL and furnish PRINCIPAL with invoices for services rendered in accordance with the fee schedule set forth in the Agreement. Each invoice will include the claim or other matters for which a fee is being charged and the amount of the associated fee for that claim or matter. All sums due hereunder shall be paid by delivery of PRINCIPAL'S check, or wire transfer to CONTRACTOR'S offices located at the address set forth herein, within thirty (30) days following the invoice date. If any amount invoiced is in dispute, PRINCIPAL shall pay the undisputed amount and notify CONTRACTOR within thirty (30) days after the invoice date of the disputed portion; failure by PRINCIPAL to deliver written notice to CONTRACTOR of dispute with regard to any portion of an invoice within such time frame shall be deemed acceptance of the entire invoice by PRINCIPAL. Fees not paid in full within thirty (30) days of the invoice date (excluding any good faith disputed amount for which PRINCIPAL has delivered a written notice of dispute in accordance with this Section 11), at CONTRACTOR'S option, will be subject to per annum interest at the lower of (i) 18% or (ii) the maximum interest rate permitted by applicable law, calculated from the due date to the date payment is received by CONTRACTOR. For invoices not paid in full within thirty (30) days of the invoice date, CONTRACTOR will notify PRINCIPAL of such failure to pay and if PRINCIPAL does not cure such failure in full (excluding any good faith disputed amount for which PRINCIPAL has delivered a written notice of dispute in accordance with this Section 11) within ten (10) business days after the date of such notice (the "cure period"), CONTRACTOR may, without waiving any other rights or remedies to which it may be entitled, as of the first business day following the cure period, immediately limit access to data, suspend and/or terminate this Agreement, and/or seek collection of all amounts due, including by sending outstanding invoices to a collection agency. PRINCIPAL will reimburse any costs and expenses (including, but not limited to, the fees of a collection

service and reasonable attorneys' fees) incurred by CONTRACTOR to collect any amount that is not paid when due.

12. CONFLICT OF INTEREST

In the event a claim or incident is reported to CONTRACTOR by PRINCIPAL and it is determined that the actual or potential claimants therein are also clients of CONTRACTOR, then CONTRACTOR shall immediately notify PRINCIPAL of such potential conflict of interest so PRINCIPAL may have the option to choose an independent investigator and adjuster.

13. CANCELLATION OF AGREEMENT

- a. Voluntary Termination. This Agreement may be terminated at any time by either party, without cause, by giving the other party not less than sixty (60) days prior written notice of such termination.
- b. Termination for Cause. This Agreement shall terminate at the election of PRINCIPAL or CONTRACTOR if the other party breaches any material provision of this Agreement and fails to cure such breach within ten (10) business days after written notice thereof is given to the party, or in the event the breach is not capable of being cured within such ten (10) business day period, the breaching party has not commenced good faith efforts to cure such default within ten (10) business days and continued thereafter in good faith to diligently pursue the completion of such cure. Failure of PRINCIPAL to comply with Section 11 PRINCIPAL'S RESPONSIBILITIES shall qualify as cause under this Section.
- c. Termination by CONTRACTOR. CONTRACTOR may terminate this Agreement pursuant to Section 17(f).

14. DISPOSITION OF FILES ON TERMINATION OF AGREEMENT

- a. All files on each claim shall be property of the PRINCIPAL.
- b. In the event of expiration of the Agreement, non-renewal thereof, or cancellation, CONTRACTOR shall bill the PRINCIPAL, subject to the rates quoted in Section 9 herein above, for work completed by CONTRACTOR on each claim. Upon receipt of payment of outstanding invoices—including those in Section 14(c) below), CONTRACTOR shall promptly forward all completed and pending claim files to the PRINCIPAL unless PRINCIPAL requests CONTRACTOR to continue to process any files on a time and expense basis as provided for in the CONTRACTOR'S Rate Manual at the time such services are rendered.
- c. PRINCIPAL agrees to pay CONTRACTOR for the internal and/or external cost of retaining, storing, retrieving, logging, packing, and shipping files which are stored on or off premises by CONTRACTOR.

15. HOLD HARMLESS

- a. PRINCIPAL'S Indemnification Obligation. PRINCIPAL agrees it will indemnify, defend and hold harmless CONTRACTOR and its affiliates, and their respective officers,

directors, employees, agents, attorneys, shareholders, and their successors and assigns (collectively "CONTRACTOR Indemnity"), from and against any loss, claim, damage, cost or expense, including but not limited to reasonable attorney's fees and costs, that such CONTRACTOR Indemnity may incur arising out of, in connection with, or in any way related to the performance of CONTRACTOR'S duties and obligations under this Agreement except claims solely resulting from or arising out of:

- (i) acts of CONTRACTOR performed in bad faith or failures to act occurring as a result of CONTRACTOR'S negligence resulting in a breach of CONTRACTOR'S duties and obligations under this Agreement; or
- (ii) acts of CONTRACTOR which exceed the authority granted to it by PRINCIPAL under this Agreement; or
- (iii) acts or failures to act of CONTRACTOR which are not in compliance with lawful written instructions issued by PRINCIPAL to CONTRACTOR provided such instructions are consistent with the scope, objectives and terms of this Agreement.

b. CONTRACTOR'S INDEMNIFICATION OBLIGATION. CONTRACTOR agrees it will indemnify, defend and hold harmless PRINCIPAL and its respective affiliates, and their respective officers, directors, employees, agents, attorneys, shareholders, and their successors and assigns (collectively "PRINCIPAL Indemnity"), from and against any loss, claim, damage, cost or expense, including but not limited to reasonable attorney's fees and costs, that such PRINCIPAL Indemnity may incur solely resulting from or arising out of:

- (i) acts of CONTRACTOR performed in bad faith or failures to act occurring as a result of CONTRACTOR'S negligence resulting in a breach of CONTRACTOR'S duties and obligations under this Agreement; or
- (ii) acts of CONTRACTOR which exceed the authority granted to it by PRINCIPAL under this Agreement; or
- (iii) acts or failures to act of CONTRACTOR which are not in compliance with lawful written instructions issued by PRINCIPAL to CONTRACTOR provided such instructions are consistent with the scope, objectives, and terms of this Agreement.

c. Limitations on CONTRACTOR's Indemnity Obligations. CONTRACTOR'S indemnification obligations set forth in this Agreement shall apply only to the extent such obligations solely relate to or solely arise in connection with claims serviced by CONTRACTOR during the Term and under the scope of this Agreement.

d. Survival of Obligations. The obligations of the parties set forth in this Section 15 shall survive termination of this Agreement.

16. AUDITS

The CONTRACTOR'S files shall be made available for audits at any time upon reasonable notice. Reasonable notice shall be defined as thirty (30) days or as otherwise agreed by the parties. If special retrieval or shipment of the requested files is necessary, PRINCIPAL shall reimburse CONTRACTOR at cost. The CONTRACTOR reserves the right to reject an auditor proposed by PRINCIPAL if the proposed auditor may gain an unfair competitive advantage over CONTRACTOR by conducting such an audit.

17. MISCELLANEOUS

- a. Governing Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of California.
- b. Amendments, etc. Neither this Agreement nor any of the terms hereof may be amended, changed, waived, discharged or terminated except by an instrument in writing signed by both of the parties hereto.
- c. No Waiver. No delay on the part of any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any waiver on the part of any party hereto of any such right, power or privilege, or any single or partial exercise of any such right, power or privilege, preclude any further exercise thereof or the exercise of any other right, power or privilege.
- d. Severability. If any part of this Agreement is contrary to, prohibited by or deemed invalid under, any applicable law of any jurisdiction, then such provision shall, as to such jurisdiction, be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, without invalidating the remainder hereof or affecting the validity or enforceability of such provision in any other jurisdiction.
- e. Independent Contractor. At all times during the term of this Agreement, CONTRACTOR shall be deemed to be an independent contractor to PRINCIPAL acting in the capacity as PRINCIPAL'S agent subject to the limited authority granted herein. Nothing contained in this Agreement shall be deemed to create the relationship of employer and employee, partners, or joint ventures between PRINCIPAL and CONTRACTOR. CONTRACTOR shall not act as an insurer, nor shall it be ultimately financially responsible for payment or satisfaction of Claims or causes of action against PRINCIPAL.
- f. Current Law & Regulation. This Agreement is entered into with the understanding that existing Federal, State, or other jurisdictional regulations will remain in effect for the duration of this Agreement. PRINCIPAL agrees that should administrative or other costs of service provided hereunder be substantially increased as a result of modifications in existing law, enactment of new legislation, or promulgation of new administrative guidelines, CONTRACTOR service fees may be renegotiated during the Agreement term. If revised fee agreements cannot be reached, CONTRACTOR may terminate this Agreement, at its option, after thirty (30) days written notice to PRINCIPAL.
- g. Counterparts. This Agreement may be executed simultaneously in two counterparts, each of which when so executed and delivered shall be deemed an original, but both of which together shall constitute one and the same instrument, and all

signatures need not appear on any one counterpart. A facsimile, telecopy or other reproduction of this Agreement may be executed by any party and delivered by such party by facsimile or other electronic transmission (including e-mail), and such execution and delivery shall be considered valid, binding and effective for all purposes.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representatives as of the day and year first written above.

(CONTRACTOR)

(PRINCIPAL)

CARL WARREN & COMPANY, LLC

Company Name

City of Salinas

Client

Signature

Signature

Richard McAbee

Print Name

Print Name

Chief Marketing Officer

Title

Title

Date

Date

ANY ALTERATIONS TO THIS CONTRACT WILL RENDER THE CONTRACT NULL AND VOID. THE PRICING QUOTED IN THIS CONTRACT WILL REMAIN EFFECTIVE FOR THIRTY (30) DAYS FROM THE INCEPTION DATE LISTED ON THIS CONTRACT AFTER WHICH TIME THE CONTRACT WILL BE RECIDED.

EXHIBIT A

INSURANCE REQUIREMENTS

Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, his agents, representatives, employees, or subcontractors. With respect to General Liability and Professional Liability, coverage should be maintained for a minimum of five (5) years after Agreement completion.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

- (A) **Commercial General Liability** ("CGL"): Insurance Services Office Form ("ISO") CG 00 01 covering CGL on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- (B) **Automobile Liability**: ISO Form CA 0001 covering any auto, or if Consultant has no owned autos, hired and non-owned, with limits no less than \$1,000,000 per accident for bodily injury and property damage.
- (C) **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
- (D) **Professional Liability** (also known as Errors and Omissions) insurance appropriate to the work being performed, with limits no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate per policy period of one year.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the City of Salinas requires and shall be entitled to the broader coverage and/or higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City of Salinas, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or

operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10, CG 11 85, or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

Primary Coverage

For any claims related to this Agreement or the project described within this Agreement, the Consultant's insurance coverage shall be primary coverage at least as broad as ISO Form CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

Waiver of Subrogation

Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Salinas for all work performed by the Consultant, its employees, agents, and subcontractors.

Self-Insured Retentions

Self-insured retentions must be declared by Consultant to and approved by the City. At the option of the City, Consultant shall provide coverage to reduce or eliminate such self-insured retentions as respects the City, its officers, officials, employees, and volunteers; or the consultant shall provide evidence satisfactory to the City guaranteeing payment of losses and related investigations, claim administrations, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of this Agreement or the beginning of Agreement work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of Agreement work.
4. A copy of the claims reporting requirements must be submitted to the City for review.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable insurance language effecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all sub-consultants and/or subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that Entity is an additional insured on insurance required from such sub-consultants and/or subcontractors.

Special Risks or Circumstances

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Maintenance of Insurance

Maintenance of insurance by Consultant as specified shall in no way be interpreted as relieving Consultant of its indemnification obligations or any responsibility whatsoever and the Consultant may carry, at its own expense, such additional insurance as it deems necessary.



(CONTRACTOR)

(PRINCIPAL)

CARL WARREN & COMPANY, LLC
Company Name

City of Salinas
Client

Signature

Signature

Richard McAbee

Print Name

Print Name

Chief Marketing Officer

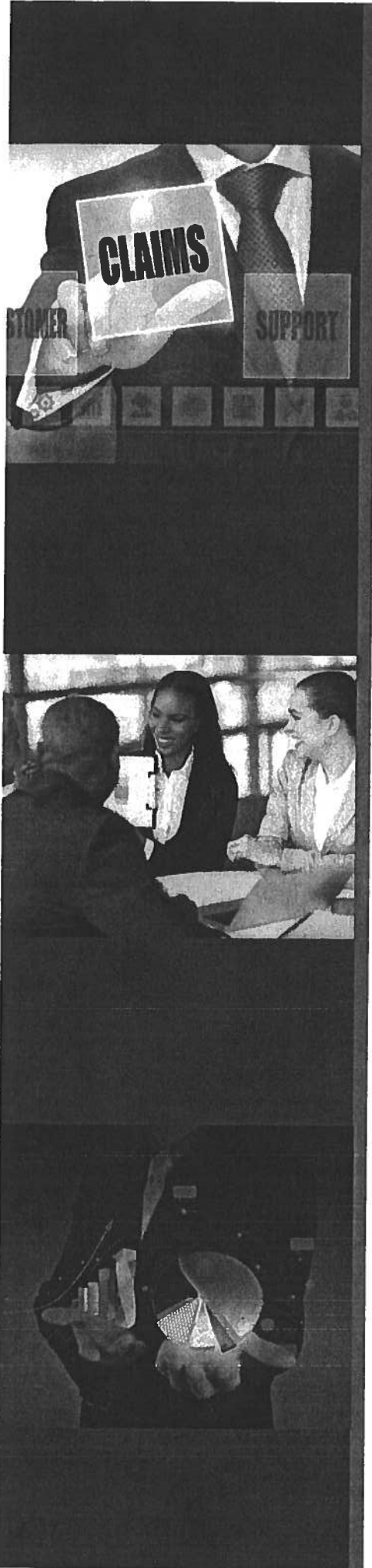
Title

Title

Date

Date

EXHIBIT B
FEE SCHEDULE



CARL WARREN & COMPANY

Claims Management and Solutions

A  **VENBROOK** Company

Third Party Administrative
Services Proposal
for

City of Costa Mesa

July 15, 2022

Contact:

Richard McAbee
Chief Marketing Officer
11209 N. Tatum Blvd., Suite 130
Phoenix, AZ 85028
T: 602-485-8228 | C: 602-723-5610
rmcabee@carlwarren.com

Confidential & Proprietary

FIXED ANNUAL PRICING

| CLAIMS ADMINISTRATION SERVICES | 3 YEARS WITH 2-1 YEAR OPTION FIXED ANNUAL PRICING | | | | |
|---|---|-----------------------|-----------------------|-------------------------|-------------------------|
| | 2022 – 2023 YEAR 1 | 2023 – 2024 YEAR 2 | 2024 – 2025 YEAR 3 | 2025 – 2026 OPTION 1 | 2026 – 2027 OPTION 2 |
| ANNUAL FEE* | \$48,314.04* | \$49,764* | \$51,256.92* | \$53,052* | \$54,909* |
| *NOT TO EXCEED 75 CLAIMS ANNUALLY | | | | | |
| Over 75-Bodily Injury | \$825 | \$850 | \$875 | \$900 | \$925 |
| Over75-Property Damage | \$415 | \$425 | \$440 | \$455 | \$460 |
| Telephone | Included | Included | Included | Included | Included |
| Copy Work | Included | Included | Included | Included | Included |
| Stenographs | Included | Included | Included | Included | Included |
| Postage | Included | Included | Included | Included | Included |
| Office Expense | Included | Included | Included | Included | Included |
| Claims Set-Up Fee | Included | Included | Included | Included | Included |
| Data Processing | Included | Included | Included | Included | Included |
| Index Bureau (ISO Claims Search and OFAC) | Included | Included | Included | Included | Included |
| MMSEA Filing Fee (liability claims) | Included | Included | Included | Included | Included |
| Misc./Allocated Loss Adjustment Expenses (i.e., police reports, medical records, etc.) | At Cost | At Cost | At Cost | At Cost | At Cost |
| Field Work Services | | | | | |
| Mileage | IRS rate | IRS rate | IRS rate | IRS rate | IRS rate |
| Photographs/Duplicate Photographs | Included | Included | Included | Included | Included |
| Ancillary Services | | | | | |
| Subrogation Setup Fee (one-time charge) | Included | Included | Included | Included | Included |
| Subrogation (if utilized) | 21% of net recovery | 21% of net recovery | 21% of net re2covery | 21% of net recovery | 21% of net recovery |
| Outside Investigations | At Cost | At Cost | At Cost | At Cost | At Cost |
| Auto/Property Damage Appraisals | | | | | |
| Surveillance/Fraud Unit | | | | | |
| Annual Administration Services | | | | | |
| <ul style="list-style-type: none"> • Data Management • Account Management • Annual Stewardship | Included | Included | Included | Included | Included |

| | | | | | |
|--|---------------------|---------------------|---------------------|---------------------|---------------------|
| • Claims Review | | | | | |
| Risk Management Information System Services | | | | | |
| <ul style="list-style-type: none"> • Setup (First Year) • Training/Technical Support • Data Conversion(s) • 3 Users RMIS Access • Standard Loss Runs • Report Programming • Carrier TPA Oversight (Data Extract, Feeds, Audits, Compliance & Reporting) | Included | Included | Included | Included | Included |
| Additional Users (over first 3 users) | \$250/user per year | \$250/user per year | \$250/user per year | \$250/user per year | \$250/user per year |
| Custom Report Development (2+ hours) | \$275 per hour | \$275 per hour | \$275 per hour | \$275 per hour | \$275 per hour |
| Other IT Services (Exit, Final Termination etc.) | \$275 per hour | \$275 per hour | \$275 per hour | \$275 per hour | \$275 per hour |
| Banking/Trust Account Services | | | | | |
| Trust Account Maintenance | Included | Included | Included | Included | Included |
| Check Issuance & Reconciliations | | | | | |
| 1099 Reporting, Including IRS File (if requested) | | | | | |

EXHIBIT C

CITY COUNCIL POLICY 100-5

CITY OF COSTA MESA, CALIFORNIA

COUNCIL POLICY

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---------------------|----------------------|-----------------------|-------------|
| DRUG-FREE WORKPLACE | 100-5 | 8-8-89 | 1 of 3 |

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;
 - B. Establishing a Drug-Free Awareness Program to inform employees about:

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---------------------|---------------|----------------|--------|
| DRUG-FREE WORKPLACE | 100-5 | 8-8-89 | 2 of 3 |

1. The dangers of drug abuse in the workplace;
 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- D. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
1. Abide by the terms of the statement; and
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- E. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- F. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
1. Taking appropriate personnel action against such an employee, up to and including termination; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---------------------|---------------|----------------|--------|
| DRUG-FREE WORKPLACE | 100-5 | 8-8-89 | 3 of 3 |

- G. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
 - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.