



**CITY OF
WALNUT
CREEK**

RFP # 2024-001-HR

REQUEST FOR PROPOSALS (RFP)

Workers' Compensation Claims Administration Services

City of Walnut Creek

Human Resources Department

DATE ISSUED: July 22, 2024

DATE DUE: August 26, 2024 by 5:00 PM PDT

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INTRODUCTION

The City of Walnut Creek is soliciting proposals from qualified Third-Party Administrators (“TPA” or “Consultant”) for the administration of the City’s self-insured workers’ compensation program.

Qualified organizations which have significant experience with self-insured California jurisdictions and demonstrated competence in the administration of self-insured workers’ compensation claims programs are invited to submit proposals (each organization responding to this RFP is hereinafter referred to a “respondent” or “proposer”).

The City of Walnut Creek will use the results of the RFP process to award a service agreement that will include the assumption of all existing workers’ compensation claims and all new claims beginning at the program inception date of December 1, 2024. The term of the agreement is expected to be for three (3) years, with two (2), one (1) year options to renew.

This RFP is for the selection of a firm to provide professional services, and the City reserves the right to reject any and all proposals for any reason.

BACKGROUND

The City of Walnut Creek is located in Contra Costa County, located in the East Bay region of the San Francisco Bay Area, about 16 miles east of the city of Oakland. Walnut Creek is a general law City using a Council/Manager form of government with a City Manager who oversees the daily operations of the City through its individual department heads. City Departments include Administrative Services, Arts & Recreation, Community Development, Human Resources, Police and Public Works.

The City’s actual payroll (salaries) for fiscal year 2022-23 was \$41,318,560, with the following approximate number of employees:

Total Regular Employees	440
Sworn Police	82
Non-Sworn	358
Covered Volunteers and Hourly/Seasonal Employees	425

The City of Walnut Creek’s workers’ compensation program is permissibly self-insured and covers regular (full-time and part-time), hourly/seasonal, and some volunteer employees in all City departments, including claims involving Labor Code 4850 benefit payments. Its workers’ compensation program is currently administered by Sedgwick. Sedgwick acquired York Risk Services Group, Inc, the City’s prior workers’ compensation TPA, in July 2019.

The City is a member of a joint powers authority (Municipal Pooling Authority-MPA) for the purpose of obtaining excess workers' compensation coverage. Under this arrangement, the City maintains a self-insured retention of \$500,000.00 and excess coverage with statutory limits.

The City of Walnut Creek manages its workers' compensation program through their Human Resources Department. The Human Resources Analyst, under the direction of the Human Resources Director, is responsible for management of the program, including administration of the TPA contract, and will coordinate the program with the TPA.

Exhibit B, attached hereto and incorporated herein, is the City's 2022-23 Public Self Insurer Annual Report to the State of California.

ESTIMATED TIMETABLE

The City anticipates the following timetable:

RFP Distribution	July 22, 2024
Last Day to Submit Questions	August 2, 2024
Answers to RFP Questions Posted	August 9, 2024
Closing Date of RFP	August 26, 2024 by 5:00 PM PDT
Submission Review Process	August 27 – September 6, 2024
Interviews (if indicated)	September 16 – September 20, 2024
Negotiations	September 23 – October 4, 2024 (est.)
Submission of Proposed Agreement to Council	October 15, 2024 (est.)
Contract Commencement	December 1, 2024

The City reserves the right to modify, extend, shorten, or otherwise cancel the dates in this timetable at its sole discretion.

SCOPE OF WORK

The City is interested in obtaining a TPA whose business practices align with the Scope of Services and Performance Standards as outlined in Exhibit A, attached hereto and incorporated herein.

The City's primary goal is securing a TPA partnership to help provide appropriate benefits and services in a timely, cost-effective manner focusing on communication and quality care. The City is looking for a TPA that will reduce the cost and duration of workers' compensation claims, process claims in a timely and professional manner, be proactive and consistent in the management of occupational absences, help return injured employee back to work, assist with lost time calculations and injury reporting and maintain strong communication with the injured worker and the City.

An important area of focus for the City is customer service, responsiveness, timeliness, and proactive claims handling. The City desires to contract with a TPA that has a standard of returning

calls and emails to the City and their injured employees promptly, and that provides information and recommendations to the client in a timely manner.

PROPOSAL FORMAT

Please respond to this RFP in the following manner:

- A. Submit a cover letter that contains the name, title, address, and telephone number of the individual(s) with authority to bind the proposal during the period in which the City is evaluating the proposal.

The proposal shall also identify the legal form of the firm, (i.e., sole proprietor, partnership, corporation, etc.). If the firm is a corporation, the cover letter shall identify the state in which the firm was incorporated and the name of the parent corporation. A principal of the firm or other person fully authorized to act on behalf of the firm shall sign the cover letter.

- B. Please give a brief description of the proposer organization, including:
- The length of time the firm has been in the business of administering California workers' compensation claims.
 - The number of California offices and locations.
 - The California office that would service the City's claims.
 - The California office that would serve the City's loss data or functions other than claims adjusting.
- C. Please advise whether there are any major changes (e.g., relocation of firm/consolidation, legal name change, mergers, acquisitions, sale of part or all of the proposer organization, etc.) planned for proposer and the parent corporation during the next 12 months.
- D. Identify the staff, including supervisory and management, who would be assigned to administer the City's claims. Changes to the selected proposer's project staff shall not be allowed without prior written approval by the City.

In addition, provide detailed responses to the following:

- The position each individual currently occupies and is being proposed to occupy.
- The education, years, and type of experience of each individual (attach a resume or curriculum vitae).
- The experience each individual has adjusting California permissibly self-insured public agency claims, and municipal (city or county) claims in particular.
- The experience each individual has with claims involving Labor Code 4850 benefits.
- The length of time each individual has been with the proposer.

- The percentage of time each individual is in the office, remotely, and in the field.
 - The caseload for every person assigned to handle any portion of the City's claims.
- E. Provide a list of clients for which similar types of claims-related services are currently provided, preferably in the Northern California area. Please include the name, title, and phone number of three (3) people, in three (3) different companies (preferably a municipality with public safety claims) other than the City, whom the City can contact to discuss the proposer's performance.
- F. Provide a list of clients and their contact information who have cancelled their contract with the proposer organization during the past 24 months. Please include the reason(s) for termination and/or non-renewal by either party.
- G. Please indicate whether the proposer can comply with the Scope of Services and Performance Standards as outlined in Exhibit A (attached). If the proposer is unable to comply with a specific performance objective, please indicate which objective cannot be complied with, the reason(s) the objective cannot be met and provide suggestions or alternatives. Proposals should clearly indicate where they differ from the attached scope of services and performance standards.
- H. Describe how the proposer ensures compliance with workers' compensation statutes and rules and regulations promulgated by the Department of Industrial Relations.
- I. Identify any owned ancillary services (i.e. utilization review, bill review, etc.).
- J. Please quote an annual fee for each of the three (3) years of the contract, as well as an annual fee for the optional years if they are exercised. FAILURE TO PROVIDE PRICING INFORMATION IN THE MANNER REQUESTED MAY DISQUALIFY THE PROPOSAL.
- K. Indicate any additional fees or fee adjustments for bundled services of Utilization Review, Bill Review, and/or Managed Care.
- L. Indicate any additional fees or fee adjustments for unbundling of Utilization Review, Bill Review, and/or Managed Care.
- M. Please indicate any additional fees for data conversion and on-line access.
- N. If the City selects a new TPA, it is expected that there will be approximately 83 open files (26 indemnity, five (5) medical only, and 52 future medical) that will be transferred to the new TPA.
- The proposer must state whether the cost of handling these existing open files are included in the flat annual fee quoted above.
 - Provide a comprehensive transition plan, including estimated timelines, for the design and implementation of an orderly transition that will ensure the

continuation of benefits for injured employees and transfer of existing open and all "tail" claims to proposer's data processing system.

- O. In compliance with Medicare Secondary Payor Mandatory Reporting (MMSEA) Section 111, the City requires the selected TPA to be registered with the Centers for Medicare and Medicaid Reporting Services (CMS) as the Account Manager for the City.
- The proposer will provide verification of their intention to register as the Account Manager and provide detailed information on their plan to provide necessary data to CMS within the required timeframes.
 - Please specify any ancillary vendors which will be utilized for the transmission of data, any contractual arrangements between the proposer and the ancillary vendor, and any associated costs above the TPA claims administration costs for assuming the Account Manager responsibilities and data transmission as outlined by CMS.
- P. Please describe any services not previously covered which the respondent believes may be of particular value to the City, such as provider and facility networks, litigation management, etc.
- Q. Describe ways the respondent's organization utilizes Artificial Intelligence (AI) and Machine Learning (ML) technologies to enhance workers' compensation claims management and processing. Provide examples of specific AI/ML applications in the respondent's services, such as predictive analytics, fraud detection and automated decision-making.
- R. The proposal must indicate that the TPA agrees to be bound by the proposal and shall enter into an agreement to provide services in a form as approved by City.
- S. The proposal must include any exception to the City's standard insurance and/or indemnification requirements and shall include any and all of proposer's proposed terms and conditions, including the proposer's standard contract language. The omission of these documents may render a proposal non-responsive. The Standard City of Walnut Creek Consultant Services Agreement is Exhibit C (attached).
- T. The proposal should expressly state that the offer, including all pricing proposals, will remain in effect for at least six (6) months past date of submittal. In addition, all information presented in the proposal will be considered binding when an agreement is developed (unless otherwise modified and agreed to by both parties during subsequent negotiations).
- U. Each proposer must include in the proposal a complete disclosure of any alleged significant prior or ongoing contract failures, suspensions, any civil or criminal litigation or investigation pending which involves the proposer or in which the proposer has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any proposal.

The City reserves the right to reject any proposal based upon the proposer's prior history with the City or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures.

- V. The proposal should include samples of computer-generated loss reports that may be useful to the City for the purpose of claims and trend analysis.

Proposals may be submitted by mail, or email as described below. **Proposals must be received no later than 5:00 PM on Monday, August 26, 2024.** Proposals not actually received by the City at the physical or electronic mail addresses by this time, regardless of when they were submitted, will be automatically rejected and not considered.

To submit by mail:

Submit two (2) hard copies and/or one (1) electronic copy via USB drive to:

City of Walnut Creek
Human Resources Office
c/o Olivia Lamon, Human Resources Analyst
1666 N. Main Street
Walnut Creek, CA 94596

To submit by email:

Submit one (1) electronic PDF copy to lamon@walnut-creek.org with the subject line "Workers' Compensation Request for Proposal".

A respondent may withdraw and resubmit a proposal prior to the above submission deadline. No re-submissions will be allowed after the submission deadline.

SELECTION CRITERIA AND PROCESS

The selection criteria to be used to select the successful proposer will include, but is not limited to, the following:

- Established record of consistent, professional service and reputation within the industry.
- High quality references from clients (preferably local), particularly from other self-insured groups, either public or private.
- Staffing and experience levels.
- Focus on customer service and timely communication.
- Dynamic, state of the art claims management system along with sufficient information systems support staff.
- Cost effectiveness of medical and legal cost containment services and activities.
- Overall cost-benefit advantages.

The selection process will be as follows:

1. Minimum Qualification Review:

All organizations that submit materials for review will receive confirmation of receipt. An initial review of all submissions will be completed to confirm that the criteria delineated in the Proposal Format section above are met. If any element of this requested content is not included therein, the City reserves the right not to advance the proposal to the next stage of the selection process.

2. Formal Proposal Review and Scoring Criteria:

Submissions will be reviewed and scored by at least two (2) representatives from Human Resources. The following criteria will be used in review (points are out of 50):

- 10 points possible: All items in Proposal Format are present and provide adequate depth of information.
- 10 points possible: Experience is shown working with public agencies, with Sworn personnel and/or having worked locally to the Walnut Creek, California area.
- 20 points possible: Proposals will be reviewed and scored based on the proposer's ability to meet the selection criteria outlined above.
- 10 points possible: Proposals will be reviewed and scored based on fee for claims administration services and other associated fees.

Top submissions whose materials are considered most directly in alignment with the review criteria will be notified by a City representative.

3. Additional Information Request:

Based on the outcome of this review, the City may require additional information or testing as deemed necessary, including but not limited to interviews with City representatives (either via Zoom or in person), and reference checks. If the TPA is selected as a finalist for consideration, said TPA may be asked to appear, at their own expense, before an evaluation panel to discuss their proposal.

If the City elects to proceed with selection of a TPA, the City will enter into contract negotiations with the selected TPA. The City reserves the right to select a TPA with or without an interview process or to abandon this RFP. The TPA will be selected based on qualifications and demonstrated competence and the contract may not be awarded to the lowest responsible proposer. Based on the selection and negotiation processes, the top-ranked proposer with whom the City is able to successfully negotiate a contract with will be recommended to the City Council for award of a contract. Final selection of a TPA and authority awarding the contract shall be at the sole discretion of the City Council. Any contract resulting from this RFP shall not be effective unless and until approved by the appropriate City officials.

TERMS OF RFP AND OTHER REQUIREMENTS

Respondent understands and acknowledges that the representations below are material and important and will be relied on by the City in evaluation of the proposal. Submission of a response to this RFP shall constitute an agreement to all terms and conditions specified in the RFP.

General Conditions

The City reserves the right, at its sole discretion, to alter, amend, modify or cancel this solicitation at any time, including the modification of the deadlines and schedule and/or the scope of work, or to withdraw this solicitation, in whole or in part, at any time prior to the award of a contract pursuant hereto.

This RFP is not an offer by the City to contract with a proposer responding to this RFP. This RFP does not commit the City to award a grant, enter into an agreement, to pay any costs incurred in the preparation of a proposal for this RFP or any related submittal materials or to procure or contract for any services. Each respondent submitting a proposal in response to this RFP acknowledges and agrees that the preparation of all materials for submittal to the City and all presentations, related costs and travel expenses are the respondent's sole responsibility and the City shall not, under any circumstances, be responsible for any cost or expense incurred by the respondent.

The City reserves the right to: accept or reject any or all proposals, in whole or in part, or to alter the selection process in any way; to issue addenda to clarify or modify the contents of this RFP; to extend, shorten or postpone the selection process for its own convenience at any time; to waive any minor defects, irregularities, informalities, or irregularities in this RFP or in proposals received; to accept or reject any individual subconsultant that a respondent proposes to use; to request additional information and/or clarifications from any or all responders to this RFP at any time; to contact any proposers for additional information; to contact any references provided; to contact any current users of a proposer's services; solicit information from any available source concerning any aspect of a proposal; and to negotiate with any qualified respondents or to cancel the RFP in part or whole at any time.

The City reserves the right to reject any proposal based upon the respondent's prior history with the City or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures. This RFP and the interview process shall in no way be deemed to create a binding contract or agreement of any kind between the City and any respondent. The City is not obligated to select a respondent with no or unsatisfactory related experience.

By submitting a proposal, proposer represents and warrants that it has thoroughly examined and is familiar with work required under this RFP, that proposer has conducted such additional

investigation as it deems necessary and convenient, that proposer is capable of providing the services requested by the City in a manner that meets the stated objectives and specifications as outlined in this RFP, and that proposer has reviewed and inspected all materials submitted in response to this RFP. Once the proposer has been selected, a failure to have read the conditions, instructions, and specifications herein shall not be cause to alter the contract or for selected proposer to request additional compensation. The City and selected Consultant may agree to add additional work to the Scope of Work by a later agreement. The City may elect to stop work at any time in the contract and will pay for work completed to that point on a time and material basis.

Nondiscrimination

By submitting a response pursuant to this RFP, a respondent represents that it and its subsidiaries and any proposed individual subconsultants do not and will not discriminate against any employee or respondent for employment on the basis of race, religion, sex, color, national origin, sexual orientation, ancestry, marital status, physical condition, pregnancy or pregnancy-related conditions, political affiliations or opinion, age or medical condition.

Public Records

All documentation and/or materials submitted with the response/proposal shall remain the property of the City, treated as a public record, and will not be deemed confidential or proprietary. In the event that a proposer desires to claim portions of its proposal as exempt from disclosure as proprietary material or trade secret, it is incumbent upon the proposer to clearly identify those portions as proprietary or trade secret by marking the top of each sheet of the submittal with the following legend:

“CONFIDENTIAL INFORMATION”

If a request is made for information marked “confidential”, the City will provide the respondent who submitted such information with reasonable notice to allow the respondent to seek protection from disclosure by a court of competent jurisdiction.

Please note that although the California Public Records Act recognizes certain confidential proprietary/trade secret information may be protected from disclosure, the City may not be in a position to establish that the information that a proposer submits is a trade secret or proprietary. If a request is made for information marked trade secret or proprietary, and a requester takes legal action seeking release of the materials it believes does not constitute proprietary or trade secret information, by submitting a proposal in response to this RFP, a proposer agrees to indemnify, defend and hold harmless the City, its officials, representatives, agents, and employees, from any judgment, fines, penalties, and award of attorneys’ fees awarded against the City in favor of the party requesting the information, and any and all costs connected with that defense. This obligation to indemnify survives the conclusion of the RFP or City’s award of a contract if any.

Execution of Consultant Services Agreement

By submitting a response to this RFP, the selected TPA agrees to execute the Consultant Services Agreement with the City in the form attached to this RFP as Exhibit C and incorporated herein. Respondents must be prepared to enter into the agreement under the standard terms, accept the indemnification obligations, and be able to provide the required insurance at its sole cost and expense. Any final contract must include the City's standard insurance and indemnification requirements. If the City is unable to negotiate a satisfactory agreement with the top-ranked consultant, with terms and conditions the City determines, in its sole judgment, to be fair and reasonable, the City may elect to negotiate with the next qualified consultant. The City reserves the right to negotiate any and all terms of the Consultant Services Agreement and task orders, including the Term, Scope of Service and Compensation, with any Consultant or no consultants.

The selected Consultant is required to provide a valid City business license number prior to contract approval. Please note that changes to the selected Consultant's project personnel shall not be allowed without prior written approval by the City.

QUESTIONS

Please direct questions regarding this Request for Proposals within the timeframe identified in this RFP to:

Olivia Lamon
Human Resources Analyst
City of Walnut Creek
lamon@walnut-creek.org
(925) 943-5899 ext. 2688

Any irregularities or lack of clarity in the solicitation should be brought to the City's attention as soon as possible so that corrective addenda may be furnished to proposers if deemed necessary by the City. The City may provide addenda to this RFP with answers to questions received, or additional amendments to this RFP based on questions received, within the timeframes specified in this RFP at its sole discretion and in equal treatment of all respondents to this RFP.

EXHIBIT A: Scope of Services and Performance Standards

CLAIMS HANDLING- ADMINISTRATIVE

1. Staffing

The TPA is responsible for providing sufficient and competent staffing to fulfill the contractual requirements. The City will require at least one (1) senior claims examiner assigned to its account. The senior claims examiner(s) will be State Certified, have at least five (5) years of indemnity claims experience, three (3) years of which includes public agency experience with public safety officers and Labor Code 4850 benefits.

Each examiner shall handle a targeted caseload of 150 but not to exceed 165 indemnity claims. Claims assistants, future medical clerk, or junior adjuster(s) shall have an average caseload not to exceed 200 open claims.

Supervisory personnel should not handle a caseload, although they may handle specific issues or a small number of conflict claims.

2. Claim File Set-up

Upon receipt of the Employer's Report of Occupational Injury or Illness, the TPA will prepare an individual claim file within one (1) business day for each claim. Preparation of the claim file shall include entering each new claim into the computer system and establishing a claim number. The file shall be available to the City, including its representatives, claims auditors, and agents, for inspection and will contain all medical and factual information on each reported claim.

3. Plan of Action/ Diary Review

Each claim file shall contain the examiner's plan of action for the future handling of that claim. The plan of action on new claims will be clearly documented in the computer notepad within 14 calendar days of initial claim set up. Such plan of action shall be clearly stated including the reasoning for the plan.

All claim files shall be reviewed by the claims examiner no more than every 45 days for active claims and at least every 90 days for claims that have settled but are open to monitor future medical care. The supervisor shall review all claims within 60 calendar days of initial setup and subsequently monitor activity on indemnity files not to exceed 120 calendar days. Future medical files shall be reviewed by the supervisor at intervals not to exceed 180 calendar days.

The examiner shall distinguish the regular diary review from routine file documentation in the computer notepad. A plan of action will be included and separately labeled in the file notes during a diary review. The plan of action shall include, but not be limited to, the employee's current work status, medical status, review of reserves, and future activity to move the claim towards resolution. Each plan of action will be clearly identified in the computer notepad.

4. Claim Review

It is the City's expectation that the claims examiner and supervisor will be available for a claim review with City Staff on a quarterly basis to review open indemnity claims, including litigated cases. The purpose of the review shall be to outline losses and identify problems, examine reserves, identify current trends, discuss relevant changes in the Labor Code, apply new case law to existing claims, discuss the need for improving or altering claims management, and make recommendations for improvements in communication between the City and the TPA.

5. Medicare Reporting

Proper verification of an employee's status as to Medicare eligibility shall be completed and documented in the claim file at time of settlement evaluation. In those cases where the claimant does meet the eligibility requirements, mandatory reporting to the Center for Medicaid Services (CMS) must be completed directly or through a reporting agent.

CLAIM CREATION

6. Claim File Documentation

All activity, contact, notification, reconciliation, referrals, reviews, verification, etc. shall be clearly documented in the computer notepad within one (1) business day and maintained in the applicable claim file. A copy of all written documentation, notices, letters, reports, etc. will be maintained in the applicable claim file. Use of electronic claim files is preferred with assurance that all claim file documentation can be recreated in hard copy as requested and access provided to the electronic claim files.

7. Employer Contact

The claims administrator shall contact the employer within three (3) business days of receipt of notice of a claim to conduct an initial and meaningful investigation. Such contact with the employer shall be clearly documented in the computer notepad.

Return phone calls to employers shall be made within one (1) business day. Return written/ email correspondence shall be made within no more than five (5) business days of receipt.

8. Employee Contact

In all non-litigated lost time cases, telephone or email contact will be established with the injured employee within 24 hours of the receipt of notice of claim. In cases where the employee has not returned to work, such contact will continue as often as necessary, but at minimum every 30 calendar days, and within three (3) business days after discharge from the hospital or outpatient facility following a surgical procedure. Such contact with the employee shall be documented in an electronic system accessible to the City.

Return phone calls to employees will be accomplished within 24 hours. All correspondence from employees will be responded to within five (5) business days of receipt.

9. Compensability

The compensability determination (accept claim, deny claim, or delay acceptance pending the results of additional investigation) and the reasons for such determination will be made and documented in the file within 14 calendar days of filing the claim with the employer, unless the City authorizes additional time for further investigation.

In the event the claim is not received by the TPA within 14 business days of the filing of the claim with the employer, the TPA shall make the initial compensability determination within seven (7) business days of receipt of the claim.

Delay and denial of benefit letters shall be mailed in compliance with the Division of Workers' Compensation (DWC) guidelines.

In no case shall a final compensability decision be extended beyond 90 calendar days from the City's receipt of the claim form.

Final authority to accept or deny claims shall rest with the City.

10. Investigations

The TPA shall evaluate claims to determine if the claim is a result of Arising Out of Employment/ during the Course of Employment (AOE/COE) upon receipt of the claim. If a decision is made to delay benefits on a claim, the investigation shall be initiated within three (3) business days of the decision to delay. The AOE/COE investigation may include, but is not limited to, assigning out for witness/injured worker statements, initiating the QME/AME process, requesting medical records, etc.

The TPA shall coordinate further investigation of claims, when necessary and appropriate, with licensed investigators. All use of investigatory services related to decisions regarding AOE/COE and sub rosa investigations shall be approved by the City in advance of the assignment. The City shall be kept informed of the scope, results and costs of all investigations. All activities and communication shall be clearly documented in the computer notepad within one (1) business day.

The TPA shall subscribe to the Index Bureau. The examiner shall request a report from the Index Bureau on all new indemnity claims. Subsequent requests should be made every six (6) to 12 months thereafter on all active indemnity claims.

11. Fraudulent Claims

Any claim with suspected fraudulent activity shall be referred to the TPA's special investigation process for further investigation and potential referral to the appropriate authorities. If the TPA

does not have an in-house special investigation process, the claim will be referred to an investigator with the City's prior approval, to conduct further investigation. The City will be notified of the referral and be provided with periodic updates.

12. Reserves

The TPA shall establish appropriate initial reserves within 14 calendar days from receipt of the claim based on the information obtained at the time of claim set up. A copy of the detailed worksheet establishing the initial reserves shall be maintained in the applicable claim file and available for on-line review by the City.

Reserves shall be established based on the facts of the claim and the ultimate probable cost of each claim. All reserve categories shall be reviewed on a regular basis but not less than at least every 90 calendar days, and at the time of any significant event (surgery, P&S/MMI, return to work, etc.) and adjusted accordingly. Such detailed reviews shall be clearly documented in the computer notepad within one (1) business day. Any changes to reserves shall include an explanation of the change. A copy of the reserve worksheet will be maintained in the applicable claim file and available for on-line review by the City.

Indemnity reserves shall reflect actual temporary disability indemnity exposure with 4850 differential listed separately.

CLAIM HANDLING- TECHNICAL

13. Initial Temporary and Permanent Disability Indemnity Payment

The initial indemnity payment or voucher shall be issued to the injured worker together with properly completed DWC notices within 14 business days of knowledge of the injury and disability. In the event that the TPA is not notified of the injury and disability within 14 calendar days of the employer's knowledge, the TPA shall make payment within seven (7) calendar days of notification. Initial permanent disability payments shall be issued within 14 calendar days after the date of last payment of temporary disability.

Prior to a PD Award, advances may be due if the employer has not offered the employee a position paying at least 85% of their wages and compensation at the time of injury or the employee is not employed in a position paying at least 100% of their wages and compensation at time of injury. This shall not apply to salary continuation.

A self-imposed penalty shall be paid on late payments in accordance with Labor Code 4650.

14. Subsequent Temporary and Permanent Disability Payments

Eligibility for indemnity payments or vouchers subsequent to the first payment shall be verified, except for established long-term disability.

A self-imposed penalty shall be paid on late payments in accordance with Labor Code 4650.

15. Provision of Benefits

The TPA shall provide all compensation and medical benefits in a timely manner and in compliance with the statutory requirements of the California Labor Code. The TPA shall compute and pay benefits to injured employees/claimants based upon earnings information and authorized disability periods. The TPA shall review, compute, and pay all informal ratings, death benefits, Findings and Awards, life pensions, or Compromise and Release settlements. However, all such benefits shall be paid from the City's established account as referenced below.

Fiscal handling for indemnity benefits shall be balanced with appropriate file documentation on a semi-annual basis and prior to sending a benefit termination notice to verify that statutory benefits are paid appropriately. In cases of multiple losses with the same person, payments shall be made on the appropriate claim file.

16. Claim Payments

The City has established an account wherein a minimum balance is maintained. This account shall at all times contain sufficient funds to enable the TPA to make timely payments of claims, allocated loss adjustment expenses, and other payments the TPA is authorized to make on behalf of the City. The TPA will be responsible for reconciling the account on a semi-monthly basis (or more frequently if warranted by account activity). The City will rely on the reconciliations to determine deposit amounts to replenish the account in order to maintain the minimum balance. These reconciliations will be performed by the TPA at no additional cost to the City.

The City and the TPA shall determine an individual payment threshold which would require immediate notification to the City prior to the release of funds.

17. Award Payment

Payments on awards, computations, or compromise and release agreements will be issued within 10 days following receipt of the appropriate document.

18. Injured Worker Reimbursement Expense

Reimbursements to injured workers shall be issued within 15 business days of the receipt of the claim for reimbursement.

Advance travel expense payments will be mailed to the injured employee at least 10 calendar days prior to the anticipated date of travel.

19. Overpayments

The TPA shall be responsible for collecting any overpayment of any benefit. In the event that the TPA fails to collect the overpayment, the TPA may be responsible to reimburse the City for the amount of the overpayment. If necessary, a credit shall be sought as part of any resolution of the

claim. The claim notes shall outline the reason and amount of the overpayment and the efforts made to seek reimbursement for the overpayment.

20. Penalties

The City will be advised of the assessment of any penalty for delayed payment and the reason thereof and the TPA's plans for payment of such penalty within five (5) days of assessment.

21. Payments Outside of Coverage Period

No charges to the City for payments made on behalf of persons who were not valid employees of the City on the date of injury shall be accepted for payment by the City.

22. Medical Administration

The TPA, absent a Medical Provider Network (MPN), shall assist the City in identifying an industrial clinic and/or medical providers, if requested.

The physician's office will be contacted within three (3) business days of notice of all new claims to conduct an initial investigation as to the medical aspects of the claim and discuss the City's return-to-work goals. The TPA shall maintain contact with treating physicians to ensure employees/claimants receive proper medical treatment and are returned to full or modified employment at the earliest possible date. Such contact will continue as needed during the continuation of temporary disability to assure that treatment is related to a compensable claim, and clearly documented in the claim file within one (1) business day.

The TPA shall maintain direct contact with medical providers to ensure their reports are received in a timely manner.

The TPA shall arrange medical evaluations when needed, reasonable, and/or requested in compliance with the current California Labor Code. In accordance with Labor Code Section 4601(a), the examiner will provide the employee/claimant with an alternative physician within five (5) business days of the employee's/claimant's request for a change of physician. Such referral shall be clearly documented in the computer notepad within one (1) business day.

The TPA shall make every attempt to utilize medical providers with contracts for negotiated rates to be paid less than the Official Medical Fee Schedule (OMFS) and/or recommended rates established by the Administrative Director of Workers' Compensation. The TPA shall ensure that medical bills are reduced to at least the OMFS and/or recommended rates established by the Administrative Director of Workers' Compensation.

The TPA shall provide, at the City's expense, utilization review and/or professional managed care services on an as-needed basis to injured employees/claimants in compliance with approved Utilization Review guidelines. The use of a service contractor to provide this service is acceptable provided the City's approval is first obtained. Such fees will be charged to the applicable claim file and will be paid from the appropriate category as determined by Self-Insurance Plans.

23. Return-to-Work

The TPA shall work closely with the City to provide assistance in coordinating return-to-work information and duties that are appropriate for injured employees during recovery and prior to their return to regular duties.

The TPA shall consult with the City frequently in those cases where the injury residuals might involve permanent work restrictions and/or retirement potential and assist the City in facilitating an employee's return to modified duty when appropriate.

The TPA shall promptly communicate with the City, no longer than 48 hours after receipt, regarding any return-to-work letters, changes to a claimant's work restrictions and permanent work restrictions.

24. Vocational Rehabilitation (VR)/ Supplemental Job Displacement Benefits (SJDB)

In accordance with all applicable California laws in place at the date of injury, the TPA shall:

- Determine the Qualified Injured Worker/Non-Qualified Injured Worker status;
- Advise the injured worker of their right to VR/SJDB;
- Provide appropriate VR/SJDB;
- Control rehabilitation costs;
- Attempt to secure the prompt conclusion of VR/SJDB; and
- Provide notification to the employer should work restrictions require permanent or modified alternative accommodations.

25. Permanent Disability

The TPA shall explain and assist injured employees in completing the necessary forms to obtain a permanent disability rating.

The TPA shall determine the extent and degree of permanent disability, utilizing as necessary and desirable, consultative ratings from the California Division of Workers' Compensation – Disability Evaluation Unit. The TPA must ensure apportionment is addressed in all claims involving permanent disability. The TPA shall arrange for an informal disability rating whenever possible to avoid Workers' Compensation Appeals Board litigation.

All permanent disability benefit notices shall be sent to the employee as required by the Labor Code.

26. Apportionment

Investigation into the existence of apportionment shall be documented. If potential apportionment is identified, all efforts to reduce exposure shall be pursued.

27. Settlements

The TPA shall act as liaison among claimants, the City, and attorneys in the resolution of claims. The TPA shall obtain the City's authorization on all settlement proposals or stipulations. All requests for settlement authority shall include a written claim summary, estimate of permanent disability, and the defense counsel's comments and recommendations, if any. The TPA is also responsible for evaluating panel counsel services and identifying and reporting problems or poor performance with panel counsel.

28. Case Closure

All indemnity cases, where permanent disability is not an issue, will be closed within 60 calendar days of the final financial transaction or final correspondence to the injured worker as required by law. All indemnity claims, where permanent disability is an issue, will remain open for two (2) years from the last payment of benefits and then closed within 60 calendar days from that date.

LITIGATED CASES

29. Litigated Cases

The City reserves the right to select its own legal counsel. The TPA agrees to contract directly with said legal counsel and provide all necessary and reasonable assistance thereafter.

When defense counsel is not necessary, the TPA shall work closely with the applicant's attorney in informal disposition of litigated cases. All assignments to outside council will be done with the City's authorization and consent. In conjunction with the City, the TPA shall monitor the outside counsel's progress. The TPA shall audit all bills before payments.

Settlement proposals directed to the City shall be forwarded by the TPA or defense counsel in a concise and clear written form with a reason(s) for such recommendation. All preparation for a trial shall involve the City so that all material evidence and witnesses are utilized to obtain a favorable result for the defense.

SUBROGATION

30. Subrogation

The City must pre-approve the pursuit of any third-party action/subrogation claim. If approved by the City, the TPA shall actively pursue subrogation opportunities.

When subrogation is to be pursued, the third party shall be contacted within 14 calendar days with notification of the City's right to subrogation and the recovery of certain claim expenses. If the third party is a government entity, a claim shall be filed with the governing board within six (6) months of the injury or notice of injury.

Periodic contact shall be made with the responsible party and/or insurer to provide notification of the amount of the estimated recovery to which the City will be entitled.

If the injured worker brings a civil action against the party responsible for injury, the TPA shall consult with the City about the value of the subrogation claim and other considerations. Upon receipt of the City's authorization, subrogation counsel shall be assigned to file a Lien or a Complaint in Intervention in the civil action.

Whenever practical and with the authority of the City, the TPA should take advantage of any settlement in a civil action by attempting to settle the workers' compensation claim by means of a third-party compromise and release. If such attempt does not succeed, then every effort should be made through the WCAB to offset claim expenses through a credit against the proceeds from the injured worker's civil action.

EXCESS COVERAGE

31. Excess Insurance

All cases meeting the special reporting criteria established by the City's excess carrier shall be promptly reported as required. The TPA shall fully cooperate with any audit or provide any information required by Municipal Pooling Authority or its excess insurance provider.

32. Excess Reimbursements/Recoveries

The TPA shall be responsible for collecting reimbursements and recoveries from the excess carrier on a quarterly basis. If the claim remains open to monitor future medical care, reimbursements shall be immediately requested when the claim is reviewed semi-annually.

OTHER

33. Loss Runs

The loss run shall be issued by the 15th of the month following the closing date. Any corrections that are requested to be made to the loss run shall be made within 30 calendar days.

Requests for status of claims generated by the City shall be provided within 30 calendar days. The TPA will provide reports on an ad hoc basis as requested by the City.

34. Claims Reporting

The TPA shall maintain all loss information and provide scheduled reporting that may include, but is not limited to:

- Detailed listing and/or summary of all open and closed claims
- Listing of first aid only claims
- Claims cost detail

- Claims by Department and/or locations
- Claim trends
- Check register
- OSHA reports

The TPA shall also generate customized reports at the City's request.

35. OSHA 300 Log

The TPA shall maintain all loss information as required for the Occupational Safety and Health Administration (OSHA) 300 Log and Summary of Occupational Injuries and Illnesses. The TPA shall prepare and submit a complete OSHA 300 log for the City on or before January 30th of each year.

36. Right to Audit

The City or its designated representative is authorized to visit the TPA's processing and/or storage premises for the purpose of performing a claims audit or review, and shall have access to all data, including electronic information, paper documents, microfilm, microfiche, and magnetically stored data which relate to payments or non-payments made by the TPA. Any assistance or service provided in response to a claims audit described above will be rendered at no additional cost to the City.

EXHIBIT B: City's 2022-23 Public Self Insurer Annual Report to the State
of California



Public Self Insurers ER Annual Report

For Fiscal Year 2022-23

September 27, 2023
City of Walnut Creek
1666 N. Main Street
Walnut Creek, CA 94596

FORM AR-2 (1-2016)

State of California

Employer

General Information:

Certificate Number	7172	Period Of Report	Annual
(Period) From	07/01/2022	(Period) To	06/30/2023

Master Certificate Holder:

Name	City of Walnut Creek		
Address 1	1666 N. Main Street		
Address 2		FTIN	94-6000450
City	Walnut Creek	State	CA Zip 94596
State of Incorporation			

State of California

During the reporting period of this report, has there been any of the following with respect to the Master Certificate Holder for any affiliate?

None

Any additions to the Self Insurance Program?

None

Employment and wages paid in current fiscal year:

Number of Employees 410

Total Wages and Salaries Paid \$41,318,560

Addressed Correspondence For Related Self-Insurance Matters:

Company Name City of Walnut Creek

Name Olivia Lamon

Title Human Resources Analyst

Phone (925) 943-5899

Fax

Email Address lamon@walnut-creek.org

Address 1 1666 N. Main Street

Address 2

City Walnut Creek

State CA **Zip** 94596

Web Site

TPA Adjusting Locations:

- Has there been a change in TPA Adjusting Locations during this reporting period that has not yet been reported to OSIP? No
- Have you added any new TPA Adjusting Locations during this reporting period that has not yet been reported to OSIP? No

Record Storage:

Are there open and closed claims stored at a location other than the adjusting location? No

Insurance Coverage:

- 1) During this reporting period, does your company maintain a standard workers' compensation insurance policy to cover any of your California liabilities? No
- 2) During this reporting period, does your company have a specific excess workers' compensation policy in force to cover any of your California liabilities? Yes

	Insurance Company Name	Policy Number	Policy Issue Date
1)	Public Risk Innovation, Solutions and Management	PRISM PE 22 EWC-42	07/01/2022
	Attachment 22-23 Coverage_CCCMR_EWC_Certificates_MPA-Coverage-Certs_CS070122_CE070123.pdf		
	Retention Limit \$500,000		

3) Do you carry an aggregate(stop loss) workers' compensation insurance policy? Yes

	Insurance Company Name	Policy Number	Policy Issue Date
1)	Liberty Insurance Corporation	EW7-64N-444785-012	07/01/2022
	Retention Limit STATUTORY		

Certification By Authorized Representative:

Company Name City of Walnut Creek

Name Olivia Lamon

Title Human Resources Analyst

Phone (925) 943-5899

Fax

Email Address lamon@walnut-creek.org

Address 1 1666 N. Main Street

Address 2

City Walnut Creek

State CA **Zip** 94596

Name of Person Legally Responsible for this Electronic Signature:

Olivia Lamon (Date/Time of Signature) - 09/27/2023 07:28

State of California

Report Location Number: 7172-10-011 A **Identification of Location:** SEDGWICK CLAIMS MANAGEMENT SERVICES, INC. at ROSEVILLE **Certificate Holder:** City of Walnut Creek

CASES AND BENEFITS (to the nearest dollar)				From Date-	07/01/2022	To Date-	06/30/2023
		Incurred Liability		Paid To Date		Future Liability	
Date	#	Indemnity	Medical	Indemnity	Medical	Indemnity	Medical
1) Cases open as of 06/30/2023 reported prior to 2018/19	36	\$2,913,233	\$4,985,473	\$2,655,314	\$2,860,087	\$257,919	\$2,125,386
2) Open and closed Liabilities							
A) All Cases reported in 2018/19	25	\$174,886	\$202,701	\$168,099	\$115,247	\$6,787	\$87,454
2018/19 Cases open	3	\$59,843	\$112,720	\$53,056	\$25,266	\$6,787	\$87,454
B) All Cases reported in 2019/20	34	\$509,980	\$404,143	\$496,490	\$151,689	\$13,490	\$252,454
2019/20 Cases open	8	\$486,108	\$359,368	\$472,618	\$106,914	\$13,490	\$252,454
C) All Cases reported in 2020/21	65	\$581,437	\$333,013	\$506,997	\$211,919	\$74,440	\$121,094
2020/21 Cases open	4	\$317,961	\$250,816	\$243,521	\$129,722	\$74,440	\$121,094
D) All Cases reported in 2021/22	92	\$933,308	\$604,048	\$474,195	\$174,672	\$459,113	\$429,376
2021/22 Cases open	11	\$858,117	\$551,295	\$399,004	\$121,919	\$459,113	\$429,376
E) All Cases reported in 2022/23	46	\$201,222	\$192,186	\$76,808	\$72,460	\$124,414	\$119,726
2022/23 Cases open	16	\$194,097	\$167,882	\$69,683	\$48,156	\$124,414	\$119,726

	\$ Indemnity	\$ Medical
SUBTOTAL	\$936,163	\$3,135,490
TOTAL		\$4,071,653

3) Estimate Future Liability (Indemnity Plus Medical)

4) Total Benefits Paid During 2022/23 (Including all case expenditures). The indemnity amount includes the amount of LC § 4800/4850 benefits paid for the year (total of Lines 11 and 12)

	\$ Indemnity	\$ Medical
	\$382,528	\$321,317

5) Number of MEDICAL-ONLY Cases Reported in 2022/23

	22
--	----

6) Number of INDEMNITY Cases Reported in 2022/23

	24
--	----

7) Total of 5 and 6 (Also entered in 2E above)

	46
--	----

8) Total Number of open Indemnity Cases (All Years)

	74
--	----

9) Number of Fatality Cases Reported In 2022/23

	0
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10) (a) Number of FY 2022/23 claims for which the employer or administrator was notified of representation by an attorney or legal representative in 2022/23

	0
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10) (a) Number of non-FY 2022/23 claims for which the employer or administrator was notified of representation by an attorney or legal representative in 2022/23

	0
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11) Amount from salary continuation payments made pursuant to LC § 4800/4850 that is in excess of the applicable temporary disability rate for the period paid.

	\$89,032
--	----------

12) Amount from salary continuation payments made pursuant to LC § 4800/4850 capped at the temporary disability rate for the period paid.

	\$153,100
--	-----------

Files Uploaded

ALL Open Indemnity Claims (by reporting and by year) reported and with claims: City of Walnut Creek Claims Log.pdf

EXHIBIT C: Standard City of Walnut Creek Consultant Services Agreement

City of Walnut Creek CONSULTANT SERVICES AGREEMENT

THIS CONSULTANT SERVICES AGREEMENT (“Agreement”) is entered into on _____, 2021, between the City of Walnut Creek, a California municipal corporation (“City”), and _____ (“Consultant”).

RECITALS

- A. The City wishes to contract for professional consulting services.
- B. Consultant has the skill, experience, ability, background, certification and knowledge to provide the services. The City has reviewed and accepted Consultant’s qualifications.
- C. Consultant wishes to perform such professional services under agreement with the City.

NOW, THEREFORE, in consideration of the terms in this Agreement, the City and Consultant agree as follows:

AGREEMENT

1. **Services.** Consultant shall provide the professional services described in Exhibit A. The time of performance of the services under this Agreement is important to the City, and the time deadlines identified in Exhibit A shall be strictly construed.
2. **Compensation and Payment.**
 - a. Compensation. As full consideration for the performance of services under this Agreement, City agrees to pay Consultant, and Consultant agrees to accept from City, an amount not to exceed \$_____, including an accounting of time and materials expended for the entire project. Time and materials shall be billed at the rates set forth in Exhibit B.
 - b. Payment. Consultant shall bill City monthly for work completed, and City agrees to pay the invoice within 30 days of receipt.
 - c. Additional Services. Any additional services required beyond those set forth in this Agreement shall be performed only if mutually agreed to in writing by the parties.
3. **Term; Termination.**
 - a. Term. This Agreement shall begin upon execution by both parties and remain in effect until terminated under subsection (b).
 - b. Termination. City may terminate this Agreement without cause at any time and for any reason upon 10 days written notice to the Consultant. Upon receipt of any notice of termination, and if requested to do so by the City, Consultant shall stop work at the stage directed by City and shall deliver all drawings, specifications and documentation developed as of that stage. Consultant shall accept as full payment for services rendered to the date of termination a pro rata share of the total Agreement payment based on the portion of work actually performed.

4. **Professional Efforts.** Consultant shall perform all services required in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices his profession.

5. **Responsible Personnel.** Consultant represents that it is fully qualified to perform the services under this Agreement. Consultant represents and warrants to the City that Consultant has, and at all times during the performance of this Agreement shall, maintain all licenses, permits, qualifications, and approvals that are required for Consultant to practice Consultant's profession. Consultant shall assign only competent personnel to perform services under this Agreement. If the City, in its sole discretion, at any time, wishes the removal of any person(s) assigned by Consultant to perform services, Consultant shall remove any such person immediately upon receiving notice from the City.

[For projects involving Federal funding only; delete for all others.] Contractor is not debarred or suspended under Federal law and shall not use funds provided under this Agreement directly or indirectly to employ or engage the services of any subcontractor during any period of disbarment, suspension or placement in ineligible status under Title 2 Code of Federal Regulations Part 180. Further, Contractor has signed the Debarment and Suspension Certification attached as Exhibit C.

6. **Facilities and Equipment.** Consultant shall, at its sole cost, expense, and liability; furnish all facilities and equipment that may be required for providing services under this Agreement.

7. **Independent Contractor.** Consultant, its agents, employees and independent contractors are and shall at all times remain as to the City wholly independent contractors. Neither the City nor any of its officers or employees shall have any control over the manner by which the Consultant performs this Agreement and shall only dictate the results of the performance. Consultant shall not represent that Consultant or its agents, employees or independent contractors are agents or employees of the City. Consultant is responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Consultant shall obtain no rights to retirement benefits or other benefits that accrue to City's employees, and Consultant hereby waives any claim it may have to those rights. Except as the City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of the City or to bind the City to any obligation.

8. **Interest of Consultant.** Consultant (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the geographical areas likely to be covered by this Agreement, or any other source of income, interest in real property or investment that would be affected in any manner or degree by the performance of Consultant's services under this Agreement. Consultant further covenants and represents that, in the performance of its duties; no person having any such interest shall perform any services under this Agreement.

If Consultant is determined to be a "Consultant" or a "designated employee" within the meaning of the Political Reform Act, Consultant will comply with the requirements of that Act by submitting a Statement of Economic Interest Form 700. (2 Cal. Code of Regs. §18701(a)(2).)

9. **Accounting Records.** The Consultant agrees to maintain all records and other evidence pertaining to costs incurred and work performed, and shall make them available at the Consultant's office during the Agreement period and thereafter for a period of three years from the date of receipt of final payment.

10. **Ownership of Documents and Data.** All data, maps, photographs, and other material collected or prepared under this Agreement, and all documents of any type developed or obtained by Consultant in the performance of this Agreement, shall become the property of the City.

11. **Indemnification.** Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the active negligence or willful misconduct of the City.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses in connection therein) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8. Except as otherwise authorized by Civ. Code § 2782.8, the cost to defend charged to any "design professional" shall not exceed the design professional's proportionate percentage fault.)

The provisions of this section survive completion of the services or the termination of this contract, and are not limited by the provisions of Section 12 relating to insurance.

12. **Insurance.** Consultant shall procure and maintain at its sole cost for the duration of this Agreement the following insurance:

- a. Minimum Scope of Insurance. Coverage shall be at least as broad as:
 - (1) Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001).
 - (2) Insurance Services Office form number CA 0001 covering Automobile Liability, code 1 (any auto).
 - (3) Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.
 - (4) Errors and omissions/Professional liability insurance for all design professionals such as architects, landscape architects or engineers.
- b. Minimum Limits of Insurance. Consultant shall maintain policy limits of no less than:
 - (1) General Liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be double the combined single limit, with completed operations coverage.
 - (2) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.

(3) Worker's Compensation and Employers Liability: Worker's Compensation limits as required by the Labor Code and Employers Liability limits of \$1,000,000 per accident.

(4) Errors and Omissions/Professional Liability: \$1,000,000 per claim and annual aggregate. If Consultant maintains higher limits than the minimum required by this contract, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant.

c. Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City, its officers, officials, employees and volunteers; or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

d. Other Insurance Provisions. The policies shall contain, or be endorsed to contain, the following provisions:

(1) General Liability and Automobile Liability Coverage.

(a) The City, its officers, officials, employees, agents and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents or volunteers.

(b) Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of Consultant's insurance and shall not contribute with it.

(c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.

(d) Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(2) Worker's Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by Consultant for the City.

(3) Errors and Omissions/Professional Liability Coverage. Consultant's insurance shall include minimum Extended Reporting Period Coverage of three years.

e. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A: VII.

f. Verification of Coverage. Consultant shall furnish the City with certificates of insurance and with original endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete certified copies of all required insurance policies, at any time.

13. **Miscellaneous Provisions.**

a. Notice. Any notice to be given under this Agreement shall be given by enclosing it in a sealed envelope, first-class postage prepaid, and depositing it in the United States mail, addressed to the party at the following address. Notice shall be deemed received three business days after mailing, or upon personal delivery.

CITY: City of Walnut Creek
Attn: _____
1666 North Main Street
Walnut Creek, California 94596

CONSULTANT: _____

b. Assignment. This Agreement contemplates the personal services of Consultant and its employees and it is understood by both parties that a substantial inducement to City for entering into this Agreement was, and is, the professional reputation and competence of Consultant. Consultant shall not assign, subcontract or otherwise transfer any rights or obligations under this Agreement without the prior written consent of the City.

c. Business license. Consultant shall obtain a City business license before beginning work under this Agreement.

d. Prohibited Interests. No officer or employee of the City shall have any direct financial interest in this Agreement. This Agreement is voidable at the City's option if this provision is violated.

e. Governing Law; Venue. California law shall govern this Agreement. Any action to enforce or interpret this Agreement shall be brought in a court of competent jurisdiction in the County of Contra Costa, California.

f. Incorporation. The Preamble, the Recitals, Exhibits and all defined terms set forth in both are incorporated into this Agreement by this reference. If there is a conflict between the body of this Agreement and an exhibit prepared by Consultant, the body of the Agreement shall control.

g. Severability. Should any part of this Agreement be declared unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.

- h. Authority. All parties executing this Agreement represent and warrant that they are authorized to do so.
- i. Entire Agreement; Amendments. This Agreement is the entire Agreement between the parties and supersedes all prior negotiations, representations, or agreements, whether written or oral. This Agreement may be amended only by written agreement signed by both parties.
- j. Non-waiver. A party's waiver of any term shall not be deemed a continuing waiver or a waiver of any other term.
- k. Counterparts. This Agreement may be executed in counterparts.

14. **Signatures.**

CITY OF WALNUT CREEK	CONSULTANT
By: _____ City Manager	By: _____
	Its: _____
Approved as to Form:	City business license # _____
By: _____ City Attorney	

Exhibits:

- A Scope of Services (Agreement Section 1.)
- B Rates for time and materials (Agreement Section 2.a.)
- C **Debarment and Suspension Certification (Agreement Section 5.)** *[Note to Staff: For projects involving Federal funding only; delete for all others. There are often many other federal requirements which need to be incorporated. Contact City Attorney's office with your federal funding information, so it can be integrated into the Agreement.]*

Exhibit A
Scope of Services

[to be completed by staff]

Exhibit B
Rates for Time and Materials

[to be completed by staff]

Exhibit C
City of Walnut Creek
Debarment and Suspension Certification
(For projects involving federal funding)

Title 2, Code of Federal Regulations, Part 180, Section 180.335

The Bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated with the Bidder (in the capacity of owner, partner, director, officer, manager):

- (a) Is not currently excluded or disqualified by any Federal agency;
- (b) Has not been convicted within the preceding three years of any of the offenses listed in 2 C.F.R. 180.800(a) (Causes for Debarment), or had a civil judgment rendered against him/her for one of those offenses;
- (c) Is not currently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses listed in 2 C.F.R. 180.800(a); or
- (d) Has not had any public transactions (Federal, State or local) terminated within the preceding three years for cause or default.

If there are any exceptions to this certification, insert the exception in the following space. For each exception, indicate to whom it applies, the initiating agency, and dates of action.

Exceptions will not necessarily result in denial of your participation. (2 C.F.R.180.340.)

Signed: _____

Date: _____

Initials of City staff member checking EPLS (<http://epls.gov>): _____
(2 C.F.R. 180.300.)