



Purchasing & Contracting Department

October 30, 2024

VIA EMAIL TO: kristin.tapia@thehartford.com

Ms. Kristin Tapia, Client Relationship Associate
Hartford Life and Accident Insurance Company
One Hartford Plaza
Hartford, CT 06155

Reference: Request for Proposal (RFP) 10090149-24-G, for Life & Accidental Death and Dismemberment (AD&D) Services

Dear Ms. Tapia:

Subject: Exceptions and Clarifications

On June 16, 2024, the City of San Diego received your list of exceptions relating to the above-referenced solicitation (attached).

Exhibit A, item A.2.2 of the subject RFP, states, in pertinent part: "Any exceptions to the Contract that have not been accepted by the City in writing are deemed rejected. The City, in its sole discretion, may accept some or all of proposer's exceptions, reject proposer's exceptions and deem the proposal non-responsive, or award the Contract without proposer's proposed exceptions."

This letter confirms our agreement to modify the following terms of the Contract relating to the above-referenced solicitation. The Parties agree as follows:

1. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article III, Compensation, Section 3.2 Invoices shall be **modified** to the following:

3.2 Invoices. Contractor cannot accommodate Contract Numbers or Purchase Order Numbers, nor can Contract Numbers or Purchase Order Numbers be included on invoices.

Coverages are billed monthly in advance. Payment is due on the 15th of the month for the current month. We provide a standard grace period of 31 or 45 days from the invoice due date and any requests for an extended grace period must be approved by Underwriting. The overdue premium process will begin systematically when premium is not paid within the designated grace period. The overdue process follows a

Ms. Tapia, Client Relationship Associate

October 30, 2024

Page 2 of 8

scheduled timeline that includes a combination of email and/or letter notifications, beginning with a courtesy reminder that the grace period end date is approaching. If the premium remains outstanding the last step will include a final notice that premium is outstanding, and the account may be referred to The Hartford's collection.

2. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article III, Compensation, Section 3.2.1 Invoice Detail shall be **modified** to the following:

3.2.1 Invoice Detail. Contractor's invoice must be on Contractor's stationary with Contractor's name, address, and remittance address if different. Contractor's invoice must have a date, an invoice number, a description of the goods or services provided, and an amount due.

3. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article IV, Suspension and Termination, Section 4.2 City's Right to Terminate for Convenience shall be **modified** to the following:

4.2 City's Right to Terminate for Convenience. City may, at its sole option and for its convenience, terminate all or any portion of this Contract by giving thirty (30) days' written notice of such termination to Contractor. The termination of the Contract shall be effective upon receipt of the notice by Contractor. After termination of all or any portion of the Contract, Contractor shall: (1) immediately discontinue all affected performance (unless the notice directs otherwise); and (2) complete any and all additional work necessary for the orderly filing of documents and closing of Contractor's affected performance under the Contract. After filing of documents and completion of performance, Contractor shall deliver to City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials created or received by Contractor in performing this Contract, whether completed or in process. By accepting payment for completion, filing, and delivering documents as called for in this section, Contractor discharges City of all of City's payment obligations and liabilities under this Contract with regard to the affected performance.

Contractor will own all records and customer information derived from insurance transactions and as required by applicable law. Upon termination of the insurance contract and to the extent permitted by applicable law, Contractor will transfer to the new insurance carrier necessary records and information not proprietary to the Contractor. Contractor will work with the City to establish a timeframe for the orderly transfer of files to the new carrier.

Payment will be made in accordance with the terms of the contract and Policy.

4. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article IV, Suspension and Termination, Section 4.5.1 Termination for Convenience shall be **modified** to the following:

4.5.1 Termination for Convenience. If the termination is for the convenience of City an equitable adjustment in the Contract price shall be made. No amount shall be allowed for anticipated profit on unperformed services, and no amount shall be paid

Ms. Tapia, Client Relationship Associate

October 30, 2024

Page 3 of 8

for an as needed contract beyond the Contract termination date.
Payment will be made in accordance with the contract and Policy.

5. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article V, Additional Contractor Obligations, Section 5.5.1 Delay shall be **modified** to the following:

5.5.1 If a delay in performance is caused by any unforeseen event(s) beyond the control of the parties, City may allow Contractor to a reasonable extension of time to complete performance, but Contractor will not be entitled to damages or additional compensation. Any such extension of time must be approved in writing by City. The following conditions may constitute such a delay: disease, pandemic or other health emergency, war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather, or other similar condition of the elements necessitating cessation of the performance; inability to obtain materials, equipment or labor; or other specific reasons agreed to between City and Contractor. This provision does not apply to a delay caused by Contractor's acts or omissions. Contractor is not entitled to an extension of time to perform if a delay is caused by Contractor's inability to obtain materials, equipment, or labor unless City has received, in a timely manner, documentary proof satisfactory to City of Contractor's inability to obtain materials, equipment, or labor, in which case City's approval must be in writing.

6. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article V, Additional Contractor Obligations, Section 5.8 Industry Standards shall be **modified** to the following:

5.8 Industry Standards. Contractor shall provide goods and/or services acceptable to City in strict conformance with the Contract. Contractor shall also provide goods and/or services in accordance with the standards customarily adhered to by an experienced and competent provider of the goods and/or services called for under this Contract using the degree of care and skill ordinarily exercised by reputable providers of such goods and/or services. Where approval by City, the Mayor, or other representative of City is required, it is understood to be general approval only and does not relieve Contractor of responsibility for materially complying with all applicable laws, codes, policies, regulations, and good business practices.

7. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article V, Additional Contractor Obligations, Section 5.9 Records Retention and Examination shall be **modified** to the following:

5.9 Records Retention and Examination. Contractor shall retain, protect, and maintain in an accessible location all records and documents, including paper, electronic, and computer records, relating to this Contract for five (5) years after receipt of final payment by City under this Contract. Contractor shall make all such

Ms. Tapia, Client Relationship Associate

October 30, 2024

Page 4 of 8

records and documents available for inspection, copying, or other reproduction, and auditing by authorized representatives of City, including the Purchasing Agent or designee. Contractor shall make available all requested data and records at reasonable locations within City or County of San Diego at any time during normal business hours, and as often as City deems necessary. If records are not made available within the City or County of San Diego, Contractor shall pay City's travel costs to the location where the records are maintained and shall pay for all related travel expenses. Failure to make requested records available for inspection, copying, or other reproduction, or auditing by the date requested may result in termination of the Contract. Contractor must include this provision in all subcontracts made in connection with this Contract.

Audits may be conducted upon the parties' execution of a mutually agreeable audit confidentiality agreement subject to The Hartford's security and confidentiality policies, and once The Hartford has received signed authorizations from claimants and beneficiaries if confidential claim information is in scope for the audit.

8. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article V, Additional Contractor Obligations, Section 5.9.1 Records Retention and Examination shall be **modified** to the following:

5.9.1 Contractor shall maintain records of all subcontracts entered into with all firms, all project invoices received from Subcontractors and Suppliers, all purchases of materials and services from Suppliers, and all joint venture participation. Records shall show name, telephone number including area code, and business address of each Subcontractor and Supplier, and joint venture partner, and the total amount actually paid to each firm. Project relevant records, regardless of tier, may be periodically reviewed by the City.

Contractor does not intend to use any subcontractors; however, if Contractor decides to do so in the future, Contractor will make every effort to notify the City beforehand. The term "subcontractor" shall not include vendors hired by Contractor to provide services across Contractor's book of business.

9. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article V, Additional Contractor Obligations, Section 5.11 Duty to Cooperate with Auditor shall be **modified** to the following:

5.11 Duty to Cooperate with Auditor. The City Auditor may, in his sole discretion, at no cost to the City, and for purposes of performing his responsibilities under Charter section 39.2, review Contractor's records to confirm contract compliance. Contractor shall make reasonable efforts to cooperate with Auditor's requests.

Audits may be conducted upon the parties' execution of a mutually agreeable audit confidentiality agreement subject to the Contractor's security and confidentiality policies, and once the Contractor has received signed authorizations from claimants and beneficiaries if confidential claim information is in scope for the audit.

Ms. Tapia, Client Relationship Associate

October 30, 2024

Page 5 of 8

10. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article V, Additional Contractor Obligations, Section 5.13 Project Personnel shall be **modified** to the following:

5.13 Project Personnel. Except as formally approved by the City, the key personnel identified in Contractor's bid or proposal shall be the individuals who will actually complete the work. Changes in staffing must be reported in writing and approved by the City.

Contractor will make every effort to notify and consult with the City prior to any change to the Account Manager team; however, this may not be possible in every circumstance. Contractor retains ultimate responsibility for its personnel decisions.

11. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article V, Additional Contractor Obligations, Section 5.13.1 Criminal Background Certification shall be **modified** to the following:

5.13.1 Criminal Background Certification. Contractor certifies that all employees working on this Contract have had a criminal background check and that said employees are clear of any sexual and drug related convictions. Contractor further certifies that all employees hired by Contractor or a subcontractor shall be free from any felony convictions.

Contractor performs a thorough background check of each employee at their time of hire, which includes but is not limited to a 10-year criminal conviction check. Contractor also require all employees to submit an annual certification in which they attest that they have never been convicted of any felony of any kind, or of any misdemeanor involving their conduct in the financial services industry or involving dishonesty, breach of trust, violence, sexual misconduct or illegal possession of drugs, narcotics, firearms or weapons and that they do not know of any other Hartford employees who have ever been convicted of a felony. To the extent the Contractor is aware of any such convictions, Contractor agrees to remove such individuals from providing services hereunder. Although we do comprehensive background checks on all employees at the time of hire, we do not conduct subsequent checks unless there is a significant change in title or responsibility.

12. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article V, Additional Contractor Obligations, Section 5.14.1 Supervision shall be **modified** to the following:

5.14.1 Supervision. Contractor shall provide adequate and competent supervision at all times during the Contract term. Contractor shall be readily available to meet with the City. Contractor shall provide the work telephone numbers where its representative(s) can be reached.

13. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article V, Additional Contractor Obligations, Section 5.14.3 Removal of Employees shall be **modified** to the following:

Ms. Tapia, Client Relationship Associate

October 30, 2024

Page 6 of 8

5.14.3 Removal of Employees. City may request Contractor immediately remove from assignment to the City any employee found unfit to perform duties at the City. Contractor shall consider all such requests. Contractor retains ultimate responsibility for its personnel decisions.

14. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article VI, Intellectual Property Rights, Section 6.1 Rights in Data shall be **modified** to the following:

6.1 Rights in Data. Contractor grants the City license to use Contractor's intellectual property contained in any deliverables provided to the City while Contractor is providing insurance Services to the City. All deliverables discovered, created, or developed by Contractor under this Agreement shall be and will remain the sole and exclusive property of the Contractor with licensed rights of use granted to the City in accordance with this Agreement.

15. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article VI, Intellectual Property Rights, Section 6.2 Intellectual Property Rights Assignment shall be **modified** to the following:

6.2 Intellectual Property Rights Assignment. Contractor grants the City license to use Contractor's intellectual property contained in any deliverables provided to the City while Contractor is providing insurance Services to the City. All deliverables discovered, created or developed by Contractor under this Agreement shall be and will remain the sole and exclusive property of the Contractor with licensed rights of use granted to the City in accordance with this Agreement.

16. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article VI, Intellectual Property Rights, Section 6.4 Subcontracting shall be **modified** to the following:

6.4 Subcontracting. In the event that Contractor utilizes a subcontractor(s) for any portion of the work that comprises the whole or part of the specified Deliverable Materials to the City, the agreement between Contractor and the subcontractor shall include a statement that identifies the Deliverable Materials as a "works for hire" as described in the United States Copyright Act of 1976, as amended, and that all intellectual property rights in the Deliverable Materials, whether arising in copyright, trademark, service mark or other forms of intellectual property rights, belong to and shall vest solely with the City. Further, the agreement between Contractor and its subcontractor shall require that the subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to City, all titles, rights and interests in and to the Deliverable Materials, including all copyrights, trademarks and other intellectual property rights. City shall have the right to review any such agreement for compliance with this provision.

Ms. Tapia, Client Relationship Associate

October 30, 2024

Page 7 of 8

Contractor does not intend to use any subcontractors; however, if Contractor decides to do so in the future, Contractor will make every effort to notify the City beforehand. The term “subcontractor” shall not include vendors hired by Contractor to provide services across Contractor’s book of business.

17. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article VII, Indemnification and Insurance, Section 7.1 Indemnification shall be **modified** to the following:

7.1 Indemnification. To the fullest extent permitted by law, Contractor shall defend (with legal counsel reasonably acceptable to City), indemnify, protect, and hold harmless City and its elected officials, officers, employees, agents, and representatives (Indemnified Parties) from and against any and all claims, losses, costs, damages, expense, and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, and litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, negligent performance of services under this Contract by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or anyone that either of them control. Contractor’s duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or willful misconduct of the Indemnified Parties.

18. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article VIII, Bonds, shall be **deleted** in its entirety.

19. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article XIII, Miscellaneous, Section 13.2 Non-Assignment shall be **modified** to the following:

13.2 Non-Assignment. Other than internal affiliates, Contractor may not assign the obligations under this Contract, whether by express assignment or by sale of the company, nor any monies due or to become due under this Contract, without City’s prior written approval. Any assignment in violation of this paragraph shall constitute a default and is grounds for termination of this Contract at the City’s sole discretion. In no event shall any putative assignment create a contractual relationship between City and any putative assignee.

20. Exhibit C, The City of San Diego General Contract Terms and Provisions Applicable to Goods, Services, and Consultants Contracts, Article XIII, Miscellaneous, Section 13.6 Compliance with Controlling Law shall be **modified** to the following:

13.6 Compliance with Controlling Law. Contractor shall comply with all applicable local, state, and federal laws, regulations, and policies. Contractor’s act or omission in violation of applicable local, state, and federal laws, regulations, and policies is grounds for contract termination. In addition to all other remedies or damages

Ms. Tapia, Client Relationship Associate
October 30, 2024
Page 8 of 8

allowed by law, Contractor is liable to City for all damages, including costs for substitute performance, sustained as a result of the violation. In addition, Contractor may be subject to suspension, debarment, or both.

Please indicate your agreement with the above by signing the bottom of this letter.
Thank you for your assistance.

Sincerely,



Jerry G. Gibbs
Associate Procurement Contracting Officer

This Letter is executed by the City and Contractor acting by and through their authorized officers.

HARTFORD LIFE AND
ACCIDENT INSURANCE COMPANY

By: Darren K. Goddard
C49A793A415C402...

Name: Darren K. Goddard

Title: Assistant Vice President, Operations

Date: 10/31/2024

THE CITY OF SAN DIEGO

By: _____

Name: _____

Title: _____

Date: _____

CONTRACT RESULTING FROM REQUEST FOR PROPOSAL NUMBER 10090149-24-G, Life and Accidental Death and Dismemberment (AD&D) Services

This Contract (Contract) is entered into by and between the City of San Diego, a municipal corporation (City), and the successful proposer to Request for Proposal (RFP) # 10090149-24-G, Life and Accidental Death and Dismemberment (AD&D) Services (Contractor).

RECITALS

On or about 4/30/2024, City issued an RFP to prospective proposers on services to be provided to the City. The RFP and any addenda and exhibits thereto are collectively referred to as the "RFP." The RFP is attached hereto as Exhibit A.

City has determined that Contractor has the expertise, experience, and personnel necessary to provide the services.

City wishes to retain Contractor to provide fully-insured Life/AD&D for their actives as further described in the Scope of Work, attached hereto as Exhibit B. (Life/AD&D services).

For good and valuable consideration, the sufficiency of which is acknowledged, City and Contractor agree as follows:

**ARTICLE I
CONTRACTOR SERVICES**

1.1 Scope of Work. Contractor shall provide the Life/AD&D services to City as described in Exhibit B which is incorporated herein by reference. Contractor will submit all required forms and information described in Exhibit A to the Purchasing Agent before providing Life/AD&D services.

1.2 General Contract Terms and Provisions. This Contract incorporates by reference the General Contract Terms and Provisions, attached hereto as Exhibit C.

1.3 Contract Administrator. The Risk Management Department (Department) is the Contract Administrator for this Agreement. Contractor shall provide the Services under the direction of a designated representative of the Department as follows:

**Quennelle Allen, Deputy Director
Risk Management
1200 Third Avenue, Suite 1000
San Diego, CA 92101
619-236-6185
qallen@sandiego.gov**

**ARTICLE II
DURATION OF CONTRACT**

2.1 Term. This Contract shall be for a period of five (5) years beginning on January 1, 2025. Unless otherwise terminated, this Contract shall be effective January 1, 2025 through December 31, 2029. The term of this Contract shall not exceed five years unless approved by the City Council by ordinance.

2.2 Effective Date. This Contract shall be effective on January 1, 2025, and approved by the City Attorney in accordance with San Diego Charter Section 40.

**ARTICLE III
COMPENSATION**

3.1 Amount of Compensation. City shall pay Contractor for performance of all Services rendered in accordance with this Contract in an amount not to exceed \$1,250,000.00.

3.1.1. Basis of Compensation

The compensation for Life and AD&D administrative services is based on the direct cost of the Basic Life coverage, which amounts to \$192,514. This figure reflects the City's mandatory coverage requirements, and it will serve as the baseline for administrative cost calculations.

3.1.2. "Not to Exceed" Amount

The "Not to Exceed" amount shall be \$1,250,000. This adjustment has been made to provide flexibility and accommodate potential increases in the number of eligible employees during the contract term. The Not to Exceed amount does not imply a commitment to expend the entire amount but ensures the capacity to handle employee fluctuations without the need for immediate contract renegotiation.

3.1.3 Clarification of City Costs

The \$192,514 figure represents only direct City costs for mandatory coverage. Any services or costs associated with optional employee coverage or supplemental services beyond the mandatory provisions will be paid for separately by the employee(s), based on the terms specified in the Contract, Exhibit D – Price Worksheet.

3.1.4. Additional Employee Coverage

Should the number of eligible employees increase during the contract term, we will notify you promptly to ensure that administrative services are appropriately scaled and managed in line with the updated compensation cap.

**ARTICLE IV
WAGE REQUIREMENTS**

4.1 Reserved.

**ARTICLE V
CONTRACT DOCUMENTS**

5.1 Contract Documents. The following documents comprise the Contract between the City and Contractor: this Contract and all exhibits thereto, the RFP; the Notice to Proceed; and the City's written acceptance of exceptions or clarifications to the RFP, if any.

5.2 Contract Interpretation. The Contract Documents completely describe the Life/AD&D services to be provided. Contractor will provide any Life/AD&D services that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result whether or not specifically called for or identified in the Contract Documents. Words or phrases which have a well-known technical or construction industry or trade meaning and are used to describe Life/AD&D services will be interpreted in accordance with that meaning unless a definition has been provided in the Contract Documents.

5.3 Precedence. In resolving conflicts resulting from errors or discrepancies in any of the Contract Documents, the Parties will use the order of precedence as set forth below. The 1st document has the highest priority. Inconsistent provisions in the Contract Documents that address the same subject, are consistent, and have different degrees of specificity, are not in conflict and the more specific language will control. The order of precedence from highest to lowest is as follows:

- 1st Any properly executed written amendment to the Contract
- 2nd The Contract
- 3rd The RFP and the City's written acceptance of any exceptions or clarifications to the RFP, if any
- 4th Contractor's Pricing

5.4 Counterparts. This Contract may be executed in counterparts which, when taken together, shall constitute a single signed original as though all Parties had executed the same page.

5.5 Public Agencies. Other public agencies, as defined by California Government Code section 6500, may choose to use the terms of this Contract, subject to Contractor's acceptance. The City is not liable or responsible for any obligations related to a subsequent Contract between Contractor and another public agency.

IN WITNESS WHEREOF, this Contract is executed by City and Contractor acting by and through their authorized officers.

Hartford Life and Accident Insurance Company

CITY OF SAN DIEGO
A Municipal Corporation

The Hartford

Proposer

One Hartford Plaza

Street Address

Hartford

City

800-523-2233

Telephone No.

gbdcustomerservice@thehartford.com

E-Mail

BY:

Print Name:

Director, Purchasing & Contracting
Department

Date Signed

BY:

Signed by:

Darren K. Goddard

Signature of
Proposer's Authorized
Representative

Darren K. Goddard

Print Name

Assistant Vice President, Operations

Title

10/31/2024

Date

Approved as to form this ____ day of

_____, 20____.
MARA W. ELLIOTT, City Attorney

BY: _____
Deputy City Attorney

**EXHIBIT A
PROPOSAL SUBMISSION AND REQUIREMENTS**

A. PROPOSAL SUBMISSION

1. Timely Proposal Submittal. Proposals must be submitted as described herein to the Purchasing & Contracting Department (P&C).

1.1 Reserved.

1.2 Paper Proposals. The City will accept paper proposals in lieu of eProposals. Paper proposals must be submitted in a sealed envelope to the Purchasing & Contracting Department (P&C) located at 1200 Third Avenue, Suite 200, San Diego, CA 92101. The Solicitation Number and Closing Date must be referenced in the lower left-hand corner of the outside of the envelope. Faxed proposals will not be accepted.

1.3 Proposal Due Date. Proposals must be submitted prior to the Closing Date indicated on the eBidding System. E-mailed and/or faxed proposals will not be accepted.

1.4 Pre-Proposal Conference. No pre-proposal conference will be held for RFP.

1.4.1 Reserved.

1.5 Questions and Comments. Written questions and comments must be submitted electronically via the eBidding System no later than the date specified on the eBidding System. Only written communications relative to the procurement shall be considered. The City's eBidding System is the only acceptable method for submission of questions. All questions will be answered in writing. The City will distribute questions and answers without identification of the inquirer(s) to all proposers who are on record as having received this RFP, via its eBidding System. No oral communications can be relied upon for this RFP. Addenda will be issued addressing questions or comments that are determined by the City to cause a change to any part of this RFP.

1.6 Contact with City Staff. Unless otherwise authorized herein, proposers who are considering submitting a proposal in response to this RFP, or who submit a proposal in response to this RFP, are prohibited from communicating with City staff about this RFP from the date this RFP is issued until a contract is awarded.

2. Proposal Format and Organization. Unless electronically submitted, all proposals should be securely bound and must include the following completed and executed forms and information presented in the manner indicated below:

Tab A - Submission of Information and Forms.

2.1 Completed and signed Contract Signature Page. If any addenda are issued, the latest Addendum Contract Signature Page is required.

2.2 Exceptions requested by proposer, if any. The proposer must present written factual or legal justification for any exception requested to the Scope of Work, the

Contract, or the Exhibits thereto. Any exceptions to the Contract that have not been accepted by the City in writing are deemed rejected. The City, in its sole discretion, may accept some or all of proposer's exceptions, reject proposer's exceptions, and deem the proposal non-responsive, or award the Contract without proposer's proposed exceptions. The City will not consider exceptions addressed elsewhere in the proposal.

2.3 The Contractor Standards Pledge of Compliance Form.

2.4 Equal Opportunity Contracting forms including the Work Force Report and Contractors Certification of Pending Actions.

2.5 Reserved.

2.6 Reserved.

2.7 Reserved.

2.8 Additional Information as required in Exhibit B.

2.9 Reserved.

Tab B - Executive Summary and Responses to Specifications.

2.10 A title page.

2.11 A table of contents.

2.12 An executive summary, limited to one typewritten page, that provides a high-level description of the proposer's ability to meet the requirements of the RFP and the reasons the proposer believes itself to be best qualified to provide the identified services.

2.13 Proposer's response to the RFP.

Tab C - Cost/Price Proposal (if applicable). Proposers shall submit a cost proposal in the form and format described herein. Failure to provide cost(s) in the form and format requested may result in proposal being declared non-responsive and rejected.

3. Proposal Review. Proposers are responsible for carefully examining the RFP, the Specifications, this Contract, and all documents incorporated into the Contract by reference before submitting a proposal. If selected for award of contract, proposer shall be bound by same unless the City has accepted proposer's exceptions, if any, in writing.

4. Addenda. The City may issue addenda to this RFP as necessary. All addenda are incorporated into the Contract. The proposer is responsible for determining whether addenda were issued prior to a proposal submission. Failure to respond to or properly address addenda may result in rejection of a proposal.

5. Quantities. The estimated quantities provided by the City are not guaranteed. These quantities are listed for informational purposes only. Quantities vary depending on the

demands of the City. Any variations from the estimated quantities shall not entitle the proposer to an adjustment in the unit price or any additional compensation.

6. Quality. Unless otherwise required, all goods furnished shall be new and the best of their kind.

6.1 Items Offered. Proposer shall state the applicable trade name, brand, catalog, manufacturer, and/or product number of the required good, if any, in the proposal.

6.2 Brand Names. Any reference to a specific brand name in a solicitation is illustrative only and describes a component best meeting the specific operational, design, performance, maintenance, quality, or reliability standards and requirements of the City. Proposer may offer an equivalent or equal in response to a brand name referenced (Proposed Equivalent). The City may consider the Proposed Equivalent after it is subjected to testing and evaluation which must be completed prior to the award of contract. If the proposer offers an item of a manufacturer or vendor other than that specified, the proposer must identify the maker, brand, quality, manufacturer number, product number, catalog number, or other trade designation. The City has complete discretion in determining if a Proposed Equivalent will satisfy its requirements. It is the proposer's responsibility to provide, at their expense, any product information, test data, or other information or documents the City requests to properly evaluate or demonstrate the acceptability of the Proposed Equivalent, including independent testing, evaluation at qualified test facilities, or destructive testing.

7. Modifications, Withdrawals, or Mistakes. Proposer is responsible for verifying all prices and extensions before submitting a proposal.

7.1 Modification or Withdrawal of Proposal Before Proposal Opening. Prior to the Closing Date, the proposer or proposer's authorized representative may modify or withdraw the proposal by providing written notice of the proposal modification or withdrawal to the City Contact via the eBidding System. E-mail or telephonic withdrawals or modifications are not permissible.

7.2 Proposal Modification or Withdrawal of Proposal After Proposal Opening. Any proposer who seeks to modify or withdraw a proposal because of the proposer's inadvertent computational error affecting the proposal price shall notify the City Contact identified on the eBidding System no later than three working days following the Closing Date. The proposer shall provide worksheets and such other information as may be required by the City to substantiate the claim of inadvertent error. Failure to do so may bar relief and allow the City recourse from the bid surety. The burden is upon the proposer to prove the inadvertent error. If, as a result of a proposal modification, the proposer is no longer the apparent successful proposer, the City will award to the newly established apparent successful proposer. The City's decision is final.

8. Incurred Expenses. The City is not responsible for any expenses incurred by proposers in participating in this solicitation process.

9. Public Records. By submitting a proposal, the proposer acknowledges that any information submitted in response to this RFP is a public record subject to disclosure unless the City determines that a specific exemption in the California Public Records Act (CPRA) applies. If the proposer submits information clearly marked confidential or proprietary, the

City may protect such information and treat it with confidentiality to the extent permitted by law. However, it will be the responsibility of the proposer to provide to the City the specific legal grounds on which the City can rely in withholding information requested under the CPRA should the City choose to withhold such information. General references to sections of the CPRA will not suffice. Rather, the proposer must provide a specific and detailed legal basis, including applicable case law, that clearly establishes the requested information is exempt from the disclosure under the CPRA. If the proposer does not provide a specific and detailed legal basis for requesting the City to withhold proposer’s confidential or proprietary information at the time of proposal submittal, City will release the information as required by the CPRA and proposer will hold the City, its elected officials, officers, and employees harmless for release of this information. It will be the proposer’s obligation to defend, at proposer’s expense, any legal actions or challenges seeking to obtain from the City any information requested under the CPRA withheld by the City at the proposer’s request. Furthermore, the proposer shall indemnify and hold harmless the City, its elected officials, officers, and employees from and against any claim or liability, and defend any action brought against the City, resulting from the City’s refusal to release information requested under the CPRA which was withheld at proposer’s request. Nothing in the Contract resulting from this proposal creates any obligation on the part of the City to notify the proposer or obtain the proposer’s approval or consent before releasing information subject to disclosure under the CPRA.

10. Right to Audit. The City Auditor may access proposer’s records as described in San Diego Charter section 39.2 to confirm contract compliance.

B. PRICING

1. Fixed Price. All prices shall be firm, fixed, fully burdened, FOB destination, and include any applicable delivery or freight charges, and any other costs required to provide the requirements as specified in this RFP. The lowest total estimated contract price of all the proposals that meet the requirements of this RFP will receive the maximum assigned points to this category as set forth in this RFP. The other price schedules will be scored based on how much higher their total estimated contract prices compare with the lowest:

$$(1 - \frac{\text{contract price} - \text{lowest price}}{\text{lowest price}}) \times \text{maximum points} = \text{points received}$$

For example, if the lowest total estimated contract price of all proposals is \$100, that proposal would receive the maximum allowable points for the price category. If the total estimated contract price of another proposal is \$105 and the maximum allowable points is 60 points, then that proposal would receive $(1 - ((105 - 100) / 100) \times 60 = 57$ points, or 95% of the maximum points. The lowest score a proposal can receive for this category is zero points (the score cannot be a negative number). The City will perform this calculation for each Proposal.

2. Taxes and Fees. Taxes and applicable local, state, and federal regulatory fees should not be included in the price proposal. Applicable taxes and regulatory fees will be added to the net amount invoiced. The City is liable for state, city, and county sales taxes but

is exempt from Federal Excise Tax and will furnish exemption certificates upon request. All or any portion of the City sales tax returned to the City will be considered in the evaluation of proposals.

3. Escalation. An escalation factor is not allowed unless called for in this RFP. If escalation is allowed, proposer must notify the City in writing in the event of a decline in market price(s) below the proposal price. At that time, the City will make an adjustment in the Contract or may elect to re-solicit.

4. Unit Price. Unless the proposer clearly indicates that the price is based on consideration of being awarded the entire lot and that an adjustment to the price was made based on receiving the entire proposal, any difference between the unit price correctly extended and the total price shown for all items shall be offered shall be resolved in favor of the unit price.

C. EVALUATION OF PROPOSALS

1. Award. The City shall evaluate each responsive proposal to determine which proposal offers the City the best value consistent with the evaluation criteria set forth herein. The proposer offering the lowest overall price will not necessarily be awarded a contract.

2. Sustainable Materials. Consistent with Council Policy 100-14, the City encourages use of readily recyclable submittal materials that contain post-consumer recycled content.

3. Evaluation Process.

3.1 Process for Award. A City-designated evaluation committee (Evaluation Committee) will evaluate and score all responsive proposals. The Evaluation Committee may require proposer to provide additional written or oral information to clarify responses. Upon completion of the evaluation process, the Evaluation Committee will recommend to the Purchasing Agent that award be made to the proposer with the highest scoring proposal.

3.2 Optional Interview/Oral Presentation. The City may require proposers to interview and/or make an oral presentation.

3.3 Mandatory Interview/Oral Presentation. The City will require proposers to interview and/or make an oral presentation if one or more proposals score within seven (7) points or less of the proposal with the highest score. Only the proposer with the highest scoring proposal and those proposers scoring within seven (7) points or less of the highest scoring proposal will be asked to interview and/or make an oral presentation. Interviews and/or oral presentations will be made to the Evaluation Committee in order to clarify the proposals and to answer any questions. The interviews and/or oral presentations will be scored as part of the selection process. The City will complete all reference checks prior to any oral interview. Additionally, the Evaluation Committee may require proposer's key personnel to interview. Interviews may be by telephone and/or in person. Multiple interviews may be required. Proposers are required to complete their oral presentation and/or interviews within seven (7) workdays after the City's request. Proposers should be prepared to discuss and substantiate any of the areas of the proposal submitted, as well as proposer's qualifications to furnish the subject goods and services. Proposer is responsible for any costs incurred for the oral presentation and interview of the key personnel.

3.4 Discussions/Negotiations. The City has the right to accept the proposal that serves the best interest of the City, as submitted, without discussion or negotiation. Contractors should, therefore, not rely on having a chance to discuss, negotiate, and adjust their proposals. The City may negotiate the terms of a contract with the winning proposer based on the RFP and the proposer’s proposal, or award the contract without further negotiation.

3.5 Inspection. The City reserves the right to inspect the proposer’s equipment and facilities to determine if the proposer is capable of fulfilling this Contract. Inspection will include, but not limited to, survey of proposer’s physical assets and financial capability. Proposer, by signing the proposal agrees to the City’s right of access to physical assets and financial records for the sole purpose of determining proposer’s capability to perform the Contract. Should the City conduct this inspection, the City reserves the right to disqualify a proposer who does not, in the City’s judgment, exhibit the sufficient physical and financial resources to perform this Contract.

3.6 Evaluation Criteria. The following elements represent the evaluation criteria that will be considered during the evaluation process:

	MAXIMUM EVALUATION POINTS
<p>A. Responsiveness to the RFP.</p> <ul style="list-style-type: none"> 1. Requested information included and thoroughness of response 2. Deviations are clearly noted and described 3. Understanding of the project and ability to deliver as exhibited in the Executive Summary 4. Organization’s financial ratings are acceptable 5. Proposed submitted on time and complete 6. Exceptions 	20
<p>B. Plan Design, Plan Deviations, Plan Changes.</p> <ul style="list-style-type: none"> 1. Ability to match current Plan Design 2. Limited number of Plan Deviations 3. Flexibility to accommodate current plan revisions 	20
<p>C. Relevant Experience/References.</p> <ul style="list-style-type: none"> 1. Claim Customer Service, Account Management Reporting Capabilities 2. Prior Performance. 3. Reference Checks 	20
<p>D. Price.</p>	25

	MAXIMUM EVALUATION POINTS
E. Implementation Plan and Presentation.	15
1. Evaluation will be made on likelihood that bidder’s implementation plan and Schedule will City’s schedule	
2. Thoroughness and Clarity of Presentation	
SUB TOTAL MAXIMUM EVALUATION POINTS:	100
F. Participation by Small Local Business Enterprise (SLBE) or Emerging Local Business Enterprise (ELBE) Firms*	12
FINAL MAXIMUM EVALUATION POINTS INCLUDING SLBE/ELBE:	112

*The City shall apply a maximum of an additional 12 percentage points to the proposer’s final score for SLBE OR ELBE participation. Refer to Equal Opportunity Contracting Form, Section V.

D. ANNOUNCEMENT OF AWARD

1. Award of Contract. The City will inform all proposers of its intent to award a Contract in writing.

2. Obtaining Proposal Results. No solicitation results can be obtained until the City announces the proposal or proposals best meeting the City’s requirements. Proposal results may be obtained by: (1) e-mailing a request to the City Contact identified on the eBidding System or (2) visiting the P&C eBidding System to review the proposal results. To ensure an accurate response, requests should reference the Solicitation Number. Proposal results will not be released over the phone.

3. Multiple Awards. City may award more than one contract by awarding separate items or groups of items to various proposers. Awards will be made for items, or combinations of items, which result in the lowest aggregate price and/or best meet the City’s requirements. The additional administrative costs associated with awarding more than one Contract will be considered in the determination.

E. PROTESTS. The City’s protest procedures are codified in Chapter 2, Article 2, Division 30 of the San Diego Municipal Code (SDMC). These procedures provide unsuccessful proposers with the opportunity to challenge the City’s determination on legal and factual grounds. The City will not consider or otherwise act upon an untimely protest.

F. SUBMITTALS REQUIRED UPON NOTICE TO PROCEED. The successful proposer is required to submit the following documents to P&C **within ten (10) business days** from the date on the Notice to Proceed letter:

1. Insurance Documents. Evidence of all required insurance, including all required endorsements, as specified in Article VII of the General Contract Terms and Provisions.

2. Taxpayer Identification Number. Internal Revenue Service (IRS) regulations require the City to have the correct name, address, and Taxpayer Identification Number (TIN) or Social Security Number (SSN) on file for businesses or persons who provide goods or services to the City. This information is necessary to complete Form 1099 at the end of each tax year. To comply with IRS regulations, the City requires each Contractor to provide a Form W-9 prior to the award of a Contract.

3. Business Tax Certificate. Unless the City Treasurer determines a business is exempt, all businesses that contract with the City must have a current business tax certificate.

4. Reserved.

5. Reserved.

The City may find the proposer to be non-responsive and award the Contract to the next highest scoring responsible and responsive proposer if the apparent successful proposer fails to timely provide the required information or documents.

EXHIBIT B SCOPE OF WORK

A. OVERVIEW

The City of San Diego (City) is releasing this Request for Proposal (RFP) to qualified vendors to provide fully insured Life and Accidental Death and Dismemberment (AD&D) services for their active employee population.

B. BACKGROUND

The City of San Diego is committed to providing affordable, comprehensive, and competitive benefit programs to its employees. The City has approximately 10,000 active employees and 5,600 early and Medicare retirees who are eligible for City benefits. With the current Life/AD&D contract set to expire on December 31, 2024, the City is releasing an RFP for a new 5-year contract to cover their active employees. The AD&D coverage is bundled under the basic life and duplicates the Basic life coverage amount. The City also offers additional life insurance under a supplemental term insurance plan. Spouse/domestic spouse and child(ren) are also eligible for coverage. Additionally, the City provides certain key employees Executive Life insurance equal to two times their annual salary. Retirees do not have any life or AD&D benefits provided to them through the City and are not part of this RFP process.

C. OBJECTIVE.

The objective of the RFP is to award the contract to one qualified life/AD&D carrier, which represents the best value to the City and while at the same time meeting the specifications and requirements of this RFP.

D. LIFE/AD&D RFP CORE REQUIREMENTS

1. Contractors shall submit a proposal based on January 1, 2025 effective date for active employees and dependents.
2. All premium rates must be guaranteed for a minimum of 5-years.
3. All premium rates must be quoted net of commissions.
4. Contractor's' response must match the current life plan design, provisions and any amendments that have occurred or are in process under the Hartford contract. All exceptions and differences must be clearly delineated in your proposal's cover letter and/or executive summary and must be detailed in response to the questionnaire that must accompany your proposal.

E. LIFE/AD&D INFORMATION INCLUDED

The following Appendices are included in this RFP:

1. Appendix 1_ Current City life census as of February 2024
2. Appendix 2_ Hartford Booklet (Non-Directors)
3. Appendix 3_ Hartford Booklet (Directors)
4. Appendix 4_ Hartford Life Experience Report (1/1/2019 – 1/31/2024)
5. Appendix 5_ Hartford Life Claims Report
6. Appendix 6_ 2025 Questionnaire

F. PRICING SUBMITTAL

Contractors are required to submit their proposal for pricing on Exhibit D – 2025 Pricing. Using Exhibit D will help ensure consistency in the price evaluation. The Price Worksheet is to be completed in full and shall be incorporated herein. The contract to be awarded is inclusive of all fees and costs of operations. Only the City's Price Worksheet will be accepted. Any deviations from the Price Worksheet may be considered non-responsive and unacceptable.

Proposed fully insured rates must be guaranteed for a minimum of 5-years from the January 1, 2025 effective date. Your proposed rates should not include any commissions.

G. MANDATORY DOCUMENTATION.

In order for a proposal to comply with the requirements of this RFP, it must include the following:

- Executive summary indicating the name, address, and contact information of the party responsible for this bid that is able to bind the bidding organization for contract purposes. It should also include confirmation that the Contractor can provide each of the services requested in this proposal. Should any services be subcontracted, that information and the subcontractor must be fully disclosed in this summary.
- City required forms (Exhibit A, B, and C, EOC form, and Contractor Standard Pledge)
- A fully completed questionnaire response (Appendix 6) – Must be submitted in Excel format not PDF.
- Completed Price Worksheet (Exhibit D) – Must be submitted in Excel format not PDF.
- A timeline for Life/AD&D implementation.
- A sample contract for Life/AD&D services.

H. TECHNICAL REPRESENTATIVE. The Technical Representative for this Contract is identified in the notice of award and is responsible for overseeing and monitoring this Contract.

City of San Diego Attachment 1
 Life and AD&D - Price Schedule Worksheet

Coverage	Number of Participants*	Volume (rounded up to nearest \$1,000)*	Age Range	2024 Current Rates	2025 Year 1 Proposed Rates	2026 Year 2 Proposed Rates	2027 Year 3 Proposed Rates	2028 Year 4 Proposed Rates	2029 Year 5 Proposed Rates
Basic Life									
<i>Directors</i>	28	\$13,396,000	Flat Rate	\$0.0200	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020
<i>All Others</i>	11,305	\$521,365,000	Flat Rate	\$0.0200	\$0.020	\$0.020	\$0.020	\$0.020	\$0.020
Total	11,333	\$534,761,000							
Basic AD&D	11,333	\$534,761,000	Flat Rate	\$0.0100	\$0.010	\$0.010	\$0.010	\$0.010	\$0.010
<i>Monthly Premium</i>				\$16,043	\$16,043	\$16,043	\$16,043	\$16,043	\$16,043
<i>Annual Premium</i>				\$192,514	\$192,514	\$192,514	\$192,514	\$192,514	\$192,514
<i>Includes Waiver of Premium? (Y/N)</i>									
<i>Includes Portability? (Y/N)</i>									
<i>Dollar change from current</i>					\$ -	\$ -	\$ -	\$ -	\$ -
<i>% change from current</i>					0%	0%	0%	0%	0%
<i>Ranking by Cost</i>									
Voluntary Employee Life with AD&D									
716	\$126,350,000	Under 30	\$0.0390	\$0.033	\$0.033	\$0.033	\$0.033	\$0.033	\$0.033
905	\$170,275,000	30-34	\$0.0560	\$0.048	\$0.048	\$0.048	\$0.048	\$0.048	\$0.048
986	\$221,675,000	35-39	\$0.0650	\$0.055	\$0.055	\$0.055	\$0.055	\$0.055	\$0.055
1,011	\$237,025,000	40-44	\$0.0820	\$0.070	\$0.070	\$0.070	\$0.070	\$0.070	\$0.070
871	\$210,775,000	45-49	\$0.1160	\$0.099	\$0.099	\$0.099	\$0.099	\$0.099	\$0.099
892	\$192,850,000	50-54	\$0.1920	\$0.163	\$0.163	\$0.163	\$0.163	\$0.163	\$0.163
713	\$143,200,000	55-59	\$0.3450	\$0.293	\$0.293	\$0.293	\$0.293	\$0.293	\$0.293
349	\$56,400,000	60-64	\$0.5320	\$0.452	\$0.452	\$0.452	\$0.452	\$0.452	\$0.452
101	\$13,950,000	65-69	\$1.0340	\$0.879	\$0.879	\$0.879	\$0.879	\$0.879	\$0.879
18	\$1,825,000	70-74	\$1.7480	\$1.486	\$1.486	\$1.486	\$1.486	\$1.486	\$1.486
3	\$500,000	75+	\$1.7480	\$1.486	\$1.486	\$1.486	\$1.486	\$1.486	\$1.486
Total	6,565	1,374,825,000							
<i>Monthly Premium</i>				\$207,682	\$176,530	\$176,530	\$176,530	\$176,530	\$176,530
<i>Annual Premium</i>				\$2,492,187	\$2,118,359	\$2,118,359	\$2,118,359	\$2,118,359	\$2,118,359
<i>Dollar change from current</i>					(373,828)	(373,828)	(373,828)	(373,828)	(373,828)
<i>% change from current</i>					-15%	-15%	-15%	-15%	-15%
<i>Ranking by Cost</i>									
Voluntary Spouse Life with AD&D									
119	\$11,500,000	Under 30	\$0.0430	\$0.037	\$0.037	\$0.037	\$0.037	\$0.037	\$0.037
270	\$25,825,000	30-34	\$0.6000	\$0.510	\$0.510	\$0.510	\$0.510	\$0.510	\$0.510
380	\$51,300,000	35-39	\$0.0680	\$0.058	\$0.058	\$0.058	\$0.058	\$0.058	\$0.058
419	\$55,600,000	40-44	\$0.0850	\$0.072	\$0.072	\$0.072	\$0.072	\$0.072	\$0.072
382	\$53,225,000	45-49	\$0.1190	\$0.101	\$0.101	\$0.101	\$0.101	\$0.101	\$0.101
331	\$38,850,000	50-54	\$0.1960	\$0.167	\$0.167	\$0.167	\$0.167	\$0.167	\$0.167
240	\$24,100,000	55-59	\$0.3490	\$0.297	\$0.297	\$0.297	\$0.297	\$0.297	\$0.297
110	\$10,925,000	60-64	\$0.5360	\$0.456	\$0.456	\$0.456	\$0.456	\$0.456	\$0.456
46	\$2,925,000	65-69	\$1.0370	\$0.881	\$0.881	\$0.881	\$0.881	\$0.881	\$0.881
20	\$1,575,000	70-74	\$1.7510	\$1.488	\$1.488	\$1.488	\$1.488	\$1.488	\$1.488
7	\$350,000	75+	\$1.7510	\$1.488	\$1.488	\$1.488	\$1.488	\$1.488	\$1.488
Total	2,324	\$276,175,000							
<i>Monthly Premium</i>				\$58,823	\$49,999	\$49,999	\$49,999	\$49,999	\$49,999
<i>Annual Premium</i>				\$705,875	\$599,993	\$599,993	\$599,993	\$599,993	\$599,993
<i>Dollar change from current</i>					(105,881)	(105,881)	(105,881)	(105,881)	(105,881)
<i>% change from current</i>					-15%	-15%	-15%	-15%	-15%
<i>Ranking by Cost</i>									
Voluntary Child Life Rate			Election						
82	\$410,000	\$5,000	\$0.8500	\$0.730	\$0.730	\$0.730	\$0.730	\$0.730	\$0.730
1,861	\$18,610,000	\$10,000	\$1.0300	\$0.880	\$0.880	\$0.880	\$0.880	\$0.880	\$0.880
Total	1,943	\$19,020,000							
<i>Monthly Premium</i>				\$1,987	\$1,698	\$1,698	\$1,698	\$1,698	\$1,698
<i>Annual Premium</i>				\$23,838	\$20,370	\$20,370	\$20,370	\$20,370	\$20,370
<i>Dollar change from current</i>					(3,468)	(3,468)	(3,468)	(3,468)	(3,468)
<i>% change from current</i>					-15%	-15%	-15%	-15%	-15%
<i>Ranking by Cost</i>									
TOTAL COST CITY + EE COST				\$3,414,414	\$2,931,237	\$2,931,237	\$2,931,237	\$2,931,237	\$2,931,237
<i>Dollar change from current</i>					(483,177)	(483,177)	(483,177)	(483,177)	(483,177)
<i>% change from current</i>					-14%	-14%	-14%	-14%	-14%
<i>Ranking by Cost</i>									

EXHIBIT C



THE CITY OF SAN DIEGO
GENERAL CONTRACT TERMS AND PROVISIONS
APPLICABLE TO GOODS, SERVICES, AND CONSULTANT CONTRACTS

General Contract Terms and Provisions Revised:
October 29, 2024, RFP No. 10090149-24-G
OCA Document No. 1685454_2

ARTICLE I SCOPE AND TERM OF CONTRACT

1.1 Scope of Contract. The scope of contract between the City and a provider of goods and/or services (Contractor) is described in the Contract Documents. The Contract Documents are comprised of the Request for Proposal, Invitation to Bid, or other solicitation document (Solicitation); the successful bid or proposal; the letter awarding the contract to Contractor; the City's written acceptance of exceptions or clarifications to the Solicitation, if any; and these General Contract Terms and Provisions.

1.2 Effective Date. A contract between the City and Contractor (Contract) is effective on the last date that the contract is signed by the parties and approved by the City Attorney in accordance with Charter section 40. Unless otherwise terminated, this Contract is effective until it is completed or as otherwise agreed upon in writing by the parties, whichever is the earliest. A Contract term cannot exceed five (5) years unless approved by the City Council by ordinance.

1.3 Contract Extension. The City may, in its sole discretion, unilaterally exercise an option to extend the Contract as described in the Contract Documents. In addition, the City may, in its sole discretion, unilaterally extend the Contract on a month-to-month basis following contract expiration if authorized under Charter section 99 and the Contract Documents. Contractor shall not increase its pricing in excess of the percentage increase described in the Contract.

ARTICLE II CONTRACT ADMINISTRATOR

2.1 Contract Administrator. The Purchasing Agent or designee is the Contract Administrator for purposes of this Contract, and has the responsibilities described in this Contract, in the San Diego Charter, and in Chapter 2, Article 2, Divisions 5, 30, and 32.

2.1.1 Contractor Performance Evaluations. The Contract Administrator will evaluate Contractor's performance as often as the Contract Administrator deems necessary throughout the term of the contract. This evaluation will be based on criteria including the quality of goods or services, the timeliness of performance, and adherence to applicable laws, including prevailing wage and living wage. City will provide Contractors who receive an unsatisfactory rating with a copy of the evaluation and an opportunity to respond. City may consider final evaluations, including Contractor's response, in evaluating future proposals and bids for contract award.

2.2 Notices. Unless otherwise specified, in all cases where written notice is required under this Contract, service shall be deemed sufficient if the notice is personally delivered or deposited in the United States mail, with first class postage paid, attention to the Purchasing Agent. Proper notice is effective on the date of personal delivery or five (5) days after deposit in a United States postal mailbox unless provided otherwise in the Contract. Notices to the City shall be sent to:

Purchasing Agent
City of San Diego, Purchasing and Contracting Division
1200 3rd Avenue, Suite 200
San Diego, CA 92101-4195

ARTICLE III COMPENSATION

3.1 Manner of Payment. Contractor will be paid monthly, in arrears, for goods and/or services provided in accordance with the terms and provisions specified in the Contract.

3.2 Invoices. Contractor cannot accommodate Contract Numbers or Purchase Order Numbers, nor can Contract Numbers or Purchase Order Numbers be included on invoices.

Coverages are billed monthly in advance. Payment is due on the 15th of the month for the current month. We provide a standard grace period of 31 or 45 days from the invoice due date and any requests for an extended grace period must be approved by Underwriting. The overdue premium process will begin systematically when premium is not paid within the designated grace period. The overdue process follows a scheduled timeline that includes a combination of email and/or letter notifications, beginning with a courtesy reminder that the grace period end date is approaching. If the premium remains outstanding the last step will include a final notice that premium is outstanding, and the account may be referred to The Hartford's collection.

3.2.1 Invoice Detail. Contractor's invoice must be on Contractor's stationary with Contractor's name, address, and remittance address if different. Contractor's invoice must have a date, an invoice number, a description of the goods or services provided, and an amount due.

3.2.2 Service Contracts. Contractor must submit invoices for services to City by the 10th of the month following the month in which Contractor provided services. Invoices must include the address of the location where services were performed and the dates in which services were provided.

3.2.3 Goods Contracts. Contractor must submit invoices for goods to City within seven days of the shipment. Invoices must describe the goods provided.

3.2.4 Parts Contracts. Contractor must submit invoices for parts to City within seven calendar (7) days of the date the parts are shipped. Invoices must include the manufacturer of the part, manufacturer's published list price, percentage discount applied in accordance with Pricing Page(s), the net price to City, and an item description, quantity, and extension.

3.2.5 Extraordinary Work. City will not pay Contractor for extraordinary work unless Contractor receives prior written authorization from the Contract Administrator. Failure to do so will result in payment being withheld for services. If approved, Contractor will include an invoice that describes the work performed and the location where the work was performed, and a copy of the Contract Administrator's written authorization.

3.2.6 Reporting Requirements. Contractor must submit the following reports using General Contract Terms and Provisions Revised:
October 29, 2024, RFP No. 10090149-24-G
OCA Document No. 1685454_2

the City's web-based contract compliance portal. Incomplete and/or delinquent reports may cause payment delays, non-payment of invoice, or both. For questions, please view the City's online tutorials on how to utilize the City's web-based contract compliance portal.

3.2.6.1 Monthly Employment Utilization Reports. Contractor and Contractor's subcontractors and suppliers must submit Monthly Employment Utilization Reports by the fifth (5th) day of the subsequent month.

3.2.6.2 Monthly Invoicing and Payments. Contractor and Contractor's subcontractors and suppliers must submit Monthly Invoicing and Payment Reports by the fifth (5th) day of the subsequent month.

3.3 Annual Appropriation of Funds. Contractor acknowledges that the Contract term may extend over multiple City fiscal years, and that work and compensation under this Contract is contingent on the City Council appropriating funding for and authorizing such work and compensation for those fiscal years. This Contract may be terminated at the end of the fiscal year for which sufficient funding is not appropriated and authorized. City is not obligated to pay Contractor for any amounts not duly appropriated and authorized by City Council.

3.4 Price Adjustments. Based on Contractor's written request and justification, the City may approve an increase in unit prices on Contractor's pricing pages consistent with the amount requested in the justification in an amount not to exceed the increase in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U) as published by the Bureau of Labor Statistics, or 5.0%, whichever is less, during the preceding one year term. If the CPI-U is a negative number, then the unit prices shall not be adjusted for that option year (the unit prices will not be decreased). A negative CPI-U shall be counted against any subsequent increases in the CPI-U when calculating the unit prices for later option years. Contractor must provide such written request and justification no less than sixty days before the date in which City may exercise the option to renew the contract, or sixty days before the anniversary date of the Contract. Justification in support of the written request must include a description of the basis for the adjustment, the proposed effective date and reasons for said date, and the amount of the adjustment requested with documentation to support the requested change (e.g. CPI-U or 5.0%, whichever is less). City's approval of this request must be in writing.

ARTICLE IV SUSPENSION AND TERMINATION

4.1 City's Right to Suspend for Convenience. City may suspend all or any portion of Contractor's performance under this Contract at its sole option and for its convenience for a reasonable period of time not to exceed six (6) months. City must first give ten (10) days' written notice to Contractor of such suspension. City will pay to Contractor a sum equivalent to the reasonable value of the goods and/or services satisfactorily provided up to the date of suspension. City may rescind the suspension prior to or at six (6) months by providing Contractor with written notice of the rescission, at which time Contractor would be required to resume performance in compliance with the terms and provisions of this Contract. Contractor will be entitled to an extension of time to complete performance under the Contract equal to the length of the suspension unless otherwise agreed to in writing by the Parties.

4.2 City's Right to Terminate for Convenience. City may, at its sole option and for its convenience, terminate all or any portion of this Contract by giving thirty (30) days' written notice of such termination to Contractor. The termination of the Contract shall be effective upon receipt of the notice by Contractor. After termination of all or any portion of the Contract, Contractor shall: (1) immediately discontinue all affected performance (unless the notice directs otherwise); and (2) complete any and all additional work necessary for the orderly filing of documents and closing of Contractor's affected performance under the Contract. After filing of documents and completion of performance, Contractor shall deliver to City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials created or received by Contractor in performing this Contract, whether completed or in process. By accepting payment for completion, filing, and delivering documents as called for in this section, Contractor discharges City of all of City's payment obligations and liabilities under this Contract with regard to the affected performance.

Contractor will own all records and customer information derived from insurance transactions and as required by applicable law. Upon termination of the insurance contract and to the extent permitted by applicable law, Contractor will transfer to the new insurance carrier necessary records and information not proprietary to the Contractor. Contractor will work with the City to establish a timeframe for the orderly transfer of files to the new carrier.

Payment will be made in accordance with the terms of the contract and Policy.

4.3 City's Right to Terminate for Default. Contractor's failure to satisfactorily perform any obligation required by this Contract constitutes a default. Examples of default include a determination by City that Contractor has: (1) failed to deliver goods and/or perform the services of the required quality or within the time specified; (2) failed to perform any of the obligations of this Contract; and (3) failed to make sufficient progress in performance which may jeopardize full performance.

4.3.1 If Contractor fails to satisfactorily cure a default within ten (10) calendar days of receiving written notice from City specifying the nature of the default, City may immediately cancel and/or terminate this Contract, and terminate each and every right of Contractor, and any person claiming any rights by or through Contractor under this Contract.

4.3.2 If City terminates this Contract, in whole or in part, City may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, equivalent goods or services and Contractor shall be liable to City for any excess costs. Contractor shall also continue performance to the extent not terminated.

4.4 Termination for Bankruptcy or Assignment for the Benefit of Creditors. If Contractor files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, the City may at its option and without further notice to, or demand upon Contractor, terminate this Contract, and terminate each and every right of Contractor, and any person claiming rights by and through Contractor under this Contract.

4.5 Contractor's Right to Payment Following Contract Termination.

4.5.1 Termination for Convenience. If the termination is for the convenience of City an equitable adjustment in the Contract price shall be made. No amount shall be allowed for anticipated profit on unperformed services, and no amount shall be paid for an as needed contract beyond the Contract termination date. Payment will be made in accordance with the contract and Policy.

4.6 Termination for Default. If, after City gives notice of termination for failure to fulfill Contract obligations to Contractor, it is determined that Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of City. In such event, adjustment in the Contract price shall be made as provided in Section 4.3.2. City's rights and remedies are in addition to any other rights and remedies provided by law or under this Contract. **Remedies Cumulative.** City's remedies are cumulative and are not intended to be exclusive of any other remedies or means of redress to which City may be lawfully entitled in case of any breach or threatened breach of any provision of this Contract.

ARTICLE V ADDITIONAL CONTRACTOR OBLIGATIONS

5.1 Inspection and Acceptance. The City will inspect and accept goods provided under this Contract at the shipment destination unless specified otherwise. Inspection will be made and acceptance will be determined by the City department shown in the shipping address of the Purchase Order or other duly authorized representative of City.

5.2 Responsibility for Lost or Damaged Shipments. Contractor bears the risk of loss or damage to goods prior to the time of their receipt and acceptance by City. City has no obligation to accept damaged shipments and reserves the right to return damaged goods, at Contractor's sole expense, even if the damage was not apparent or discovered until after receipt.

5.3 Responsibility for Damages. Contractor is responsible for all damage that occurs as a result of Contractor's fault or negligence or that of its' employees, agents, or representatives in connection with the performance of this Contract. Contractor shall immediately report any such damage to people and/or property to the Contract Administrator.

5.4 Delivery. Delivery shall be made on the delivery day specified in the Contract Documents. The City, in its sole discretion, may extend the time for delivery. The City may order, in writing, the suspension, delay or interruption of delivery of goods and/or services.

5.5 Delay. Unless otherwise specified herein, time is of the essence for each and every provision of the Contract. Contractor must immediately notify City in writing if there is, or it is anticipated that there will be, a delay in performance. The written notice must explain the cause for the delay and provide a reasonable estimate of the length of the delay. City may terminate this Contract as provided herein if City, in its sole discretion, determines the delay is material.

5.5.1 If a delay in performance is caused by any unforeseen event(s) beyond the

control of the parties, City may allow Contractor to a reasonable extension of time to complete performance, but Contractor will not be entitled to damages or additional compensation. Any such extension of time must be approved in writing by City. The following conditions may constitute such a delay: disease, pandemic or other health emergency, war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather, or other similar condition of the elements necessitating cessation of the performance; inability to obtain materials, equipment or labor; or other specific reasons agreed to between City and Contractor. This provision does not apply to a delay caused by Contractor's acts or omissions. Contractor is not entitled to an extension of time to perform if a delay is caused by Contractor's inability to obtain materials, equipment, or labor unless City has received, in a timely manner, documentary proof satisfactory to City of Contractor's inability to obtain materials, equipment, or labor, in which case City's approval must be in writing.

5.6 Restrictions and Regulations Requiring Contract Modification.

Contractor shall immediately notify City in writing of any regulations or restrictions that may or will require Contractor to alter the material, quality, workmanship, or performance of the goods and/or services to be provided. City reserves the right to accept any such alteration, including any resulting reasonable price adjustments, or to cancel the Contract at no expense to the City.

5.7 Warranties. All goods and/or services provided under the Contract must be warranted by Contractor or manufacturer for at least twelve (12) months after acceptance by City, except automotive equipment. Automotive equipment must be warranted for a minimum of 12,000 miles or 12 months, whichever occurs first, unless otherwise stated in the Contract. Contractor is responsible to City for all warranty service, parts, and labor. Contractor is required to ensure that warranty work is performed at a facility acceptable to City and that services, parts, and labor are available and provided to meet City's schedules and deadlines. Contractor may establish a warranty service contract with an agency satisfactory to City instead of performing the warranty service itself. If Contractor is not an authorized service center and causes any damage to equipment being serviced, which results in the existing warranty being voided, Contractor will be liable for all costs of repairs to the equipment, or the costs of replacing the equipment with new equipment that meets City's operational needs.

5.8 Industry Standards. Contractor shall provide goods and/or services acceptable to City in strict conformance with the Contract. Contractor shall also provide goods and/or services in accordance with the standards customarily adhered to by an experienced and competent provider of the goods and/or services called for under this Contract using the degree of care and skill ordinarily exercised by reputable providers of such goods and/or services. Where approval by City, the Mayor, or other representative of City is required, it is understood to be general approval only and does not relieve Contractor of responsibility for materially complying with all applicable laws, codes, policies, regulations, and good business practices.

5.9 Records Retention and Examination. Contractor shall retain, protect, and maintain in an accessible location all records and documents, including paper, electronic, and computer records, relating to this Contract for five (5) years after receipt of final payment by City under

this Contract. Contractor shall make all such records and documents available for inspection, copying, or other reproduction, and auditing by authorized representatives of City, including the Purchasing Agent or designee. Contractor shall make available all requested data and records at reasonable locations within City or County of San Diego at any time during normal business hours, and as often as City deems necessary. If records are not made available within the City or County of San Diego, Contractor shall pay City's travel costs to the location where the records are maintained and shall pay for all related travel expenses. Failure to make requested records available for inspection, copying, or other reproduction, or auditing by the date requested may result in termination of the Contract. Contractor must include this provision in all subcontracts made in connection with this Contract.

Audits may be conducted upon the parties' execution of a mutually agreeable audit confidentiality agreement subject to The Hartford's security and confidentiality policies, and once The Hartford has received signed authorizations from claimants and beneficiaries if confidential claim information is in scope for the audit.

5.9.1 Contractor shall maintain records of all subcontracts entered into with all firms, all project invoices received from Subcontractors and Suppliers, all purchases of materials and services from Suppliers, and all joint venture participation. Records shall show name, telephone number including area code, and business address of each Subcontractor and Supplier, and joint venture partner, and the total amount actually paid to each firm. Project relevant records, regardless of tier, may be periodically reviewed by the City.

Contractor does not intend to use any subcontractors; however, if Contractor decides to do so in the future, Contractor will make every effort to notify the City beforehand. The term "subcontractor" shall not include vendors hired by Contractor to provide services across Contractor's book of business.

5.10 Quality Assurance Meetings. Upon City's request, Contractor shall schedule one or more quality assurance meetings with City's Contract Administrator to discuss Contractor's performance. If requested, Contractor shall schedule the first quality assurance meeting no later than eight (8) weeks from the date of commencement of work under the Contract. At the quality assurance meeting(s), City's Contract Administrator will provide Contractor with feedback, will note any deficiencies in Contract performance, and provide Contractor with an opportunity to address and correct such deficiencies. The total number of quality assurance meetings that may be required by City will depend upon Contractor's performance.

5.11 Duty to Cooperate with Auditor. The City Auditor may, in his sole discretion, at no cost to the City, and for purposes of performing his responsibilities under Charter section 39.2, review Contractor's records to confirm contract compliance. Contractor shall make reasonable efforts to cooperate with Auditor's requests.

Audits may be conducted upon the parties' execution of a mutually agreeable audit confidentiality agreement subject to the Contractor's security and confidentiality policies, and once the Contractor has received signed authorizations from claimants and beneficiaries if confidential claim information is in scope for the audit.

5.12 Safety Data Sheets. If specified by City in the solicitation or otherwise required by this Contract, Contractor must send with each shipment one (1) copy of the Safety Data Sheet (SDS) for each item shipped. Failure to comply with this procedure will be cause for immediate termination of the Contract for violation of safety procedures.

5.13 Project Personnel. Except as formally approved by the City, the key personnel identified in Contractor's bid or proposal shall be the individuals who will actually complete the work. Changes in staffing must be reported in writing and approved by the City.

Contractor will make every effort to notify and consult with the City prior to any change to the Account Manager team; however, this may not be possible in every circumstance. Contractor retains ultimate responsibility for its personnel decisions.

5.13.1 Criminal Background Certification. Contractor certifies that all employees working on this Contract have had a criminal background check and that said employees are clear of any sexual and drug related convictions. Contractor further certifies that all employees hired by Contractor or a subcontractor shall be free from any felony convictions.

Contractor performs a thorough background check of each employee at their time of hire, which includes but is not limited to a 10-year criminal conviction check. Contractor also require all employees to submit an annual certification in which they attest that they have never been convicted of any felony of any kind, or of any misdemeanor involving their conduct in the financial services industry or involving dishonesty, breach of trust, violence, sexual misconduct or illegal possession of drugs, narcotics, firearms or weapons and that they do not know of any other Hartford employees who have ever been convicted of a felony. To the extent the Contractor is aware of any such convictions, Contractor agrees to remove such individuals from providing services hereunder. Although we do comprehensive background checks on all employees at the time of hire, we do not conduct subsequent checks unless there is a significant change in title or responsibility.

5.13.2 Photo Identification Badge. Contractor shall provide a company photo identification badge to any individual assigned by Contractor or subcontractor to perform services or deliver goods on City premises. Such badge must be worn at all times while on City premises. City reserves the right to require Contractor to pay fingerprinting fees for personnel assigned to work in sensitive areas. All employees shall turn in their photo identification badges to Contractor upon completion of services and prior to final payment of invoice.

5.14 Standards of Conduct. Contractor is responsible for maintaining standards of employee competence, conduct, courtesy, appearance, honesty, and integrity satisfactory to the City.

5.14.1 Supervision. Contractor shall provide adequate and competent supervision at all times during the Contract term. Contractor shall be readily available to meet with the City. Contractor shall provide the work telephone numbers where its representative(s) can be reached.

5.14.2 City Premises. Contractor's employees and agents shall comply with all City rules and regulations while on City premises.

5.14.3 Removal of Employees. City may request Contractor immediately remove from assignment to the City any employee found unfit to perform duties at the City. Contractor shall consider all such requests. Contractor retains ultimate responsibility for its personnel decisions.

5.15 Licenses and Permits. Contractor shall, without additional expense to the City, be responsible for obtaining any necessary licenses, permits, certifications, accreditations, fees and approvals for complying with any federal, state, county, municipal, and other laws, codes, and regulations applicable to Contract performance. This includes, but is not limited to, any laws or regulations requiring the use of licensed contractors to perform parts of the work.

5.16 Contractor and Subcontractor Registration Requirements. Prior to the award of the Contract or Task Order, Contractor and Contractor's subcontractors and suppliers must register with the City's web-based vendor registration and bid management system. The City may not award the Contract until registration of all subcontractors and suppliers is complete. In the event this requirement is not met within the time frame specified by the City, the City reserves the right to rescind the Contract award and to make the award to the next responsive and responsible proposer of bidder.

ARTICLE VI INTELLECTUAL PROPERTY RIGHTS

6.1 Rights in Data. Contractor grants the City license to use Contractor's intellectual property contained in any deliverables provided to the City while Contractor is providing insurance Services to the City. All deliverables discovered, created, or developed by Contractor under this Agreement shall be and will remain the sole and exclusive property of the Contractor with licensed rights of use granted to the City in accordance with this Agreement.

6.2 Intellectual Property Rights Assignment. Contractor grants the City license to use Contractor's intellectual property contained in any deliverables provided to the City while Contractor is providing insurance Services to the City. All deliverables discovered, created or developed by Contractor under this Agreement shall be and will remain the sole and exclusive property of the Contractor with licensed rights of use granted to the City in accordance with this Agreement.

6.3 Contractor Works. Contractor Works means tangible and intangible information and material that: (a) had already been conceived, invented, created, developed or acquired by Contractor prior to the effective date of this Contract; or (b) were conceived, invented, created, or developed by Contractor after the effective date of this Contract, but only to the extent such

information and material do not constitute part or all of the Deliverable Materials called for in this Contract. All Contractor Works, and all modifications or derivatives of such Contractor Works, including all intellectual property rights in or pertaining to the same, shall be owned solely and exclusively by Contractor.

6.4 Subcontracting. In the event that Contractor utilizes a subcontractor(s) for any portion of the work that comprises the whole or part of the specified Deliverable Materials to the City, the agreement between Contractor and the subcontractor shall include a statement that identifies the Deliverable Materials as a “works for hire” as described in the United States Copyright Act of 1976, as amended, and that all intellectual property rights in the Deliverable Materials, whether arising in copyright, trademark, service mark or other forms of intellectual property rights, belong to and shall vest solely with the City. Further, the agreement between Contractor and its subcontractor shall require that the subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to City, all titles, rights and interests in and to the Deliverable Materials, including all copyrights, trademarks and other intellectual property rights. City shall have the right to review any such agreement for compliance with this provision.

Contractor does not intend to use any subcontractors; however, if Contractor decides to do so in the future, Contractor will make every effort to notify the City beforehand. The term “subcontractor” shall not include vendors hired by Contractor to provide services across Contractor’s book of business.

6.5 Intellectual Property Warranty and Indemnification. Contractor represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this Contract are either original, or not encumbered, and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Contractor to produce, at Contractor’s own expense, new non-infringing materials, deliverables or works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Contractor further agrees to indemnify, defend, and hold harmless the City, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages, of any type, alleging or threatening that any Deliverable Materials, supplies, equipment, services or works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claim of Infringement). If a Third Party Claim of Infringement is threatened or made before Contractor receives payment under this Contract, City shall be entitled, upon written notice to Contractor, to withhold some or all of such payment.

6.6 Software Licensing. Contractor represents and warrants that the software, if any, as delivered to City, does not contain any program code, virus, worm, trap door, back door, time or clock that would erase data or programming or otherwise cause the software to become inoperable, inaccessible, or incapable of being used in accordance with its user manuals, either automatically, upon the occurrence of licensor-selected conditions or manually on command. Contractor further represents and warrants that all third party software, delivered to City or used

by Contractor in the performance of the Contract, is fully licensed by the appropriate licensor.

6.7 Publication. Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City without prior written consent from the City.

6.8 Royalties, Licenses, and Patents. Unless otherwise specified, Contractor shall pay all royalties, license, and patent fees associated with the goods that are the subject of this solicitation. Contractor warrants that the goods, materials, supplies, and equipment to be supplied do not infringe upon any patent, trademark, or copyright, and further agrees to defend any and all suits, actions and claims for infringement that are brought against the City, and to defend, indemnify and hold harmless the City, its elected officials, officers, and employees from all liability, loss and damages, whether general, exemplary or punitive, suffered as a result of any actual or claimed infringement asserted against the City, Contractor, or those furnishing goods, materials, supplies, or equipment to Contractor under the Contract.

ARTICLE VII INDEMNIFICATION AND INSURANCE

7.1 Indemnification. To the fullest extent permitted by law, Contractor shall defend (with legal counsel reasonably acceptable to City), indemnify, protect, and hold harmless City and its elected officials, officers, employees, agents, and representatives (Indemnified Parties) from and against any and all claims, losses, costs, damages, expense, and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, and litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, negligent performance of services under this Contract by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or anyone that either of them control. Contractor's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or willful misconduct of the Indemnified Parties.

7.2 Insurance. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by Contractor, his agents, representatives, employees or subcontractors.

Contractor shall provide, at a minimum, the following:

7.2.1 Commercial General Liability. Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal and 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.

7.2.2 Commercial Automobile Liability. Insurance Services Office Form Number CA 0001 covering Code 1 (any auto) or, if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

7.2.3 Workers' Compensation. Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

7.2.4 Professional Liability (Errors and Omissions). For consultant contracts, insurance appropriate to Consultant's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

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

7.2.5 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

7.2.5.1 Additional Insured Status. The City, 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 Contractor 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 Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

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

7.2.5.3 Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to City.

7.2.5.4 Waiver of Subrogation. Contractor hereby grants to City a waiver of any right to subrogation which the Workers' Compensation insurer of said Contractor may acquire against City by virtue of the payment of any loss under such insurance. Contractor 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.

7.2.5.5 Claims Made Policies (applicable only to professional liability). The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, Contractor must purchase “extended reporting” coverage for a minimum of five (5) years after completion of work.

7.3 Self Insured Retentions. Self-insured retentions must be declared to and approved by City. City may require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. 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.

7.4 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A-VI, unless otherwise acceptable to City.

City will accept insurance provided by non-admitted, “surplus lines” carriers only if the carrier is authorized to do business in the State of California and is included on the List of Approved Surplus Lines Insurers (LASLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

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

7.6 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.

7.7 Additional Insurance. Contractor may obtain additional insurance not required by this Contract.

7.8 Excess Insurance. All policies providing excess coverage to City shall follow the form of the primary policy or policies including but not limited to all endorsements.

7.9 Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a format at least as broad as the CG 20 38 04 13 endorsement.

ARTICLE VIII BONDS

8.1 *Reserved*

ARTICLE IX CITY-MANDATED CLAUSES AND REQUIREMENTS

9.1 Contractor Certification of Compliance. By signing this Contract, Contractor certifies that Contractor is aware of, and will comply with, these City-mandated clauses throughout the duration of the Contract.

9.1.1 Drug-Free Workplace Certification. Contractor shall comply with City's Drug-Free Workplace requirements set forth in Council Policy 100-17, which is incorporated into the Contract by this reference.

9.1.2 Contractor Certification for Americans with Disabilities Act (ADA) and State Access Laws and Regulations: Contractor shall comply with all accessibility requirements under the ADA and under Title 24 of the California Code of Regulations (Title 24). When a conflict exists between the ADA and Title 24, Contractor shall comply with the most restrictive requirement (i.e., that which provides the most access). Contractor also shall comply with the City's ADA Compliance/City Contractors requirements as set forth in Council Policy 100-04, which is incorporated into this Contract by reference. Contractor warrants and certifies compliance with all federal and state access laws and regulations and further certifies that any subcontract agreement for this contract contains language which indicates the subcontractor's agreement to abide by the provisions of the City's Council Policy and any applicable access laws and regulations.

9.1.3 Non-Discrimination Requirements.

9.1.3.1 Compliance with City's Equal Opportunity Contracting Program (EOCP). Contractor shall comply with City's EOCP Requirements. Contractor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Contractor shall provide equal opportunity in all employment practices. Prime Contractors shall ensure that their subcontractors comply with this program. Nothing in this Section shall be interpreted to hold a Prime Contractor liable for any discriminatory practice of its subcontractors.

9.1.3.2 Non-Discrimination Ordinance. Contractor shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers. Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result

in Contract termination, debarment, or other sanctions. Contractor shall ensure that this language is included in contracts between Contractor and any subcontractors, vendors and suppliers.

9.1.3.3 Compliance Investigations. Upon City's request, Contractor agrees to provide to City, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Contractor for each subcontract or supply contract. Contractor further agrees to fully cooperate in any investigation conducted by City pursuant to City's Nondiscrimination in Contracting Ordinance. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

9.1.4 Equal Benefits Ordinance Certification. Unless an exception applies, Contractor shall comply with the Equal Benefits Ordinance (EBO) codified in the San Diego Municipal Code (SDMC). Failure to maintain equal benefits is a material breach of the Contract.

9.1.5 Contractor Standards. Contractor shall comply with Contractor Standards provisions codified in the SDMC. Contractor understands and agrees that violation of Contractor Standards may be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

9.1.6 Noise Abatement. Contractor shall operate, conduct, or construct without violating the City's Noise Abatement Ordinance codified in the SDMC.

9.1.7 Storm Water Pollution Prevention Program. Contractor shall comply with the City's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the SDMC, as may be amended, and any and all applicable Best Management Practice guidelines and pollution elimination requirements in performing or delivering services at City owned, leased, or managed property, or in performance of services and activities on behalf of City regardless of location.

Contractor shall comply with the City's Jurisdictional Urban Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within City boundaries as adopted by the City Council on January 22, 2008, via Resolution No. 303351, as may be amended.

Contractor shall comply with each City facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.

9.1.8 Service Worker Retention Ordinance. If applicable, Contractor shall comply with the Service Worker Retention Ordinance (SWRO) codified in the SDMC.

9.1.9 Product Endorsement. Contractor shall comply with Council Policy 000-41 which requires that other than listing the City as a client and other limited endorsements, any advertisements, social media, promotions or other marketing referring to the City as a user of a product or service will require prior written approval of the Mayor or designee. Use of the City Seal or City logos is prohibited.

9.1.10 Business Tax Certificate. Unless the City Treasurer determines in writing that a contractor is exempt from the payment of business tax, any contractor doing business with the City of San Diego is required to obtain a Business Tax Certificate (BTC) and to provide a copy of its BTC to the City before a Contract is executed.

9.1.11 Equal Pay Ordinance. Unless an exception applies, Contractor shall comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. Contractor shall certify in writing that it will comply with the requirements of the EPO.

9.1.11.1 Contractor and Subcontract Requirement. The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of a Contractor to the same extent as it would apply to that Contractor. Any Contractor subject to the Equal Pay Ordinance shall require all of its subcontractors to certify compliance with the Equal Pay Ordinance in its written subcontracts.

ARTICLE X CONFLICT OF INTEREST AND VIOLATIONS OF LAW

10.1 Conflict of Interest Laws. Contractor is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices including, but not limited to, California Government Code sections 1090, *et. seq.* and 81000, *et. seq.*, and the Ethics Ordinance, codified in the SDMC. City may determine that Contractor must complete one or more statements of economic interest disclosing relevant financial interests. Upon City's request, Contractor shall submit the necessary documents to City.

10.2 Contractor's Responsibility for Employees and Agents. Contractor is required to establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business or other relationships.

10.3 Contractor's Financial or Organizational Interests. In connection with any task, Contractor shall not recommend or specify any product, supplier, or contractor with whom Contractor has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

10.4 Certification of Non-Collusion. Contractor certifies that: (1) Contractor's bid or proposal was not made in the interest of or on behalf of any person, firm, or corporation not identified; (2) Contractor did not directly or indirectly induce or solicit any other bidder or proposer to put in a sham bid or proposal; (3) Contractor did not directly or indirectly induce or

solicit any other person, firm or corporation to refrain from bidding; and (4) Contractor did not seek by collusion to secure any advantage over the other bidders or proposers.

10.5 Hiring City Employees. This Contract shall be unilaterally and immediately terminated by City if Contractor employs an individual who within the twelve (12) months immediately preceding such employment did in his/her capacity as a City officer or employee participate in negotiations with or otherwise have an influence on the selection of Contractor.

ARTICLE XI DISPUTE RESOLUTION

11.1 Mediation. If a dispute arises out of or relates to this Contract and cannot be settled through normal contract negotiations, Contractor and City shall use mandatory non-binding mediation before having recourse in a court of law.

11.2 Selection of Mediator. A single mediator that is acceptable to both parties shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Contract, if possible.

11.3 Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties, unless they agree otherwise.

11.4 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, writings and admissions will be confidential to the proceedings (pursuant to California Evidence Code sections 1115 through 1128) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the dispute, though City's recommendation of settlement may be subject to the approval of the Mayor and City Council. Either party may have attorneys, witnesses or experts present.

11.5 Mediation Results. Any agreements resulting from mediation shall be memorialized in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability, and their actions shall not be subject to discovery.

ARTICLE XII MANDATORY ASSISTANCE

12.1 Mandatory Assistance. If a third party dispute or litigation, or both, arises out of, or relates in any way to the services provided to the City under a Contract, Contractor, its agents, officers, and employees agree to assist in resolving the dispute or litigation upon City's request. Contractor's assistance includes, but is not limited to, providing professional consultations,

attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

12.2 Compensation for Mandatory Assistance. City will compensate Contractor for fees incurred for providing Mandatory Assistance. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of Contractor, its agents, officers, and employees, Contractor shall reimburse City for all fees paid to Contractor, its agents, officers, and employees for Mandatory Assistance.

12.3 Attorneys' Fees Related to Mandatory Assistance. In providing City with dispute or litigation assistance, Contractor or its agents, officers, and employees may incur expenses and/or costs. Contractor agrees that any attorney fees it may incur as a result of assistance provided under Section 12.2 are not reimbursable.

ARTICLE XIII MISCELLANEOUS

13.1 Headings. All headings are for convenience only and shall not affect the interpretation of this Contract.

13.2 Non-Assignment. Other than internal affiliates, Contractor may not assign the obligations under this Contract, whether by express assignment or by sale of the company, nor any monies due or to become due under this Contract, without City's prior written approval. Any assignment in violation of this paragraph shall constitute a default and is grounds for termination of this Contract at the City's sole discretion. In no event shall any putative assignment create a contractual relationship between City and any putative assignee.

13.3 Independent Contractors. Contractor and any subcontractors employed by Contractor are independent contractors and not agents of City. Any provisions of this Contract that may appear to give City any right to direct Contractor concerning the details of performing or providing the goods and/or services, or to exercise any control over performance of the Contract, shall mean only that Contractor shall follow the direction of City concerning the end results of the performance.

13.4 Subcontractors. All persons assigned to perform any work related to this Contract, including any subcontractors, are deemed to be employees of Contractor, and Contractor shall be directly responsible for their work.

13.5 Covenants and Conditions. All provisions of this Contract expressed as either covenants or conditions on the part of City or Contractor shall be deemed to be both covenants and conditions.

13.6 Compliance with Controlling Law. Contractor shall comply with all applicable local, state, and federal laws, regulations, and policies. Contractor's act or omission in violation of applicable local, state, and federal laws, regulations, and policies is grounds for contract termination. In addition to all other remedies or damages allowed by law, Contractor is liable

to City for all damages, including costs for substitute performance, sustained as a result of the violation. In addition, Contractor may be subject to suspension, debarment, or both.

13.7 Governing Law. The Contract shall be deemed to be made under, construed in accordance with, and governed by the laws of the State of California without regard to the conflicts or choice of law provisions thereof.

13.8 Venue. The venue for any suit concerning solicitations or the Contract, the interpretation of application of any of its terms and conditions, or any related disputes shall be in the County of San Diego, State of California.

13.9 Successors in Interest. This Contract and all rights and obligations created by this Contract shall be in force and effect whether or not any parties to the Contract have been succeeded by another entity, and all rights and obligations created by this Contract shall be vested and binding on any party's successor in interest.

13.10 No Waiver. No failure of either City or Contractor to insist upon the strict performance by the other of any covenant, term or condition of this Contract, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Contract, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Contract, and each and every covenant, condition, and term hereof shall continue in full force and effect without respect to any existing or subsequent breach.

13.11 Severability. The unenforceability, invalidity, or illegality of any provision of this Contract shall not render any other provision of this Contract unenforceable, invalid, or illegal.

13.12 Drafting Ambiguities. The parties acknowledge that they have the right to be advised by legal counsel with respect to the negotiations, terms and conditions of this Contract, and the decision of whether to seek advice of legal counsel with respect to this Contract is the sole responsibility of each party. This Contract shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Contract.

13.13 Amendments. Neither this Contract nor any provision hereof may be changed, modified, amended or waived except by a written agreement executed by duly authorized representatives of City and Contractor. Any alleged oral amendments have no force or effect. The Purchasing Agent must sign all Contract amendments.

13.14 Conflicts Between Terms. If this Contract conflicts with an applicable local, state, or federal law, regulation, or court order, applicable local, state, or federal law, regulation, or court order shall control. Varying degrees of stringency among the main body of this Contract, the exhibits or attachments, and laws, regulations, or orders are not deemed conflicts, and the most stringent requirement shall control. Each party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Contract.

13.15 Survival of Obligations. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Contract, as well as all continuing obligations indicated in this Contract, shall survive, completion and acceptance of performance and termination, expiration or completion of the Contract.

13.16 Confidentiality of Services. All services performed by Contractor, and any sub-contractor(s) if applicable, including but not limited to all drafts, data, information, correspondence, proposals, reports of any nature, estimates compiled or composed by Contractor, are for the sole use of City, its agents, and employees. Neither the documents nor their contents shall be released by Contractor or any subcontractor to any third party without the prior written consent of City. This provision does not apply to information that: (1) was publicly known, or otherwise known to Contractor, at the time it was disclosed to Contractor by City; (2) subsequently becomes publicly known through no act or omission of Contractor; or (3) otherwise becomes known to Contractor other than through disclosure by City.

13.17 Insolvency. If Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the Contract, written notification of the bankruptcy to the Purchasing Agent and the Contract Administrator responsible for administering the Contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of City contract numbers and contracting offices for all City contracts against which final payment has not been made. This obligation remains in effect until final payment is made under this Contract.

13.18 No Third-Party Beneficiaries. Except as may be specifically set forth in this Contract, none of the provisions of this Contract are intended to benefit any third party not specifically referenced herein. No party other than City and Contractor shall have the right to enforce any of the provisions of this Contract.

13.19 Actions of City in its Governmental Capacity. Nothing in this Contract shall be interpreted as limiting the rights and obligations of City in its governmental or regulatory capacity.