

SERVICES AGREEMENT

This Professional Services Agreement (Agreement) sets forth the mutual understanding made effective as of July 1, 2021 (Effective Date), by and between Workers' Compensation Administration, LLC, a California limited liability company (Consultant), and The City of Lompoc, a California municipal corporation, (City) Consultant and City are referred to herein individually as a "party" and collectively as the "parties."

RECITALS

WHEREAS, City has need for Consultant to act as City's designated Account Manager for the required reporting of claimants who are Medicare beneficiaries to Centers for Medicare and Medicaid Services, as required by Section 111 of Medicare, Medicaid and SCHIP Extension Act of 2007, as amended, more fully described on Exhibit A, which is attached hereto and incorporated herein by this reference (Consultant Services); and

WHEREAS, Consultant has satisfactorily provided Consultant Services to City to the last five years; and

WHEREAS, City and Consultant desire to continue that contractual relationship for another five years; and

WHEREAS, Consultant is in the business of providing third party administration of self-insured employers workers' compensation claims subject to the California Workers' Compensation Laws; and

WHEREAS, City, holds a Certificate of Consent to Self-Insure issued by the California Director of Industrial Relations and City is subject to the California Workers' Compensation Laws; and

WHEREAS, City desires to purchase workers' compensation claims administration services from Consultant as hereinafter set forth below.

NOW, THEREFORE, in consideration of the mutual representations, warranties and covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Consultant and City agree as follows:

ARTICLE 1 ENGAGEMENT AND TERM

1.1. Engagement: City hereby engages Consultant to provide the Consultant Services described herein, and Consultant hereby accepts such engagement, all on the terms and conditions set forth herein. Consultant will determine the method, detail and means of performing the services detailed below.

1.2 Term: The term of this Agreement shall commence on July 1, 2016 and continue until June 30, 2021, unless terminated pursuant to Section .

**ARTICLE 2
REPRESENTATIONS AND WARRANTIES**

2.1. Representations and Warranties of Consultant: Consultant hereby represents and warrants to City, at all times during the term of this Agreement, Consultant is a limited liability company duly organized, validly existing and in good standing under the laws of the State of California and qualified to do business in the state of California.

2.2. Representations and Warranties of City: City hereby represents and warrants to Consultant, at all times during the term of this Agreement, City is organized and established pursuant to the laws of the State of California.

**ARTICLE 3
CONSULTANT STATUS AND QUALIFICATIONS**

3.1. Independent Contractor: Consultant enters into this Agreement, and will remain throughout the term of the Agreement, as an independent contractor. Consultant agrees that it will not become an employee, partner, agent or principal of City while this Agreement is in effect.

3.2. Payment of Income Taxes: Consultant is responsible for paying when due all income taxes, including estimated taxes, incurred as a result of the compensation paid by City to Consultant for services satisfactorily rendered under this Agreement. Consultant agrees to indemnify, defend and hold harmless City for any and all claims, costs, losses, fees, penalties, interest, or damages, including court costs and reasonable attorney's fees, resulting from Consultant's failure to comply with this provision.

3.3. Use of Employees or Subcontractors: Consultant may, at Consultant's own expense, use any employees or subcontractors as Consultant deems necessary to satisfactorily perform the services required of Consultant by this Agreement. City may not control, direct, or supervise Consultant's employees or subcontractors in the performance of those services.

3.4. Qualifications: Consultant represents it is qualified and has the skills necessary to perform the services under this Agreement in a competent and professional manner, without the advice or direction of City.

3.5. No Benefit Contributions: Consultant shall have no obligation under this Agreement to compensate or pay applicable taxes or provide employee benefits of any kind to any person employed or retained by City.

**ARTICLE 4
GENERAL RESPONSIBILITIES OF CONSULTANT**

4.1. Minimum Amount of Service: Consultant agrees to devote as much time and attention to the performance of the Consultant Services under this Agreement as may be, in Consultant's sole discretion, required to accomplish the tasks described herein to accomplish the results for which the Consultant is responsible under this Agreement.

4.2. Nondiscrimination: There shall be no discrimination against any person employed pursuant to this Agreement in any manner forbidden by law.

4.3. Non-Exclusive Relationship: Consultant may represent, perform services for, and contract with as many additional clients, persons, or companies as Consultant, in Consultant's sole discretion, sees fit.

4.4. Time and Place of Performing Work: Consultant may perform the services under this Agreement at any suitable time and location Consultant chooses.

4.5. Professional Skill: It is further understood and agreed by and between the parties hereto Consultant is skilled in the professional calling necessary to perform the work agreed to be done by it under this Agreement, and City, not being skilled in such matters, relies upon the skillful manner in accordance with generally-accepted professional practice and the Consultant agrees to thus perform its work, and the acceptance of its work by City shall not operate as a release of Consultant from the Agreement.

4.6. Workers' Compensation: Consultant agrees to provide workers' compensation administration for City and City's employees and agrees to defend, hold harmless and indemnify City for any and all claims arising out of any injury, disability, or death of any of Consultant's employees.

4.7. Assignment: Neither this Agreement nor any duties or obligations under this Agreement may be assigned by Consultant without the prior written consent of City, which consent shall not be unreasonably withheld.

ARTICLE 5 COMPENSATION OF CONSULTANT

5.1. Compensation for Consultant Services: In consideration for providing Consultant Services, City agrees to pay Consultant a consulting fee (Consulting Fee) in amounts and on the dates set forth below:

Contract Period and Total Fee	Payment Date	Payment Amount
Year One \$110,696	On or before July 10, 2021	\$27,674
	On or before October 10, 2021	\$27,674
	On or before January 10, 2022	\$27,674
	On or before April 10, 2022	\$27,674
Year Two \$113,460	On or before July 10, 2022	\$28,365
	On or before October 10, 2022	\$28,365
	On or before January 10, 2023	\$28,365
	On or before April 10, 2023	\$28,365
Year Three \$116,300	On or before July 10, 2023	\$29,075

	On or before October 10, 2023	\$29,075
	On or before January 10, 2024	\$29,075
	On or before April 10, 2024	\$29,075

Year Four \$119,204	On or before July 10, 2024	\$29,801
	On or before October 10, 2024	\$29,801
	On or before January 10, 2025	\$29,801
	On or before April 10, 2025	\$29,801
Year Five \$122,184	On or before July 10, 2025	\$30,546
	On or before October 10, 2025	\$30,546
	On or before January 10, 2026	\$30,546
	On or before April 10, 2026	\$30,546

5.2. Additional Payment: In addition to the Consulting Fee, City shall pay Consultant a fee of \$1,500 for each new claim over 100 claims in any one fiscal year (7/1 – 6/30).

5.3. Payment Default: If City fails to pay any portion of the Consulting Fee, then Consultant will immediately cease providing Consultant Services.

ARTICLE 6 OBLIGATIONS OF CITY

6.1. Cooperation of City: City agrees to comply with all reasonable requests of Consultant and provide access to all documents reasonably necessary to the performance of Consultant Services. City shall also provide those items listed in Exhibit B, attached hereto and incorporated herein by this reference.

6.2. Conflict of Interest: No officer, employee, director or agent of City shall participate in any decision relating to this Agreement which affects his/her personal interest or the interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such person have any interest, direct or indirect, in this Agreement or the provisions thereof.

6.3. Assignment: Neither this Agreement nor any duties or obligations under this Agreement may be assigned by City without the prior written consent of Consultant, which consent shall not be unreasonably withheld.

**ARTICLE 7
TERMINATION OF AGREEMENT**

7.1. By the Either Party At-Will: Either party may terminate this Agreement at any time for any or no reason upon delivery of 30-days' prior written notice to the other party.

7.2. Repayment of Quarterly Payment: Upon termination of this Agreement prior to the end of any calendar quarter pursuant to Section 7.1, Consultant shall reimburse City a pro rata share of the applicable quarterly payment, based on the following: the applicable quarterly payment divided by 91.25 (365÷4), times the number of days remaining in that applicable quarter after the date of termination.

**ARTICLE 8
INDEMNIFICATION AND LIMIT ON LIABILITY RE VENDORS**

8.1. Consultant will indemnify, defend and hold harmless City, and each of its officers and employees (City Indemnified Parties) in the event any of the City Indemnified Parties City becomes liable for any workers' compensation benefits that arise as a result of errors, omissions, torts, intentional acts or other negligence on the part of Consultant or Consultant's employees, unless the claim is based upon action or actions of Consultant or its employees that were undertaken at the request or authorization of City. This paragraph does not apply to situations where an applicant attorney alleges his client is entitled to additional workers' compensation benefits or penalties at the Workers' Compensation Appeals Board.

8.2. City agrees, in the event Consultant and its employees, acting at the specific direction or authorization of City becomes liable to any third party, City will indemnify and hold harmless Consultant and its employees. If Consultant or any of its employees are named as defendants in any action where the plaintiff's cause of action involves a claim hereunder, and where no liability is found as a result of any errors, omissions, torts, intentional acts or other negligence on the part of Consultant and its employees, City will indemnify and hold harmless Consultant and its employees.

8.3. Notwithstanding Sections 8.1 and 8.2, Consultant shall have no liability to City for any errors, omissions, torts, criminal acts, intentional acts or other negligence by any vendor who may provide services related to the adjusting of City workers' compensation claims. Vendors include, but are not limited to, medical doctors, chiropractors, physical therapist, medical facilities, any other medical provider, medical bill review, medical utilization review, Medical Provider Network (MPN), defense attorneys, investigators, copy or subpoena services, vocation rehabilitation counselors, regardless of whether the vendor is considered an independent contractor or agent, of either party to this Agreement.

**ARTICLE 9
GENERAL PROVISIONS**

9.1. Governing Law: This Agreement shall be governed in all respects by the laws of the State of California, without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction that would cause the application of the laws of any jurisdiction other than the State of California). Venue for any matter related to this Agreement shall be the Superior Court of the County of Santa Barbara.

9.2. Attorney Fees: In the event of any litigation to enforce, or construe the terms of this Agreement, the prevailing party herein shall be entitled to recover reasonable attorney's fees and costs.

9.3. Section Headings: The section headings appearing herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Agreement.

9.4. Inconsistency: In the event any provision of this Agreement and the documents incorporated herein by reference are deemed to be in conflict, the provision in this Agreement shall prevail.

9.5. Entire Agreement: This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understanding of the parties. No amendment or modification of the Amendment shall be valid unless evidenced in writing and executed by the parties thereto.

9.6. Successors and Assigns: Except as otherwise provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto. No party may assign any of its rights or obligations hereunder without the express written consent of the other party hereto, which consent may not be unreasonably withheld; provided, however, any party may assign any and all of its rights and interests hereunder to one or more of its affiliates and designate one or more of its affiliates to perform its obligations hereunder; provided, however, that such party remains liable for full and total performance of its obligations hereunder.

9.7. Notices: Any notices authorized to be given hereunder shall be in writing and deemed given, if delivered personally or by overnight courier, on the date of delivery, if a Business Day, or if not a business day, on the first Business Day following delivery, or if mailed, three days after mailing by registered or certified mail, return receipt requested, and in each case, addressed, as follows:

If to the Consultant to:

Workers' Compensation Administrators, LLC
265 E. Donovan Road
Santa Maria, CA 93454

If to City to:

City of Lompoc
Attn: City Manager
100 Civic Center Plaza
P.O. Box 8001
Lompoc CA 93438-8001

with a copy to:

Aleshire & Wynder, LLP
Attn: Jeff Malawy
2361 Rosecrans Avenue, Suite 475
El Segundo, CA 90245-4916

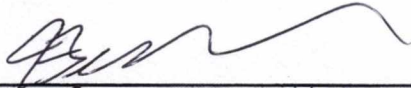
Or, if delivered by telecopy, on a Business Day before 4:00 PM local time of addressee, on transmission confirmed electronically, or if at any other time or day on the first Business Day succeeding transmission confirmed electronically, to the facsimile numbers provided above, or to such other address or telecopy number as any party shall specify to the other, pursuant to the foregoing notice provisions. When used in this Agreement, the term "Business Day" shall mean a day other than a Saturday, Sunday Federal Holiday or other day City's City Hall is closed to the public.

9.8. Counterparts: This Agreement may be signed in several counterparts.

9.9. Expenses: Each party shall bear its own expenses incurred with respect to the preparation of this Agreement and the consummation of the transactions contemplated hereby.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

**WORKERS' COMPENSATION ADMINISTRATORS, LLC,
a California limited liability company**

By: 
Bruce P. White
CEO

MAY - 4 2021

Bruce White, WCA LLC

CITY OF LOMPOC, a California municipal corporation

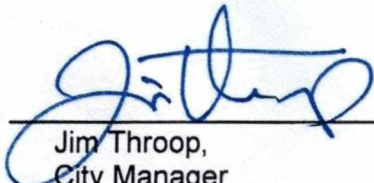
By: 
Jim Throop,
City Manager

EXHIBIT A

CONSULTANT SERVICES

Consultant shall administer all compensation to City's injured workers' as defined in Sections 3208 and 3208.1 of the California Labor Code. Compensation shall be defined as compensation under Division 4 and includes every benefit or payment conferred by Division 4 upon an injured employee, including vocational rehabilitation, or in the event of death, upon his or her dependents, without regard to negligence. All benefits provided pursuant to the above and contained in this section, shall be paid for by City, unless specifically stated otherwise.

All benefits will be provided to employees as required under the Labor Code and existing case law. When the statutory or common law is unclear in terms of how to proceed, Consultant shall proceed in the most expeditious manner, giving consideration to reasonable interpretations of the law, how the Workers' Compensation Appeals Board would handle the matter, avoidance of penalties, avoidance of unnecessary litigation, the cost of litigation and fostering good will of the injured worker toward City.

Specifically, Consultant will perform the following duties:

1. Determine on behalf of City for each reported employee injury, those benefits, if any, that should be paid or rendered under the California Workers' Compensation Laws. The benefits shall include temporary disability, permanent disability, medical treatment, supplemental job displacement benefit, life pension and death benefits, when applicable.
2. To establish and maintain a claim file on each reported claim.
3. To make an estimate of the total costs (reserves) of all reasonable and foreseeable benefits and related expenses on each case.
4. To prepare and file on behalf of City, legally required forms with the Administrative Director of the Division of Workers' Compensation.
5. To pay on behalf of City from a bank Claim Payment Account funded by City, those sums that must be paid under the California Workers' Compensation Laws for each reported claim.
6. To pay on behalf of City from a bank Claim Payment Account funded by City, all allocated expenses incurred on each claim.
7. To have any or all medical bills reviewed by a professional bill review company to determine reasonableness and compliance with the Official California Fee Schedule.
8. In the case of serious injuries or where otherwise warranted, Consultant may have a medical coordinator assigned to monitor the medical treatment of the injured worker.
9. To hire, assign or otherwise request when necessary, an attorney, an investigator, a rehabilitation counselor, medical utilization review, a doctor for medical evaluations, a photocopying company, an expert witness or any other vendor (service provider) to help

in the determination of benefits that may be owed to the injured worker. These vendors are not considered employees, agents or independent contractors of Consultant.

10. Consultant will create a loss run series for City, as a whole and for each individual member, along with a loss run series for the Safety Officer. The loss run series will be provided on a monthly basis, within 10 days after the first of each month. Additional loss runs will be provided upon request by City at no additional cost.
11. All forms, pamphlets and posting notices required by the Administrative Director of the Division of Workers' Compensation shall be provided by Consultant to City, at no additional expense.
12. All other responsibilities specifically related to the administration of workers' compensation benefits including acting on behalf of City to protect its interest.
13. The workers' compensation claim files are the property of City. Consultant shall make the claim files available to City at its request for an audit and at any other time.

EXHIBIT B
CITY DUTIES

City will perform the following duties:

1. Promptly report all employee work injuries beyond first aid.
2. Promptly send the following items to Consultant:
 - a. Employer's Report of Occupational Injury or Illness (Form 5020) or equal facsimile.
 - b. Employee's Claim For Workers' Compensation Benefits (DWC-1).
 - c. Statement of Employee's wages when requested.
 - d. Notice that employee is covered under salary continuation.
 - e. notice that salary continuation is commencing, terminating or less than the weekly temporary disability rate.
 - f. Notice that employee is temporarily or partially disabled.
 - g. Notice that employee is working at modified or alternative work.
 - h. Notice that employee has returned to work.
 - i. Notice of employee pay increase after their date of injury, at any time during the life of the claim.
 - j. All original medical reports received.
 - k. All correspondence or information received from an injured worker.
 - l. All applications or other legal notices pertaining to a claim.
 - m. Injured workers' personnel file when requested.
 - n. Provide continuing direction to Consultant on any specific vendors to be used on the claim files.
 - o. Provide continuing direction to Consultant on any criteria for the selection of vendors to be used on the claim files.
 - p. Provide continuing direction to Consultant on any procedures or policies the City of Lompoc wants Consultant to follow.
 - q. Settlement authority or guidelines on how to proceed in adjusting the claims.
 - r. Report all instances of death at work, within 24 hours.
 - s. Provide excess carrier coverage information and reporting requirements so claims can be reported to the excess.
3. Cooperate fully to enable Consultant to perform under this agreement.
4. Promptly reimburse the Claim Payment Account upon request.
5. Promptly pay Consultant all service fees provided by this agreement.