

## **SERVICE PROVIDER AGREEMENT**

This SERVICE PROVIDER AGREEMENT (“**Agreement**”) is entered into this \_\_\_\_ day of June, 2021 (“**Effective Date**”), by and between the CITY OF ALAMEDA, a municipal corporation (the “**City**”), and LWP Claims Solutions, Inc., a California corporation, (the “**Provider**”), in reference to the following facts and circumstances:

### **RECITALS**

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. The City is in need of workers’ compensation adjusting and administrative services.
- C. Provider possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.
- D. City and Provider desire to enter into an agreement for workers’ compensation adjusting and administrative services, upon the terms and conditions herein.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the forgoing, which are incorporated herein by reference, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and Provider agree as follows:

#### **1. TERM:**

The term of this Agreement shall commence on the 1st day of July 2021, and shall terminate on the 30th day of June 2024, unless terminated earlier as set forth herein.

This Agreement may be extended on a year-by-year basis, for up to two (2) additional years, at the sole discretion of the City Attorney based, at a minimum, upon satisfactory performance of all aspects of this Agreement.

#### **2. SERVICES TO BE PERFORMED:**

Provider agrees to in all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included in Exhibit A as requested. The Provider acknowledges that the work plan included in Exhibit A is tentative and does not commit the City to request Provider to perform all tasks included therein.

#### **3. COMPENSATION TO PROVIDER:**

- a. By the 7<sup>th</sup> day of each month, Provider shall submit to the City an invoice for the total amount of work done the previous month. Pricing and accounting of charges are to be

according to the fee schedule as set forth as set forth in Exhibit B and incorporated herein by this reference.

**4. TIME IS OF THE ESSENCE:**

Provider and City agree that time is of the essence regarding the performance of this Agreement.

**5. STANDARD OF CARE:**

Provider agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals or service providers, as applicable, in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City.

**6. INDEPENDENT PARTIES:**

Provider hereby declares that Provider is engaged as an independent business and Provider agrees to perform the services as an independent contractor. The manner and means of conducting the services and tasks are under the control of Provider, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Provider's services. None of the benefits provided by City to its employees, including but not limited to unemployment insurance, workers' compensation plans, vacation and sick leave are available from City to Provider, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any compensation due to Provider. Payments of the above items, if required, are the responsibility of Provider.

**7. IMMIGRATION REFORM AND CONTROL ACT (IRCA):**

Provider assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Provider shall indemnify, defend, and hold City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Provider.

**8. NON-DISCRIMINATION:**

Consistent with City's policy and state and federal law that harassment and discrimination are unacceptable employer/employee conduct, neither Provider nor Provider's employee, agents, subcontractors or suppliers shall harass or discriminate against any job applicant, City employee, or any person on the basis of any kind of any statutorily (federal, state or local) protected class, including but not limited to race, religious creed, color, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, pregnancy, political affiliation, military and veteran status or legitimate union activities. Provider agrees that any violations of this provision shall constitute a material breach of this Agreement.

**9. HOLD HARMLESS:**

a. Provider shall indemnify, defend, and hold harmless the City, its City Council, boards, commissions, officials, employees, and volunteers ("**Indemnitees**") from and against any and all loss, damages, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees ("**Claims**"), arising from or in any manner connected to Provider's negligent, reckless or intentional act or omission, whether alleged or actual, regarding performance of services or work conducted or performed pursuant to this Agreement. If Claims are filed against Indemnitees which allege negligence, recklessness or willful misconduct on behalf of the Provider, Provider shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence, recklessness or willful misconduct is not found on the part of Provider. However, Provider shall not be obligated to indemnify Indemnitees from Claims arising from the sole negligence or willful misconduct of Indemnitees.

b. **Indemnification for Claims for Professional Liability Only:** As to Claims for professional liability only, Provider's obligation to defend Indemnitees (as set forth above) is limited as provided in California Civil Code Section 2782.8.

c. Provider's obligation to indemnify, defend and hold harmless Indemnities shall expressly survive the expiration or early termination of this Agreement.

**10. INSURANCE:**

a. On or before the commencement of the terms of this Agreement, Provider shall furnish the City's Risk Manager with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with subsections 10A, B, C and D. Such certificates, which do not limit Provider's indemnification, shall also contain substantially the following statement:

"Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide ten (10) days' advance written notice to the City of Alameda. Attention: Risk Manager."

b. It is agreed that Provider shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to City and licensed to do insurance business in the State of California.

c. Provider shall deliver updated insurance certificates to the City at the address described in Section 17.f. prior to the expiration of the existing insurance certificate for the duration of the term of Agreement. Endorsements naming the City, its City Council, boards, commissions, officials, employees, and volunteers as additional insured shall be submitted with the insurance certificates.

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Provider Initials



A. COVERAGE:

Provider shall maintain the following insurance coverage:

(1) Workers' Compensation:

Statutory coverage as required by the State of California.

(2) Liability:

Commercial general liability coverage in the following minimum limits:

Bodily Injury:	\$1,000,000 each occurrence
	\$2,000,000 aggregate - all other

Property Damage:	\$1,000,000 each occurrence
	\$2,000,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amounts of \$2,000,000 will be considered equivalent to the required minimum limits shown above. Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, and volunteers is required.

(3) Automotive:

Comprehensive automobile liability coverage (any auto) in the following minimum limits:

Bodily injury:	\$1,000,000 each occurrence
Property Damage:	\$1,000,000 each occurrence

or

Combined Single Limit:	\$2,000,000 each occurrence
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Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, and volunteers is required.

(4) Professional Liability:

Professional liability insurance which includes coverage for the professional acts, errors and omissions of Provider in the following minimum limits:

\$1,000,000 each occurrence

(5) Cyber Liability:

Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Provider in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as

regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations with the following minimum limits:

\$1,000,000 per occurrence or claim

Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, and volunteers is required.

**B. SUBROGATION WAIVER:**

Provider agrees that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance, Provider shall look solely to its insurance for recovery. Provider hereby grants to City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Provider or City with respect to the services of Provider herein, a waiver of any right to subrogation which any such insurer of said Provider may acquire against City by virtue of the payment of any loss under such insurance.

**C. FAILURE TO SECURE:**

If Provider at any time during the term hereof should fail to secure or maintain the foregoing insurance, City shall be permitted to obtain such insurance in the Provider's name or as an agent of the Provider and shall be compensated by the Provider for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

**D. ADDITIONAL INSURED:**

City, its City Council, boards, commissions, officials, employees, and volunteers shall be named as an additional insured under all insurance coverages, except workers' compensation and professional liability insurance. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

**E. SUFFICIENCY OF INSURANCE:**

The insurance limits required by City are not represented as being sufficient to protect Provider. Provider is advised to consult Provider's insurance broker to determine adequate coverage for Provider.

**11. CONFLICT OF INTEREST:**

Provider warrants that it is not a conflict of interest for Provider to perform the services required by this Agreement. Provider may be required to fill out a conflict of interest form if the services provided under this Agreement require Provider to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

**12. PROHIBITION AGAINST TRANSFERS:**

a. Provider shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of the City Manager. Provider shall submit a written request for consent to transfer to the City Manager at least thirty (30) days in advance of the desired transfer. The City Manager or his or her designee may consent or reject such request in his/her sole and absolute discretion. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money against the City under this Agreement may be assigned by Provider to a bank, trust company or other financial institution without prior written consent.

b. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Provider, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Provider is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Provider, shall be construed as an assignment of this Agreement. Control means fifty percent or more of the voting power of the corporation.

**13. APPROVAL OF SUB-PROVIDERS:**

a. Only those persons and/or businesses whose names and resumés are attached to this Agreement shall be used in the performance of this Agreement. However, if after the start of this Agreement, Provider wishes to use sub-providers, at no additional costs to the City, then Provider shall submit a written request for consent to add sub-providers including the names of the sub-providers and the reasons for the request to the City Manager at least five (5) days in advance. The City Manager may consent or reject such requests in his/her sole and absolute discretion.

b. Each sub-provider shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance (as applicable) in reasonable conformity to the insurance carried by the Provider. In addition, any tasks or services performed by sub-providers shall be subject to each provision of this Agreement.

c. The requirements in this Section 13 shall not apply to persons who are merely providing materials, supplies, data or information which the Provider then analyzes and incorporates into its work product.

**14. PERMITS AND LICENSES:**

Provider, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses, including a City Business License that may be required in connection with the performance of the services and tasks hereunder.

**15. REPORTS:**

a. Each and every report, draft, work product, map, record and other document produced, prepared or caused to be prepared by Provider pursuant to or in connection with this Agreement shall be the exclusive property of City.



b. No report, information or other data given to or prepared or assembled by Provider pursuant to this Agreement shall be made available to any individual or organization by Provider without prior approval of the City Manager or his/her designee.

c. Provider shall, at such time and in such form as City Manager or his/her designee may require, furnish reports concerning the status of services and tasks required under this Agreement.

**16. RECORDS:**

a. Provider shall maintain complete and accurate records with respect to the services, tasks, work, documents and data in sufficient detail to permit an evaluation of the Provider's performance under the Agreement, as well as maintain books and records related to sales, costs, expenses, receipts and other such information required by City that relate to the performance of the services and tasks under this Agreement (collectively the "**Records**").

b. All Records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Provider shall provide free access to the Records to the representatives of City or its designees during regular business hours upon reasonable prior notice. The City has the right to examine and audit the Records, and to make copies or transcripts therefrom as necessary, and to allow inspection of all proceedings and activities related to this Agreement. Such Records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained by Provider for a period of three (3) years after receipt of final payment.

c. If supplemental examination or audit of the Records is necessary due to concerns raised by City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of this Agreement or failure to act in good faith, then Provider shall reimburse the City for all reasonable costs and expenses associated with the supplemental examination or audit.

**17. NOTICES:**

a. All notices shall be in writing and delivered: (i) by hand; or (ii) sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service; or (iii) sent by overnight or same day courier service at the party's respective address listed in this Section.

b. Each notice shall be deemed to have been received on the earlier to occur of: (x) actual delivery or the date on which delivery is refused; or (y) three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above (Sundays and City holidays excepted).

c. Either party may, at any time, change its notice address (other than to a post office box address) by giving the other party three (3) days prior written notice of the new address.

d. All notices, demands, requests, or approvals from Provider to City shall be addressed to City at:

City of Alameda  
City Attorney's Office  
2163 Santa Clara Ave., Room 280  
Alameda, CA 94501  
ATTENTION: Risk Manager  
Ph: 510 747-4757

All notices, demands, requests, or approvals from City to Provider shall be addressed to Provider at:

LWP Claims Solutions, Inc.  
35 Miller Ave., #214  
Mill Valley, CA 94941  
ATTENTION: Judy Adlam, President and CEO  
Ph: 415-384-0370

All updated insurance certificates from Provider to City shall be addressed to City at:

City of Alameda  
City Attorney's Office  
2163 Santa Clara Ave., Room 280  
Alameda, CA 94501  
ATTENTION: Risk Manager  
Ph: 510-747-4757

**18. SAFETY:**

a. The Provider will be solely and completely responsible for conditions of all vehicles owned or operated by Provider, including the safety of all persons and property during performance of the services and tasks under this Agreement. This requirement will apply continuously and not be limited to normal working hours. In addition, Provider will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. The Provider's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein.

b. The Provider will immediately notify the City within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in connection with the performance of this Agreement. The Provider will promptly submit to the City a written report of all incidents that occur in connection with this Agreement. This report must include the following information: (i) name and address of injured or deceased person(s); (ii) name and address of Provider's employee(s) involved in the incident; (iii) name and address of Provider's liability insurance carrier; (iv) a detailed description of the incident; and (v) a police report.



**19. TERMINATION:**

a. In the event Provider fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Provider shall be deemed in default in the performance of this Agreement. If such default is not cured within two (2) business days after receipt by Provider from City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, City may thereafter immediately terminate the Agreement forthwith by giving to the Provider written notice thereof.

b. The foregoing notwithstanding, City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Provider as provided herein.

c. Upon termination of this Agreement either for cause or for convenience, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination. The obligation of the parties under this Section 19.c. shall survive the expiration or early termination of this Agreement.

**20. ATTORNEYS' FEES:**

In the event of the bringing of any action or suit by a party hereto against the other party by reason of any breach of any covenants, conditions, obligation or provision arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all of its costs and expenses of the action or suit, including reasonable attorneys' fees, experts' fees, all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For the purposes of this Agreement, reasonable fees of attorneys of the Alameda City Attorney's office shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the services were rendered who practice in Alameda County in law firms with approximately the same number of attorneys as employed by the Alameda City Attorney's Office.

**21. COMPLIANCE WITH ALL APPLICABLE LAWS:**

During the term of this Agreement, Provider shall keep fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of Alameda which affect the manner in which the services or tasks are to be performed by the Provider, as well as all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Provider shall comply with all applicable laws, state and federal and all ordinances, rules and regulations enacted or issued by City.

**22. CONFLICT OF LAW:**

This Agreement shall be interpreted under, and enforced by the laws of the State of California without regard to any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

**23. WAIVER:**

A waiver by City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

**24. INTEGRATED CONTRACT:**

The Recitals and Exhibits are a material part of this Agreement and are expressly incorporated herein. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both City and Provider.

**25. CAPTIONS:**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

**26. COUNTERPARTS:**

This Agreement may be executed in any number of counterparts (including by PDF, DocuSign, or other electronic means), each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**27. SIGNATORY:**

By signing this Agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

**28. CONTROLLING AGREEMENT:**

In the event of a conflict between the terms and conditions of this Agreement and any other terms and conditions wherever contained, including, without limitation, terms and conditions included within exhibits, the terms and conditions of this Agreement shall control and be primary.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties have each caused this Agreement to be duly executed on its behalf as of the Effective Date.

COMPANY  
LWP Claims Solutions, Inc.  
a California corporation


  
\_\_\_\_\_  
Judy Adlam  
President and CEO

CITY OF ALAMEDA  
a municipal corporation

\_\_\_\_\_  
Yibin Shen  
City Attorney

  
\_\_\_\_\_  
SheriLynn Erickson  
Secretary and CFO

APPROVED AS TO FORM:  
City Attorney

  
\_\_\_\_\_  
Elizabeth A. Mackenzie  
Chief Assistant City Attorney



## **EXHIBIT A**

### **Services to be Provided Under Service Provider Agreement Between City of Alameda and LWP Claims Solutions, Inc.**

#### **1. Staffing**

Provider is responsible for providing sufficient and competent staffing to fulfill the contractual requirements. The City will require at least one senior claims examiner assigned to its account. The senior 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. Each examiner shall have an average caseload not to exceed 150 open indemnity claims. Claims assistants shall have an average caseload not to exceed 200 open medical only claims. The supervisor shall have a caseload not to exceed 75 open indemnity claims.

#### **2. Forms**

Provider shall provide all forms necessary for the processing of benefits or claims information including the Employer's Report of Injury, Division of Workers' Compensation ("**DWC**") Form 1, medical service orders, return to work slips, lost time information reports, vouchers, checks, and other related forms. These forms shall be provided electronically upon request. The cost of providing these forms shall be included within the contract price.

#### **3. Claim File Set Up and Diary Review**

Upon receipt of the Employer's Report of Injury, Provider will prepare an individual claim file within one working day for each claim.

Initial investigation shall be completed within 14 days from the day of receipt of each claim, with additional time for further investigation as reasonably needed.

Initial plan of action shall be clearly documented in the claim file within 14 days from receipt of the claim. The claim file shall include notes regarding potential exposure, disposition plan, financial transactions, and other relevant information.

All claim files shall be reviewed at least every thirty (30) days for active claims and at least every six (6) months for claims that have settled but are open for the employee's future medical care. The examiner shall distinguish the regular diary review from routine file documentation in an electronic system accessible to City. The supervisor shall monitor the diary reviews by printing a "No Activity" report each month to identify any files that have fallen off the diary system.

#### 4. Employer Contact

Provider shall immediately request the Employer's Report of Injury form when or if the Doctor's First Report of Injury is received first.

If the DWC Form 1 has not been received by Provider within one to two days after receiving the Employer's Report of Injury, the examiner will contact the City to ensure that the DWC Form 1 was given to the employee within one working day of knowledge of the injury. If a DWC Form 1 had not been given to the injured employee, Provider shall immediately send the DWC Form 1 directly to the employee.

Provider shall contact the City within twenty-four (24) hours of receipt of notice of a claim. Such contact with the City shall be documented in an electronic system accessible to City.

Upon knowledge of a catastrophic claim, Provider shall immediately notify Risk Management.

Provider shall report to the City on each open indemnity claim, every ninety (90) days. Such report shall include the examiner's plan of action for the future handling of the claim.

By January 1 and July 1 of each year, written status reports on all open indemnity claims will be provided to the City.

#### 5. Employee Contact

In all non-litigated lost time cases where the employee has not returned to work, telephone or personal contact will be established with the injured employee within twenty-four (24) hours of receipt of notice of claim. Such contact will continue as often as necessary, but at least monthly. Such contact with the employee shall be documented in an electronic system accessible to City.

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

#### 6. Reserves

Reserves shall be established based upon the ultimate probable cost of each claim and clearly identified and separated for Medical, Indemnity, and Expenses. All reserve categories shall be reviewed each time the file comes up on diary. Such review shall be indicated in an electronic system accessible to City. Provider shall document the basis for each reserve calculation.

## 7. Medical Administration

Provider shall select a panel of general practitioners, specialists, hospitals, and emergency treatment facilities to which injured employees should be referred, as approved by the City, and Provider shall regularly review and update the panel.

The physician's office will be contacted within five (5) days of notice of claim. Provider shall monitor treatment programs for injured or ill employees, including review of all medical reports to ensure appropriate medical care, reasonable fees, utilization review certification, and determine need for specialty evaluations. Provider shall make all necessary medical appointments and ensure that all necessary medical reports are provided to the Primary Treating Physician or consulting doctor.

In addition, Provider shall ensure that the treating doctor is complying with the requirements of Title 8, California Code of Regulations (CCR) Section 9785 and file petition to remove treating doctors who fail to comply.

Provider shall integrate managed care services, including but not limited to: Medical Provider Network, Utilization Review, Telephonic Case Management, and Field Case Management products/services. It shall be Provider's responsibility to assure that utilization review and/or managed care services adhere to all of the requirements and deadlines as mandated by the State Labor Code and DWC.

## 8. Medical Payments

Medical bills will be matched to the file, reviewed for correctness, adjusted to the contracted rate or fee schedule and paid within thirty (30) Days unless there is a supportable dispute. The assigned examiner will have ultimate responsibility for approving or disputing payment of medical bills.

## 9. Investigation

Provider 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. Provider shall coordinate further investigation of claims, when necessary and appropriate, with licensed investigators.

Provider 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 to twelve months thereafter on all active indemnity claims.

All use of investigators for AOE/COE and sub-rosa investigations shall be approved by the City in advance of the assignment. The City shall be kept informed on the scope and results of all investigations.



10. 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 three (3) working days of the receipt of the notification of the loss, unless City authorizes additional time for further investigation. Delay of benefit letters shall be mailed in compliance with the Division of Industrial Relations' guidelines.

In no case shall a final compensability decision be extended beyond ninety (90) days from the City's knowledge of the claim. Claim denials must be authorized by City prior to issue of any such denial.

11. Provision of Benefits

Provider shall provide all compensation and medical benefits in a timely manner and in compliance with the statutory requirements of the California Labor Code. Provider shall compute and pay temporary disability benefits to injured employees based upon earnings information and authorized disability periods. Provider 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 by Provider from a trust account established by the City.

12. Initial Indemnity Payment

The initial indemnity payment or voucher will be issued and mailed to the injured employee together with a properly completed DWC A within fourteen (14) days of the first day of disability. All indemnity payments or vouchers subsequent to the first payment shall be verified and issued in compliance with labor codes and State regulations.

13. Subsequent Indemnity Payments

All indemnity payments or vouchers subsequent to the first payment will be verified, except for obvious long-term disability, and issued in compliance with Labor Code Section 4651.

14. Return to Work

Provider shall seek meaningful work restrictions from physicians and provide guidance to City in evaluating employee's ability to return to work, and/or recommend further treatment. Provider shall provide assistance to the City in establishing a modified work program which is appropriate for injured employees while recovering and prior to their return to regular duties.

Provider shall ensure employees are returned to full or modified employment at the earliest possible date.

Provider shall consult frequently with the City in those cases where the injury residuals might involve permanent work restrictions and/or retirement potential.

Provider shall promptly communicate with the City, not longer than 48 hours after receipt, any return to work letters, changes to a claimant's work restrictions, and permanent work restrictions.

15. Transportation Expense

Claimed transportation reimbursement will be mailed within five (5) days of the receipt of the claim for reimbursement. Advance travel expense payments will be mailed to the injured employee ten (10) days prior to the anticipated date of travel.

16. Permanent Disability

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

Provider 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. Provider must ensure apportionment is addressed in all claims involving permanent disability. Provider 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.

17. Litigated Cases

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

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

Settlement proposals directed to the City shall be forwarded by Provider 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.

The supervisor or the examiner shall attend Workers' Compensation Appeals Board hearings, rehabilitation hearings, meetings with defense counsel, and meetings with member cities' staff, departments, and employee groups as necessary and as requested to do so.

18. Settlements

Provider shall act as liaison among claimants, City, and attorneys in the resolution of claims. Provider 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. Provider is also responsible for evaluating panel counsel services and identifying and reporting problems or poor performance with panel counsel.

19. Subrogation

In all cases where a third party is responsible for the injury to the employee, Provider will send a letter to the City indicating they will pursue subrogation unless instructed otherwise by the City. When subrogation is to be pursued, the third party shall be contacted within ten (10) days with notification of the City's right to subrogation and the recovery of certain claim expenses. If the third party is a governmental 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 the injury, Provider 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, Provider 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.

20. Vocational Rehabilitation

Provider shall ensure that City meets its obligations to provide vocational rehabilitation services (for injuries occurring on/after January 1, 1994) or supplemental job displacement benefits (for injuries occurring on/after January 1, 2004).



21. Claim Reconciliation

All claim files shall be reconciled to ensure all medical, indemnity, and expense payments have been made correctly. The reconciliation should verify that payments were made to the correct provider, in the correct amount, and from the correct claim file. The physical file should be verified with the computer information. All open claim files shall be reconciled 1) any time there is a change from one benefit to another (e.g., from temporary disability to permanent disability), 2) when ten indemnity checks have been issued, or 3) at least annually. Proof of the reconciliation should remain in the claim file.

22. Excess Coverage

All cases meeting the special reporting criteria established by the City's excess carrier shall be promptly reported as required.

23. Award Payment

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

24. Penalties

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

25. Case Closure

Provider shall close all claims on which all medical and compensation benefits have been provided within a reasonable amount of time. Claim files shall not be allowed to go without examiner attention for a period of time longer than three (3) months. Medical only claims shall not remain open longer than six months without good cause.

Medical only cases must be closed within sixty (60) days from the date the letter went to employee indicating there is no permanent disability.

Provider will monitor stipulated cases with future medical provisions. Reserves for future medical will be reviewed semi-annually and adjusted according to use.

26. Loss Runs

The loss run shall be issued by the 15<sup>th</sup> of the month following the closing date. Any corrections that are requested to be made to the loss run shall be made within thirty (30) days. The loss run generated shall contain the minimum:

- a. A management summary of all pending claims; report of all claims by current fiscal year by department; current month new claims; closed claims; all claims by date of injury by fiscal year' all claims by payment type; all active claims, alphabetical order; all claims with payment in current month with payment detail in alphabetical order by department. Claim information shall include, location of injury department, a brief description, paid and reserve amounts.
- b. A fiscal year end recapitulation report providing the information referenced in subsection 26.a above, and a "repeater" report listing all claims filed by each employee.

Requests for status of claims generated by the City shall be provided as soon as is practical.

Provider will provide reports on an ad hoc basis as requested by the City.

## 27. Claims Reporting

Provider 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 location;
- Claim trends;
- Check register; and
- OSHA reports.

Provider shall also generate customized report at City's request.

## 28. OSHA 300 Log

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

29. Record Retention

All claim files are the property of the City. As such, they shall be maintained in accordance with statutory time requirements and the City's Record Retention Policy, and shall not be destroyed without the written permission of the City.

Provider shall also maintain all financial Data, supporting documents, and all other records relating to performance and billing for a period in accordance with state and federal law, a minimum retention period being no less than four (4) years. The retention period starts from the date of the submission of the final payment request. Provider shall also protect Data adequately against fire or other damage.

30. Claim Supervision

Provider shall provide supervisory staff who will regularly review the work product of the claims examiners. The supervisor shall review at least ten percent (10%) of each examiner's case load each month to ensure each examiner is following the performance standards outlined in this RFP. In addition, the supervisor shall conduct a regular quarterly review of all open indemnity claims with reserves in excess of \$50,000 and all problem or complex claims.

The supervisor will meet at least quarterly with the City to evaluate open indemnity claims, including litigated cases. The purpose of the meeting 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 communications between Provider and the City.

31. Availability of Personnel

Provider shall at all times, have one or more of the examiners assigned to the City's unit, or in their absence, the supervisor, office manager, or an Officer of Provider shall be available by telephone for emergencies through a 24-hour emergency telephone number.

Provider shall ensure' at least one or more of the examiners assigned to the City's unit is on call and available to the City every business day throughout the term of the contract period.

In the event of a leave of absence for any reason, vacation, or termination of an examiner assigned to the City's account, the City shall be immediately notified, and the examiner's position shall be backfilled by another employed examiner, or a temporary employee within five (5) working days.

The City acknowledges that Provider reserves the right to employ an examiner of their choosing. However, in the event of a vacancy of an examiner on the City's



account, the City shall be allowed to review the resumes of and interview the finalists for the position, and be consulted prior to Provider's final selection.

32. Examiner Training

Provider shall ensure each claims examiner handling the City's claims will receive continuing education training each year. Provider shall annually certify this in writing.

33. Member Services

Provider shall provide special on-site training services annually to personnel from the City to ensure that the people within the City who process workers' compensation claims are effectively carrying out the procedures required for a successful program. A copy of the claims manual should be readily available for review by the appropriate City staff or representative.

Provider shall require its examiners or other Provider personnel, as necessary, to attend the City's regularly scheduled quarterly meetings to report on the general state of the program since the last meeting and on any particular cases of interest to the City.

Provider shall require one of the dedicated unit examiners to meet with City personnel, at the City's location, at least once annually to review program procedures regarding workers' compensation reporting requirements and other program matters that require the timely participation of the City's personnel.

Provider shall require an examiner to be available and readily respond to City's request for assistance with problem cases, including on-site visits to the City.

Provider shall provide the City with information regarding statutes, proposed changes to statutes, and changes to the rules and regulations affecting the City and its responsibility to its excess coverage pool.

Provider shall assist the City in recommending and developing policies and procedures in areas such as pre-employment physicals, work restrictions, and disability retirement, as required by the City.

34. Employee Services

As required, Provider will develop, for review by the City, materials which will provide information and guidance to City employees regarding workers' compensation and the self-insurance program.

As required, Provider will meet with and assist injured employees in resolving problems that arise from injury or illness claims.

35. Risk Management Information System

Provider's Risk Management Information System shall be an internet-based claims system with access 24 hours a day, seven days a week, to review claim files and generate reports in real time. The system should be able to export claims data to word documents and excel spreadsheets. There shall be processes that ensure data integrity and claimant confidentiality.

All costs associated with the purchase, installation, data transfer, and training will be the responsibility of Provider. Provider shall provide user training and product support for any new system for the length of the contract.

## Exhibit B

### Fee Schedule Under Service Provider Agreement Between City of Alameda and LWP Claims Solutions,

#### Inc. Pricing

#### Claims Administration - Life of Contract Claims Administration and Managed Care

##### Annual Claims Fee

Year 1	\$218,000
Year 2	\$223,450
Year 3	\$229,036
Year 4 (optional)	\$234,762
Year 5 (optional)	\$240,631

Services will be billed monthly at 1/12th of annual fee.

#### Services Included in Claims Administration Fee

Claims Administration	Designated Account Manager
Claim Review Meetings	Litigation Management
Swat Team Claim Intake	Reporting to Excess Reinsurer

#### Additional Services

Annual Administration Fee	\$5,000
Bank Charges (Does not include outgoing ACH)	Included
Storage Fees	Included
On-Line 5020 Reporting	Included
Loss Reports	Included
On-Line System Access - up to 4 users	Included - \$250 per year per user in excess of 4 users
Trust Accounting	Included
Preparation and filing of 1099's	Included
Preparation of SIP reports	Included
FROI/SROI Reporting	Included
Medicare Reporting	Included
Ebill	Included
Transition Services	
Data Intake	No Charge
Claims Triage	No Charge

#### Bill Review

#### Fee

Standard Medical Bill Review Fee Schedule	\$8.50 per bill plus PPO Reduction
Reductions	
Inpatient or outpatient hospital or surgery center	\$300 per bill plus PPO Reduction
PPO Reduction	24% of Reduction below Fee Schedule
Bills not subject to Fee Schedule	24% of Reduction

#### Managed Care Programs



## Case Management

Telephonic Case Management	\$102 per hour
Field Case Management	\$108 per hour + incidentals (including mileage, phone, tolls, parking, etc.)

## Utilization Review

Tier 1 - Nurse Review	\$110 Flat Fee
<i>Includes 3 medical request in a single review, set up, phone calls to physician, email notices to adjuster and letters to all parties including network providers. Fee applies to reviews approved by nurse or escalated to physician.</i>	
Tier 2 - Physician Review	\$235 plus nurse charge
<i>Includes 3 medical request in a single review.</i>	
Pharmacy Review	\$385 plus nurse charge
<i>Includes unlimited medical request in a single review.</i>	

## Medical Provider Network Access (LWP Network)

PPO fee for savings below fee schedule and negotiations	24%
<i>There is no separate charge for medical provider access to LWP's proprietary network. Percentage of savings below fee schedule is the only charge.</i>	

## Specialized Network Access

(bill review charges do not apply)

Durable Medical Goods	\$4 per bill network access fee
Expedited Diagnostic Testing	\$4 per bill network access fee
Physical Therapy Network	\$4 per bill network access fee
Pharmacy Benefit Network	\$4 per bill network access fee

*These charges apply only if LWP's programs are utilized.*

## Other Services

Fee

### Investigation

Field Investigation	\$88 per hour
SIU related work	\$98 per hour

### Indexing

Index and OFAC Reporting (ISO Fee passed through)	\$11.10 per report (2021 fee - reviewed annually)
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### Subrogation

Subrogation	15% of gross recovery
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*Fee shall not apply to cases where file is referred to subrogation attorney for handling, and shall apply only to cases where recovery is negotiated by LWP staff. Fee shall still apply to cases where counsel is employed ONLY to draft releases, but where LWP did all negotiations.*

LWP makes every effort not to change pricing. Pricing guarantee for 18 months. Price subject to increase thereafter with advance notice.