

Request for Proposal

**WORKERS' COMPENSATION THIRD-PARTY
ADMINISTRATION SERVICES**

Solicitation Number RFP No. 2021200054

Due Date and Time:

Tuesday, July 20, 2021

3:00 PM PDT

CITY OF EUGENE



Central Services
Finance Division/Purchasing
100 West 10th Avenue, Suite 400
Eugene, Oregon 97401
Telephone: (541) 682-5055

The Purchasing Office is currently closed to the public.

I. REQUEST FOR PROPOSALS

CITY OF EUGENE REQUEST FOR PROPOSALS

Solicitation Number RFP No. 2021200054

Notice to Proposers

Pursuant to ORS 279B.060 and City of Eugene Administrative Order 44-14-08F, Public Contracting Rule (City Rule) 137-047-0260, sealed Proposals for **Workers' Compensation Third-Party Administration Services** for the City of Eugene will be accepted by the Purchasing Office until Tuesday, July 20 2021 at 3:00 PM. Proposals will not be accepted after the Request for Proposals (RFP) closing time and date. Proposals shall be valid for 90 days after opening unless otherwise specified in the specifications. This Request for Proposals does not commit the City to pay any costs incurred by any Proposer in the submission of a Proposal.

Project Description

In general, (the City of Eugene (City) is requesting Proposals for a Third-Party Administrator who will be responsible for processing Workers' Compensation claims filed by City of Eugene employees.

Solicitation Documents

Solicitation documents may be obtained by contacting the Purchasing Analyst identified below. Due to the current public health emergency, Proposers must submit their Proposals in a single PDF file via email to the City's Purchasing Office in accordance with Section II. INSTRUCTIONS TO PROPOSERS, 2.0 Submission, before the due date and time specified.

Single Point of Contact

City of Eugene Purchasing is the issuing office. Address all concerns or questions regarding this solicitation to the Purchasing Analyst identified below.

Dated: June 10, 2021
Margaret Merisante
Purchasing Analyst, AIC
City of Eugene
MMerisante@eugene-or.gov

II. INSTRUCTIONS TO PROPOSERS

1.0 STANDARD PROPOSAL FORM

- 1.1. Proposals shall be submitted with the Standard Proposal Form identical to the form provided by the City. The Proposer shall make no alterations or additional stipulations on the Standard Proposal Form nor qualify the Proposal in any other manner. Alteration of any part of the Standard Proposal Form content may cause the Proposal to be considered non-responsive.
- 1.2. All blanks on the Standard Proposal Form shall be filled in electronically, by typewriter or manually, in ink. Mistakes should be crossed out and corrections typed or written in ink and initialed by the party signing the Proposal. No erasures are permitted. The omission of any required information or forms may invalidate a Proposal.
- 1.3. Complete sets of RFP documents shall be used in preparing Proposals.

2.0 SUBMISSION

Due to the current public health emergency accordance with City of Eugene Administrative Order 44-14-08F and Public Contracting Rules 137-047-0410, vendors must email Proposals to Eugene.Purchasing@ci.eugene.or.us prior to the due date and time indicated in the RFP or any extension thereof made by addendum. The subject line of the email must read: **RFP 2021200054 Workers' Compensation Third-Party Administration Services 07/20/2021.** The City is not responsible for the premature opening of or the failure to open a Proposal not properly identified or addressed.

- 2.1 Proposer is responsible for submitting their Proposal prior to the closing date and time. Time of receipt will be according to the City email time stamp. Late Proposals will not be accepted. Proposals received after the scheduled closing time for filing will be returned to the Proposer unopened.
- 2.2 Oral, telephonic, or faxed Proposals are invalid and will not be considered.

3.0 SOLICITATION CLARIFICATION & CHANGE REQUESTS

Prior to the deadline for submitting a protest, a prospective Proposer may request that the City clarify any provision of the Solicitation Document. The City's clarification to a Proposer, whether orally or in Writing, does not change the Solicitation Document and is not binding on the City unless the City amends the Solicitation Document by Addendum.

Any requests for clarification regarding any provision of the RFP shall be delivered to the City's Purchasing Analyst, by email, in conformance with City Rule 137-047-0730(6). Any requests for change of the requirements, specifications, or sample contract shall be delivered to the City's Purchasing Analyst, by email, not later than fourteen (14) days prior to the RFP closing date and time.

A request for change shall be marked "Contract Provision Request for Change" and include the solicitation number and title along with a statement of the requested change(s) to the Contract terms and conditions, including any Specifications, together with the reason for the requested change.

Contents of questions, clarifications, modifications, or substitutions shall include the following, as applicable:

- The solicitation number and title

- A reference to the page and item being addressed
- The reason and any proposed alterations

Proposals containing questions, clarifications, modifications, or substitutions included with the response and not submitted according to these instructions may be considered non-responsive.

4.0 SOLICITATION PROTESTS

A prospective Proposer may protest the Procurement process or the Solicitation Document for a Contract solicited under ORS 279B.055, 279B.060 and 279B.085 as set forth in ORS 279B.405(2). Pursuant to ORS 279B.405(3), before seeking judicial review, a prospective Proposer must file a Written protest with the City and exhaust all administrative remedies. Protests must be submitted in writing to the City's Purchasing Manager no less than ten (10) days prior to solicitation closing. The protest should be delivered in an envelope that is clearly identified as a protest, marked with the protester's name and sufficient information to identify the solicitation being protested. The protest may also be emailed to Eugene.Purchasing@ci.eugene.or.us, clearly identified as a protest and identifying the solicitation being protested. Faxed protests shall not be accepted.

The Purchasing Manager shall consider the protest if it is timely filed in accordance with City Rule 137-047-0730 and contains the following information: 1) sufficient information to identify the solicitation that is the subject of the protest; 2) the grounds that demonstrate how the procurement process is contrary to law or how the solicitation document is unnecessarily restrictive, is legally flawed or improperly specifies a brand name; 3) evidence or supporting documentation that supports the grounds on which the protest is based; and 4) the relief sought; 5) a statement of the desired changes to the Procurement process or the Solicitation Document that the prospective Offeror believes will remedy the conditions upon which the prospective Offeror based its protest. The Purchasing Manager shall issue a decision on the protest no fewer than three (3) business days before the solicitation closing, unless a written determination is made by the Purchasing Manager that the public interest requires a shorter time limit.

5.0 PROPOSAL MODIFICATIONS OR WITHDRAWAL

5.1 Proposals may be modified in writing prior to closing in accordance with City Rule 137-047-0440(1). Proposer shall submit any modification to its Proposal in accordance with the requirements for submitting a Proposal listed in II. INSTRUCTIONS TO PROPOSERS, 2.0 SUBMISSION. Any modification must include Proposer's statement that the modification amends and supersedes the prior Proposal. Proposer shall mark the submitted modification as follows:

- a. Proposal Modification; and
- b. Solicitation Number and title

5.2 A Proposer may withdraw its Offer by written notice prior to closing in accordance with City Rule 137-047-0440(2).

6.0 OR EQUAL

6.1 Whenever a process is designated or a manufacturer's name, brand, or item is designated or described, it shall be understood that the words, "or equal" follow such name, designation, or description, whether in fact they do so or not, unless no substitution is stated in the specifications. Proposers shall submit to the Purchasing Analyst their intent to offer an approved equal no later than fourteen (14) calendar days prior to the Proposal closing. Include detailed specifications, cut-sheets, and modifications necessary that would make the proposed item equal to the desired specifications. Approval of alternate materials and

equipment shall rest solely with the City and all Proposers shall be notified of such approval by addenda prior to the Request for Proposal closing.

7.0 ADDENDA AND INTERPRETATIONS

- 7.1 Statements by City staff or its representatives are not binding on City, unless confirmed by written addendum. Addenda will issue and Proposers shall receive addenda per City Rule 137-047-0430, and as follows: City may email notice of addenda, and will publish any addenda on the [city's website](#). Proposers should frequently check the website until closing (i.e., at least once weekly until the week of closing, and at least once daily the week of the closing period).
- 7.2 Any written addendum issued which includes changes, corrections, additions, interpretations, or information, and issued in accordance with City Rule 137-047-0430(3) shall be binding upon the Proposer.

8.0 NONDISCRIMINATION

Submittal of a Proposal in response to this RFP evidences Proposer's agreement that, in performing the work called for by this RFP and in securing and supplying materials, Proposer has not and will not discriminate against: 1) any person on the basis of race, color, religious creed, political ideas, sex, sexual orientation, source of income, age, marital status, physical or mental handicap, national origin or ancestry unless the reasonable demands of employment are such that they cannot be met by a person with a particular physical or mental handicap; and 2) a subcontractor in the awarding of a subcontract because the subcontractor is a minority, woman, or emerging small business enterprise certified under ORS 200.055, or a business enterprise that is owned or controlled by, or that employs a disable veteran as defined in ORS 408.225.

9.0 PREPARATION OF PROPOSALS

Proposers are expected to examine the specifications, schedules and all instructions. The City is not liable for costs associated with preparation of Proposals in response to this RFP.

10.0 EMPLOYEES NOT TO BENEFIT

No employee or elected official of the City shall be permitted to receive any share or part of the contract resulting from this RFP or any benefit that may arise therefrom.

11.0 CITY FURNISHED PROPERTY

No material, labor or facilities will be furnished by City unless otherwise provided for in this RFP.

12.0 INTERGOVERNMENTAL COOPERATIVE PURCHASING STATEMENT

The City grants to any Oregon public governmental agencies authorization to establish contracts or price agreements under the terms, conditions and prices of any contract between the Awardee and the City resulting from this RFP.

13.0 RESERVED RIGHTS

The City reserves the right:

- A. To reject any Proposal not in compliance with all prescribed public bidding procedures and requirements.
- B. To reject for good cause any or all Proposals upon the City's written finding that it is in the public interest to do so.

- C. To reject any and all Proposals not meeting or differing from the specifications set forth herein.
- D. To waive any or all informalities in the Proposals submitted.
- E. To consider the competency and responsibility of Proposers in making any awards.
- F. In the event that two or more Proposals are identical in price, fitness, availability and quality, award shall be made in accordance with City Rule 137-046-0300.
- G. In the event any Proposer or Proposers to whom a contract is awarded shall default in executing said formal contract or in furnishing a satisfactory performance bond within the time and manner herein after specified, to re-award the contract to another Proposer or Proposers.
- H. To extend the deadline for submitting Proposals, in according with City Rule 137-047-0430(3).
- I. To negotiate additions or deletions to goods and services requested.

14.0 RECYCLABLE PRODUCTS

Proposers shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document, provided said recycled materials meet all applicable standards. Preference for such recycled materials shall be given pursuant to City Rule 137-046-0320.

15.0 CONSIDERATION OF PROPOSALS

- 15.1 Proposals will be opened at the due date and time indicated in the RFP or any extension thereof made by addendum. The identity of the successful Proposer will not be determined at the opening time.
- 15.2 The City intends to award a contract to the responsible Proposer submitting the most advantageous Proposal, based on evaluation factors contained in the Proposal, provided the Proposal has been submitted in accordance with the requirements of the RFP documents, and does not exceed the funds available.
- 15.3 The City shall provide written notice by email, regular mail or facsimile of the City's intent to award the contract. Award shall not be final until the later of the following:
 - a) Seven (7) calendar days after the date of the Notice of Intent to Award; or
 - b) City provides a written response to all timely filed protest, if any, that denies the protest and affirms the award.

Proposers may protest the intended contract award in accordance with City Rule 137-047-0740.

16.0 CONTRACT AWARD

Submittal of a Proposal evidences Proposer's intent to execute and be bound by the terms of the attached contract. The City will enter into contract negotiations as permitted by ORS 279B.060(8) and City Rules 137-047-0262 and 137-047-0600 regarding any open terms. During negotiations, the City may require any additional information it deems necessary to clarify Proposer's approach and City's understanding of the requested goods or services. Any changes agreed upon during Contract negotiations will become part of the final Contract. The negotiations will identify a level of work and associated fees and costs that best represent the goods and services required.

17.0 MATERIAL PURCHASES

- 17.1 The price offered must be exclusive of any sales, purchaser, or consumer tax. Tax exemption certificates will be furnished upon request. Packing and transportation expenses are the responsibility of the Proposer. All prices proposed must be F.O.B. Destination, Freight Prepaid and Allowed, delivered and unloaded at delivery address listed.

- 17.2 Include complete standard warranty information and factory specifications on the equipment offered. For the warranty, include the length of time, covered components, repair site (city or contractor site) and availability of parts and service not covered under the warranty. If an extended warranty is available, include the details of the extended warranty.
- 17.3 The City shall give preference to materials and supplies manufactured from recycled materials when available at a cost no greater than five (5) percent above the cost of comparable products manufactured from virgin materials. Subsequent contract or purchase order award will be based on these criteria and may contain applicable standard contract provisions as required by law.

18.0 PUBLIC RECORDS

- 18.1 This RFP and one (1) copy of each original Proposal received in response to it, together with copies of all documents pertaining to the Award of a contract, shall be kept by the City of Eugene Purchasing Office and made a part of a file or record which shall be open to public inspection. If a Proposal contains any information that is considered trade secret under ORS 192.345(2), each sheet of such information must be marked with the following;

“This data constitutes a trade secret under ORS 192.345(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS 192.”

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance.” ORS 192.345(2). Therefore, non-disclosure of documents or any portion of a document submitted as part of a Proposal may depend upon official or judicial determinations made pursuant to the Public Records Law.

- 18.2 The above restrictions may not include cost or price information which must be open to public inspection.

III. SUSTAINABILITY & SOCIAL EQUITY

The City is interested in products and services that have a reduced impact on human health and the environment and that more fully support communities and economies when compared to competing products and services serving the same purpose. For more information regarding sustainability in procurement and related City policy and plans, please refer to the City's Sustainable Purchasing website at <http://www.eugene-or.gov/sustainpurch>. The awarded Proposer will be expected to support the City's goals by implementing the following strategies where applicable.

1.0 WASTE REDUCTION

Pursuant to City Zero Waste efforts, the City aims to prevent waste where possible. In order to increase efficient use of resources, the awarded Proposer shall adhere to the following items as applicable.

- 1.1 Unnecessary packaging for goods, beyond packaging compliance or practical safe shipping methods, shall be reduced. Proposer to ship goods utilizing one or more of the following methods:
 - a. Ship products in reusable, refillable, or returnable containers. For example, reusable trays or totes, which can be stored and returned;
 - b. Minimal packaging material used inside containers. This includes eliminating or reducing the amount of non-recyclable bubble wrap, foam pellets or other like material;
 - c. Eliminate non-essential parts of packaging, such as individual wrapping of components;
 - d. Use packaging made with recycled content, biodegradable, and/or non-toxic materials.
 - e. No point of purchase material or promotional literature.
- 1.2 The awarded Proposer is to duplex all paper materials that are prepared for the City under the contract, whether such materials are printed or copied, except when impracticable to do so due to the nature of the product being produced.
- 1.3 Contractor is expected to prevent, reduce, recycle or otherwise divert waste generated from the provision of services procured by the City. City may request information about diversion tactics utilized and quantities of waste materials diverted.

2.0 IDLING REDUCTION

- 2.1 In the interest of reducing air and noise pollution and promoting energy conservation, all gasoline and diesel-powered vehicles and equipment shall be idled only as necessary to perform the required duties, including delivery, and for the essential function(s) of the equipment. A driver of a vehicle must turn off the engine upon stopping at the destination, and must not cause or allow an engine to idle at any location for more than 20 seconds. This idling policy applies except in the following situations:
 - a. The health and safety of employees, sub-contractors or public is compromised in turning off the vehicle.

- b. The engine is required to power auxiliary equipment (e.g. hoist, lift platforms, hydraulic tools, inverters, compactors, medical equipment, specialized public safety radio communication and computer systems, etc.)
- c. Vehicle/equipment manufacturer requires additional idle time for warm up or cool down for efficient and proper mechanical or functional operation of the unit.

3.0 ENVIRONMENTALLY PREFERRED PRODUCTS

To promote and encourage environmentally sustainable practices for companies doing business with the City, the City requests vendors under City contract use environmentally preferable products in production of City work products.

3.1 The awarded Proposer should use environmentally preferable materials that meet performance requirements wherever practical in the fulfillment of this agreement. Environmentally preferable products and services have characteristics that include but are not limited to the following:

- Energy Efficient
- Reusable or upgradeable
- Recyclable
- Contain post-consumer recycled materials
- Produce fewer polluting by-products and/or safety hazards during manufacture, use or disposal, and/or
- Are certified by an independent accredited third-party program such as EcoLogo or ENERGY STAR.

3.2 The City desires the use of post-consumer recycled content, chlorine-free paper to encourage environmentally preferable practices for City business wherever practical in the fulfillment of the scope of work.

4.0 SOCIAL EQUITY

Economic prosperity through diversity and collaboration is fundamental to the *Equity in Contracting* program. Part of Eugene's City Council Vision states that we will "Encourage a strong, sustainable and vibrant economy, fully utilizing our educational and cultural assets, so that every person has an opportunity to achieve financial security." The program aims to **reduce barriers for local, small, minority and women-owned businesses** to leverage all that our community has to offer, strengthening the business community as a whole.

The City supports the utilization of Minority, Women, Emerging Small Businesses (M/W/ESB), local businesses, Disadvantaged Business Enterprises and Qualified Rehabilitation Facilities (QRF) at both a prime and subcontracting and/or supply chain level. The City encourages eligible suppliers to gain certification and encourages the awarded Proposer to use the following voluntary practices to promote open competitive opportunities for disadvantaged businesses in the fulfillment of the scope of work:

- a. Access lists of certified minority, women, emerging small business or disadvantaged business enterprises from the Certification Office of Business Inclusion and Diversity (COBID) by visiting their website at: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp> to find certified businesses from whom to procure products or services.

b. Visit the Oregon State Qualified Rehabilitation Facilities Program website at <http://dasapp.oregon.gov/grf/index.aspx> to search for Qualified Rehabilitation Facilities from whom to procure products or services.

IV. ANTICIPATED PROPOSAL SCHEDULE

The following is the anticipated schedule for submission and review of Proposals and award of the desired contract. This schedule is subject to change by the City in its sole discretion. **Any change to the Proposal submittal deadline will be done by an addendum to the RFP.**

ACTIVITY	DATE
▪ Request for Proposals issued.....	June 10, 2021
▪ Deadline for requests for changes.....	July 6, 2021
▪ Deadline for solicitation protest.....	July 9, 2021
▪ RFP CLOSING	Tuesday, July 20, 2021
Submit Proposals no later than 3:00 pm PDT	
▪ Notice of Intent to Award.....	by or before August 13, 2021

The City reserves the right to delay any of the dates set forth above, if it is determined to be in the best public interest to do so. The Contract shall become effective upon execution by the City.

V. REQUIREMENTS / SPECIFICATIONS

Background

The City of Eugene, county seat of Lane County, was incorporated in 1862. The city covers approximately 44 square miles in Lane County. It is the second largest city in the state, with a population of approximately 170,000.

The City operates under a home-rule charter that provides specific and general powers for conducting the City's business through an elected Council and Mayor and appointed City Manager. The Council-Manager form of government clearly separates the legislative policy function from the professional administrative function. The eight-member City Council exercises legislative functions and all other City powers and responsibilities not delegated elsewhere. Council members are elected on a nonpartisan ballot by wards for four-year overlapping terms. The Mayor is elected at large on a nonpartisan ballot for a four-year term and is the presiding officer of the Council. The Council appoints the City Manager, who serves as the chief administrator and at the pleasure of the Council. The Manager is responsible for the business, financial, and property transactions of the City; appointment and supervision of personnel; enforcement of City ordinances; and the organization and general management of City departments. As chief administrator, the City Manager has no vote in the Council, but may participate in their discussions.

The City provides a wide range of services to its citizens. Under the direction of the City Manager, City services are provided by eight departments and fall into four general categories: Public Safety Services, Infrastructure and Planning Services, Cultural and Leisure Services and Central Business Functions. The City is responsible for operation of the regional airport, as well as the regional water pollution control facility.

WORKERS' COMPENSATION PROGRAM OVERVIEW

The Workers' Compensation Program is part of the Employee Resource Center and is self-insured. The program covers approximately 2,437 regular and temporary employees, of which 1,079 are represented by one of four different bargaining units. The annual average payroll is approximately \$133,558,768.

The Workers' Compensation program has been self-insured since 1979. Claims were initially adjusted by a third-party administrator until 1988 when City personnel assumed those duties. As of August 2004, the claims are again adjusted by a third-party administrator which is currently Cannon Cochran Management Services, Inc. Three Employee Resource Center Analysts currently oversee the work of the third-party administrator. Over the last ten fiscal years, an average of 151 workers' compensation claims were received annually and approximately 41% of those claims were indemnity claims. On average, six claims per year were referred to legal counsel.

The City self-insures the first \$1,000,000 of each claim and carries an excess policy with Safety National Casualty Corporation that provides coverage up to the State's statutory requirements. Total reserves currently are \$7.7 million.

WORKERS' COMPENSATION CLAIMS INFORMATION

Trends in claims volume

The following table charts the City's claims volume for the last five fiscal years.

	FY16	FY17	FY18	FY19	FY20
Medical only	75	78	94	81	56
Indemnity	58	43	55	64	58
Total	133	121	149	145	114

Total number of claims records

The City currently has 7,290 claims which the awarded Proposer will be required to incorporate into their claims management database/software. This will require coordination with the City's current TPA.

Specifications

The Contractor will be responsible for processing the Workers' Compensation claims filed by City of Eugene employees.

During the period of the Contract, the Contractor shall, at the direction of the City of Eugene's Employee Resource Center, represent and act for the City of Eugene in matters pertaining to the liability of the City of Eugene for claims filed and/or occurring during the term or terms of the Contract under the Workers' Compensation Act of the State of Oregon. The Contractor shall devote its best efforts to the performance of the Services required hereunder and shall adhere to all relevant statutes and administrative rules. Such Services shall include, but may not be limited to:

1. Receive notice of, and create files for, each claim reported, and maintain these files for the City of Eugene. This shall include converting to your system all claims previously filed and contained in the current third-party administrator's claim system, as well as the processing of those claims.
2. Investigate all claims to determine validity and compensability. Investigations that require the use of outside investigators shall only be conducted upon consultation with, and consent of, the City of Eugene's claims analysts. Claims that require the use of an independent medical examination shall only be conducted after consultation with, and consent of, the City of Eugene's claims analysts. The City shall be responsible for payment of these services.
3. Establish, review, and update claim reserves.
4. Determine proper benefits due and make timely payments of those benefits in accordance with payment procedures established by statute and administrative rules. The City shall be responsible for providing such funds to the Contractor as is required for payments.

5. Promptly provide legal counsel (to be chosen by the City of Eugene's claims analysts) with copies of the complete claim file and assist in the defense of cases to be litigated. Represent the City of Eugene at the Workers' Compensation Board and at conferences with legal counsel, as necessary.
6. Promptly close claims once they qualify for closure pursuant to statute and administrative rules.
7. Maintain pertinent data on all claims payments in a manner agreeable to the City of Eugene.
8. Provide monthly open and closed claims reports.
9. Provide excess insurers with required reports.
10. Provide information and assistance for the preparation and filing of all reports required by the State of Oregon in connection with the City of Eugene's self-insurance program including, but not limited to, the annual Report of Losses.
11. File with the Workers' Compensation Division all information required for each claim.
12. Investigate and pursue possible third-party recoveries.
13. Meet with City of Eugene Employee Resource Center personnel on a quarterly basis to review claim files.

Requirements

The Proposer shall be legally registered to do business in the State of Oregon, and shall have a minimum of five (5) years' experience as a workers' compensation claims administrative management company.

The Proposer's firm and proposal must meet the minimum requirements contained in Section IX, – MINIMUM REQUIREMENTS FORM. If a Proposer or Proposer's proposal fail to meet any of these requirements, the proposal will be deemed non-responsive and will not be considered for award.

The Proposer must address additional requirements described in Section X QUESTIONNAIRE of this RFP.

VI. PROPOSAL SUBMITTAL REQUIREMENTS

Proposals must be submitted in accordance with the submission requirements listed in Section II, Instructions to Proposers. Proposals must contain all of the information requested in the submittal category below. A completeness check will be conducted for each Proposal. A complete submittal will make the Proposer a 'Responsive Proposer' to be further evaluated for possible inclusion in a Competitive Range as described below.

A. Required Submittals

Proposer must submit all of the following required forms and documents for a complete Proposal submittal:

- 1 COVER LETTER—Company's Experience & Staff Qualifications.** The Proposer's cover letter should not exceed two pages in length and must be signed by an individual with authority to bind the organization to the terms quoted in the Request for Proposal. The cover letter must contain:
 - 1.1** Name of company, address, telephone number. Please describe:
 - 1.1.1** Company biography--the structure and organization of your company.
 - 1.1.2** The number of years in business, and number of employees and roles.
 - 1.2** Describe your organization's experience working with entities similar to the City of Eugene.
 - 1.3** What is the experience and qualifications of claims examiners and other service representatives that would be assigned to City of Eugene claims?.
 - 1.4** A statement acknowledging proposer's acceptance of the contract terms and conditions included in the RFP
- 2 STANDARD PROPOSAL FORM.** (not scored) Complete the form, attached to this RFP as SECTION VIII, STANDARD PROPOSAL FORM, attesting to adherence with the requirements of this RFP.
- 3 MINIMUM REQUIREMENTS FORM.** (Pass/ Fail) Complete the form, attached to this RFP as SECTION IX, MINIMUM REQUIREMENTS FORM. If a Proposer or proposed system fails to meet any of these requirements, the Proposal will be deemed non-responsive and will not be considered for award.
- 4 QUESTIONNAIRE—** Respond to all questions, and requests in the form attached to this RFP as Section X, QUESTIONNAIRE. Precede answers with a restatement of the question.
- 5 SUSTAINABILITY And SOCIAL EQUITY.** Part of SECTION X. For more information regarding sustainability in procurement, please refer to SECTION III and the City's Sustainable Purchasing website at <http://www.eugene-or.gov/sustainpurch>.
- 6 COST PROPOSAL** Complete the form, attached to this RFP as SECTION XI, COST PROPOSAL FORM.
- 7 REFERENCES.** (Section XII—not scored). List three references of public entity clients of comparable size and complexity to the City (at least 1,000 employees with a wide variety of

functions), for whom you have provided workers' compensation administration, whom the City may contact regarding the quality of work products, as well as cost, scope and schedule control.

7.1 Include the client company name, contact person, address, email address, and telephone number. Indicate in the reference the municipality or public agency closest in proximity to Eugene.

7.2 The City may choose to contact references during the written Proposal evaluation phase or, during Short List evaluation if conducted.

8 REPORTING: Provide one example of a report that can be run directly from your entity's workers' compensation claims management system. Redact any personally identifiable information. Label this report example—RFP 2021200054 Attachment 1.

B. Evaluation Criteria

Evaluation of the written response portion to the RFP will be based on a point system. The total possible point values are listed by each evaluation category. City staff will review the responses and evaluate each category. See SECTION VII. PROPOSAL EVALUATION PROCEDURES for a summary of the evaluation process. The written responses may be used to establish a Competitive Range of Proposers for further evaluation. Items will be scored up to the maximum point value indicated.

1. **Cover Letter: 20 points total.** Company's experience & staff qualifications.
2. **Questionnaire: 120 points total.** See below for total points assigned to each area.
 - a. SERVICES DELIVERED (60-point range)
 - i. Claims philosophy & conflicts (0-10)
 - ii. Claims staff & caseload (0-10)
 - iii. Value-added services (0-15)
 - iv. Software & reporting capabilities (0-10)
 - v. Reporting procedures (0-5)
 - vi. Claims data conversion (0-10)
 - b. SECURITY& FINANCIAL PROCEDURES (40-point range)
 - i. Auditing procedures and audit results (0-20)
 - ii. Financial controls & security procedures (0-10)
 - iii. Billing procedures and related services (0-10)
 - c. Sustainability and social equity (0-20)
3. **Cost Proposal: 60 points total**
 - a. Proposed fees and expenses (0-60)

Written Proposal Total Possible Points: 200 points

The agent responsible for the solicitation may contact Proposers for clarification of Proposals; however, no additions, deletions or substitutions may be made to Proposals that cannot be termed as clarifications. Proposer's responses to questions should restate the question and provide the clarification requested.

VII. PROPOSAL EVALUATION PROCEDURES

1. DETERMINING RESPONSIVENESS OF WRITTEN PROPOSALS

Each Proposal submitted in response to this RFP that conforms in all material respects with the requirements set forth in the Solicitation Documents and all requirements of the Oregon Public Contracting Code and City of Eugene Public Contracting Regulations shall be deemed a "Responsive Proposal". The City will notify any Proposers who submitted a Non-Responsive Proposal to inform them that it did not meet the requirements and will therefore not be considered for Contract award.

2. PROPOSAL EVALUATION

The City will evaluate each Responsive Proposal according to the criteria described in this RFP on a point system. Evaluation of all written Proposals may result in the establishment of a Competitive Range from which the final selection will be made. As provided for in 137-047-0261, the City may award to the highest ranked Proposer at any tier.

3. COMPETITIVE RANGE, DISCUSSIONS, & NEGOTIATIONS

Pursuant to 137-047-0262, the City may establish a Competitive Range after evaluating all Responsive Proposals in accordance with the evaluation criteria set forth in the RFP. After evaluation of all Proposals in accordance with the criteria set forth in the RFP, the City may determine and rank the Proposers in the Competitive Range.

After determination of the Competitive Range the City may either: provide written notice to all Proposers of its intent to award the Contract to the highest-ranked Proposer in the Competitive Range; or engage in discussions with Proposers in the Competitive Range and accept revised Proposals from them and following such discussions and receipt and evaluation of revised Proposals, conduct negotiations with the Proposers in the Competitive Range.

Notice of Competitive Range. The City shall provide written notice to all Proposers identifying Proposers in the Competitive Range. The City provides an opportunity for Proposers excluded from the Competitive Range to protest the City's evaluation and determination of the Competitive Range in accordance with Rule 137-047-0720.

Competitive Range Discussions and Revised Proposals. The City may choose to enter into discussions with Proposers in the Competitive Range as outlined in 137-047-0262(2).

4. SELECTION PROCESS AND NOTICE OF INTENT TO AWARD

Notice of the intent to award will only be given to the Competitive Range Proposers. Final award will depend upon the execution of an acceptable contract and delivery of performance bond and evidence of insurance, if required, and may be withdrawn by the City at any time prior to execution of the contract by the City.

Proposers in the Competitive Range may protest the City's intent to award in accordance with Rule 137-047-0740.

VIII. PROPOSAL SUBMITTAL FORMS

CITY OF EUGENE STANDARD PROPOSAL FORM Solicitation Number RFP No. 2021200054

I, the undersigned, and authorized representative of _____

(Company Name) certify the following:

Acknowledgement of terms, conditions and specifications

1. The Proposer represents that Proposer is properly licensed and adequately experienced, equipped, organized and financed to furnish and deliver the equipment specified and perform the services required.
2. The Proposer has carefully checked the figures entered in the Form, has carefully reviewed for accuracy all statements in this Proposal and attachments, and agrees that the City will not be responsible for any errors or omissions of the Proposer in preparing this Proposal. The Proposer agrees that this Proposal may not be revoked or withdrawn for ninety (90) calendars days after the date on which Proposals are received.
3. Contract Execution; ~~Performance Bond~~. The Proposer agrees that if this Proposal is accepted it will, within ten (10) calendar days after having received the Notice of Award, execute and return to the City the Contract in the form included in the Contract Documents and will, at or before that time, deliver the ~~Performance Bond~~ and insurance documentation as required.
4. Addenda. The Proposer acknowledges that it has received the following Addenda No(s): _____ and agrees that all addenda issued are a part of the Contract Documents and have been considered in preparing this Proposal. (Proposer: insert the number of each addendum received; if no addenda were received, write "NONE" in the space.)

Compliance with Laws

Proposer hereby agrees to comply with all applicable Oregon public contracting code provisions, as more specifically described in the attached contract and associated Exhibit A.

Access to Plant or Place of Business

Proposer agrees that the City may enter a contractor's or subcontractor's plant or place of business during normal business hours for the following purposes: inspect and/or test supplies or services for acceptance by the City pursuant to the terms of the Contract, and investigate the Proposer's minority business certification or other Proposer qualifications.

Cooperative Purchasing

The Proposer _____ agrees _____ disagrees to extend the terms, conditions, and prices of the original City of Eugene contract established through this solicitation to any other governmental agency. Pursuant to ORS 279A.215, other governmental agencies may establish contracts or price agreements under the terms, conditions, and prices of the original contract. Agency/agencies shall have the power and authority to contract directly with the successful vendor(s).

Certification of Nondiscrimination

Proposer has not and will not discriminate against a subcontractor in the awarding of a subcontract because a subcontractor is a minority, woman, or emerging small business enterprise certified under ORS 200.055, or against a business enterprise that is owned or controlled by or that employs a disabled veteran as defined in ORS 408.225.

Noncollusion

The Proposer certifies that the Proposal has been arrived at by the Proposer, independently, and has been submitted without collusion with, and without any agreement, understanding or planned course of action with, any other contractor, Proposer, or vendor on materials, supplies, equipment, or services, described in the solicitation documents, designed to limit independent offers or competition. The contents of the Proposal herein presented and made have not been communicated by the Proposer or their employees or agents to any person not an employee or agent of the Proposer or its surety on any bond furnished with the solicitation, and will not be communicated to any such person prior the closing time of the solicitation.

We therefore offer the following equipment/service at the prices indicated hereon in fulfillment of the requirements and specifications contained within the solicitation documents and all addenda.

Completion/Delivery Date:

The Proposer agrees, if awarded the contract or a direct purchase, to fully complete the work or deliver the equipment within **120** days after receipt of purchase order or notice to proceed is received from the City of Eugene.

Company: _____ Date: _____

Signature: _____ Title: _____

Name (Print): _____ Phone: _____

Address: _____ Email: _____

Company contact for this project (if different from above):

Name: _____ Title: _____

Phone: _____ Email: _____

IX. MINIMUM REQUIREMENTS FORM

The following statements describe the minimum requirements that a Proposer's firm and Proposal must meet to be considered a "Responsive Proposer." These items will be scored on a pass/fail basis. If any of these requirements are not met, the Proposer will be deemed non-responsive and ineligible for award. *This form must be completed and submitted with the Proposer's Proposal.*

1.	Proposer has submitted a proposal that is full, complete, signed and returned to the City of Eugene's Purchasing Office by the deadline set forth in this document or any applicable addenda.	YES	___	NO	___
2.	Proposer is a Workers' Compensation third party administrator authorized to do business in the State of Oregon.	YES	___	NO	___
3.	Proposer has at least five (5) years' experience managing Workers' Compensation claims for public agencies.	YES	___	NO	___
4.	Proposer's claims management system is web-based and has the capacity to enable authorized City staff to access the system.	YES	___	NO	___
5.	Proposer's claims management system will allow for City staff to view claims and medical, enter new claims, and prepare/export reports.	YES	___	NO	___
6.	Proposer has wire transfer capabilities to transfer funds from the City to reimburse Proposer for payments made.	YES	___	NO	___
7.	If requested by the City and for the purposes of evaluation of proposals, the Proposer agrees to provide copies of the following reports and associated penalty orders for the last three (3) calendar years for its Oregon clients: Claims Reserve/Report of Losses Field Audit; Compliance Audits; Quarterly Claims Processing Performance; and any other WCD field audits.	YES	___	NO	___
8.	Proposer will assume financial responsibility for any penalties, fees, or other expenses that result from improper claims management practices related to services provided under the awarded contract.	YES	___	NO	___

X. QUESTIONNAIRE FORM

Please respond to each requirement below. The responses may be used to determine a Short List for further evaluation. Items will be scored up to the maximum point value of 120 total points.

Respondents should fully answer each question, giving complete information regarding current and relevant references. Consultants may submit any additional materials relating to their ability to perform the assignment.

Proposer's responses should precede answers with a restatement of the question.

1. What is the number of employees in your organization and in the office that will service the City of Eugene? Describe who would be the primary assigned staff and their role within the firm.
Claims Staff & Caseload (0-5 points)
2. What is the current caseload of the staff that would be assigned to City of Eugene claims, in terms of medical only and indemnity claims? Please specify the average caseload. How are claim assignments made?
Claims Staff & Caseload (0-5 points)
3. What is your claims management philosophy? How does your firm address conflict of interest issues involving other public entity clients?
Claims Philosophy & Conflicts (0-5 points)
4. How does your firm address conflict of interest issues involving other public entity clients?
Claims Philosophy & Conflicts (0-5 points)
5. Provide a description of your company's claims management software program(s), types of reports available, and your ability to provide custom reports.
 - a. Provide one example each of available reports.
 - b. Describe the access the City of Eugene will have to review claim notes and run reports.
 - c. Please also state whether or not your software program is able to prepare OSHA reports.Software & Reporting Capabilities (0-10 points)
6. Explain how your company proposes to report City of Eugene claims per the Medicare, Medicaid, and SCHIP Extension Act ("MMSEA")?
Reporting Procedures (0-5 points)
7. What experience do you have converting claims data from other third-party administrators?
 - a. Please outline the timeline and process for converting the City's claim files if you are the awarded Proposer.Claims Data Conversion (0-10 points)
8. Describe your company's internal audit process and the frequency of internal audits.
Auditing Procedures and Audit results (0-10 points)
9. Summarize the results of your Claims Reserve/Report of Losses Field Audit, Compliance Audits, Quarterly Claims Processing Performance, and any other WCD field audits for the last three (3) calendar years for your Oregon clients.
Auditing Procedures and Audit results (0-10 points)

10. Describe your company's internal financial controls and security procedures.
Financial Controls & Security Procedures (0-10 points)
11. Describe your billing procedures, wire transfer capabilities, and supporting documentation used to reconcile the transfer of funds between your company and your client.
Billing Procedures and Related Services (0-10 points)
12. Provide a copy of your company's standard Quality Service Plan or other similar document describing your standardized internal processing expectations and indicate your organization's willingness to customize the document to meet the requirements of the individual client.
Value-Added Services (0-5 points)
13. Include a description of any services not performed in-house and the charges associated with those services.
Value-Added Services (0-5 points)
14. Please describe any other value-added services your organization would provide to the City of Eugene.
Value-Added Services (0-5 points)

Sustainability and Social Equity Efforts (20 points)

The City is interested in products and services that have a beneficial impact on human health and the environment and that more fully support communities and economies when compared to competing products and services serving the same purpose. Report on your performance in any areas that are relevant to your firm's operations and services.

1. Report on the Proposer's four (4) most developed sustainability initiatives that illustrate the firm's performance in integrating sustainability decisions in its operations and services. Proposers may include existing reports or other company materials which demonstrate sustainability efforts.
2. Due to the nature of the service in this RFP, describe the energy efficiency of server equipment and server facilities, as well as the Proposer's (or third-party hosting service's if applicable) support for "green power" and renewable energy programs.
 - a. Other suggested categories include:
 - i. Energy efficiencies and other green building practices
 - ii. Green office practices
 - iii. Community engagement and support for underserved populations
 - iv. Sustainable material sourcing
 - v. Waste reduction and prevention (including waste management plans and reduce, reuse, and recycle tactics)
 - vi. Water conservation measures
 - vii. Alternative transportation practices
 - viii. Provision of Life Cycle Analysis or total cost of ownership
 - ix. Reporting on and communication about sustainability performance
 - x. Mission-related sustainability practices/ Sustainable business policy
3. Discuss how the Proposer's sustainability efforts might be incorporated into or benefit the work performed or product supplied to the City. Provide details of efforts, practices, and/or processes that will be used.

Refer to the City's Sustainable Purchasing website at <http://www.eugene-or.gov/sustainpurch>, for more information regarding sustainability in procurement.

XI. COST PROPOSAL

Please respond to each requirement below. The responses may be used to determine a Short List for further evaluation. Items will be scored up to the maximum point value of 60 total points.

1. Describe the method you use for medical bill auditing and hospital/specialty review services and any costs associated with these services.
(0-10 points)]
2. Fee Proposal. Please provide a detailed breakdown of costs to perform the services described in this RFP including, but not limited to:
 - a. indemnity claims, medical only claims;
 - b. complex medical claims;
 - c. annual administration fees;
 - d. annual RMIS fees; data conversion/transfer fees;
 - e. fee for assuming claims management responsibility for claims incurred prior to the commencement of the contract;
 - f. fee for managing claims after expiration of contract, MMSEA reporting; etc.
 - g. Any other pertinent costs to perform the services herein described,
 - h. Include the methodology for any proposed rate extension for subsequent contract terms.
(0-50 points)

XII. REFERENCES

Proposer's Business Name: _____

REFERENCE 1

COMPANY: _____	CONTACT NAME: _____
ADDRESS: _____	PHONE NUMBER: _____
CITY, STATE, ZIP: _____	EMAIL: _____
WEBSITE: _____	PROXIMITY TO EUGENE: _____
GOODS/SERVICES PROVIDED: _____	

REFERENCE 2

COMPANY: _____	CONTACT NAME: _____
ADDRESS: _____	PHONE NUMBER: _____
CITY, STATE, ZIP: _____	EMAIL: _____
WEBSITE: _____	PROXIMITY TO EUGENE: _____
GOODS/SERVICES PROVIDED: _____	

REFERENCE 3

COMPANY: _____	CONTACT NAME: _____
ADDRESS: _____	PHONE NUMBER: _____
CITY, STATE, ZIP: _____	EMAIL: _____
WEBSITE: _____	PROXIMITY TO EUGENE: _____
GOODS/SERVICES PROVIDED: _____	

PROPOSER CHECKLIST

#	Required Submittals	Checked
1	Standard Proposal Form	
2	Cover Letter	
3	Minimum Requirements	
4	Proposal Questionnaire	
5	Cost Proposal	
6	References	

XIII. SAMPLE CONTRACT

CITY OF EUGENE PERSONAL SERVICES CONTRACT Workers' Compensation Third-Party Administration

BETWEEN: The City of Eugene, (City) an Oregon Municipal Corporation
AND: _____, (Contractor) a _____ organized and existing under
the laws of the State of _____
CONTRACT NO.: _____ - _____
EXPIRATION DATE: _____

RECITALS

- A. Contractor is engaged in the business of providing Workers' Compensation third-party administration services.
- B. City desires to engage Contractor to provide the Services described in this Agreement and Contractor is willing to provide such Services on the terms and conditions set forth herein.
- C. The Contract described herein was awarded under the exemption or procedure authorized by City of Eugene Administrative Order 44-14-08F, Public Contracting Rules 2014, Class Exemption E-19 (13)(b) and Request for Proposals #2021200038.

AGREEMENT

1. Incorporation of Exhibits; Definitions; Contractor's Representations and Warranties.

- 1.1 Exhibits. The Contract between the parties (the "Contract") includes and incorporates into this document (this "Agreement") all of the following:
 - 1.1.1 **Exhibit A** summarizes certain federal, state and municipal laws that apply to government contracts. The provisions of **Exhibit A** are statements of law and may not be modified, and take precedence in the event of an inconsistency with the Agreement.
 - 1.1.2 Other Exhibits. The Contract also includes and incorporates the following exhibits, which are listed in order of precedence. The provisions of this Agreement will have priority over all conflicting provisions of the following exhibits:
 - 1.1.2.1 **Exhibit B:** Statement of Work / Service Deliverables
 - 1.1.2.2 **Exhibit C:** Compensation
 - 1.1.2.3 Add other Exhibits as necessary
- 1.2 Definitions. With the exception of proper nouns, capitalized terms not otherwise defined herein shall have the following meanings.

- 1.2.1 **“Agreement”** means this document, entitled Personal Services Contract and ending with the signatures of all parties.
- 1.2.2 **“Contract”** means the written statement of the parties’ mutual and respective agreements, promises, undertakings and rights as set forth in this Agreement and all incorporated exhibits.
- 1.2.3 **“Services”** means all of the products, properties, and Services to be provided by Contractor under this Contract, as described in **Exhibit B**.
- 1.3 Contractor’s Representations and Warranties. Contractor makes the following representations and warranties to City:
- 1.3.1 Contractor and Contractor’s personnel are, and will at all times hereunder be, fully qualified by all necessary education, training, experience, licensure and certification to perform the Services.
- 1.3.2 As of the date of execution hereof, there are no claims or suits or proceedings, or threats thereof, seeking to enjoin the execution of the Contract by Contractor or the effect of which could prevent Contractor from performing or having the authority to perform the Services.
- 1.3.3 Neither the execution of the Contract nor the performance of the Services will constitute a breach or violation of any other contract, agreement, or law by which Contractor is bound or to which Contractor or any of its personnel who will perform the Services are subject.
2. **Services.**
- 2.1 Commencement. Contractor shall begin to provide the Services on _____, or, if later, as soon as this Contract has been executed by all parties.
- 2.2 Key Personnel. Contractor has agreed that certain key personnel shall be assigned to perform certain parts of the Services, as described below. Removal of these key personnel from the specified tasks without the prior approval of City will be a material breach of the Contract.:_____.
- 2.3 Security. If the Services will be performed on City property, Contractor will comply with all of City’s security policies and procedures.
3. **Term.**
- 3.1 Initial Term. The initial term of the Contract shall expire, unless terminated or renewed, on the expiration date shown in the caption of this Agreement.
- 3.2 Renewal. Upon completion of the initial term, the City may elect to extend the Contract for up to _____ additional one-year terms by amendment and mutual agreement of the parties.
4. **Compensation.** Subject to City’s right of offset for breach, Contractor will bill City for the Services by submitting periodic invoices that conform to the requirements of **Exhibit C**. City will make payments net 30 days of receipt of a properly submitted invoice. Notwithstanding the foregoing, City will have the right to withhold payment for any item which City disputes in

good faith, provided that City pays for all non-disputed items and takes commercially reasonable action to resolve the dispute.

5. **Termination.** Notwithstanding any other provisions hereof to the contrary, the Contract may be terminated as follows:
 - 5.1 The parties, by mutual written agreement, may terminate the Contract at any time.
 - 5.2 Either party may terminate the Contract if the other party is in breach of any provision hereof which breach continues for more than 30 days after a notice describing the breach has been given unless, in the case of a breach which cannot be cured within such 30-day period, the breaching party immediately initiates and diligently prosecutes a plan of curative action that is acceptable to the non-breaching party. Notwithstanding the foregoing, termination for a recurring breach may be made if the breach is uncured within seven days after the second notice in any twelve-month period and immediately, without opportunity for cure, in the third or any subsequent notice of breach in any twelve-month period.
 - 5.3 The City may terminate the Contract on any date specified in a notice if funding for the Services becomes unavailable or if the City determines that termination of the Contract is required by the public interest.
 - 5.4 City may terminate the Contract immediately and without prior notice upon Contractor's failure to have in force any insurance required by the Contract, if Contractor breaches the City's security requirements, if Contractor fails to maintain any certificate or license required for performance of the Services, or as provided in **Exhibit A**.
6. **Force Majeure.** Neither City nor Contractor are responsible for any failure to perform or for any delay in the performance of any obligation under this Contract caused by public health emergency, fire, riot, acts of God, terrorism, war, or any other cause which is beyond the breaching party's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate the cause of Contractor's delay or breach and shall, upon the cessation of the cause, continue performing under this contract. City may terminate this Contract upon written notice to Contractor after City reasonably determines that the delay or breach will likely prevent successful performance of the Contract.
7. **Criminal Background Check.** A successful criminal background check is required for all Contractors before a person is allowed to work on any of the City's computer software projects. All Contractor(s) who have been selected for the project(s) will be considered in pending status until they have passed the criminal background check. Depending on the nature of the project and the sensitivity of data, either the Human Resources and Risk Services Department or the Eugene Police Department will perform the necessary background check.
8. **Use of Regional Information System (RIS) Equipment.** The Contractor agrees to use any RIS-supplied or City-supplied software, equipment and/or facilities exclusively for the completion of the Contract. Other use shall be grounds for Contract termination. The City may deduct from any amounts payable to the Contractor or may bill the Contractor for the value of any unauthorized usage of RIS and City equipment and facilities.

9. **Acceptance Criteria.** Final acceptance of the project will be decided by the City based on functionality, reliability, and performance during the 60-day acceptance period. The City shall check the system for completeness and compliance with the Contract specifications. The City shall test the system for completeness and error-free work. After these inspections prove satisfactory, the system shall be turned over to the City. The acceptance period shall commence following the turnover of the completed project to the City. At that time, the operational control becomes the responsibility of the City. The City shall give written notice of the start of the 60-day acceptance period. If any part of the system does not perform according to the analysis and design specifications during the acceptance period, the Contractor at the Contractor's expense shall correct the problem. The acceptance period shall restart at day one when the problem is corrected by the Contractor. Resetting the duration of the acceptance period after the problem is corrected may be negotiable depending upon the severity of the problem. The City shall make the final determination for resetting the acceptance period. If successful completion of the acceptance period is not attained 120-days from the turnover date, the City shall have the option of terminating the Contract with the Contractor forfeiting the 15 percent retainage, or continuing the performance test.
10. **Successful Completion.** This Contract will be considered to be successfully completed when the City provides written notification of completion to the Contractor. This notification will be given to the Contractor within 15 days after the system has run error-free for 60 consecutive days. This assumes that in the opinion of the City, the product meets the requirements as specified in this Contract. On final acceptance of the Contract, the City shall pay the remaining 15 percent of the Contract cost. If the products do not meet the requirements, the Contract will not be considered to be successfully completed.
11. **Remedies.**
- 11.1 In the event of a termination of the Contract by City because of a breach by Contractor, City may complete the Services either by itself or by contract with other persons, or any combination thereof. Contractor shall be liable to City for any costs or losses incurred by City arising out of or related to the breach, including costs incurred in selecting other contractors, time-delay losses, attorney fees, and the like, less the remaining unpaid balance of the consideration provided in the Contract. City may withhold payment of sums due Contractor for Services performed to the date of termination until City's costs and losses have been determined, at which time City may offset any such amount due Contractor against the costs and losses incurred by City.
- 11.2 The foregoing remedies provided to City for breach of the Contract by Contractor shall not be exclusive. City shall be entitled to exercise any one or more other legal or equitable remedies available because of Contractor's breach with or without termination.
- 11.3 In the event of breach of the Contract by City, Contractor's remedy shall be limited to termination of the Contract and payment for Services performed to the date of termination less any offset to which City is entitled.
12. **Records/Inspection.** Contractor shall maintain records of its charges to City under the Contract for a period of not less than three years following Contractor's completion of the Contract. Upon reasonable advance notice, City or its authorized representatives may from

time to time inspect, audit and make copies of any Contractor's records that relate to the Contract. If any audit by City discloses that payments to the Contractor were in excess of the amount to which Contractor was entitled under the Contract, Contractor shall promptly pay to City the amount of such excess. If the excess charged by Contractor for any audited period is greater than two percent of the amount that should have been charged for that period, Contractor shall also reimburse City its reasonable costs incurred in performing the audit.

13. **Indemnification.** Contractor shall indemnify and hold City, and its officers, agents and employees, harmless from and against all claims, actions, liabilities, costs, including attorney fees and other costs of defense, arising out of the acts, errors, or omissions, whether alleged or actual, of Contractor, its subcontractors, agents, and employees in performing or failing to perform the Services, failing to strictly comply with any provision of the Contract or any other actions or failures to act by Contractor and Contractor's employees, agents, and subcontractors. In the event any such action or claim is brought against City, Contractor shall, if City so elects and upon tender by City, defend the same at Contractor's sole cost and expense, promptly satisfy any judgment adverse to City or to City and Contractor, jointly, and reimburse City for any loss, cost, damage, or expense, including attorney fees, suffered or incurred by City. City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action.
14. **Insurance.** Contractor shall have and maintain the insurance policies specified below. Each policy of insurance shall be written as a primary policy, not contributing with or in excess of any coverage which City may carry. A copy of each policy or a certificate satisfactory to City shall be delivered to City prior to commencement of the Services. The adequacy of all insurance policies for compliance with this Section shall be subject to approval by City's Risk Manager. Failure to maintain any insurance coverage required by the Contract shall be cause for immediate termination of the Contract by City.
- 14.1 Unless otherwise specified, each policy shall be written on an "occurrence" form with an admitted insurance carrier licensed to do business in the state of Oregon; and shall contain an endorsement entitling City to not less than 30 days prior written notice of cancellation. In the event the statutory limit of liability of a public body for claims arising out of a single accident or occurrence is increased above the combined single limit coverage requirements specified below, City shall have the right to require that Contractor increase the coverage limits of all liability policies by the amount of the increase in the statutory limit.
- 14.2 Commercial General Liability. Contractor shall maintain a broad form commercial general liability insurance policy reflecting limits of not less than \$2,000,000 combined single limit per occurrence, with an annual aggregate of \$3,000,000 for bodily injury, personal injury or property damage. Such policy shall contain a contractual liability endorsement to cover Contractor's indemnification obligations under this Contract. The policy shall also contain an endorsement naming City as an additional insured, in a form satisfactory to City, and expressly providing that the interest of City shall not be affected by Contractor's breach of policy provisions.
- 14.3 Workers' Compensation Insurance. Contractor shall comply with the Oregon Workers' Compensation law by qualifying as a carrier-insured employer or as a self-insured employer and shall strictly comply with all other applicable provisions of such law. Contractor shall provide City with such further assurances as City may require

from time to time that Contractor is in compliance with these Workers' Compensation coverage requirements and the Workers' Compensation law. Contractor is a subject employer that will comply with ORS 656.017.

- 14.4 **Automobile Liability.** Contractor shall maintain an automobile liability insurance policy reflecting limits of not less than \$2,000,000 combined single limit per occurrence for bodily injury, personal injury or property damage. The coverage shall include both hired and non-owned auto liability. The policy shall also contain an endorsement naming City as an additional insured, in a form satisfactory to City, and expressly providing that the interest of City shall not be affected by Contractor's breach of policy provisions.
- 14.5 **Professional Liability.** Contractor shall maintain a professional liability insurance policy reflecting limits of not less than \$2,000,000 for claims for professional acts, errors or omissions arising from the Work. The policy may be written on a "claims made" form. Contractor shall maintain the professional liability insurance coverage for at least one year after the completion of the work. The policy shall contain an endorsement entitling the City not less than 60 days prior written notice of cancellation of such policy.
- 14.6 **Cyber Liability.** Contractor shall maintain a cyber liability insurance policy reflecting limits of not less than \$2,000,000 for claims for data breach, or technical errors or omissions arising from the Work. The policy may be written on a "claims made" form. Contractor shall maintain the cyber liability insurance coverage for at least one year after the completion of the work. The policy shall contain an endorsement entitling the City not less than 60 days prior written notice of any material change, nonrenewal or cancellation of such policy.
15. **Subcontracting.** Contractor was selected for its special knowledge, skills, and expertise, and shall not subcontract the Services, in whole or in part, without City's prior written approval, which may be withheld for any reason. Contractor shall require any approved subcontractor to agree, as to the portion subcontracted, to comply with all obligations of Contractor specified in the Contract. Notwithstanding City's approval of a subcontractor, Contractor shall remain obligated for full performance of the Contract and City shall incur no obligation to any subcontractor. Contractor shall indemnify, defend, and hold City harmless from all claims of subcontractors.
16. **Assignment.** Contractor shall not assign the Contract, in whole or in part, or any right or obligation hereunder, without City's prior written approval, which approval shall not be subject to a reasonableness standard. If Contractor is a corporation or partnership, a change in ownership of Contractor resulting from a voluntary transfer of stock or partnership interests, or a transfer upon death or disability of any owner, shall not constitute an assignment unless the transferor is one of the key personnel specified in Section 2.2 of this Agreement.
17. **Independent Contractor.** Whether Contractor is a corporation, partnership, other legal entity or an individual, Contractor is an independent Contractor. If Contractor is an individual, Contractor's duties will be performed with the understanding that Contractor is a self-employed person, has special expertise as to the Services which Contractor is to perform and is customarily engaged in the independent performance of the same or similar Services for

others. The manner in which the Services are performed shall be controlled by Contractor; however, the nature of the Services and the results to be achieved shall be specified by City. Contractor is not to be deemed an employee or agent of City and has no authority to make any binding commitments or obligations on behalf of City except to the extent expressly provided herein.

18. **Confidential Information.** To be considered “Confidential Information” under the Contract, information must be clearly marked as “confidential information,” in a manner that will be obvious immediately upon access. Each party will limit its use of Confidential Information to the purpose for which it was disclosed by the other party and will use a reasonable level of care to prevent the intentional or inadvertent misuse, theft, or inappropriate disclosure of such information. Contractor understands that all records held by the City are public records and subject to public disclosure under public records law, and Contractor agrees that City shall have no liability for the disclosure of any Confidential Information properly disclosed under the law or under a court order in response to a public records request. Contractor also understands and agrees that the Contract documents and all records of Contractor’s fees and charges may not be considered Confidential Information, and are public records for which no exemption to public disclosure applies.
19. **Compliance with Laws.** Contractor shall comply with all applicable Federal, State and local laws, rules, ordinances and regulations at all times and in the performance of the Services, including all applicable provisions of **Exhibit A**.
20. **Ownership of Work Product.**
 - 20.1 All tangible or electronic copies of compilations, reports, plans, drawings, techniques, formulas, works of art, literature, music, or other personal property produced or created specifically for City under the Contract (“Work Products”) shall be delivered to the City prior to the completion or termination of the Services and shall be the sole and exclusive property of the City.
 - 20.2 In addition to ownership of the Work Products, City shall also be the owner of all copyrights, if any, existing in any Work Product under the federal copyright act except for those rights of attribution and integrity described in 17 USC 106A.
 - 20.3 Unless expressly provided to the contrary herein, Contractor waives all rights of attribution and integrity with respect to any work of visual art except the right to prevent the use of his or her name as the author of the work of visual art in the event of a distortion, mutilation, or other modification of the work which would be prejudicial to his or her honor or reputation.
 - 20.4 With the exception of Work Products that incorporate City’s databases or City’s Confidential Information, Contractor may retain and display copies of any Work Product for marketing or demonstration purposes, and Contractor shall have the right to make derivative products based on a Work Product, but Contractor may not sell or commercially exploit any Work Product or reproduction of a Work Product.
 - 20.5 Nothing in this Section 16 is intended to appropriate to City any personal property not created for City under the Contract or any property used or incorporated into a Work Product that was owned by Contractor or a third party prior to its use for the Services,

CONTRACT HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THE COURTS REFERENCED IN THIS SECTION.

23. **Waiver.** No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach of this Contract. The failure of either party to insist upon any of its rights shall not be deemed a waiver of such rights on any subsequent occasions.
24. **Interpretation.** This Contract shall be governed by and interpreted in accordance with the laws of the State of Oregon without regard to principles of conflict of laws.
25. **Severability.** If any portion of this Contract is held or declared by a court of competent jurisdiction to be void, invalid, illegal, or otherwise not fully enforceable, it shall not affect any other section of this Contract and the remainder of the Contract shall continue to be binding and of full force and effect.
26. **Survival.** Any duty, liability or obligation of a party which arises under this Contract, including without limitation, obligations with respect to indemnification, shall survive the termination or expiration of this Contract and shall be legally enforceable until satisfied by performance or payment, or until enforcement is legally precluded by lapse of time.
27. **No Third-Party Beneficiaries.** There are no third-party beneficiaries of this Contract. The parties agree and intend that this Contract shall be enforceable only by the parties and their duly authorized representatives.
28. **Integration.** The Contract embodies the entire agreement of the parties concerning the Services. There are no promises, terms, conditions or obligations other than those contained herein. The Contract shall supersede all prior communications, representations, or agreements--either oral or written--between the parties. The Contract shall not be amended except in writing, signed by both parties.
29. **Effective Date.** The effective date of this Contract shall be the latest date of signature by the parties.

City of Eugene

Signature: _____ Date: _____
Print Name: _____
Title: _____

Certifications of Contractor: Pursuant to ORS 305.385, Contractor hereby certifies that it is not in violation of any tax laws as defined in ORS 305.380. If Contractor is other than one or more individuals who have signed below, the individual(s) signing on behalf of Contractor hereby further certifies and swears under penalty of perjury and warrants to City that: (a) the full legal name and status of Contractor are as set forth in the caption to this Agreement, and (b) s/he is authorized to execute and deliver this Agreement and the Contract to City of behalf of, and as the act of Contractor.

Contractor

Signature: _____ Date: _____
Print Name: _____
Title: _____

EXHIBIT A: CITY OF EUGENE STANDARD CONTRACT PROVISIONS

Contracts Subject to ORS Chapter 279B Goods and Services including Personal Services OTHER THAN Architects, Engineers, Land Surveyors on Public Improvements

The following provisions, if applicable, are hereby included in and made a part of the attached contract between the City of Eugene and the Contractor named thereon as provided for in the Eugene Code, 1971, the Eugene Public Contracting Rules, the revised statutes of the State of Oregon, and Federal laws, rules, regulations, and guidelines. The Contractor AND EVERY SUBCONTRACTOR shall include these provisions in every subcontract SO THAT THESE PROVISIONS WILL APPLY TO, AND BE BINDING ON EVERY SUBCONTRACTOR. Failure to comply with any of the applicable provisions below shall be a material breach of the contract and may result in debarment of the Contractor or subcontractor from City contracts for up to three (3) years.

1. Fair Employment Practice Provisions (Eugene Code, 1971, Section 4.625 and Eugene Public Contracting Rule 137-046-0500(2))

- 1.1 Non-Discrimination Requirements. During the performance of this contract, the Contractor and each subcontractor agrees to comply with sections 4.613 to 4.655 of the Eugene Code, 1971, and as follows:
 - (a) The Contractor and each subcontractor agrees that it will not discriminate against any employee or applicant for employment because of an individual's race, religion, color, sex, national origin, marital status, familial status, age, sexual orientation or source of income, a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262, or because an individual is a person with a disability which, with reasonable accommodation by the employer does not prevent the performance of the work involved, unless based upon a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business.
 - (b) The Contractor and all subcontractors employing 15 or more individuals will develop and implement an affirmative action plan to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, sex, age or national origin. Such plan shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
 - (c) The Contractor and each subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Human Rights Commission setting forth the provisions of this nondiscrimination clause.
- 1.2 Reporting. The Contractor and each subcontractor will, prior to commencement and during the term of the contract, provide to the City such documentation, and permit any inspection of records as may be required or authorized by rules adopted by the city manager to determine compliance with subsection 1.1 above.
- 1.3 Violations. If upon an investigation conducted pursuant to rules adopted by the city manager in accordance with section 2.019 of the Eugene Code, 1971 there is reasonable cause to believe that the Contractor or any subcontractors of the Contractor have failed to comply with any of the terms of subsections 1.1 or 1.2, a determination thereof shall be made by the city manager. Such determination may result in the suspension, cancellation or termination of the principal contract in whole or in part and/or the withholding of any funds due or to become due to the Contractor, pending compliance by the Contractor and/or its subcontractors, with the terms of subsections 1.1 and 1.2. Such determination may further result in debarment of the Contractor in accordance with the adopted rules.
- 1.4 Failure to Comply. Failure to comply with any terms of subsections 1.1 and 1.2 above shall be a material breach of the contract.
- 1.5 Inclusion of Fair Employment Practices Provisions in Contracts with Subcontractors. The contractor shall include the provisions of subsections 1.1 through 1.4 above in contracts with subcontractors so that the provisions will be binding upon each subcontractor.
- 1.6 Contractor Defined. As used in this section 1, "contractor" means all persons, wherever situated, but excluding local, state or federal units of government or their officials, from whom the City purchases Goods and/or Services costing \$2,500 or more in any fiscal year.

2. ORS 279A.120 Nonresident Contractors.

- 2.1 As used in this section, "nonresident contractor" means a contractor that: (A) has not paid unemployment taxes or income taxes in the state of Oregon during the 12 calendar months immediately preceding submission of the bid for the contract, (B) does not have a business address in this state and (C) stated in the bid for the contract that it was not a "resident bidder" under ORS 279A.120.
- 2.2 If the Contractor is a nonresident contractor and the contract price exceeds \$10,000, the Contractor shall promptly report to the Department of Revenue on forms to be provided by the Department of Revenue the total contract price, terms of payment, length of contract and such other information as the Department of Revenue may require before the

Contractor may receive final payment on the public contract. The City may not award a Public Improvement Contract or a Public Works Contract to a nonresident bidder that is an educational service district. The City shall satisfy itself that the requirement of this subsection has been complied with before the City issues a final payment on a public contract.

3. **ORS 279B.220 and Eugene Rule 137-046-0500(5) Conditions concerning payment, contributions, liens, withholding.**
The Contractor shall:
 - (a) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.
 - (b) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract.
 - (c) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.
 - (d) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
4. **ORS 279B.225 Condition concerning salvaging, recycling, composting or mulching yard waste material.** If the contract will include lawn and landscape maintenance the Contractor shall salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.
5. **ORS 279B.230 and Eugene Rule 137-046-0500(6) Condition concerning payment for medical care and providing workers' compensation.**
 - 5.1 The Contractor shall promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
 - 5.2 All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
6. **ORS 279B.235 and Eugene Rule 137-046-0500(7) Condition concerning hours of labor.** The contractor shall pay employees for overtime work performed under the public contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).
 - 6.1 Personal Services Contracts. In the case of Personal Services Contracts, the employee shall be paid at least time and a half for all overtime worked in excess of forty (40) hours in any one (1) week, except for individuals under Personal Services Contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 et seq. from receiving overtime.
 - 6.2 Contracts for Services. In the case of contracts for services, persons employed under the contracts shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement, in ORS 279B.020(1)(b)(B) to (G), or in ORS 279C.540 (1)(b)(B) to (G) and for all time worked in excess of ten (10) hours in any one (1) day or in excess of forty (40) hours in any one (1) week, whichever is greater.
7. **ORS 279B.240 Exclusion of recycled oils prohibited.** Lubricating oil and industrial oil may include recycled oils or oils that are not manufactured from virgin materials.
8. **ORS 279A.110 Discrimination in subcontracting prohibited; remedies.**
 - 8.1 The Contractor may not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, women or emerging small business enterprise certified under ORS 200.055.
 - 8.2 By entering into the contract, the Contractor certifies that it has not discriminated and will not discriminate, in violation of subsection 8.1, against any minority, women or emerging small business enterprise in obtaining any required subcontract.
9. **Eugene Rule 137-046-0500(1) Right to Audit Records.**
 - 9.1 Cost or Pricing Data. The Purchasing Agent may, at reasonable times and places, audit the books and records of any Person who has submitted cost or pricing data in connection with a contract to the extent that such books and records relate to such cost or pricing data. Any Person who receives a contract for which cost or pricing data are required, shall maintain the books and records that relate to the cost or pricing data for three (3) years from the date of final payment under the contract, unless a shorter period is authorized by the Purchasing Agent in writing.
 - 9.2 Contract Audit. The Purchasing Agent shall be entitled to audit the books and records of the contractor or any subcontractor to the extent that the books and records relate to the performance of the contract. The contractor and each subcontractor shall maintain books and records for a period of three (3) years from the date of final payment

under the contract or subcontract, as applicable, unless a shorter period is authorized by the Purchasing Agent in writing.

10. Eugene Rule 137-046-0500(3) Right to Inspect Plant.

- 10.1 Time for Inspection. The Purchasing Agent may, at reasonable times, inspect the part of the plant or place of business of the contractor or any subcontractor that is related to the performance of any contract awarded.
- 10.2 Contractual Provisions. The City may inspect supplies and Services at the contractor's or subcontractor's facility and perform tests to determine whether they conform to the contract requirements.
- 10.3 Procedures for Trial Use and Testing. The Purchasing Agent may establish operational procedures governing the testing and trial use of equipment, materials, and the application of resulting information and data to Specifications or Procurement.
- 10.4 Location. When an inspection is made in the plant or place of business of a contractor or subcontractor, such contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.
- 10.5 Time of Testing or Inspection. Inspection or testing of supplies and Services performed at the plant or place of business of any contractor or subcontractor shall be performed at reasonable times during normal business hours.
- 10.6 Inspection of Construction Projects. Onsite inspection of construction shall be performed in accordance with the provisions of the contract.

11. Eugene Rule 137-046-0500(4) Termination in the Public Interest.

- 11.1 Termination Provisions. The City may terminate the contract for any reason considered by the City to be in the public interest. Reasons for termination in the public interest include but are not limited to:
 - (a) The contractor cannot complete the work for reasons beyond the control of either the contractor or the City;
 - (b) Necessary materials are not available;
 - (c) A lack of funds;
 - (d) A phenomenon of nature of catastrophic proportions or intensity;
 - (e) Executive orders of the President related to national defense;
 - (f) Congressional or state acts related to funding or changes in applicable laws; or
 - (g) The presence of other circumstances or conditions such that it is impracticable within a reasonable time to complete the work.
- 11.2 Payment When Contract Is Terminated. When the contract, or any portion thereof, is terminated before completion of all items of work in the contract, payment will be made for the actual items of work completed under the contract, or by mutual agreement, for items of work partially completed. No claim for loss of anticipated profits will be allowed.
- 11.3 Payment for Construction Services. The City may provide in a contract for construction services, detailed provisions under which the contractor shall be entitled, as a matter of right, to compensation upon termination of the contract on account of any reason considered to be in the public interest.

12. Eugene Rule 137-046-0500(8) Governing Law; Jurisdiction

- 12.1 Governing Law. This contract shall be governed, construed, and enforced in accordance with the laws of the state of Oregon, unless otherwise approved by the City Attorney or designee.
- 12.2 Jurisdiction. Contractor agrees and consents to the exclusive jurisdiction of the courts of the state of Oregon for all purposes regarding the contract and further agrees and consents that venue of any action brought under the contract shall be exclusively in Lane County, Oregon, unless otherwise approved by the City Attorney or designee.

13. ORS 305.385, ORS 305.620, ORS chapters 316, 317 and 318 and Chapter 539 Oregon Laws 2015 (SB 675) Compliance with Tax Laws. Contractor certifies its compliance with all applicable state and local tax laws, including but not limited to ORS 305.385, ORS 305.620, ORS chapters 316, 317 and 318 and Chapter 539 Oregon Laws 2015 (SB 675). Contractor certifies it will continue to comply with all such tax laws during the term of this contract. Contractor's failure to comply with such state and local tax laws prior to executing this contract or during the term of this contract constitutes a default for which City may terminate this contract and seek damages and other relief available under the terms of this contract or applicable law.

EXHIBIT B: STATEMENT OF WORK

SAMPLE

Exhibit C: Compensation Schedule

Compensation

City terms are net 30.

Invoices

After this Contract has been executed by both parties, the City will provide the Contractor with a Purchase Order. Contractor must include the related Purchase Order number and this Contract number on the invoice.

Contractor shall submit invoices by mail or email (preferred) to the following: AP@ci.eugene.or.us

City of Eugene
PO Box 11110
Eugene, OR 97440