



1600 Franklin Street
Oakland, CA 94612

Request for Proposals (RFP)

2021-1511

FOR THIRD-PARTY ADMINISTRATION (TPA) SERVICES
CLAIMS MANAGEMENT OF WORKERS' COMPENSATION BENEFITS,
INCLUDING MANAGED CARE & OSHA REPORTING

Date of Issue: August 11, 2020

Closing Date and Time: September 11, 2020 *no later than 4:00p*

Single Point of Contact (SPC): Michael Daly, Contracts Specialist

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ALAMEDA-CONTRA COSTA TRANSIT DISTRICT

The Alameda-Contra Costa Transit District promotes equal opportunity for all individuals without regard to age, color, disability, marital status, national origin, race, religion or creed, sex or gender, sexual orientation, or veteran status.



**ALAMEDA-CONTRA COSTA TRANSIT DISTRICT
REQUEST FOR PROPOSALS
TPA WORKER'S COMPENSATION SERVICES
RFP NO. 2021-1511**

SECTION A: GENERAL INFORMATION

- 1. Proposal Request.** The Alameda-Contra Costa Transit District ("The District" or the "District") is issuing this Request for Proposal to receive proposals on or before September 11, 2020 *no later than 4:00p Pacific Daylight Time*, at the District's General Office, 1600 Franklin Street, Oakland, California 94612, for a qualified firm (hereafter referred to as "Offeror") to submit a proposal for Third Party Administration (TPA) Services and Claims Management of Worker's Compensation Claims as set out in Section D, Scope of Work. The District invites sealed proposals in accordance with the provisions, specifications, and instructions set forth in this RFP.

This Request for Proposal (RFP) outlines the scope of services requested for the District, as well as information that should be included in the proposal. It includes the District's objectives, describes the general characteristics of the services to be provided, and (*without being exhaustive*) outlines the principal obligations of the District and the selected Offeror. Additional details on the Scope of the goods or services or both are included in the Scope of Work/Specifications section. ***Late proposals will not be considered.*** *All Offerors are cautioned to read the entire RFP, noting insurance and submittal requirements, and to complete all required forms. Failure to provide all requested information may cause the proposal to be considered nonresponsive.*

It is the District's intent to award one (1) contract to (a) responsible and qualified offeror considering overall price, experience and responsiveness to this RFP.

The initial base period of the contract is anticipated to be five (5) years. In addition, the District may elect to exercise the option to extend the contract for up to an additional two (2) years, one (1) year at a time, with options to renew up to a cumulative maximum of two (2) years, as listed on the Cost Proposal Form.

- 2. Schedule.** Following is the projected Schedule of Events that outlines the pertinent dates of which Offerors should be aware; N/A denotes the event is not applicable to this RFP:

Event	Date	Time
RFP Distribution Date	August 11, 2020	
Offeror's Deadline to Submit Questions &/or Clarifications to Designated POC	August 19, 2020	4:00p PDT
District to Issue Response to Questions / Requests for Clarifications (<i>approx.</i>)	August 26, 2020	
Deadline to Submit Proposals	September 11, 2020	

**All dates & times are tentative. The District reserves the right to alter this schedule as it deems necessary or appropriate. Any changes will be issued via an addendum to this RFP. All reference in this RFP to "time" will mean Pacific Standard Time (PST).*

***A Pre-Proposal Conference may be scheduled to answer questions and requests for clarification. The District may, at its discretion, choose to schedule an [optional] virtual pre-proposal conference. Instructions will be provided on the District's website (<http://www.actransit.org/acprnet>) listed on this RFP's project page under Current Procurement Opportunities.*

- 3. Description of the District.** The Alameda-Contra Costa Transit District is a California Special District created by the voters in 1956 and is subject to regulation under Transit District Law, as amended (*see California Public Utilities Code Section 24501 et seq.*). The District provides public transit services to riders throughout western Contra Costa County to southern Alameda County. The District has four (4) operating divisions in addition to the Central Maintenance Facility, Training Center, and the General Office. The District is financed through the receipt of transit fares, property taxes, and state and federal funding.
- 4. Single Point of Contact (SPC).** The SPC for this RFP is identified on the cover page, along with the SPC's contact information. Offeror shall direct all communications related to any provision of the RFP in writing only to the SPC, whether about the technical requirements of the RFP, contractual requirements, the RFP process, or any other provision. *Offerors may not contact any other District personnel regarding this RFP.*

SECTION B: METHOD / DEFINITIONS

- 1. Method.** The District is using the Competitive Sealed Proposal method. The District may use a combination of the methods for Competitive Sealed Proposals, including optional procedures: a) Competitive Range; b) Discussions and Revised Proposals; c) Revised Rounds of Negotiations; d) Negotiations; e) Best and Final Offers; and f) Multistep Sealed Proposals.
- 2. Definition of Terms.** For the purposes of this RFP, capitalized words are defined as defined below or as defined in 49 U.S.C. § 5302 as well as those definitions listed in Circular 4220.1F Chapter I - Items 5 a – ff.
- 3. Inquiry Period.** The Inquiry Period begins on the date of first advertisement of the RFP and continues until the Deadline for Submission. RFP

packages will be distributed to potential Offerors during the Inquiry Period.

4. **Publishing.** This RFP and attachments are published on the District's Procurement website at <http://www.actransit.org/acpronet>. RFP documents will not be mailed to prospective Offerors. Modifications to this RFP, if any, will be made by written Addenda published on the website. Prospective Offeror is solely responsible for checking the website to determine whether or not any Addenda have been issued. Addenda are incorporated into the RFP by this reference.
5. **Pre-Proposal Conference.** The District may schedule an in-person or virtual pre-proposal conference, at its discretion. Attendance at such conferences is optional. Instructions for attendance will be posted on the District's website (<http://www.actransit.org/acpronet>), listed under *Current Procurement Opportunities* and detailed on this RFP's project page.

The purpose of this conference is to allow potential Offerors to ask questions regarding this RFP, the District's competitive contracting process and to discuss / clarify any issues. This is an opportunity for Offerors to raise concerns regarding specifications, terms, conditions, and any requirements of this solicitation. Failure to raise concerns over any issues at this opportunity will be a consideration in any protest filed regarding such items that were known as of the pre-proposal conference. Only answers issued in writing by the District to questions asked before or during the pre-proposal conference are binding on the parties to an awarded contract.

SECTION C: INSTRUCTIONS TO OFFERORS

1. Proposal Submittal

- A. **Registration into The District's Online Supplier System.** If you have not previously completed a one-time registration into the District Online Supplier system, we request you register at this time at: <http://www.actransit.org/purchasing/acpronet/?page=register>. The Registration System is used by District staff to locate your contract(s) and identify companies for bid lists on future purchases. Proposals are not rejected for failure to register, however, if you win a contract and have not registered, you will be required to register in the system. Women, minority-owned, and Veteran-owned firms are asked to self-identify. If you have questions or require assistance, please contact sothenbreit@actransit.org.

- B. **Communications with the District.** All Vendor communications concerning this acquisition shall be directed to the SPC. Unless authorized by the District, no other District official or employee is empowered to speak for the District with respect to this acquisition. Any Offeror seeking to obtain information, clarification, or interpretations from any other District official or District employee (*other than the SPC*) is advised that such material is used at the Offeror's own risk. The District will not be bound by any such information, clarification, or interpretation.

Following the Proposal submittal deadline, Offerors shall continue to direct communications to only the SPC. The SPC will send out information to responding companies as decisions are concluded.

Contact by a vendor regarding this acquisition with a District employee other than the SPC or an individual specifically approved by the District in writing, may be grounds for rejection of the vendor's proposal.

- C. **Questions and/or Clarifications About This RFP.** All inquiries, whether relating to the RFP process, administration, deadline or method of award, or to the intent or technical aspects of the RFP must (a) be delivered to the SPC via email submission; (b) reference the RFP title and number, time and submission due date of the RFP; (c) identify Offeror's name and contact information; (d) refer to the specific area of the RFP needing clarification (i.e. page, section and paragraph number); and (e) be received *no later than* the due date and time for Questions/Requests for Clarifications indicated in *Part I, Schedule of Events*.

Upon examination of this RFP document, Offeror should promptly notify the District of any ambiguity, inconsistency, or error they may discover. Any questions or requests for modifications and/or clarifications of the proposal specifications shall be submitted in writing by electronic transmission to the SPC. Questions and requests for clarifications must be received no later than the due date and time indicated in *Part I, Schedule of Events*.

If the District deems its answer to a question merely clarifies the existing terms and conditions and does not have a material impact on other potential Offerors or the RFP itself, no further documentation of that question is required. If the District deems that its answer to a question has a material impact on other potential Offerors or on the RFP itself, the District will create an addendum to this RFP. All addenda issued by the District become a part of the RFP. Addenda will be delivered to all Potential Offerors using the same method of delivery of the original RFP material. The District accepts no liability in connection with the delivery of any addenda. Copies of addenda will also be made available on the District website at <http://www.actransit.org/acpronet> (*under "Current" and "Pending" Solicitations*). All Offerors must provide written acknowledgement of their receipt of all addenda in their proposal response.

Interpretations, corrections, or changes that are made in any other manner, including oral modifications, are not binding on the District, and Offerors must not rely on them. Any interpretation, change, or correction of said specifications will be issued by Addenda only, duly issued by the District, which shall become a part of the proposal documents. Any amendment to a submitted proposal must be in writing and must be delivered to the District by the RFP submission deadline. All oral modifications of these conditions or specifications are void and ineffective. The District reserves the right to reject any Proposal that contains unauthorized conditions or exceptions.

2. **Submission of Proposals.** To receive consideration, proposals must be delivered *no later than* 4:00p local time on the deadline date indicated in Part I, Schedule of Events. Clocks are located throughout the Procurement Department, at the District's front lobby desk, and can also be verified by visiting <http://www.time.gov>. Requests for extensions of this time and date will not be granted, unless deemed to be in the District's best interest. Final Technical and Price Proposals shall be submitted electronically via email, organized as outlined herein. The electronic copy must contain all required completed and signed forms. *Price information must be submitted as a separate electronic file from the Technical Proposal file.* In order to submit proposals to the District, Offeror must comply with the following:

Offeror's electronic submission must be formatted using Adobe Acrobat (.pdf) or Microsoft Excel (.xls) with the total combined size of the proposal and price information compressed so it does not exceed 10.0 megabytes. File proposals shall conform to the naming convention of: "RFP Number_Company Name" {Ex: "RFP2020-1234_The District"}.

The Technical Proposal must be included as a (.pdf) file; and the Price Proposal must be submitted as a separate Microsoft Excel (.xls) file with all related Attachments. The District will not be responsible for corruption of any file submitted. *If the submitted file cannot be viewed and printed as submitted, it will not be considered.*

Offerors are responsible for verifying successful delivery of electronic transmission to the SPC on/before the time and date specified in Part I, Schedule of Events as *late submissions will not be considered*. When sending proposals by email, Offeror is responsible for marking the email "return receipt" and "notify when read" to ensure the District has received the submission and to be alerted when the email was opened at the predetermined submission opening time. Once Offeror's email is received by the District, Offeror will receive an email acknowledgement notification confirming receipt of the submission. In order to ensure the full response is evaluated, **Offeror must also provide a flash drive and two (2) hard copy versions of the Technical and Price Proposals.**

Alternative to email submission, Offerors may opt to submit final proposals by U.S. mail, private carrier (UPS/FedEx), or hand delivery in sealed envelopes to the SPC's attention on/before the due date and time indicated in Part I, Schedule of Events. Offerors mailing their proposals shall allow for sufficient mail time to ensure receipt of their proposals by the Procurement Department by the time and date fixed for acceptance of the proposals. *(Please note: Offerors choosing to submit proposals via U.S. Mail should allow at least an additional twenty-four (24) hours in the delivery process for internal District mailroom distribution.)* The Offeror should ensure the Cost Proposal is in a separate sealed envelope from the Technical Proposal. All packages shall be clearly marked with the Offeror's Name, RFP Number, Project Title, and the Due Date and Time. **Final proposals received after the time and date specified will not be considered and will be deemed as disqualified.** Proposals will be accepted and logged in at the time and date specified above.

Regardless of method of delivery, each offeror must also submit a flash drive and one (1) original and one (1) copy of their proposal to the District's Procurement Department.

The District will reject any Proposals or unsolicited Proposal addenda that are received after the deadline. The District recommends that Offerors submit Proposals as early as possible. The District will reject late Proposals regardless of the cause for the delay. Submission of a Proposal shall constitute a firm offer to the District for one hundred fifty (150) calendar days from the submission deadline for Proposals.

An Offeror may withdraw its proposal any time before the date and time when proposals are due, without prejudice, by submitting a written request for its withdrawal to the SPC. A telephone request is not acceptable. The withdrawal of a proposal does not prejudice the right of an Offeror to submit another proposal within the time set for receipt of proposals. After the proposal due date, a proposal may be withdrawn only if the District fails to award the contract within the one hundred fifty (150) calendar day period set forth herein, or any agreed-upon extension thereof.

District staff will review all responsive Proposals received and may select one (1) or more finalists identified in the competitive range. These finalists may be invited to an oral interview *if* one is held.

3. **Proposal Content.** Proposals shall be prepared simply and economically, providing a straightforward and concise description of the Offeror's capabilities and approach for meeting the requirements of this RFP. Each Offeror must carefully review the requirements of the RFP and the contents of its Proposal. Once opened, Proposals cannot be altered, except as allowed by the RFP. The Proposal documents shall be divided into sections with cover pages identifying the contents of the sections, and properly formatted for printing. The Proposal must address all requirements set forth in this RFP and documents shall be divided into sections and cover pages identifying the contents of the sections, and properly formatted for printing.

Offeror shall describe the Goods to be provided or the Services to be performed or both. A Proposal that merely offers to provide the goods or services as stated in this RFP *may be considered non-responsive and may not be considered further.*

Proposal submissions should be submitted using the electronic forms provided. Offerors that use alternative documents are responsible for ensuring the content is substantially similar to the District form and the document is readable by the District. The District is not responsible for the accuracy of any information regarding the RFP that was gathered through a source different from the inquiry process described in the RFP. Offerors are responsible for checking directly with the District website for any addendums to this RFP. Addendums to this RFP can change the terms and conditions of the RFP, including the proposal submission deadline. Although the District is not specifying a page limit for the overall Proposal submission, clarity and conciseness are essential and will be considered during Proposal evaluation. All Proposal forms must be submitted in English and must be legible.

The proposal must include copies of all appropriate forms executed and dated by an authorized signatory of the Offeror authorized to legally bind the Offeror. Blue ink is preferred for signatures. Proposals should not include extensive artwork, unusual printing or

other materials not essential to the utility and clarity of the Proposal. Do not include marketing or advertising material in the Proposal, unless requested. Proposals containing unsolicited marketing or advertising materials may receive a lower evaluation score if specific information is difficult to locate.

As a public agency, the District's proposals, responses, and awarded contracts are a matter of public record, except for such data that is classified as nonpublic. Accordingly, public data is available for review through a properly submitted public records request. To redact nonpublic information from your proposal (*under the California Public Records Act (Cal. Govt. Code Sections 6250 et seq.)*), you must make your request within thirty (30) days of the contract award or non-award date.

It is the Offeror's responsibility to carefully examine the terms, specifications and conditions of the Proposal Documents thoroughly, and comply fully with specifications and all attached terms and conditions and shall judge for itself all the circumstances and conditions affecting its Proposal. The District will endeavor to present accurate information, but Offerors are advised to independently verify the accuracy of any information received. Offeror is responsible for providing a full and complete written response, which does not require interpretation or clarification by the District. Offerors must comply with all Federal, State, and City laws, ordinances and rules, and meet any and all registration requirements. Offeror is to provide all requested materials, forms and information at the time of proposal submission. Offeror is responsible to ensure submitted materials properly and accurately reflects Offeror's specifications and offering. Offerors are advised that the District's ability to evaluate proposals is dependent in part on the Offeror's ability and willingness to submit proposals which are well ordered, detailed, comprehensive, and readable. Clarity of language and adequate, accessible documentation is essential. During scoring and evaluation (prior to interviews if any), the District will rely upon the submitted materials and shall not accept materials from the Offeror after the RFP deadline; however, this does not limit the right of the District to consider additional information (such as references that are not provided by the Offeror but are known to the District, or past experience by the District in assessing responsibility), or to seek clarifications as needed by the District.

- A. **Proposal Format and Quantity.** The District wants clear and concise proposals. Proposal shall be organized as described below. Each section must be clearly labeled with pages numbered and separated by tabs. Offerors should, however, take care to completely answer questions and meet the RFP's requirements thoroughly. Failure to provide all the required submittals may render the proposal non-responsive.

All Offerors, including current contract holders, if applicable, must provide detailed and complete responses as proposal evaluations, and subsequent scores, are based solely on the content of this proposal. No assumptions will be made, or values assigned for the competency of the Offeror whether or not the Offeror is a current or previous contract holder. The District will not be liable for any costs incurred by an Offeror in responding to the RFP, regardless of whether the District awards the Contract through this process, decides not to go forward with the Project, cancels the RFP for any reason, or contracts for the Project through some other process or by issuing another RFP.

1. **Tab 1 - Cover Sheet.** A signed cover letter should be on company letterhead clearly stating the title of the proposal subject, the name of the Offeror's firm, business address, telephone, and e-mail address. The following information must be provided:
 - a. Introduce the firm, indicating whether the firm is local, regional, national or international, its legal entity type and including, but not limited to, the approximate number of professional staff employed. Please summarize the firm's qualifications including a brief description of the history, background of the firm and length of time in business under the same name.
 - b. Offerors must be licensed to do business in California. Provide a copy of the firm's business license. Offeror(s) shall possess and maintain all necessary licenses and permits required to conduct its business and will acquire any additional licenses and permits necessary for the performance of the services prior to the initiation of the Work. Contractor must maintain current licenses, permits, etc., to perform the Work described herein and shall comply with all applicable local, county, state and federal laws and ordinances pertaining to, or regulating the Services to be performed under the Contract awarded related to this RFP.
 - c. The name, title, address, telephone number, and e-mail address of the offeror's contact person during the solicitation process. The name, title, address, telephone number, and e-mail address of the offeror's contact person during the solicitation process.
 - d. Name(s) of authorized person(s) who will be authorized to represent Offeror and with the authority to contractually bind the firm.
 - e. A statement that binds the Offeror to the proposed Scope of Work and Cost Proposal for at least one hundred fifty (150) calendar days from the date of submission of the proposal.
 - f. Indicate whether there are any conflicts of interest that would limit the Offeror's ability to provide the requested services. Also please provide a System of Award Management (S.A.M.) number.
 - g. Acknowledge receipt of all addenda by including a copy of the signed addendum.

2. **Tab 2 - Technical Proposal.** Each proposal must include a detailed description of the technical components to specific sections and methodologies, capacity, and strategy to perform the scope of work. Disclose any subcontractors who will be used on the project, including identifying the portions and percentages of the work to be performed per subcontractor. Proposals shall also include a statement of the subcontractors' qualifications. The District reserves the right to reject the successful Offeror's selection of subcontractors for good cause. If a subcontractor is rejected, the Offeror may replace that subcontractor with another subcontractor subject to the approval of such Contractor by the District. Any such replacement shall be at no expense to the District nor shall it result in an extension of time without District approval.

- a. Past Performance, Experience and References: Offeror must provide a description of sound methodologies and list examples of steps, time, and cost savings achieved under similar contracts (*ideally with similar customers*). Provide relevant and/or current information of past performance (*within the past three (3) years*) by identifying the agency, contact person, and contact person's telephone number for whom the service was provided by completing Attachment A – Offeror's Qualifications and Reference Questionnaire.

Proposals must provide details on the qualifications of the Offeror including an organizational chart that identifies the proposed management team as well as provide the size, number of employees, primary nature of the business, and other affiliate businesses or services. Proposals must also provide details on the referenced projects relating to the quality of work, the relevance of the projects, and insight into the work process of the Offeror's team. The relevance of the project includes the make-up of the team as well as the type of project, experience with public transit agencies, or similar public entities. Please include references from other public transit agencies in Attachment A, if available. Offerors shall include all experience with projects that are similar in scope and nature to this project as well as include the level of achieved client satisfaction for past performances.

- b. Technical Ability to Perform Required Services: Offeror must provide a detailed description of its ability to provide the required services including a demonstrated understanding of the RFP requirements, its capacity and its planned strategy to perform the proposed *Scope of Work*. Evaluations will be based on the Offeror's ability to meet the necessary requirements.
- c. Project Approach: Proposals must include an understanding of the project and the proposed work; outline the qualifications of the firm including expertise with public agencies giving special attention to expertise in public transportation; the Offeror's project plan and relevant capabilities with respect to the *Scope of Work*.
- d. Minimum Qualifications: Proposals must demonstrate Offerors meet the following minimum qualifications:
- Offeror possesses a minimum of *five (5) years* of verifiable experience providing similar services as detailed in the *Scope of Work*; and Offeror(s) shall have a minimum of *five (5) years* specialized experience providing services equivalent to the Services identified in the *Scope of Work* in this RFP.
 - Offeror to provide a minimum of *three (3)* professional relevant references (*with specific contact information: name, email, and telephone numbers*) that demonstrate experience in the *Services* as required by this RFP, for which your organization has provided similar services that the District may contact regarding past performance and service experience with your organization. References will be contacted to conduct necessary inquiry to determine responsibility of offeror's past performance.
 - Offeror shall be actively engaged in this line of work for a period of no less than *five (5) years* and have a good record of performance, sufficient financial support, equipment, personnel, and the appropriate facilities to satisfactorily execute the *Services* under the terms and conditions stated herein, if awarded a contract.
 - Proposal must include a statement accepting the standard contract terms.
 - Proposal must include a statement that the required insurance coverage will be acquired and maintained without reservation or exclusion for the duration of the contract (*should Offeror secure the contract award*).

3. **Tab 3 - Cost Proposal.** Offeror shall specify pricing proposal response in the format and on any form(s) provided (Attachment B-Cost Proposal Form), indicating unit prices if appropriate, and attaching additional pages if needed. The Cost Proposal must be submitted in a separate sealed envelope.

Fees must be quoted on a flat rate for each deliverable and service listed in Attachment A for the timeframe listed in this RFP and not be based on position salary and/or benefits. The Attachment B shall be inclusive of all fees for service, profit, overhead, travel, materials, and taxes. The fee shall be presented as a lump sum for each deliverable and service listed in Attachment A for the timeframe listed in this RFP, and must include a detailed cost breakdown of all non-labor costs, hourly rates, expenses, overhead and incidentals, and any out-of-pocket expenses that would be billed separately. In the case of difference between the unit pricing and the extended price, the District shall use the unit pricing. The District may correct the extended price accordingly. Offeror shall quote prices with freight prepaid and allowed. Offeror shall quote prices F.O.B. Destination.

Please provide detailed explanations of any assumptions made in calculating costs in order to provide sufficient information for the District to be able to prepare a detailed cost analysis and comparison. Please also provide a statement

concerning fees, expenses, and cancellation policy. The District expects all costs are included in the overall fee for the contracted services, and there will be no additional expenses billed to the District for any reason. All prices shall be in U.S. Dollars. Proposal pricing must be firm for District acceptance for a minimum of one hundred fifty (150) calendar days from proposal receipt date. In addition to conducting technical evaluations of proposals, cost proposals will also be evaluated.

No Guaranteed Quantities. The District does not guarantee to Offeror, either expressed or implied, any minimum or maximum purchase quantities of services under the contract to be awarded related to this RFP. The District does reserve the right to purchase any greater or lesser quantities than indicated in the solicitation estimate. Offeror shall be bound to the prices on the submitted Pricing Form for the duration of the contract term.

Separate Items or in the Aggregate. Offeror may price separately for any item, unless otherwise provided. The District may make awards on separate items or in an aggregate of several or all items, unless otherwise provided.

Service Delivery. Award of a Contract related to this RFP is contingent upon Offeror's ability to timely deliver the Goods or Services as outlined in the Scope of Work of this solicitation. Any additional fees for such services shall be delineated in writing and agreed upon, in writing, by both parties.

Selected contents of the proposal submitted by the successful Offeror and this RFP will become part of any contract awarded as a result of the Scope of Services contained herein. The selected Offeror will be required to enter into a contract with the District, a form of which is provided as Exhibit 1.

Within seventy-two (72) hours of a District request, Offeror agrees to provide financial records to verify labor rates, overhead rates, and other information should the District determine that such information is required prior to negotiations or award of a contract to determine the proposed price as fair and reasonable.

4. **Tab 4 - Required Forms.** Offeror must submit all required forms, specifically:
 - a. Attachment A – Offeror's Statement of Qualifications and Business References
 - b. Attachment B - Cost Proposal Form
 - c. Attachment C - Prime Contractor and Subcontractor/Supplier Report
 - d. Attachment D - Certification Regarding Lobbying
- B. **Evaluation of Proposals.** The District intends to award a contract with fixed fees/rates to the most qualified, responsible firm submitting a responsive Proposal. Proposals that pass the preliminary screening and mandatory requirements review will be evaluated based on information provided in the proposal. Proposals will be evaluated for completeness and responsiveness to this RFP's stated requirements as detailed in the Scope of Services, minimum qualification requirements, and the weights assigned to each evaluation factor. The proposal will be evaluated in light of the material and the substantiating evidence presented to the District, not on the basis of what may be inferred. The District normally rejects any incomplete or incorrectly formatted Proposal, though it may waive any defects or allow an Offeror to submit a correction. The District also may reject any Proposal in which the technical approach, qualifications, or costs are deemed nonresponsive.

The District will establish an Evaluation Committee to evaluate Proposals. The Evaluation Committee will evaluate and score the Proposals using the criteria and scoring set forth in Section C: Evaluation Criteria. The Evaluation Committee may consult subject matter expert(s) to serve in an advisory capacity regarding any Offeror or Proposal. Such input may include, but not be limited to, analysis of Offeror's financial statements, review of technical requirements, or preparation of cost score data. In evaluating the Proposal, the District will consider the Proposal material submitted, oral interviews (if applicable), client references, and any other relevant information about a given Offeror.

Offeror must receive a minimum score of 35.0 points (50.0%) of the total available points in the technical categories of Experience, Qualifications, Project Approach and Methodology, Past Performance, Project Knowledge and Technical Capabilities to be considered responsive to the RFP. Proposals not meeting the minimum score shall be rejected and not proceed to further Cost or Competitive Range evaluation. The scores for the Technical Proposals and the Price Proposals will be combined to determine the overall score. The Offeror whose Proposal receives the highest overall score will be recommended for award.

Best and Final Offers (BAFO). The District may not consider any Proposal in which the technical approach, qualifications, or costs are not deemed to be within a competitive range. The District reserves the right to seek clarifications, additional information or request modified Proposals and/or best and final offers (BAFO) from one or more Offerors identified by the Evaluation Committee to be reasonably susceptible of being selected for an award. If conducted, the Offeror selected will receive written notification of their selection, a list of specific items to address in the BAFO, and instructions for submittal. The BAFO negotiation may be used to assist the District in clarifying the Scope of Work or to obtain the most cost-effective pricing available. The District's Evaluation Panel will evaluate the BAFO using the same criteria used to evaluate the original Proposals. If an Offeror does not submit a BAFO upon request, the District will deem its immediate previous offer to be its BAFO. The written invitation to participate in BAFO will not obligate the District to commit to enter into a Contract.

The District does not conduct a formal public opening for RFP responses. The District requests that companies refrain from requesting proposal information concerning other respondents until an intention to award is announced, as a measure to best protect the solicitation process, particularly in the event of a cancellation or re-solicitation. With this preference stated, the District shall continue to properly fulfill all public disclosure requests for such information, as required by State Law.

Unless stated to the contrary in the Scope of Work, the District reserves the right to make a partial and/or multiple award(s), in the best interest of the District. Offerors are to prepare proposals given the District's right to a partial or multiple award(s). Further, the District may eliminate an individual line item when calculating award, in order to best meet the needs of the District, if a particular line item is not routinely available or is a cost that exceeds available District funds. District may negotiate with the successful Offeror(s) to finalize the work and specifications consistent with the objectives of this RFP.

The District's Board will consider making awards to the selected Offeror(s) based on the recommendations of the Proposal Evaluation Committee. To qualify for the final evaluation, an Offeror must have been deemed responsive as a result of the criteria set forth below under "Offeror Responsiveness".

Responsiveness and Responsibility Determination. District personnel will review all submittals for initial decisions on responsiveness and responsibility, including responsiveness to minimum qualifications. Those found responsive and responsible based on this initial review will then be reviewed for responsiveness in meeting the minimum qualifications.

a. **Responsiveness Determination.** A Proposal received prior to Proposal Deadline will be reviewed to determine if it is Responsive to all RFP requirements including compliance with the Minimum Qualifications section and the Minimum Submission Requirements section. If the Proposal is unclear, the SPC may request clarification from Offeror. However, clarifications may not be used to rehabilitate a non-Responsive proposal. If the SPC finds the Proposal non-Responsive, the Proposal may be rejected, however, the District may waive mistakes in its sole discretion. All responses are evaluated for Level-One and Level-Two Responsiveness. If a response does not substantially conform to substantially all of the terms and conditions in the solicitation, or if it requires unreasonable exceptions, it may be considered nonresponsive. All proposals must contain suitable responses to the questions in the proposal forms. The following requirements must be satisfied in order to meet *Level One Responsiveness* requirements, which is typically ascertained following opening of the proposals. If these standards are not met, Offeror's response may be disqualified as nonresponsive.

1. Level-One Responsiveness means the response:
 - is received on/before the deadline for submission or it will be returned unopened;
 - is properly addressed and identified as a sealed proposal with a specific RFP number and an opening date/time; and
 - lists the name, title, address, telephone number, and e-mail address of the Offeror's principal contact person during the solicitation process; and
 - contains a separate pricing document (with apparent discounts) and all other forms fully completed, even if "not applicable" is the answer; and
 - includes signed copies of all required forms - completed, dated, and signed and, if applicable, any signed addenda that have been issued in relation to this RFP; and
 - includes a statement accepting the standard contract terms; and
 - contains a flash drive copy of the entire response submittal (*in the formats detailed herein*); and
 - includes two (2) hard copies of the entire RFP submittal (*in the formats detailed herein*).
2. Level-Two Responsiveness (*including whether the response is within the RFP's scope*) is determined while evaluating the remaining items listed under Proposal Evaluation Criteria below. These items are not arranged in order of importance. Each item draws from multiple questions and an Offeror's responses may affect scoring in multiple evaluation criteria. For example, the answers to Industry-Specific Questions may help determine scoring relative to an Offeror's industry positioning and financial strength. Any questions not answered without an explanation will likely result in a loss of points and may lead to a non-award if the Proposal Evaluation Committee cannot effectively review its response.

b. **Responsibility Determination.** District engages in business with only responsible Offerors with sound management, quality control, capacity, experience, financial resources, and ethics to perform its contract. District reserves the right to employ a variety of means to determine the responsibility of potential Offerors, including evaluating its past experience with the Offeror. The Contract may not be awarded to an Offeror that is determined not to be responsible.

The District shall make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed contract. As a prerequisite to an award of Contract, the District will determine whether the Offeror meets the definition of a "responsible Bidder" as set forth in *Public Contract Code Section 1103: "a Bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract."* In making this determination, the District may consider any information about the Offeror, including information submitted in response to this RFP and the Attachment A-Offeror's Statement of Qualifications (*included with the solicitation forms*). Responsibility can be determined at any time during the solicitation process.

To be considered responsible, consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. The Contracts Specialist will check to determine whether the

Offeror is an excluded Party on Sam.gov, (*The District may not award a contract to a Contractor that appears on this list.*), as well as the following: Does the vendor have appropriate financial resources, equipment, facility, and personnel? Has the vendor adequately completed the *Proposer's Statement of Qualifications & Business Reference Questionnaire*? Has the vendor demonstrated its ability to meet the delivery schedule? Has the vendor provided all additional information requested by the District?

The District may reject the proposal of any offeror deemed not to possess the minimum qualifications to provide or perform the work hereunder. The District's determination of an Offeror's responsibility may include the following factors: the experience of the Offeror and its key team members; past conduct and past performance on previous contracts; ability to execute this contract properly; and management skill. The District will make such determination of responsibility based on the Offeror's Proposal, reference evaluations, and any other information the District requests or determines to be relevant. If minimum requirements are not met, the proposal may be disqualified as nonresponsive and nonresponsible.

The District will contact the selected Offerors' references to verify and validate the Offeror's or proposed candidate's past performance. Reference checks indicating poor or failed performance by the Offeror or proposed candidate may be cause for rejection of the proposal. In addition, failure to provide requested reference contact information may result in the District not including the referenced experience in the evaluation process. The reference evaluation will measure the criteria contained in this part of the RFP as it relates to the Offeror's previous contract performance including, but not limited, to its performance with other local, state and federal entities. The District reserves the right to check references other than those provided in the Offeror's Proposal. The District may obtain information relevant to criteria in this part of the RFP, which is deemed critical to not only the successful operation and management of the services, but also the working relationship between the District and the Offeror. Although the District anticipates completing reference checks at this point in the process, the evaluation committee may contact the client references of the companies or other sources in addition to those specifically provided by the company, at any time to assist the District in understanding the services offered. The District reserves the right to request samples from vendors for a specified job.

Part of the Proposal evaluation criteria is the qualifications of the Offeror which include, as a component, the Offeror's financial ability to perform the Contract. The RFP may expressly require the submission of financial statements from all Offerors in the Proposal contents. If the Proposal contents do not make this an expressed requirement, the District may still insist that an Offeror submit audited financial statements for up to the past three (3) years if the District is concerned that an Offeror may not have the financial ability to carry out the Contract. In evaluating an Offeror's financial ability, if requested, the District will review the documentation provided by the Offeror to determine if the Offeror's financial position is adequate or inadequate. If the District believes the Offeror's financial ability is not adequate, the District may reject the Proposal despite its other merits. The District will decide which phases are necessary. The District has the right to eliminate or add phases at any time in the evaluation process. To maintain fairness in the evaluation process, all information sought by the District will be obtained in a manner such that no Offeror is provided an unfair competitive advantage.

The District will determine if an apparent successful Offeror is responsible prior to award and execution of a contract. At any time prior to award, the District may reject an Offeror found to be not Responsible.

- C. Evaluation Criteria.** Each Proposal meeting all Responsiveness and Responsibility requirements will be independently evaluated by members of a Proposal Evaluation Committee. Evaluators will assign a score for each evaluation criterion listed below in this *Section C* up to the maximum points available in the Point and Score Calculation section. Final selection will be evaluated based on the best value to the District after consideration of both the *Technical Proposal* and the *Price Proposal*. The maximum possible points awarded a Proposal will be 100.

Proposals will be evaluated based on each reviewer's determination of the match between the needs of the District, scope of work outlined in this solicitation, and the proposal. The evaluation criteria set forth below will be applied in the determination of competitive range, and final evaluation.

The following criteria will be considered, although not exclusively, in evaluating proposals:

WEIGHT ASSIGNMENT FOR PROPOSAL EVALUATION CRITERIA	
Evaluation Criteria	Weight
1. Experience/Qualifications (Claims Management)	20%
2. Experience / Qualifications (Managed Care Services)	20%
3. Quality of Staffing and Personnel	15%
4. Additional Factors	15%
5. Cost/Fee	30%
TOTAL POSSIBLE WEIGHT	100%

The Evaluation Committee will evaluate each proposal against the requirements stated herein. Additional evaluation factors which may be considered, in whole or in part include: *Past Performance & References (Company Information & Financial Strength), Qualifications & Experience (Industry Requirements & Previous Industry Successes), Project Knowledge (Scope, Timeline, Resources Required, Challenges), Pricing*

(Value-Added Attributes, Products/Services), Technical Capabilities (OSHA reporting protocols, Quality of Claims System, Implementation and Training, Customer Care and Support), and responses to Proposer Questionnaire.

The District reserves the right to select the most advantageous offer by evaluating and comparing factors in addition to cost or price, such that the District may acquire technical superiority even if it must pay a premium price. The term of this evaluation method is "best value"; which also means the expected outcome of an acquisition that, in the District's estimation, provides the greatest overall benefit in response to its material requirements.

- D. **Ranking of Proposals.** The District's Contracts Specialist will average the scores for each Proposal (calculated by totaling the points awarded by each Evaluation Committee member and dividing by the number of members). The Contracts Specialist will combine the average score for each Proposal with Offeror's price score and reference score. After any applicable preference has been applied, the Contracts Specialist will use both technical and pricing evaluation information to rank all Offerors, with the highest scoring Offeror receiving the highest rank, and successive rank order determined by the next highest score. The Contracts Specialist may, in the District's sole discretion, then determine an apparent successful Offeror. *{If additional rounds are conducted, the District will rank advancing Offerors at the conclusion of each subsequent round and may determine an apparent successful Offeror at any time during the solicitation process.}*
- E. **Competitive Range Determination.** Once proposals are scored and tabulated, a "competitive range" will be determined, on the basis of overall rankings according to the weighted criteria set forth herein. Offerors determined to be within the competitive range may be notified in writing to provide additional information clarification and/or. Offerors in the competitive range may be invited for an interview with the District to provide further clarification. In such event, the District will not provide any information to any offeror regarding its relative standing among the others. District may negotiate with all responsible, responsive proposers in the competitive range. The District, at its sole discretion, will determine whether to hold discussions with Offerors who are in the "competitive range" or to award the contract without discussion based on the initial submission.
- F. **Next Steps Determination.** At the conclusion of a round of competition, the District may choose to conduct additional round(s) of competition if in the best interest of the District. Additional rounds of competition may consist of, but will not be limited to:
- **Interviews/Presentations/Demonstrations/Additional Submittals.** Based on the overall scores and proposal rankings, the Evaluation Committee may identify a select number of Offerors to participate in oral interviews and/or in-person presentations/demonstrations. Interviews and/or presentations may be held in person at a location determined by the District or, at the District's elections, may be conducted via videoconference or teleconference. Offerors may only ask questions that are intended to clarify the questions they are being asked. Each Offeror's time slot for oral interviews will be randomly determined. Offerors who are selected shall make every effort to attend. If District representatives experience difficulty scheduling any Offeror for the oral interview, it may result in disqualification from further consideration. Further details will be included in the *Notice of Competitive Range*.
 - **Discussions and Submittal of Revised Proposals.** The Contracts Specialist may request clarification to assist Proposal Evaluation Committee in gaining additional understanding of a Proposal. A response to a clarification request must be to clarify or explain portions of the already submitted Proposal and may not contain new information not included in the original Proposal.
 - **Serial or Simultaneous Negotiations.**
 - **Best and Final Offers.** Offerors in the Competitive Range may be asked to submit Best and Final Offers. The written Best and Final Offer ("Revised Proposal") must be submitted on or before the due date and time set forth in the *Notice of Competitive Range* and must be delivered to the SPC. **Late Revised Proposals Will Not Be Accepted**. If Offeror elects not to submit a Revised Proposal, Offeror's initial Proposal will be accepted as the Best and Final Offer and evaluated accordingly. Best and Final Offers must be submitted in the form of a written amendment to the Offeror's initial Proposal and must comply with the requirements and specifications outlined in the notification.

During the evaluation process and final negotiations, no information will be provided to any Offeror about any other Proposals. Proposals will be evaluated and scored based on a Committee evaluation of the weighted portions listed in the Evaluation Criteria.

- G. **Award Consideration.** District's Evaluation Panel will recommend the proposal which best measures up to the weighted criteria set forth above. The results of the evaluations and the selection of a proposal for an award will be documented. The Evaluation Committee's selection will be recommended to the District's General Manager and/or Board of Directors for approval. The District's General Manager and/or Board of Directors has the option of accepting the recommendation or cancelling the solicitation if the General Manager and/or Board of Directors determines it is in the best interest of the District. If the District chooses to award a Contract, it shall award a Contract to the highest-ranking Responsible Offeror(s) based upon the scoring methodology and process described herein. The District, in its discretion, may award less than the full Scope defined in this RFP. In the event the top two (2) offerors receive the same total score, the contract will be awarded to the offeror who, in the opinion of the District, best meets the District needs.

- H. **Award Notification Process - Intent to Award Notice.** After the District's approval of the award, the District will timely notify the successful Offeror, in writing, that District intends to award a contract to the selected Offeror(s) subject to successful completion of a contract between the parties. The letter will include instructions for final submittals that are due prior to execution of the contract. Notice of award shall be made available to the public through electronic means. The District will also timely notify the unsuccessful offerors of such award. The Contracts Specialist will maintain a complete file record showing the basis for determining the successful Offeror. Should administrative difficulties after proposal opening threaten to delay award beyond the one hundred fifty (150) calendar day proposal validity period, the District may ask the Offerors to extend the proposal validity period, with consent of sureties, if any, to avoid the need for re-advertising.
- I. **Award and Contract.** The District reserves the right to enter into a Contract based on the initial offers received without further discussion of the proposals submitted. The District reserves the right to contract for all or a partial list of services offered in the proposals. This RFP, including any addenda added, and the selected proposal shall become part of the Contract initiated by the District. By submitting a Proposal, Offeror agrees to comply with the requirements of the RFP, including the terms and conditions of the Sample Contract (*Exhibit 1*). Offerors are responsible to review all specifications, requirements, Terms and Conditions, insurance requirements, and other requirements herein and should price proposals with the understanding that all specifications, requirements, terms and conditions are *mandatory* for the Offeror to comply. Submittal of a proposal is agreement to comply without exception, unless modified by the District.

Offeror shall review the attached Sample Contract (*Exhibit 1*) and note exceptions. An Offeror shall not submit its own standard contract terms and conditions as a response to this RFP. Offeror must submit those exceptions to the District during the Questions / Requests for Clarification period set forth herein. The District may reject any Proposal if the Offeror takes substantial exception to the terms and conditions of the Sample Contract, as set forth in Exhibit 1. *No exceptions will be accepted after the submission deadline.* Unless the District agrees to modify any of the terms and conditions, District intends to enter into a Contract with the successful Offeror substantially in the form set forth in the Sample Contract. The District has the right to negotiate changes to submitted proposals and to change the District's otherwise mandatory terms and conditions during negotiations or by providing notice to the Offeror during the contract. It may be possible to negotiate some provisions of the final Contract; however, District is not required to make any changes and many provisions will not be changed. Offeror is cautioned the District believes modifications to the standard provisions constitute increased risk and increased cost to the District. Therefore, District will consider the Scope of requested exceptions in the evaluation of Proposal.

Nothing herein prohibits the District from opening discussions with the highest ranked apparent successful Offeror, to negotiate modifications to either the proposal or the contract terms and conditions, in order to align the proposal or the contract to best meet District needs within the scope sought by the RFP. If the contract negotiation period exceeds thirty (30) business days, or if the selected Offeror fails to sign the final Contract within fourteen (14) business days of delivery, the District may elect to cancel the award and award the Contract to the next-highest-ranked Offeror.

SECTION D: SCOPE OF WORK/SPECIFICATIONS

1. **Project Description.** The District seeks a qualified vendor ("Third Party Administrator", or, "TPA") to effectively and efficiently manage The District's self-insured Workers' Compensation program. This program includes claims and losses arising from incidents first reported by the employee to The District during the term of this agreement but may also include claims and losses first reported by the employee to The District before the effective date of this agreement, pertaining to claims that which were initially assigned to The District's previous administrator(s).
2. **Background.**
 - A. The District currently maintains a \$2,000,000 per occurrence self-insured retention (SIR) for its workers compensation program a purchases excess workers compensation coverage with statutory per occurrence indemnity limits and \$1,000,000 per occurrence and aggregate limits for employers liability. At present, the excess insurance coverage is provided by Safety National Casualty Corporation.
 - B. As of April 30, 2020, there were 795 open Indemnity claims, of which 187 were future medical, and 3 open Medical Only claims pending.
 - C. Transit incurred approximately an average of 354 indemnity claims per year in the last three (3) fiscal years and approximately 62 Medical Only claims per year. Annual Workers' Compensation Indemnity and Medical benefits paid during Fiscal Year 2018/19 totaled \$7,341,046.00.
 - D. The District operates exclusively in California, therefore requiring California claims administration only.
 - E. The incumbent Contractor currently administers The District's Workers' Compensation claims out of its Oakland, California offices.

The current contract with the incumbent Contractor expires October 31, 2020. The successful proposer will be expected to assume administration of the claims no later than November 1, 2020.

3. **Detailed Statement of Work.**



A. Introduction

Alameda – Contra Costa Transit District, hereinafter also referred to as, “The District”, or also, as “The District”, is seeking proposals from qualified Third-Party Administrators (TPA) Outsourced Service Organization to effectively and efficiently manage The District’s self-insured Workers’ Compensation program. This program includes claims and losses arising from incidents first reported by the employee to the District during the term of this agreement but may also include claims and losses first reported by the employee to the District before the effective date of this agreement, pertaining to claims that were initially assigned to the District’s previous administrator(s).

The TPA will handle all existing and newly reported Workers’ Compensation claims filed by District employees. The TPA will administer both new claims reported during the term of its contract and all existing claims, including any prior year claims reopened.

Additionally, the TPA will provide claims services for Occupational Safety and Health Administration (OSHA) reporting, claims intake; value-added options in Managed Care programs; and for the development and implementation of an innovative web-based system for claims intake and reporting.

Workers' Compensation Program Objectives:

- To ensure that all workers' compensation claims filed by District employees are adjudicated on a timely basis by claims adjusters licensed by the State of California and administered in accordance with the State of California Workers' Compensation Act.
- To ensure that employees sustaining work related injuries or illnesses are provided with quality medical care and treatment in a timely manner and that claimants receive appropriate medical and rehabilitative services enabling maximum medical recovery and a safe and expedient return to work as early as possible.
- To develop and implement strategies that reduces the frequency and severity of claims.
- To maximize the usage of technology tools to enhance service delivery, reporting capabilities and reduce redundant manual processes.
- To refine and enhance previously developed initiatives in managed care to contain program costs.
- To provide ongoing review of existing practices and implementation of best practices to minimize the District’s workers’ compensation program costs and ongoing liabilities .
- To maintain regulatory compliance with applicable State, Federal and local reporting requirements for all facets of the program, including but not limited to the Workers’ Compensation Program and OSHA reporting requirements.
- The Scope of Work for all Third-Party Administration Outsourced Services will be performed in accordance with the laws, rules and regulations of the State of California and any special requirements of the District.

B. Current Volume

1. Below is the District’s volume for the specified services for the past three fiscal years:

Period	Bill Review		Field Case Management	Utilization Review
	Gross Charges	Bill Volume	Total Referrals	Total Reviews
FY 2016-2017	\$3,525,989	5087	42	1,803
FY 2017-2018	\$8,545,840	12,148	52	1,613
FY 2018-2019	\$7,205,460	11,176	47	1,578

C. Minimum Requirements

1. Candidate Requirements:
 - a. TPA must have an administration office located within reasonable proximity of no more than 40 miles from the District’s General Office at 1600 Franklin, Oakland, CA 94612.

- b. The firm must participate in the District's Professional Services Contract process.
- c. The firm must possess the required licenses, certifications and insurance to perform services in every area designated in the specifications stated herein.
- d. The firm must have a minimum of 10 years of experience providing workers' compensation program administration for self-insured public agencies in the State of California.
- e. The firm must be able to manage a dedicated account providing a staff which consists of a supervisor, six (6) senior claims examiners and two (2) claims assistants that are completely dedicated to the District.
- f. The TPA shall provide the District with information regarding statutes, proposed changes to statutes, and changes to the rules and regulations affecting the District.
- g. The proposer will provide the most efficient, state of the art equipment for its own office personnel assigned.
- h. The TPA shall provide special onsite training services when requested by the District to ensure District personnel process workers' compensation claims effectively, carrying out the procedures required for a successful program.
- i. TPA shall require an examiner to be available and readily respond to District staff's request for assistance with problem cases, including on-site visits if necessary.
- j. TPA will hold quarterly status meetings and annual stewardship meetings.

2. Staffing Requirements:

- a. Proposers are being asked to develop a cost-effective staffing structure that will adequately support the needs of this program. The District reserves the right to negotiate and approve the final staffing plan and any cost associated with any changes.
- b. A dedicated "Claims Supervisor" must be assigned to work on the District's account exclusively. Supervisors on the District's account shall not be assigned a caseload.
- c. The Senior Claims Examiners must be dedicated to the District's account exclusively. The TPA will provide the District, before the start date of the contract, with a roster of six (6) Senior Claims Examiners and two (2) Claims Assistants, including if applicable, specialties such as subrogation and medical only.
- d. The Senior Claims Examiner shall have an average caseload not to exceed 150 open indemnity claims. Open Indemnity claims include future medical claims.
- e. The TPA shall provide a monthly caseload report to designated District personnel electronically within five (5) business days of closure of the previous month.
- f. The District will have final approval of any staff replacement or new hire decisions. In addition, the District will have the right to request removal of personnel assigned to this account. Removal will take effect within 30 days of written request.
- g. The TPA will hire a temporary claims examiner at its own expense when an examiner or supervisor's desk has been vacant for more than ten (10) consecutive working days. This will be without regard for the reason of the vacancy.
- h. The TPA shall ensure staff who is assigned to the District's dedicated account is available to the District and its staff every business day (excluding holidays) between the hours of 8:00 a.m. and 5:00 p.m. throughout the term of the approved contract between the District and the TPA. The TPA shall provide direct contact phone numbers to enable the District to contact supervisor and senior claims examiners.
- i. The TPA shall annually certify to the District that each claim examiner handling the District's claims follows all legal and regulatory licensing and continuing educational requirements as presently or in the future shall be promulgated and required by the State of California. Where required by law or regulation, copies of all such certifications shall be provided at least annually by the TPA to the District.
- j. The TPA shall have previous experience managing an Alternative Dispute Resolution program in California.

3. Claims Management:

- a. The TPA shall provide all forms necessary for the processing of benefits or claims information including the Employer's Report of Injury (5020 Form), DWC-1 Form, return to work slips, vouchers, checks, and other related forms. These forms shall be provided electronically if requested. The cost of providing these forms shall be included within the contract price.

- b. Upon receipt of the Employer's Report of Injury, the TPA will prepare an individual claim file within two (2) working days for each claim. Preparation of the claim file shall include entering each new claim into the claims system and establishing appropriate reserves.
- c. Future medical claims shall remain open for two (2) years from the last payment of benefit. Reviews shall be documented in the claim notes to include settlement information, future medical care outline, last date and type of treatment, name of excess carrier, excess carrier reporting level, and excess carrier reporting history.
- d. The TPA will provide on-site file reviews quarterly, if requested. Other periodic on-site file reviews will include monthly "chart reviews" with select Medical Clinics or physicians along with District staff. All reviews will be based upon the needs of the District.
- e. Reserves shall be established based upon the ultimate probable cost of each claim. All reserve categories shall be reviewed on a regular basis but at least every ninety (90) days. Such review shall be indicated in the claim system's notes. Any changes to reserves shall include an explanation for the change.
- f. Escrow Account
 - i. the District has established an escrow account, which shall always contain enough funds to enable the TPA to make timely payments of claims, allocated loss expenses, and other amounts the TPA is authorized or required to make on behalf of the District. The TPA shall conduct yearly escrow analysis, at no additional cost to the District, to determine the enough funding level needed to meet its financial obligations
 - ii. TPA will also provide the following reports and any other financial reports at no additional cost to the District:
 - Monthly Check Register
 - Monthly Variance Report
 - Monthly Reserve Report
- h. Each claim file shall contain the examiner's plan of action for the future handling of the claim. Such plan of action shall be clearly stated including the reasoning for the plan in examiner's claim notes. The plan of action will be updated at least every thirty (30) calendar days and clearly identified in the claim system's notes.
- h. Within five (5) days of knowledge of a need for an investigation, the TPA shall conduct a complete and timely investigation to determine claim compensability, nature and extent of injuries, apportionment issues and subrogation potential.
- i. The TPA shall subscribe to the Index Bureau. Costs to subscribe to Index Bureau shall be included in proposed pricing structure. The examiner shall request a report from the Index Bureau on all new indemnity claims. Subsequent requests should be made every six (6) to twelve (12) months thereafter on all active indemnity claims.
- j. 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 clearly documented in the claims system's notes within five (5) working days of the receipt of the notification of the loss.
- k. Delay or denial of benefit letters shall be mailed in compliance with the Division of Industrial Relations' guidelines. The TPA shall notify the District of delay or denial of any claim.
- l. Payments
 - i. 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 temporary disability benefits to injured employees 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.
 - ii. The initial indemnity payment will be issued and mailed to the injured employee together with properly completed notices within fourteen (14) days of the first day of disability. Late payments must include the 10% self-imposed penalty in accordance with Labor Code Section 4650. Penalties must be reported to the District.
 - iii. All indemnity payments subsequent to the first payment will be verified, except for obvious long-term disability, and issued in compliance with Labor Code Section 4651. The TPA shall bear the

- cost of any late payment that is due to its own activity. Late payments must include the 10% self-imposed penalty in accordance with Labor Code Section 4650.
- iv. 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
 - v. Late payment of all benefits must include the self-imposed penalty in accordance with California law. The District will be provided a listing of any administrative penalties paid during the month, which were the responsibility of the TPA, and a check from the TPA payable to the District for reimbursement.
 - vi. Payments on awards, computations or Compromise and Release agreements will be issued within the required time limits. Those settlements that require board approval shall be submitted to the District in a timely manner for Board review.
 - vii. Medical bills will be reviewed for correctness, approved for payment, and paid within time limits established by Labor Code section 4603.2. If all or part of the bill is being disputed, the TPA will notify the medical provider, on the appropriate form letter, within time limits established by Labor Code 4603.2.
- m. Return to Work
- i. The TPA shall aid the District in returning injured employees to modified duty while recovering and prior to their return to regular duties.
 - ii. The TPA shall consult frequently with the District in those cases where the injury might involve permanent work restrictions and/or retirement potential.
- n. Permanent Disability
- i. The TPA shall explain and assist injured employees in completing the necessary forms to obtain a permanent disability rating.
 - ii. The TPA shall determine the nature and extent of permanent disability and arrange for an informal disability rating whenever possible to avoid Workers' Compensation Appeals Board litigation.
 - iii. All permanent disability benefit notices shall be sent to the employee as required by the Labor Code.
- o. Vocational Rehabilitation
- i. Determine the Qualified Injured Worker/Non-Qualified Injured Worker status;
 - ii. Advise the injured worker of his/her right to rehabilitation benefits; and
Determine eligibility for and authorize supplemental job displacement benefits as necessary pursuant to Labor Code Section 4658.5, as well as all Vocational Rehabilitation benefits.
- p. All claim files shall be reconciled to ensure all indemnity payments have been made correctly. The reconciliation should verify that payment amounts were correct, paid on the appropriate claim file, and all benefit notices were issued accordingly. The physical file should be verified with the computer information. All open claim files shall be reconciled at the time of a request for settlement authorization and at the time of submission for closure. Proof of the reconciliation should remain in the claim file.
- q. Excess Insurance
- i. The TPA is the reporting agency for all Excess carrier notification and shall identify and report to the excess carrier(s), with a copy to the District, all applicable policy reporting levels and criteria. All penalties, forfeitures or disqualifications imposed as a result of late reporting or non-compliance will be the responsibility of the TPA.
 - ii. Any case that has the potential to exceed or have reached 50% of the District's self-insured retention shall be reported to the District and the excess insurer in accordance with the reporting criteria established by the excess insurer. All cases that meet the established reporting criteria are to be reported to the District. All cases that meet the established reporting criteria are to be reported within five (5) days of knowledge in which it is known the criterion is met.
- r. The Third-Party Administrator shall pay fines and/or penalties imposed by the State of California and/or federal government for violations of law and/or regulations arising from acts or omissions of the TPA, including Medicare set-aside violations. Furthermore, the TPA agrees to indemnify, defend and hold the District harmless from all claims, demands, costs, fees (including attorney fees), judgments and

liability asserted against the District by a third party which arise out of an act or omission by the TPA in the performance or non-performance of this Contract.

- s. The TPA account supervisor must review all medical only claims open beyond ninety-(90) days from the date of entry by the TPA, for potential closure or conversion to indemnity claim status. The TPA will monitor stipulated cases with future medical provisions. Reserves for future medical will be reviewed semiannually and adjusted accordingly.
- t. The TPA shall maintain all loss information as required by the Workers' Compensation Insurance Rating Bureau. The TPA shall assist in the preparation of all reports that are now or will be required by the State of California or other government agencies with respect to self-insurance programs.
- u. The TPA shall record and maintain a file of all industrial injuries reported. Such files shall be made available to the District or its designated representative for inspection or audit upon request.
- v. All claim files shall be maintained in accordance with statutory time requirements and the District shall be notified prior to any destruction of files.
- w. The TPA shall be responsible for the storage of closed files. All claim information and associated data are property of the District.

4. Alternative Dispute Resolution (ADR) Carve Out Program

Alternative Dispute Resolution (ADR) "Carve-Out" Program is an alternative to the traditional approach to resolving workers' compensation claims. With ADR, an injured worker will report the injury and then use the services a professional neutral Ombudsperson (Member Advocate) who is knowledgeable in workers' compensation law to quickly determine if the injury is work related. The Member Advocate will recommend to the injured worker the appropriate medical treatments and other benefits as set forth in the carve-out agreement

- a. As the District enters a new TPA contract, the District will also in the near future enter into an agreement with District employees and retirees who are, or upon retirement, were members of Amalgamated Transit Union (ATU) Local 192 as determined by the Union to offer an Alternative Dispute Resolution (ADR) "Carve-Out" Program.
- b. The TPA will be required to work in collaboration with the ADR program and staff when necessary. The TPA dedicated staff will also be required to attend all ADR trainings available, which will be facilitated by the ADR Director who is contracted with the District and ATU Local 192.
- c. The ADR program allows the District, with ATU Local 192 to utilize ADR to provide medical benefits and adjust and settle claims for workplace injuries. The program will have customized procedures for resolving disputes that vary from the statutory procedures for settling claims for injured workers that are set forth in the CA Labor Code. The ADR program will provide the injured worker with benefits that are at least equal to the benefits required by the Labor Code
- d. The ADR program will include but not be limited to the following positions and committees:
 - i. ADR Joint Committee: responsibilities include but are not limited to overseeing program operations. The Joint Committee consist of three (3) members selected by ATU Local 192 and three (3) members selected by the District.
 - ii. Dispute Resolution Committee: the committee is comprised of the ADR Director, and one Joint Committee member each from ATU Local 192 and the District. This committee is utilized when disputes arise between the members of the Joint Committee where action must be taken to administer the program and cannot be resolved.
 - iii. ADR Director: responsibilities include but are not limited to overseeing the work of the Ombudsperson (Member Advocate) and ADR professionals on an ongoing basis.
 - iv. Member Advocate (MA): responsibilities include but are not limited to regarding the District and the injured worker in performing his/her usual and customary duties. The MA will provide aid, counsel, and advocacy for an injured worker, to establish common interests with the District so that disputes can be prevented or efficiently resolved within the ADR program
 - v. Arbitrators/Mediators: responsibilities included but are not limited to adjudicating all disputes between the injured worker and the District arising out of the submission and processing of Workers' Compensation claims covered by the ADR Agreement.
- e. ADR Program will apply to all occupational injuries or illnesses occurring or filed, on or after a future date that will determined by the District, to members of ATU Local 192, as agreed to by the District and

the Union. It is the intent of the parties to replace all dispute resolution procedures set forth in the California Labor Code with those dispute resolution procedures outlined in the ADR Agreement to the greatest extent allowed by law.

- f. Any retired or active employee with an active or pending claim filed with the WCAB before the effective date of the ADR program, may be permitted to "opt in" to the ADR program. Upon written request by the retired or active employee to the District and the ADR Director of the intent to participate in the ADR program; the ADR Director shall take all necessary and appropriate steps to evaluate the feasibility of transitioning the previously filed claim(s) and proceedings to the ADR program, including conferring with the District and the Union on the request.
- g. As a condition of a retired or current employee's participation in the ADR program, the Joint Committee shall establish conditions and requirements for participation including, but not limited to, dismissing any and all pending applications with the WCAB, executing written acknowledgements of the terms of the ADR Agreement and waivers of certain procedural Workers' Compensation rights. The ADR Director shall make recommendations to the Joint Committee as to whether a previously filed claim shall be accepted into the ADR program
- h. Further, the ADR program applies to injuries, as defined by Workers' Compensation Law, claimed by:
 - i. Active employees who are injured on or after the commencement date of this agreement as defined by the Joint Committee;
 - ii. Active employees who were injured before the commencement date of this agreement who would like to "opt in" to this program;
 - iii. Retirees who, while active employees, made a claim alleging injury or illness;
 - iv. Retirees who, while active employees, made a report, consistent with District policy, of an industrial incident that may lead to injury or illness; and
 - v. The ADR Agreement does not cover post-retirement amendments to claims filed prior to the term of the ADR Agreement.
- i. In any conflict, the provisions of the ADR Agreement shall take precedence over the provisions of the California Labor Code, but only so far as permitted by Labor Code Section 3201.7.
- j. This program shall be used in place of the filing of an application with the State of California Workers' Compensation Appeals Board ("WCAB") for any injuries or claims that would otherwise be subject to the initial jurisdiction of the WCAB
- k. This program is the sole means of dispute resolution, and no dispute shall proceed to the WCAB until it has completed the processes defined and established by the ADR Agreement.
- l. Independent Medical Evaluators will be selected and approved by the Joint Committee to evaluate and report on any disputed medical/legal issues. Medical/legal issues are those that require a medical determination over a dispute, such as the extent of any permanent disability that results from an injury or whether an injury is related to work. Determinations of the IME Medical-Legal Evaluator are subject to mediation, arbitration, and reconsideration by the state Workers' Compensation Appeals Board
- m. Independent Medical Evaluators skilled in medical treatment issues will be selected and approved by the Joint Committee to address disputes over what medical treatment is necessary. These doctors will be allowed to evaluate the injured worker and create a treatment plan in collaboration with the employee's treating physician. Determinations of the IME-Medical Treatment Evaluator are subject to mediation.
- n. the District Medical Provider Network will continue to provide medical care for injured worker unless they have a predesignated physician.

5. Required Contacts:

- a. The TPA shall initiate a three (3) point contact with the District's manager/supervisor, injured employee, and medical provider within three (3) working days from receipt of claim. All claim files shall be reviewed at least every thirty (30) calendar days for active claims and at least every six-(6) months for claims that have settled but are open for future medical care. 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 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
- b. Employer Contact

- i. The TPA shall contact the District within one (1) working day of receipt of notice of a "lost time" claim by any source. Such contact with the District shall be documented in the examiner's claim notes after the claim has been created in the system.
 - ii. The TPA shall request the Employer's Report of Injury form when or if notification of an injury or incident by any source is received first (i.e., Application of Adjudication, notice of legal representation, and Doctor's First Report of Injury, etc.).
 - iii. The TPA will confirm the DWC-1 Form was given to the employee within one (1) working day of knowledge of the injury. If there is no evidence the form was provided, the TPA will provide the form with the initial contact letter to the employee within three (3) business days of receiving the claim.
 - c. Employee Contact
 - i. 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 one (1) working day of receipt of notice of claim. Such contact will continue as often as necessary, but at least monthly until the employee returns to work. Such contact with the employee shall be documented in the claim system's notes
 - ii. Return phone calls to employees will be accomplished within one (1) working day. All correspondence from employees will be responded to within five-(5) days of receipt.
6. Medical Administration
 - a. The TPA shall use the District's Medical Provider Network with the established panel of general practitioners, specialists, hospitals, and emergency treatment facilities to which injured employees should be referred, as approved by the District, and the TPA shall regularly review and update the panel and the effectiveness of the panel.
 - b. The physician's office will be contacted within five (5) days of notice of all new indemnity claims. Such contact will continue as needed during the continuation of temporary disability to assure that treatment is related to a compensable injury or illness. All contact shall be documented in the claims system's notes.
 - c. The TPA shall maintain contact with treating physicians to ensure employees receive proper medical treatment and are returned to full or modified employment as soon as possible.
 - d. The TPA shall maintain direct contact with medical service providers to ensure their reports are received in a timely manner.
 - e. The TPA shall arrange medical evaluations when needed, reasonable, and/or requested in compliance with the current Labor Code.
 - f. The TPA shall ensure that medical bills are reduced to the recommended rates established by the Administrative Director of the California Division of Workers' Compensation. The use of a service contractor must be approved by the District. The District shall pay for the use and benefits of the services provided.
 - g. The TPA shall ensure that utilization review and/or professional managed care services will be provided on an as needed basis to injured employees by providers approved by the District.
7. Litigated Cases:
 - a. The District's designated staff shall be alerted to the need for outside counsel as soon as possible, and the examiner shall appoint an attorney who is on the District's Panel.
 - b. When defense counsel is not necessary, the TPA shall work closely with the applicant's attorney in informal disposition of litigated cases.
 - c. Settlement proposals directed to the District shall be forwarded by the TPA or defense counsel in a concise and clear written form with a reason(s) for such recommendation.
 - d. All preparation for a trial shall involve the District so that all material evidence and witnesses are utilized to obtain a favorable result for the defense.
 - e. The TPA shall attend Workers' Compensation Appeals Board hearings, rehabilitation hearings, and meetings with defense counsel where permitted by statute.
 - f. The TPA shall adhere to the District's guidelines and given authority toward settlement of claims. The TPA shall obtain the District's written authorization on all settlements within the specific guidelines. All

requests for settlement authority shall include written claim summary, current financial information, estimate of permanent disability, and the defense counsel's comments and recommendations.

- g. In all cases where a third party is responsible for the injury to the employee, the TPA shall contact the District designated staff indicating they will pursue subrogation unless instructed otherwise by the District. When subrogation is to be pursued, the third party shall be contacted within ten (10) days of identification, with notification of the District'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.
 - i. 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 member will be entitled.
 - ii. If the injured worker brings a civil action against the party responsible for the injury, the TPA shall consult with the District about the value of the subrogation claim and other considerations. Upon the District's authorization, subrogation counsel shall be assigned to file a Lien or a Complaint in Intervention of the civil action.
 - iii. Whenever practical, 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 fails, then every effort should be made through the Workers' Compensation Appeals Board to offset claim expenses through a credit against the proceeds from the injured worker's civil action
- h. The TPA shall provide electronic data to the Public Entity Risk Institute (PERI)'s national database of public sector liability and workers' compensation claims, judgments, and exposures.
- i. Self-Insurer's Report
 - i. The TPA shall maintain records and information to complete the Public Self-Insurers Annual Report in accordance with all State of California requirements.
 - ii. The TPA shall provide the Annual Report to the District no later than 30 days before the date on which the annual report is due to the State.
- j. Center for Medicare and Medicaid Services (CMS)
 - i. The TPA is the Responsible Reporting Entity (REE) agent for all Center for Medicare and Medicaid Services (CMS) notification, per Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) requirements.
 - ii. The TPA shall identify and report to CMS all required information, per MMSEA mandates. All fines and penalties imposed as a result of non-compliance will be the responsibility of the TPA.

8. Implementation:

The District expects the implementation process for the new TPA contract to be completely transitioned within ninety-90 days of contract award date

D. Claims Reporting / Intake Information System (CRIIS)

The selected TPA must host a Claims Reporting/Intake Information System to manage the District's extensive historical and ongoing Workers' Compensation claims data associated with its worksites. The District is seeking a web-based relational database system with the capability to exchange data in real-time or close to real-time. The Workers' Compensation TPA and the District will utilize the CRIIS to manage all claims activity. All claims data will be the property of the District and must be made available immediately upon request by properly authorized the District personnel. The CRIIS must provide comprehensive claims data management.

1. System Security and Accessibility

- a. Provides fully secure hosted solution which complies with SAS 70 Type II/SSAE 16 certification.
- b. System must be able to restrict user access to data based on function and role, by location or region, or companywide.
- c. System must be available during normal the District business hours (8am to 5pm PST).
- d. Secure access to the entire web-based system from anywhere in the world across internet-compatible mobile devices (e.g. iPad, iPhone, Android, etc.), and with any widely used browser (e.g. Chrome, Firefox, Internet Explorer, etc.) on Windows, Mac OS X and other operating systems.

2. Functions and Features
 - a. Run real time or almost real time, on-line. (For purposes of this RFP, “real time” means instantaneously and “almost real time” means as soon as possible, usually, within five minutes).
 - b. Capture and manipulate all third party and workers’ compensation data elements.
 - c. Run reports of similar of similar {reports of similar format and consistent content, for ad hoc, custom and standard reports, loss development, incurred but not reported, forecasts and detailed payment registers, and third-party claims based on occurrences or claims (third party claims data are maintained on an occurrence basis)—this will be at no additional charge for the District.
 - d. Incorporate drop down menus for data entry.
 - e. Feature a "kickout" function that will reject and flag an invalid entry where drop-down menus cannot be used and will flag required fields.
 - f. Capture information about witnesses, including driver’s license number and Social Security number.
 - g. Support automatic generation of different types of notifications via email.
 - h. Provide a claims-related internal calendar on which to record items such as jurisdiction deadlines and court dates.
3. Claims Intake:
 - a. TPA’s system must be web-based and allow the District staff to enter incidents of industrial injury or illness
 - b. The system will generate and distribute the necessary new incident records (DWC-1 and the 5020).
 - c. The system will generate automated emails, to confirm entry and notify appropriate staff of new entry.
4. Reports:
 - a. System must be able to generate monthly, quarterly and annual reports. Below is a list of typical reports the District is requiring. Additional reports may be required; TPA will generate reports at no additional cost to the District.
 - i. Subrogation Recovery
 - ii. TTD Report
 - iii. Open Claims
 - iv. New Claims by Adjuster
 - v. Reopened Claims by Adjuster
 - vi. Closed Claims by Adjuster
 - vii. Monthly Payment Variance Report
 - viii. Litigated Claims Report
 - ix. Claims in Subrogation Report
 - b. System must have ability to run ad hoc queries.
5. Implementation:
 - a. TPA will perform data conversion on all historical data and financial elements.
 - b. TPA must be able to respond to management requirements promptly, restructure old data into new formats, if required, without losing data integrity.
 - c. TPA will be required to propose a one-time implement fee (if any).

E. Repricing Services

The District currently employs David Donn Consulting, Inc. (DDC) for the enforcement and audit of its managed care program. The winning bidder for this RFP will be required to work with DDC or the District’s audit consultant, in the ongoing delivery of managed care services, and to deliver managed care services in compliance with the District’s

performance specifications, which include but are not limited to provision of staff meeting minimum requirements for experience and training, high level manual review of medical bills covering the expanded range of procedures identified by the consultants, specifications for thresholds for the use of Negotiation and Specialty Bill Review (SBR) services, and program reporting compliant with the District's reporting specifications

1. During the term of Managed Care Services agreement and as directed by the District, TPA will provide the following Repricing Services:
 - a. Definitions:
 - i. "Repricing Services" refers to the retrospective review and adjudication of workers' compensation medical bills, employing some or all the following individual service elements:
 - ii. "Medical Bill Review" or "MBR," which refers to all Repricing techniques and services not otherwise specifically defined in this Section A.1. Medical Bill Review includes but is not limited to the application of state fee schedules, the application of usual/customary medical billing data and databases, the application of Council on Compensation Insurance (CCI) Edits, manual review to ensure correction of billed procedure/billing/diagnosis codes and/or designations that are inconsistent with services provided, manual review of bills to identify and correct billings that are unrelated to compensable injury or injuries, and manual audit by senior MBR analysts or nurses.
 - iii. "Preferred Provider Organization" or "PPO," which refers to organizations that have negotiated volume-based discounts with unaffiliated physicians and medical facilities, and the payment discounts offered by these organizations.
 - iv. "Internal Bill Negotiation" or "Negotiation," which refers to TPA direct negotiation with physicians and medical facilities for reductions to medical bills.
 - v. "Specialty Bill Review" or "SBR," which refers to third-party specialty services providing discounts negotiated with physicians and medical facilities.
 - vi. "Supporting Operations" such as program reporting, data submission to state bodies, and data interfaces with claims administrators and case management companies.
 - b. Services:
 - i. Medical Bill Review: TPA shall review and make appropriate payment recommendations on all medical bills submitted for review by the District. The bills shall be reviewed in accordance with authorized District payment codes as well as validated for compensability against District claim, TPA and UR decision files. TPA agrees to work with the District's managed care consultant David Donn Consulting ("DDC") to deliver optimal service performance, in areas including but not limited provision of staff meeting DDC requirements for experience and training, high level manual review of medical bills covering the range of procedures identified by DDC, specifications for thresholds for the use of Negotiation and SBR services, and program reporting compliant with DDC reporting specifications. MBR savings will be identified and applied to every bill reviewed by TPA to the maximum ability of TPA.
 - ii. PPO: As directed by the District and subject to the approval of PPO Network(s), TPA shall administer one or more Networks that have negotiated contract rates with hospitals and providers, in an order of priority acceptable to the District. the District may at its sole discretion disallow the use of any PPO. For savings and fee calculation purposes, TPA shall only attribute to PPO services the incremental savings beyond the maximum savings achievable through MBR.
 - iii. Negotiation. TPA may employ internal bills negotiation techniques and resources to achieve additional discounts beyond those achieved through MBR and PPO. TPA shall only employ Negotiation techniques when it determines that Negotiation will yield incremental medical payment reductions in addition to reductions achieved through MBR and PPO. For savings and fee calculation purposes, TPA shall only attribute to Negotiation services the incremental savings beyond the maximum savings achievable through MBR and PPO
 - iv. Specialty Bill Review. TPA may employ various third-party SBR services for the purpose of obtaining additional savings beyond the maximum savings that may be achieved by TPA using its own internal bill review resources and its PPO partners. For savings and fee calculation purposes, TPA shall only attribute to these third-party SBR services when the incremental savings is beyond the maximum savings achievable through MBR and PPO services, and TPA shall direct all its third-party SBR partners to calculate savings only in this manner. The District. May at its sole discretion disallow the use of any third-party SBR service.

- vi. Scanning. If so, directed by the District, TPA will at the District's discretion scan all District medical bills and required reports, and store the corresponding image files electronically as directed by the District. The scanner used to scan District bills shall be capable of producing image quality sufficient for electronically indexing all scanned images to District bills and claims. Scanning of bills shall be performed daily by TPA's staff or subcontractor. Upon completion of scanning, all documents shall be destroyed or returned to the District, as directed by the District.
- vii. Imaged Document Storage. At the direction of the District, TPA agrees to store and maintain all medical bills and report images for a period of no less than five (5) years. TPA shall provide the District with online access to any internet-based system it offers for purposes of providing the District access to these electronic documents. TPA will make image files generated over the preceding two years available through such systems. TPA will also download all historic District images, convert these images to a file format consistent with TPA format, and provide the District with access to these images consistent with the District's requirement to have access to images generated over the preceding two years. TPA will also provide image data on an on-demand basis as prescribed by the District.
- viii. Exchange Formats: TPA will employ data exchange technology and security protocols that conform fully to the District's requirements and make necessary modifications to this technology and these protocols when required by the District. TPA will support and employ a data exchange facility using Secure File Transfer Protocol (SFTP) security protocols no later than ninety (90) days following the date of execution of Managed Care Services agreement, unless otherwise mutually agreed by the parties.
- ix. Medical Provider Network. As directed by the District, TPA shall incorporate any state regulated MPN into the bill review process as the primary network employed for the District's program. MPN will be employed as directed by the District subject to availability and specific network limitations on network position. TPA will source the MPN medical provider panel and administer and maintain the District's MPN as directed by the District.
- x. Client Directed Networks. TPA will electronically interface with all Ancillary Services providers, PPOs and/or similar networks employed by the District, for purposes of receiving and processing billings. TPA shall preserve the payment discounts of such networks without charging any additional fees to the District. If required by the District, TPA will enforce payment discounts of such networks. TPA's electronic interface(s) with such network(s) will be established as mutually agreed between TPA and the District, but in no event within more than four (4) months following District notice to TPA of the need for such interface(s).
- x. Turn Around Time. TPA will provide its best effort to complete the review of standard medical bills and bills subject to the primary PPO within five (5) business days of receipt of such bills. For complex bills that require high level reviews (i.e. surgery bills, hospital bills, services not covered by fee schedule, etc.), TPA will provide its best effort to complete the review of such bills within ten (10) business days of receipt of such bills. All bills will be reviewed within twelve (12) business days, unless otherwise approved by the District. If TPA requires additional information to review a bill, it will request the additional information from the District and notify the District immediately of this request. If for any reason the processing of a medical bill is delayed by the actions or failure to act by TPA, any and all penalties and/or interest charges incurred under applicable jurisdictional rules, regulations, code, or laws shall be the sole responsibility of TPA
- xi. Mailing Explanations of Review ("EORs"): If so, directed by the District, TPA will mail EORs for denied bills to providers on behalf of the District within one (1) business day of transferring of the Payment File. The contents of EORs will be compliant with all applicable jurisdictional requirements.
- xii. Provider Inquiries. TPA will respond to all inquiries on disputed bills reviewed by TPA for the duration of the contract and up to six months after termination of Managed Care Services agreement. TPA shall provide to the District upon request any correspondence between TPA and providers regarding provider billing disputes.
- xiii. Hearing Representations. As required by the District, TPA will provide supporting documentation or an expert witness with appropriate qualifications at lien hearings and other payment dispute meetings and conferences, provided that the District has advised TPA of said requests within fifteen (15) calendar days, or as soon as reasonably possible if the District has received less notice itself. This representation will be provided for all disputed bills reviewed by TPA for the duration of Managed Care Services agreement and up to six months after termination of Managed Care Services agreement.

- xiv. State Reporting. For any review activity for which electronic reporting is required by the state(s) in which the District incurs Workers' Compensation medical claim obligations, TPA shall report District medical data as required by that state and in compliance with all relevant state reporting statutes and regulations. TPA or its MBR software partner will compile all data elements and deliver complete data to the appropriate recipient. Upon request, the District will receive a copy of transactions/transmissions history performed by TPA or its software partner for reporting compliance purposes. In the event of transaction errors, TPA will notify the District immediately of all errors resulting from the District claims data. If errors resulted from Repricing data elements, TPA will correct the errors and resubmit the transmission to the applicable state(s) pursuant to applicable rules and regulations. TPA shall not be responsible for the failure of the District to deliver claim information to TPA or errors in claim information as provided by the District to TPA.
- xv. Personnel Training and Certification. TPA will provide and fulfill all applicable state reporting, training and certification requirements, including without limitation providing bill review personnel training and certification in accordance with any applicable jurisdictional requirements
- xvi. Electronic Billing. As directed by the District, TPA will provide facilities for receipt of electronic billing from medical providers in full compliance with any jurisdictional requirements. TPA or its third-party data clearinghouse will also provide a District specific electronic mailbox for direct submission of bills from medical providers and provide all electronic billing capabilities in accordance with timeframes prescribed by the District.
- xvii. Monthly Reports / Income. TPA will provide the District and its agent's reports and invoices that satisfy District requirements.
- xviii. Data Stewardship. TPA will maintain in its entirety all electronic District workers' compensation medical billing/payment data it receives or generates through the course of Services provided. In the event the Managed Care Services agreement is terminated or completed, TPA will provide all such data to the District's new service provider, as requested by the District.
- xix. Provider Overpayment. TPA will reimburse the District in full for any and all provider overpayments resulting from incorrect payment recommendations issued to the District. by TPA or any of its subcontractors. In the event an overpayment is identified that led to District. Overpayment of a medical provider, TPA will seek overpayment reimbursement from that provider on behalf of the District. If TPA cannot recapture overpayment within ninety (90) days of the identification of the overpayment, TPA will reimburse the District directly for the total amount of the overpayment
- xx. Fee Overcharges. TPA will reimburse the District in full for any and all service fees charged above contractual rate.

F. Medical Management Services

1. During the term of Managed Care Services agreement and as directed by the District, TPA will provide the Medical Management ("MM") Services set forth below.
2. TPA will provide Workers' Compensation Medical Management services as requested by the District, including the following individual service elements:
3. Definitions:
 - a. "Utilization Review" or "UR," which means the review of medical treatment requests; the determination of the appropriateness of such requests under state-mandated guidelines; the rendering, delivery and communication of such determinations in compliance with all applicable jurisdictional regulations and requirements; and any ancillary services, workflows and systems required to deliver such services. UR includes but is not limited to the following individual service components:
 - i. Nurse Review" or "NR," which means the initial review of proposed medical treatment for approval or referral to Physician Review (defined below), with such determinations made based on nationally recognized treatment guidelines such as Medical Treatment Utilization Schedule (MTUS) and American College of Occupational & Environmental Medicine (ACOEM). NR includes the rendering of approval determinations and the communication of such determinations to statutorily required parties (including but not limited to claims adjusters, injured workers, physicians and medical facilities, attorneys and the District, in compliance with jurisdictional statutes and regulations
 - ii. "Physician Review" or "PR," which means the physician-rendered review of proposed medical treatment by a physician licensed and qualified to render decisions to approve, adjust or deny such treatments, in accordance with nationally recognized treatment guidelines. PR includes the

rendering and communication of such determinations to statutorily required parties (including but not limited to claims adjusters, injured workers, physicians and medical facilities, attorneys and the District, in compliance with jurisdictional statutes and regulations

- b. “Case Management,” or “NCM,” “Case Management,” or “CM,” means the clinical review and management of ongoing medical treatment provided to District injured employees, for the purpose of maximizing appropriate and efficient treatment for District injured employees. CM includes but is not limited to the following service components
 - i. “Telephonic Case Management” or “TCM,” which means the ongoing telephonic management of patient treatment by a nurse professional.
 - ii. “Field Case Management” or “FCM,” which means the ongoing onsite management of patient treatment by a nurse professional.
 - iii. Ancillary services and supporting operations such as program reporting, and treatment directive exchange with medical bill review service operations.
- c. Delivery of documentation and information required by “Independent Medical Review” or “IMR.” IMR means the process established and regulated by California Senate Bill 863, under which an injured worker may appeal UR’s decision through an independent review performed by the organization (“Independent Medical Review Organization” or “IMRO”) designated by the California Division of Workers’ Compensation (“DWC”)

4. Services:

- a. In the District’s sole discretion, TPA will provide all the Medical Management services listed in the Definitions above, in compliance with all jurisdictional statutes and regulations. If elected by the District, TPA will cooperate with the District and make all commercially reasonable efforts to provide Medical Management services through a subcontractor that is identified by the District as having the capability to optimally deliver all financial and operational service elements detailed in this RFPs.
- b. TPA agrees to work with DDC to deliver optimal service performance, in areas including but not limited to provision of staff meeting DDC requirements for experience and training, customization of MM referral triggers and UR determination letters to maximize cost-efficient use of MM services and optimize MM outcomes, and program reporting compliant with DDC reporting specifications.
- c. UR Plan. TPA shall develop, file, and to the best of its ability obtain State of California approval of a District-specific UR plan compliant with California workers’ compensation statutes and regulations. TPA shall use commercially reasonable best efforts to obtain approval within timeframes required by the State of California.
- d. Determination Letters. Utilization Review Organization (URO) determination letters shall cite multiple relevant treatment guidelines when indicated, with the guidelines employed to adhere to best-practice state recommendations or requirements. The content of UR determination letters shall satisfy all District standards.
- e. Direct-to-Physician Review Workflow. If elected by the District, TPA will provide an option of direct-to-physician review, UR referrals with no Nurse Review fees and with UR documentation handled by administrative personnel. TPA shall perform this format of review on all cases identified by the District. TPA shall also provide data analytics as required by the District for measuring nurse and physician approval rates for different medical treatment categories (e.g. diagnostics, pharmaceuticals, narcotics, physical therapy, etc.), specific procedures, and specific physicians. TPA shall work with the District to identify the areas where this process can be implemented to streamline the overall UR workflow and reduce UR costs, and will transfer that cost savings to the District in the form of a lower cost for reviews of this type (relative to current UR pricing specified in Managed Care Services agreement
- f. UR Turnaround Time and Documentation: All Medical Management Services and corresponding documentation will be provided within timeframes that comply with applicable jurisdictional statutes and regulations governing the delivery of UR services. All documentation issued as part of Medical Management Services will contain information that is fully compliant with all jurisdictional statutes and regulations
- g. Referral Criteria: TPA shall adhere to the referral criteria approved by the District specifying which types of treatment requests will be sent to UR and CM for District TPA shall work with the District and its agents in the development of the referral criteria used to determine whether medical treatment requests are subject to UR/CM. The District agrees that it will make reasonable efforts to forward medical requests for authorization for which it wants TPA to perform UR and CM services, to TPA within 2 (two) days of the District’s receipt of such requests for authorization.

- h. MPN Provider Profiling and Outreach: TPA will provide the District with both book-of-business and provider-specific UR outcomes data, segmented by any data field captured through the UR process, and communicate with District providers as required by the District to improve MPN provider performance (i.e. details of non-compliant treatment requests)
- i. Repricing Interface: As directed by the District, TPA will upload in a format acceptable to the District all treatment recommendations, limitations, and determinations to Repricing systems of TPA, as applicable, for entry and enforcement through the bill review system employed for the review of the District workers' compensation medical bills. TPA will upload this information within timeframes specified by the District; however, all UR information shall be provided no later than three (3) business days subsequent to the development of this information by TPA UR personnel
- j. Utilization Review and Case Management System Access: TPA will provide the District with full access to TPA's UR and CM systems and will provide training on such systems to the District. TPA shall provide such access to unlimited users for the District.
- k. Program Reporting: TPA will provide the District with monthly reports as specified by the District. TPA shall provide customized program reports as directed by the District or its designees.
- l. Invoices: TPA will provide the District and/or its designee(s) invoices in a format and on a delivery schedule as directed by the District.
- m. Personnel: All personnel TPA assigns to the District's program will be approved by the District prior to such assignment. All nurse and physician personnel providing Medical Management Services on the District cases will carry all licenses, certifications, and degrees required to provide such Medical Management Services in the applicable jurisdiction. Notwithstanding the fact that the District maintains the right to approve the assignment of all TPA personnel, TPA is and remains solely responsible for providing qualified personnel under Managed Care Services agreement and TPA's liability for such provision of qualified personnel is not in any way limited by the District's approval.
- n. Voluntary Appeals Process:
 - i. For denied or modified treatment requests, TPA will provide a voluntary appeals process for District injured workers. UR determination letters sent to the District employees and their attorneys will include District-approved language describing this appeals process. TPA will perform outreach to the District employees regarding the voluntary appeals process as directed by the District, except that this process will not be performed on litigated cases.
 - ii. The District has sole discretion to decide how outreach will be performed, either by TPA administrative staff or clinical nurse staff. Administrative staff outreach will only include notification to injured employees of the option to employ the appeals process in cases where additional medical support can be provided by the requesting physician. The District and TPA will work together to develop a script that is acceptable to the District and it will be followed by TPA administrative staff. Clinical outreach will include this notification as well as clinical guidance on the reason(s) for TPA's UR determination(s).
- o. TPA will seek to identify the generic case profiles which may benefit most from this process, at minimum identifying through DWC and California Workers' Compensation Institute ("CWCI") the treatment types with the highest levels of UR decision overturns. TPA will train their examiners to identify such cases and informing them with respect to IMR overturn frequencies specific to each treatment type. TPA will screen all UR outcomes to identify those cases which may benefit most from this process, and notify the respective examiner assigned to each such case of TPA's recommendation to perform the voluntary appeals process on that case. These cases will include but not be limited to:
 - i. Any treatment request denied due to lack of information (which can be approved through appeal with the submission of necessary additional medical documentation).
 - ii. Durable Medical Equipment ("DME"), surgery, pharmaceutical, and diagnostic/consultation treatment requests (which have higher rates of UR decision overturn under IMR).
 - iii. Cases where alternative treatment could have been approved.
 - iv. Cases where the requesting physician was unavailable to discuss alternative approvable treatments.
- p. Drug/Narcotics Program: If elected by the District, TPA will implement a drug/narcotics review program whereby red flag narcotics treatment requests or activity (identified by the District or TPA) are escalated to a specific narcotics review process. At the District's discretion, this narcotics review process may involve a heightened level of treatment review.

- q. **Hearing Representation:** As required by the District and in relation to the Medical Management Services rendered, TPA will provide supporting documentation, physician reviewer and/or expert witness with appropriate qualifications at hearings, lien disputes, and other payment dispute meetings and conferences, without additional cost to the District, provided that the District has advised TPA of said requests within fifteen (15) calendar days, or as soon as reasonably possible if the District has received less notice itself. This representation will be provided by TPA for the duration of Managed Care Services agreement and up to six months after termination of Managed Care Services agreement. TPA will work with the District to ensure a mutually effective strategy for defending issues raised by District employee(s) and/or applicant attorney(s) on issues related to UR and IMR.
- r. **Data Exchange Formats:** TPA will employ data exchange technology and security protocols that conform fully to District requirements and make necessary modifications to this technology and these protocols when required by the District. TPA will support and employ a data exchange facility using Secure File Transfer Protocol (SFTP) security protocols no later than ninety (90) days following the date of execution of Managed Care Services agreement, unless otherwise mutually agreed by the parties.
- State Audits.** TPA will perform Medical Management Services in full compliance with all requirements of California Workers' Compensation regulations. All Medical Management Services and corresponding documentation will be provided within timeframes and containing information that is fully compliant with California state statutes and regulations. TPA will reimburse the District in full for any and all California state audit penalties incurred by the District as a result of TPA omission or error.
- s. **SB 863:** TPA will perform Medical Management Services in full compliance with all requirements of California Senate Bill 863 and statutes for IMR. Such compliance will include but not be limited to providing the District or its examiners with all resources as required by the District for the fulfillment of IMR processes and providing the Distractor its examiners with UR decision information and medical necessity information as required by the District. TPA will reimburse the District in full for all IMR costs and administrative costs related to IMR decisions that find not in favor of the District due to:
- i. Errors that IMRO determines to have resulted from TPA error
 - ii. Errors determined by IMRO to result from failure to follow UR procedural requirements specified under state regulations.
 - iii. Procedural errors shall include but not be limited to missing signatures required in any TPA documents or UR decision letters.
 - iv. TPA failure to provide documentation or other correspondence (written or verbal) within required timeframes.
 - v. TPA failure to include required documentation or reports in its written correspondence.
 - vi. TPA failure to review relevant medical reports in rendering UR decisions (unless TPA requested and did not receive such reports, provided TPA requested such reports at least one time from the District, and one time from medical provider in the event the District did not have all requested reports).
 - vii. TPA failure to identify information (e.g. MRI results) included in documentation TPA received from the District or medical providers (provided such information is deemed by IMRO to be relevant to UR decision.
- Notwithstanding any language to the contrary contained herein, TPA shall not be responsible for IMR costs or penalties resulting from IMR decisions that find not in favor of the District due to new injury information being submitted to IMRO at the time of the IMR
- t. **IMR Results Tracking.** TPA shall track all IMR results that are provided to TPA by IMRO and/or the District, whether delivered in paper format or electronically. If delivered in paper format, TPA shall scan and convert such documents into electronic files. TPA shall store such IMR files electronically, together with other documentation associated with each IMR's respective case.
- u. **Opioid Review Program.** At the District's sole discretion, TPA shall provide a program to identify cases with high-risk of opioid abuse and dependency. TPA further commits that TPA's UR reviews of requested opioid treatment shall achieve a minimum IMR uphold rate of 85%.
- v. **Provider Outcomes Outreach.** As directed by the District, TPA will on a quarterly basis compile and provide the following information to applicable medical provider:
- i. Provider's aggregate quarterly UR volume, denials, modifications and approvals for the District's program, with corresponding denial/modification/approval percentages

- ii. the District's and TPA's aggregate 12-month denial/modification/approval volume and percentages, with input on how the provider's performance compares to these aggregates.
 - iii. TPA shall perform this outreach to the providers identified by the District, or if so, directed by the District, TPA will identify and perform outreach to those providers falling below the threshold percentages indicated by the District for denials/modifications/approvals.
- w. Provider Pre-UR Negotiation. TPA shall at the District discretion seek to identify all appropriate treatment requests which may benefit from modification and negotiate directly with treating medical providers to modify treatment prior to UR or physician review:
- i. For all successfully negotiated treatment modifications, TPA shall secure signed written agreements from medical providers to such modifications so that TPA will not violate California state regulations for treatment delay/denial/modification.
 - ii. For each candidate treatment request, TPA shall recommend to the District whether it believes a nurse or physician is most appropriate to perform the negotiation with the requesting provider; however the District shall have sole discretion over both the decision to use a nurse/physician and the decision to perform any negotiation.

The District understands that in order to negotiate any pre-UR modifications, TPA must receive requests for authorization and accompanying medical reports within one (1) business day of the District's receipt of such information. TPA will separately track pre-UR negotiated cases using a unique identifier, such that these cases and their outcomes can be isolated in TPA's UR system and reported separately to the District, both individually and with aggregated summary figures for total cases, successfully negotiated cases, and unsuccessfully negotiated cases, for any time period desired by the District. Candidate cases will be provided on a separate, non-UR referral form which TPA will develop. TPA's on-staff administrative manager will schedule negotiation calls.

G. Pharmacy Benefits Management Services

1. Services: TRANSIT's sole discretion, TPA will provide all the Ancillary Services listed in the Definitions above, in compliance with all jurisdictional statutes and regulations. If elected by the District, TPA will cooperate with the District and make all commercially reasonable efforts to provide Ancillary Services through a subcontractor that is identified by the District as having the capability to optimally deliver all financial and operational service elements detailed in this RFP.
2. Service Level Agreements ("SLA's")
TPA will, at the District's discretion, implement SLA's surrounding key operational and financial performance targets, including the following
 - i. Complete tracking and refund of all reversed/cancelled transactions.
 - ii. A guaranteed minimum 80% generic dispense rate (GDR) and 95% generic efficiency rate (GER).
 - iii. Zero duplicate billings (from both pharmacy and PBM).
 - iv. Maximum paper billing rates and minimum success rates for paper bill conversion.
 - v. Fully customizable formulary and precise application of formulary.
 - vi. Timely and comprehensive card issuance.
 - vii. Timely answering of all payer and employee calls, timely account manager response.
3. Electronic Data Interface ("EDI") Development: TPA will cause the systems used by TPA or its subcontractor to render PBM services to interface and operate with claims administration system employed by TPA. TPA will develop such interfaces for any and all future claims systems employed by the District in the format specified by the District. No fees will be due for EDI development.
4. EDI Operation
Operation: PBM service department shall accept and load daily the District Claim Files delivered by TPA claims administration service department, for the purpose of validating each the District prescription processed against a current eligible Claim:
 - i. PBM shall validate all the District prescriptions processed against the most current Claim Files received from the District and shall promptly notify the District of any Claim File delivery error or data error.
 - ii. TPA shall also provide facilities in its web portal for the District to manually enter new or additional claims, and to modify all existing claims.

- iii. TPA shall preserve all manual claims entries/modifications made by the District and reconcile discrepancies between manual changes and new Claim Files in the manner directed by the District.
- iv. If required by the District, TPA will provide the District with daily Payment Files detailing payments billed by TPA, compliant with a format and delivery process acceptable to the District.
5. Reports: TPA will provide the District and its agents separate PBM reports that satisfy District requirements.
6. Data Stewardship: TPA will maintain in its entirety all electronic District workers' compensation pharmaceutical billing/payment/dispensing data it receives or generates through the course of PBM Services provided. If the Managed Care Services agreement is terminated or completed, TPA will provide all such data to the District or the District's new service provider, as requested by the District.
7. Exchange Formats: TPA will employ data exchange technology and security protocols that conform fully to the District's requirements and make necessary modifications to this technology and these protocols when required by the District. TPA will support and employ a data exchange facility using Secure File Transfer Protocol (SFTP), security protocols no later than ninety (90) days following the date of execution of Managed Care Services agreement, unless otherwise mutually agreed by the parties.
8. Pharmaceutical Overpayments: TPA will reimburse the District in full for any and all pharmaceutical overpayments billed by TPA, or any of its subcontractors, to the extent such overpayments are paid to TPA.
9. Web Portal: As required by the District, TPA will provide the District and its agents with full access to TPA's web portal, which provides access to prescription activity and program reports, and provides prescription management functionality.

H. Occupational Safety & Health Administration (OSHA) Services

1. Regulatory Compliance and Reporting
 - i. TPA will use OSHA rules and regulations to make recordability determination and maintain appropriate recordkeeping.
 - ii. Using the data from the claims management system, TPA will track and record work status; identifying days away from work and days of restricted work.
 - iii. TPA's system will produce OSHA 300 logs, 300A and 301 forms, Bureau of Labor Statistics (BLS) Surveys Away, Restricted or Transferred (DART) reports.
 - iv. TPA will defend the District and provide supporting documentation in the event of audits.
2. Multi-Site, Location and Group Management
 - i. TPA's system must be able to record incidents by specific worksites, as well as roll up data to different management locations.
 - ii. Data must be filtered according to locations and regions, or across the entire organization.
3. Ad Hoc Reporting
 - i. System will provide dashboards and scorecards (or similar) of injury information to assist District staff in identifying and addressing safety trends.
 - ii. Generate reports demonstrating regulatory compliance.
 - iii. Generate reports by location/facility as needed.
4. System Integration
 - i. Full integration with claims management/claims intake system.
 - ii. Integrate with the District's HRIS system.

I. Cybersecurity Standards

1. TPA will maintain effective information security programs and promote the integration of security activities and controls throughout the TPA's business processes and establish clear accountability for carrying out security responsibilities.
2. The District requires the TPA to identify the risks and determine cybersecurity maturity as defined by Federal Financial Institutions Examination Council (FFIEC) in the Cybersecurity Assessment Tool (Assessment) and ensure industry accepted cybersecurity practices are implemented, enforced, and continuously monitored.

3. The District may periodically review the Inherent Risk Profile and the TPA's Cybersecurity Maturity level as laid out in Federal Financial Institutions Examination Council (FFIEC) cybersecurity best practices.
4. TPA agrees to conduct audits of its data security practices and provide the results of those audits to the District.
5. TPA agrees to notify the District promptly of a data security breach (whether PII was compromised), comply with notifications requirements imposed by applicable law, and take steps to mitigate losses caused by the breach.

SECTION E: STANDARD CONDITIONS

1. **Reserved Rights.** Without limiting the generality of any other provision of this RFP, the District reserves the right, at any time prior to execution of an agreement with the successful Offeror, to exercise all or any of the following rights and options, which rights and options the District may exercise to the extent that the District, in its sole discretion, deems to be in the District's best interests:
 - This RFP and the process it describes are proprietary to the District and is for the sole and exclusive benefit of the District. No other party, including any respondent to this RFP or future Offeror to any RFP which may be issued by the District, is intended to be granted any rights hereunder.
 - All Offerors are notified the Contract for these services is contingent upon funds appropriated by the District and local, regional, state and federal governments. In the event funding is eliminated or decreased, the District reserves the right to terminate any Contract or modify it accordingly. The District makes no representations that any Contract will be awarded to any Offeror responding to the RFP.
 - The District reserves the right, in its sole discretion:
 - To cancel the RFP at any time and for any reason, with or without issuing another RFP, with no cost or penalty to the District; or to reject all proposals and re-solicit or cancel this RFP if deemed by the District to be in its best interest.
 - To re-issue this RFP without change or modification; or to issue a subsequent RFP for this project with terms and conditions that are substantially different from the terms and conditions set forth in this RFP.
 - To correct inaccurate awards resulting from its clerical errors. This may include, in extreme circumstances, revoking the awarding of a contract already made to an Offeror and subsequently awarding the contract to another Offeror. Such action on the part of the District shall not constitute a breach of contract on the part of the District since the contract with the initial Offeror is deemed to be void *ab initio* and of no effect as if no contract ever existed between the District and the Offeror.
 - To permit or reject amendments (including information inadvertently omitted), modifications, alterations and/or corrections of Proposals by some or all the Offerors following Proposal submission.
 - To waive any informality, defect, non-responsiveness, or derivation from this RFP that is not, in the District's sole judgment, material to the Proposal.
 - To not proceed with the process described in this RFP, or to change any time schedules set forth herein, including to extend proposal due dates.
 - To reject any Proposal that is untimely, incomplete, unclear, conditional, contains irregularities of any kind, is not in conformity with applicable law, not responsive to this RFP, contains ambiguities or services not called for by this RFP, or whose conduct violates ethical regulations.
 - To reject the Proposal of an Offeror that, has been delinquent or unfaithful in the performance of any contract with the District, or is financially or technically incapable of performing the services required in this RFP, or is otherwise not a responsible Offeror.
 - To rescind its rejection of any Proposal(s) and negotiate (or resume negotiations) with a previously rejected Offeror;
 - To request clarifications of any unclear Proposal; and to request that some or all the Offerors modify Proposals or provide additional information following evaluation by the District.
 - To consider, and accept for evaluation, a late modification of a proposal if the proposal itself was submitted on time; the modifications were requested by the District; and the modifications make the terms of the proposal more favorable to the District. To request additional or supplemental information (including but not limited to information inadvertently omitted by any Offeror in response to this RFP) from any or all Offerors.
 - To conduct such investigations as the District considers appropriate with respect to the qualifications of any Offeror and/or any information contained in any Proposal.
 - To duplicate, without limitation, all materials submitted for purposes of this RFP evaluation, and duplicate for public information in response to data requests regarding the proposal.
2. **Protest Procedures.** District's protest policies, as detailed in *Board Policy 468*, may be accessed via the following link: http://www.actransit.org/wp-content/uploads/board_policies/BP%20468%20-%20Procurement%20Protest-1.pdf
3. **DBE Program/SBE Goal.** There is *no* DBE or SBE goal for this contracting opportunity.
4. **Vendor Registration.** Online Vendor Registration is required prior to the contract award on the District's online system: <http://www.actransit.org/purchasing/vendor-registration-and-log-in/>. All prospective vendors must also be registered in the federal government's System for Award Management (SAM) database (<https://www.sam.gov>) prior to the award of a contract.

5. **W-9 Form Required.** Each offeror shall submit a completed W-9 form with its proposal. In the event of contract award, this information is required in order to issue purchase orders and payments. A copy of this form can be downloaded from <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.
6. **Cost of Proposal Submission and Pre-Contractual Expenses.** Offeror shall pay all the costs in submitting its Proposal, including, but not limited to, the costs to prepare, present and/or submit the Proposal in response to this RFP, costs of samples and other supporting materials, costs to participate in demonstrations, pre-proposal conferences, or costs associated with protests. The District shall not be liable for any pre-contractual expenses incurred by any Offeror and Offerors shall not include any such expenses as part of the Proposal. The District shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP. Pre-contractual expenses are defined as expenses incurred by Offeror in:
 - Proposals in response to this RFP (including copies or other expenses of any submitted documentation).
 - Costs associated with interviews and meetings (including travel expenses) incurred in responding to this RFP.
 - Other expenses incurred by an Offeror prior to the date of award and formal Notice to Proceed for any contract.
7. **Waiver.** By submitting a Proposal, the corresponding Offeror represents and warrants that it has sufficiently informed itself in all matters affecting the performance of the work or the furnishing of the labor, supplies, material, or equipment called for by the envisioned Contract; that Offeror has checked its Proposal for errors and omissions; that the prices stated in its Proposal are correct and as intended by it and are a complete and correct statement of its prices for performing the work or furnishing the labor, supplies, materials, or equipment required by the Contract.
8. **Ownership/Permission to Use Materials.** Responses to this RFP become the exclusive property of the District. At such time as the Procurement Department makes an award recommendation to the General Manager or the Board of Directors. As applicable and following the District's issuance of the *Notice of the Intent to Award*, all Proposals become public record and subject to public inspection. Application of the *California Public Records Act (Cal. Govt. Code Sections 6250 et seq.)* will determine whether any information is exempt from disclosure.

The District shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as "Confidential," "Trade Secret," or "Proprietary" or if disclosure is required under the Public Records Act. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" shall be regarded as non-responsive. Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the District may not accept or approve that the information that an Offeror submits is a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the District shall provide the Offeror who submitted the information with reasonable notice to allow the Offeror to seek protection from disclosure by a court of competent jurisdiction.

All Proposals submitted in response to this RFP become the Property of the District. By submitting a Proposal in response to this RFP, Offeror grants the District a non-exclusive, perpetual, irrevocable, royalty-free license for the rights to copy, distribute, display, prepare derivative works of and transmit the Proposal solely for the purpose of evaluating the Proposal, negotiating a Contract, if awarded to Offeror, or as otherwise needed to administer the RFP process, and to fulfill obligations under *California Public Records Act (Cal. Govt. Code Sections 6250 et seq.)*. Proposals, including supporting materials, will not be returned to Offeror unless the Proposal is submitted late.

9. **Public Records Act/Confidentiality.** The *California Public Records Act (Cal. Govt. Code Sections 6250 et seq.)* mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the content of any request for explanation, exception or substitution, response to these specifications, protest or any other written communication between the District and the Offeror shall be available to the public.

If the Offeror believes any communication contains trade secrets or other proprietary information the Offeror believes would cause substantial injury to the Offeror's competitive position if disclosed, the Offeror shall request the District withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. The Offeror may not designate its entire Proposal as confidential. Additionally, Offeror may not designate Proposal Forms as confidential.

If the Offeror requests that the District withhold from disclosure information identified as confidential, and the District complies with the Offeror's request, the Offeror shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify, defend, and hold harmless the District from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the Offeror information), and pay any and all cost and expenses related to the withholding of the Offeror information. The Offeror shall not make a claim, sue or maintain any legal action against the District or its directors, officers, employees or agents in connection with the withholding from the disclosure of Offeror information or in connection with the disclosure of Offeror Information in the event the District determines such information is subject to disclosure.

If the Offeror does not request that the District withhold from disclosure information identified as confidential, the District shall have no obligation to withhold the information from disclosure and may release the information sought without liability to the District.

10. **Conflict of Interest.** By submitting a Proposal, the Offeror represents and warrants that no director, officer or employee of the District is in any manner interested directly or indirectly in the Proposal or in the Contract which may be made under it or in any expected profits to arise there from, as set forth in *Article 4, Division 4, Title 1 (commencing with Sec. 1090)* of the Government Code of the State of California.

The Offeror warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under *California Government Code Sections 1090 et seq. or Sections 87100 et seq.* during the performance of services under this

Contract. The Offeror further covenants that it will not knowingly employ any person having such an interest in the performance of this Contract. Violation of this provision may result in this Contract being deemed void and unenforceable.

Depending on the nature of the work performed, the Offeror may be required to publicly disclose financial interests under the District's Conflict of Interest Code. The Offeror agrees to promptly submit a Statement of Economic Interest on the form provided by the District upon receipt. No person previously in the position of director, officer, employee or agent of the District may act as an agent or attorney for, or otherwise represent, the Offeror by making any formal or informal appearance, or any oral or written communication, before the District, or any officer or employee of the District, for a period of twelve (12) months after leaving office or employment with the District if the appearance or communication is made for the purpose of influencing any action involving the issuance, amendment, awards or revocation of a permit, license, grant or Contract.

The Offeror warrants that it has no organizational conflicts of interest at this time. Alternatively, the Offeror must disclose all known organizational conflicts of interest. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to the District; a firm or person's objectivity in performing the contract work is or might be impaired, or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other agreement.

- 11. No Collusion.** By submitting a proposal, each Offeror represents and warrants that its proposal is genuine and not a sham or collusive or made in the interest of or on behalf of any person not named therein; that the Offeror has not directly induced or solicited any other person to submit a sham proposal or any other person to refrain from submitting a proposal; and that the Offeror has not in any manner sought collusion to secure any improper advantage over any other person submitting a proposal.

Penalty for Collusion. If, at any time, it shall be found that the person, firm or corporation to whom a contract has been awarded has, in presenting any proposal or proposals, colluded with any other party or parties, then the contract so awarded shall be null and void and the Contractor and its bondsmen shall be liable to the District for all loss or damage which the District may suffer thereby and the District may advertise for a new contract for said labor, supplies, materials, or equipment.

- 12. Non-Conforming Proposal.** A proposal shall be prepared and submitted in accordance with the provisions of these RFP instructions and specifications. Any alteration, omission, addition, variance, or limitation of, from or to a proposal may be sufficient grounds for nonacceptance of the proposal, at the sole discretion of the District.
- 13. Gratuities.** No person shall offer, give or agree to give any District employee any gratuity, discount or offer of employment in connection with the award of contract by the District. No District employee shall solicit, demand, accept or agree to accept from any other person a gratuity, discount or offer of employment in connection with a District contract.
- 14. Ex-Parté Communications/Cone of Silence Policy.** In accordance with California Public Contract Code section 20216(d), the District's Board of Directors, or any person responsible for awarding a contract, shall not have any ex-parté communication with a bidder or any representative of the bidder except in writing and if the communication is made public.

Any verbal or written communication between any potential or actual offeror, or its representatives and any District Board Member, staff member, committee member, or contractor regarding this procurement are strictly prohibited from the date of the solicitation advertisement through the date of execution of the agreement. The only exceptions to this are: (1) written requests regarding information or clarification made to District's designated Contracting Specialist (*or other procurement designee*) during the allowable time period under the solicitation; and (2) any communications at a publicly noticed meeting of the District Board of Directors. Any violation of the requirements set forth in this section shall constitute grounds for immediate and permanent disqualification of the Bidder from participation in this procurement.

In the context of this RFP, an "ex-parté communication" is any communication between a Offeror (or the Offeror's representative) and the District's General Manager, Board Member, officer, employee or consultant, regardless of who initiates the communication, other than as part of the procurement process specified herein, before the District issues a Notice to Proceed, unless it is in writing and available for disclosure to the general public.

- 15. Disqualification.** Factors such as, but not limited to, any of the following may be considered just cause to disqualify a proposal without further consideration:
 - Any attempt to improperly influence any member of the evaluation team;
 - Evidence of collusion, directly or indirectly, among Offerors in regard to the amount, terms or conditions of this proposal
 - Evidence of incorrect information submitted as part of the proposal;
 - Evidence of Offeror's inability to successfully complete the responsibilities and obligation of the proposal;
 - Existence of any lawsuit, unresolved contractual claim or dispute between Offeror and the District;
 - Offeror is in arrears on an existing contract or has failed to perform on a previous contract with the District; or
 - Offeror's default under any previous agreement with the District, which results in termination of the Agreement.
- 16. Firms or Persons Not Eligible to Submit a Proposal** In order to avoid any conflict of interest or perception of a conflict of interest, Offeror(s) selected to provide professional services under this RFP will be subject to the following requirements:
 - The Offeror(s) who works on the procurement will be precluded from submitting proposals or bids as a prime contractor or subcontractor in the ultimate procurement.
 - The Offeror(s) may not have interest in any potential Offeror for the ultimate procurement.

17. **Authorized Representative.** Proposals must be signed by a duly authorized officer(s) eligible to sign contract documents for the Offeror (*the "Authorized Signer"*). Failure of the authorized representative to sign the Proposal may subject the Proposal to rejection by the District. Consortiums, joint ventures, or teams submitting Proposal, although permitted and encouraged, will not be considered responsive unless it is established that all contractual responsibility rests solely with one (1) offeror or one (1) legal entity. The submittal should indicate the responsible entity. Offerors should be aware that joint and several responsibility and liability will attach to any resulting Contract and failure of one (1) party in a joint venture to perform will not relieve the other party or parties of total liability.
18. **Insurance.** The selected Offeror(s), at Offeror's sole cost and expense and for the full term of the Contract or any extension thereof, shall obtain and maintain, at a minimum, all the insurance requirements outlined in *Exhibit 2*. All policies, endorsements, certificates and/or binders shall be subject to the approval of the District's Claims and Liability Manager as to form and content. These requirements are subject to amendment or waiver if so, approved in writing by the Claims and Liability Manager. The selected Offeror agrees to provide the District with a copy of said policies, certificates and/or endorsement upon award of contract.
19. **Additional Proposal Information.**
- **Cancellation of RFP; Rejection of Proposal; No Damages.** The District may reject any or all Proposals in-whole or in-part or may cancel this RFP at any time when the rejection or cancellation is in the best interest of the District, as determined by the District. The District shall not be liable to any Offeror for any loss or expense caused by or resulting from the delay, suspension, or cancellation of the RFP, award, or rejection of any Proposal.
 - **Changes or Corrections in Proposal Submittal.** Prior to the proposal submittal closing date and time, an Offeror may make changes to its proposal, if the change is initialed and dated by the Offeror. No change shall be allowed after the closing date and time. Note that you cannot change, mark-up or cross-out any condition, format, provision or term that appears on the District's published Cost Proposal Form. If you need to change any of your own prices or answers that you write on the Cost Proposal Form must be made in pen, initialed, and be clear in intent. Do not use white-out.
 - **Errors in Proposals.** The Offeror is responsible for errors and omissions in its proposals. No such error or omission shall diminish the Offeror's obligations to the District.
 - **Withdrawal of Proposal.** A proposal submission may be withdrawn by written request of the Offeror, prior to the proposal closing date and time. The request for withdrawal shall be signed by an authorized agent of Offeror. Modifications offered in any manner, oral or written, will not be considered after the deadline. After the closing date and time, the submittal may be withdrawn only with permission by the District.
 - **Prohibition as Subcontractor.** No Offeror who is permitted to withdraw a proposal shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn proposal was submitted.
 - **Duration of Proposal.** Each Offeror agrees that its Proposal prices and costs shall be a firm offer to the District and shall remain valid one hundred fifty (150) calendar day period as stated herein. Should any Offeror object to this condition, the Offeror must provide objection to the SPC prior to the proposal due date.
 - **Rejection of Proposals and Rights of Award.** The District reserves the right to reject any or all proposals at any time with no penalty. The District also has the right to waive immaterial defects, technicalities, and minor irregularities in any submitted proposal and to accept any proposal it deems to be in the best interest of the District.
 - **Incorporation of RFP and Proposal in Contract.** This RFP and the Offeror's response, including all promises, warranties, commitments, and representations made in the successful proposal as accepted by the District, shall be binding and incorporated by reference in the District's contract with the Offeror.



SECTION F. EXHIBITS AND ATTACHMENTS:

ATTACHMENTS *(to be completed and returned with the proposal):*

- Attachment A - Offeror's Statement of Qualifications and Business References
- Attachment B - Cost Proposal Form
- Attachment C - Prime Contractor and Subcontractor/Supplier Report
- Attachment D - Certification Regarding Lobbying

EXHIBITS *(to be reviewed prior to proposal submission):*

- Exhibit 1 - Sample Contract
- Exhibit 2 - Insurance Requirements
- Exhibit 3 - Proposer Questionnaire



**ATTACHMENT A
OFFEROR'S STATEMENT OF QUALIFICATIONS & BUSINESS REFERENCES**

- A. Offeror's Name: _____
- B. How many years has your organization been in business under your present business name? _____
- C. 3-Year Annual Gross Sales

Year:	Year:	Year:
\$	\$	\$

- D. Give information below about all your current and ongoing projects. *Attach additional sheets if necessary.*

Client	Location <i>(city/state)</i>	Type of Work	Value of Work	Percent Completed of Overall Project	Scheduled Completion Date

- E. List all key projects your organization has completed, which are similar in nature to the Scope of Services outlined in this solicitation during the last three (3) years, at a minimum. *(Attach additional sheets if necessary.)*

Client	Location <i>(city/state)</i>	Type of Work	Value of Work	Year Started	Year Completed

- F. Give information below about the relevant experience of the principal individuals of your present organization including those individuals to be in responsible charge of this project. *Attach additional sheets if necessary.*

Individual's Name	Title	Years of Professional Experience	Type of Work

- G. References: List a minimum of two (2) professional references for whom your organization has performed work similar in nature to the Scope of Services outlined in this solicitation. *Do not list AC Transit as a reference. Attach additional sheets if necessary.*

Business Name	Contact Person	Phone	Email

- H. Have you or your organization, or any officer or partner thereof, defaulted on a contract?
 No Yes If yes, please explain below. *Attach additional sheets if necessary.*

- I. Is any pending litigation or adverse findings against your organization?
 No Yes If yes, please explain below. *Attach additional sheets if necessary.*

- J. Has your firm ever been debarred by a Federal, State or Local Government agency?



No Yes If yes, please explain below. Attach additional sheets if necessary.

The undersigned Offeror represents and warrants that the foregoing information is true and accurate to the best of its knowledge and the undersigned intends that the District rely thereof in awarding the attached contract.

Signature of Offeror

Name/Title

Dated: _____



**ATTACHMENT B
COST PROPOSAL FORM**

Instructions: Included in the costs below shall be all labor, materials, taxes, insurance, any subcontractor costs, travel expenses, telephone costs, copying costs, profit, administrative and overhead fees, and all other costs as required to perform the services listed in the Scope of Services for the term detailed.

COMPANY NAME	SERVICE COST
	Costs
Others (specify, if any)	
Total Service Cost Proposal	



ATTACHMENT C
PRIME OFFEROR & SUBCONTRACTOR / SUPPLIER REPORT
Complete All Sections of Form and Return with Bids/Proposals

The Offeror is **required** to complete the following information in accordance with the provisions of Public Contract Code Sections 4100 to 4113, inclusive. This form shall include prime contractor, all suppliers, and all subcontractors that will perform work, provide labor, or render services in connection with the project in an amount in excess of **one-half of one percent (0.5%)** of the total amount of Proposer's Grand Total Proposal Price. AC Transit reserves the right to request additional documentation to validate any and all information provided on this form. **COMPLETE ALL FIELDS OR INDICATE N/A. DO NOT LEAVE BLANKS.**

Prime/Sub-Proposer/Supplier Name/Address/Contact Information	Type of Work or Materials	Value of Work & Materials <i>(complete both items)</i>	DBE/SBE UTILIZATION AC Transit reserves the right to request further documentation to validate provided information on meeting the DBE/SBE requirements for this procurement.	Annual Gross Receipts List annual gross receipts for last three years <i>(i.e. 2019, 2018, 2017)</i>
Prime Contractor: Address: Contact Person: Phone: Email: How Many Years in Business? DIR Registration #: License No (if applicable):		Percentage (%) Dollar Value (\$)	Is Prime Contractor: <input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> Not Applicable If DBE or SBE, include the following: Certifying Agency: _____ _____ Certification No.: _____ Certification Date: _____ Expiration Date: _____	
Subcontractor/Supplier: Address: Contact Person: Phone: Email: How Many Years in Business? DIR Registration #: License No (if applicable):		Percentage (%) Dollar Value (\$)	Is Subcontractor or Supplier: <input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> Not Applicable If DBE or SBE, include the following: Certifying Agency: _____ _____ Certification No.: _____ Certification Date: _____ Expiration Date: _____	
Subcontractor/Supplier: Address: Contact Person: Phone: Email: How Many Years in Business? DIR Registration #: License No (if applicable):		Percentage (%) Dollar Value (\$)	Is Subcontractor or Supplier: <input type="checkbox"/> DBE <input type="checkbox"/> SBE <input type="checkbox"/> Not Applicable If DBE or SBE, include the following: Certifying Agency: _____ _____ Certification No.: _____ Certification Date: _____ Expiration Date: _____	

Revised August 2019

(DO NOT LIST ALTERNATIVE SUBOFFERORS FOR THE SAME WORK. ATTACH ADDITIONAL SHEETS AS NECESSARY.)



**ATTACHMENT D:
CERTIFICATION REGARDING LOBBYING**

Offeror shall certify that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Offeror shall also disclose the name of any registrant under the *Lobbying Disclosure Act of 1995* who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures shall be forwarded to the District. Offerors shall ensure that all its Subcontractors included in their Proposal shall certify the same.

Please choose one:

- No, Offeror has not participated in lobbying activities as outlined above**
- Yes, Offeror has participated in lobbying activities as outlined above**
If yes –and complete the Disclosure of Lobbying Activities form on the following page

Name of Offeror: _____

Person Completing Form: _____

Signature: _____ Date: _____



ATTACHMENT D-Continued
CERTIFICATION REGARDING LOBBYING

DISCLOSURE OF LOBBYING ACTIVITIES <i>(Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352)</i>		
1. Type of Federal Action: <input type="checkbox"/> contract <input type="checkbox"/> grant <input type="checkbox"/> cooperative agreement <input type="checkbox"/> loan <input type="checkbox"/> loan guarantee <input type="checkbox"/> loan insurance	2. Status of Federal Action: <input type="checkbox"/> bid/offer/application <input type="checkbox"/> initial award <input type="checkbox"/> post-award	3. Report Type: <input type="checkbox"/> initial filing <input type="checkbox"/> material change For Material Change Only: Year _____ Quarter _____ Date of last report: _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Sub-awardee Tier, if known: _____ Congressional District, if known: _____	5. If Reporting Entity in No. 4 is Sub-awardee, Enter Name and Address of Prime: _____ _____ Congressional District, if known: _____	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable:	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10a. Name and Address of Lobbying Entity: (if individual, last name, first name, MI):	10b. Individuals Performing Services (including address if different from No. 10a):	
(Attach Continuation Sheet(s), if necessary)		
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment (check all that apply): <input type="checkbox"/> retainer <input type="checkbox"/> one-time fee <input type="checkbox"/> commission <input type="checkbox"/> contingent fee <input type="checkbox"/> deferred <input type="checkbox"/> other (specify: _____)	
12. Form of Payment (check all that apply): <input type="checkbox"/> cash <input type="checkbox"/> in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11:		
15. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reference was placed by the user above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each failure.	Signature: _____ Print Name: _____ Title: _____ Telephone #: _____ Date: _____	

EXHIBIT 1

SAMPLE CONTRACT



THIS CONTRACT (this "Contract") is made and entered into this ____ day of August, 2020 (the "Effective Date"), by and between **ALAMEDA-CONTRA COSTA TRANSIT DISTRICT**, a special transit district established pursuant to *California Public Utilities Code, Section 24501* et seq., having its principal place of business at 1600 Franklin Street, Oakland, California 94612 (hereinafter "AC Transit" or the "District") and _____, a _____ corporation, having its principal place of business at _____ (hereinafter the "Contractor").

THE PARTIES AGREE AS FOLLOWS:

1. **Scope of Services.** Contractor shall provide services (the "Services") in full accordance with **Request for Proposals No. 2021-1511** prepared and issued by the District, entitled *. (dated _____)*, a copy of which is attached hereto and incorporated by this reference. Contractor agrees to undertake, carry out and complete all work established herein in a professional and efficient manner satisfactory to District standards.

Contractor hereby agrees to furnish the services in compliance with all terms, conditions, specifications, and addenda in the above referenced solicitation. The Contractor shall begin Work within thirty (30) days (or less, as agreed to by both parties) of the effective date of the Intent to Award ("ITA") and shall diligently complete all the Work under this Contract in all parts and requirements as defined in the Contract Document within one hundred and fifty (150) days of the effective date of the ITA.

Contractor is hereby cautioned not to perform any work or provide any service under this Contract until valid certificates of insurance, all current and valid copies of any required licenses/certifications, a payment bond and/or performance bond are received and accepted by the District, if applicable, a purchase order is issued for the material, service, or construction described herein and the *AC Transit Project Manager* (_____) has approved the date for the start of the project and project time. Any work initiated prior to an ITA and the submission of the documents referenced above shall be performed solely at Contractor's risk.

2. **Contract Term.** Services under this Contract shall commence on/about _____ 2020 and continue through _____ 2025 unless this Contract is terminated sooner pursuant to *Section 27-Termination* or extended by the parties, as allowed for herein. Services shall be performed at the District's direction and within the term set forth herein unless otherwise mutually agreed upon by the District and the Contractor. Contractor shall not be held liable for delays resulting from problems of scheduling on the part of the District.

{OPTION TO EXTEND THE CONTRACT (PRICED). At the sole discretion of the District, this Contract may be extended unilaterally by the exercise of two (2) one (1) year priced options. If exercised, the District shall notify Contractor, in writing, of its intent to exercise each priced option at least thirty (30) days prior to the exercise of said option(s). The option(s) shall be exercised in accordance with the prices proposed in the original submitted bid.}

3. **Contract Price.** Contractor agrees to perform all of the services, as accepted by the District, included in *Section D of this RFP (Scope of Services)* and in accordance with the fees as accepted by the District set forth in *Attachment B-Cost Proposal of the RFP (Page 34 of 57 above)*, not to exceed \$ _____, in accordance with Contractor's Proposal, and Best and Final Offer, if any, as accepted by the District. Costs for these services will be on a firm-fixed price basis, not to exceed _____ (\$ _____) per year, for a total estimated Contract value of _____ (\$ _____) for the _____ (____) year period, for all services performed in accordance with this Contract.

The total "not to exceed" price shall include all services, labor, materials, taxes, profit, overhead, insurance, subcontractor/subconsultant costs, and all other costs and miscellaneous expenses incurred by the Contractor as reflected in the proposal. The District and Contractor must mutually agree upon any adjustments in payment.

Contractor shall submit invoices, with a payment term of net thirty (30) days, at the end of each month services have been provided. Invoices shall clearly describe in detail the services rendered by Contractor during the previous month and shall state the number of hours and the applicable hourly or unit rate. Hourly or unit rates shall be in accordance with the Contractor's Proposal, and Best and Final Offer, if any, as accepted by the District. Invoices shall be submitted electronically to accountspayable@actransit.org or mailed to: AC Transit, Attn: Accounts Payable, P.O. Box 28507, Oakland, California 94604. The District will endeavor to pay properly submitted, undisputed invoices within thirty (30) calendar days of initial receipt. *Please reference the Contract Number and Purchase Order Number on all submitted invoices. Failure to do so could delay payment.*

Disputed Charges. If the District, in good faith, believes there is a dispute concerning the accuracy or applicability of any charge or other invoiced amount, it will notify Contractor of the nature of such dispute not later than ten (10) calendar days after receipt of invoice and will provide reasonable support for such dispute together with such notice of disputed charges. In such event, the District may withhold such disputed charges or other invoiced amounts from payment of that or subsequent invoices. Failure by the District to identify a disputed charge or other invoiced amount prior to payment of such charge or amount will not limit or waive any of its rights or remedies with respect thereto, including its right to withhold such disputed charges or amounts from payments on subsequent invoices. Contractor shall use diligent efforts to provide any supporting documentation required by the District to resolve any such disputes.



4. **Component Parts.** This Contract shall consist of the following documents, each of which is on file with the District, and is incorporated into and made a part of this Contract by reference. In the event of a conflict these documents shall control in order of precedence as set forth below:
- This Contract and any Amendments
 - RFP No. 2021-1511 and any Addenda thereto, as incorporated by reference
 - Contractor's Proposal *dated* ____, and all attachments, as accepted by the District
 - Any Later Negotiated Modifications to the Terms and Conditions attached hereto

5. **Notices.** All communications relating to the day-to-day activities of the provided services shall be exchanged between the District's representative, _____, and the Contractor's representative, _____. All other notices, consent or other communication ("Notice") required or permitted under this Contract shall be in writing and either delivered in person, mailed or electronically delivered as follows:

<u>DISTRICT</u>	<u>CONTRACTOR</u>
Micahel Daly, Contracts Specialist	Contact Name/Title
AC Transit	Contractor's Name
1600 Franklin Street, 6 th Floor	Contractor's Address
Oakland, CA 94612	Contractor's Address
Phone (510) 891-5469	Contractor's Phone #:
Email: wdaly@actransit.org	Contractor's Email:

A Notice shall be deemed received at the time it is personally served, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express services or, if mailed, ten (10) days after the Notice is deposited in the United States mail as above provided. Any time period stated in a Notice shall be computed from the time the Notice is deemed received. Either party may change its mailing address or the person to receive Notice by notifying the other party as provided in this section. This requirement for duplicate notice is not intended to change the effective date of the Notice sent by facsimile transmission.

6. **Vendor Registration.** If Contractor is not already an AC Transit registered vendor, Online Vendor Registration is required prior to contract award on the District's online system: <http://www.actransit.org/purchasing/vendor-registration-and-log-in/>. To complete the process, include a W-9, Request for Taxpayer Identification Number and Certification-containing original signature. All prospective vendors must also be registered in the federal government's System for Award Management (SAM) database (<https://www.sam.gov>) prior to the award of a contract.
7. **Subcontracting.** The Contractor shall not subcontract any services to be performed by it under this Contract without the prior written approval of the District, except for service firms engaged in drawing, reproduction, typing, and printing. Any subcontractors must be engaged under written contract with the Contractor with provisions allowing the Contractor to comply with all requirements of this Contract. The Contractor shall be solely responsible for reimbursing any subcontractors, and the District shall have no obligation to them. The Contractor shall be solely responsible for subcontractor insurance requirements, prompt payment affidavits, certifications regarding lobbying, and DBE designations.

For contract monitoring and tracking purposes, the District utilizes B2GNow. This is an interactive system that requires all tiers of contractors to login and submit payment data for prompt payment compliance and subcontractor utilization purposes. If no subcontractors are being proposed, the District may waive the requirement of utilizing this system.

8. **Ownership of Work.** All reports, designs, drawings, plans, specifications, schedules, and other materials prepared, or in the process of being prepared, for the services to be performed by Contractor shall be and are the property of the District and the District shall be entitled to access thereto, and copies thereof, during the progress of the work. In the event that the work, which is the subject of this Agreement, is not completed, for any reason whatsoever, all materials generated under this Agreement shall be delivered as the District may direct.
9. **Changes.** If the Contractor seeks any changes to the *Scope of Work* that would require a modification of the amount of compensation or the time required for performance, the changes must be reviewed and approved in writing in advance of any action to implement the change by the Project Manager. In the event Contractor encounters any unanticipated conditions or contingencies that may affect the scope of work or services, schedule, or the amount of compensation specified herein, the Contractor shall so advise the District immediately upon notice of such condition or contingency. The written notice shall explain the circumstances giving rise to the unforeseen condition or contingency and shall set forth the proposed adjustment in schedule or compensation. This written notice shall be given to the District prior to the time that the Contractor performs work or services related to any proposed adjustment.

The District may at any time by written order, make changes to the *Scope of Work* described in this Contract. If such changes cause an increase in the budgeted cost of or the time required for performance of the agreed upon work, the Contractor shall notify the District in writing of the amount of time and compensation adjustments that are required.

If the District deems it necessary that any work, materials or equipment which are mentioned, specified or indicated, or otherwise provided for in the Contract or in the specifications forming a part of the Contract shall be required to be omitted from, in or about the work, the Contractor shall be notified, in writing, to omit the performance of such work and the furnishing of such materials or equipment. A deduction shall be made from the amount to be paid to the Contractor in an amount which the District and Contractor shall determine and mutually

agree to be the reasonable value of such work, materials or equipment, and such determination and agreement shall be final and conclusive upon the Contractor.

It is understood, however, that the amount of work, materials, or equipment required by the Contract shall not, in accordance with the above provisions referring to additions and omissions, be increased or diminished so as to substantially alter the general character or extent of the Contract. Any and all pertinent changes shall be expressed in a written supplement to this Contract prior to implementation of such changes.

10. **Service Delivery. Award of this Contract is contingent upon Contractor's ability to timely deliver the Services as outlined in the Scope of Work/Services. In the event of breach of this clause, the District reserves the right to terminate this Contract without liability by giving an immediate notice and to charge the Contractor with any loss incurred as a result of the Contractor's failure to make the delivery within the time specified.**

11. **Indemnification.**

- A. Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless the District, and its agents, representatives, officers, directors and employees (Indemnified Group) from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, reasonable attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of any of the following:

Any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work or services in the performance of this contract, including but not limited to, work or services by any subcontractor or anyone directly or indirectly employed by or contracting with a Contractor or a subcontractor or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and subcontractor's employees or subcontractors; or

Any allegation that materials or services provided by the Contractor infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

- B. If any claim, action or proceeding is brought against the Indemnified Group, by reason of any event that is the subject of this contract and or described herein, Contractor, at its sole cost and expense, shall pay, resist or defend such claim or action on behalf of the Indemnified Group by attorney of Contractor, or if covered by insurance, Contractor's insurer, all of which must be approved by the District which approval shall not be unreasonably withheld or delayed.

The District shall cooperate with all reasonable efforts in the handling and defense of such claim. Included in the foregoing, the District may engage its own attorney to defend or assist in its defense, and the Contractor shall pay the reasonable costs and expenses thereof. Any settlement of claims must fully release and discharge the Indemnified Group from any further liability for those claims. The release and discharge shall be in writing and shall be subject to approval by the District, which approval shall not be unreasonably withheld or delayed. If Contractor, its agents or employees, neglects or refuses to defend the Indemnified Group as provided by this contract, any recovery or judgment against the Indemnified Group for a claim covered under this contract shall conclusively establish Contractor's liability to the Indemnified Group in connection with such recovery or judgment, and if the District desires to settle such dispute, the District shall be entitled to settle such dispute in good faith and Contractor shall be liable for the amount of such settlement, and all expenses connected to the defense, including reasonable attorney fees, and other investigative and claims adjusting expenses. This indemnification shall survive the termination of this Contract.

- C. Insurance provisions set forth in this contract are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

12. **Insurance Requirements.** See *Exhibit 2*.

13. **Small/Micro Business Enterprise (SBE/MBE) Goal**

- A. The District seeks to utilize Small Business Enterprises (SBE), including Disadvantaged Business Enterprises (DBE) and Micro Business Enterprises (MBE) to the extent permissible by law, when such businesses are available and the price of their goods, material or services sought is reasonable and competitive in the marketplace.
- B. This project has no specific goal for SBE participation.

14. **Contractor's Status.** Neither the Contractor, nor any party contracting with the Contractor shall be deemed to be an agent or employee of the District. The Contractor is and shall be an independent contractor, and the legal relationship of any persons performing services for the Contractor shall be one solely between said parties.

Contractor shall not subcontract any services to be performed by it under this Agreement without the prior written approval of the District, except for service firms engaged in drawing, production, typing and printing. Contractor shall be solely responsible for reimbursing any subcontractors and the District shall have no obligation to them.

15. **Rights in Data.** The term "subject data" as used herein means recorded information, whether or not copyrighted, that is delivered under this Contract. The term includes graphic or pictorial delineation in media, text in specifications or related performance or design-type documents and machine forms. Except for its own internal use, Contractor may not publish or reproduce such data in whole or in part,

nor may Contractor authorize others to do so, without the written consent of the District, until such time as the District may have either released or approved release of such data.

In the event the *Scope of Work* in this Contract is not completed, all data generated under this Contract shall become subject data and shall be delivered as the District may direct.

All reports, designs, drawings, plans, specifications, schedules, and other materials prepared, or in the process of being prepared, for the services to be performed by Contractor shall be and are the property of the District and the District shall be entitled to access thereto, and copies thereof, during the progress of the work.

Any and all rights, title, and interest (including, without limitation, patent rights, copyright and any other intellectual-property or proprietary right) to materials prepared under this Contract are hereby assigned to the Contractor. The Contractor agrees to execute any additional documents which may be necessary to evidence such assignment. The Contractor represents and warrants that all materials prepared under this Contract are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Contract do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual-property or proprietary right of any third party.

16. Intellectual Property Rights.

16.1 In case of an alleged or actual claim, demand, action, suit, litigation proceeding or the like of a third party against the District, its Board of Directors, officers, business partners or staff (together "District Indemnitees") alleging that an ordered Product or its use infringes or misappropriates any third party's patent, trademark, trade secret, copyright or other intellectual property right, Contractor shall (I) indemnify, defend and hold harmless the District Indemnitees from and against any and all liabilities, losses, judgements, settlements, damages, costs and expenses (including attorney's fees) and the like arising out of or being related to any such intellectual property claim, and (ii) at its costs acquire for the District a right to use the Product or, in case this is not possible at reasonable conditions, modify the Product to become non-infringing or to deliver an equivalent non-infringing Product. If both remedies set forth in (ii) of the previous sentence are impossible, the District Indemnitees shall be entitled to return the affected Products against payment of the price for which Contractor has sold these Products without any reduction even if the respective District Indemnitee has not purchased the affected Product directly from Contractor.

16.2 Contractor's obligations pursuant to this Section 16 shall not apply to the extent that: (i) customized software product is produced to the District's detailed design and the District's design is the cause of the claim; or (ii) product(s) are used in combination with equipment, software or other products not supplied, required or recommended by Contractor and such infringement would not have occurred but for such combination.

16.3 The District shall inform Contractor without unreasonable delay in writing of any claims related to protective rights as mentioned in Section 0, and Contractor shall be given the opportunity to take over the defense against such intellectual property claims

17. **Release of Information.** Before releasing any reports, promotional materials or information prepared in connection with this Contract, the Contractor shall provide a copy or copies for first review and approval by the District. Contractor shall not use the District's name or logo or any variation thereof for advertising or publicity purposes without specific prior written permission from the District's Designated Representative.

18. **Evaluation of Contractor's Performance.** The District reserves the right to evaluate the Contractor's performance under this Contract, including but not limited to, compliance with all Contract flow down requirements for subcontractors, and to provide feedback and require corrective action, as appropriate. The Contractor agrees to comply, including attending and participating in periodic Contract review meetings, with any District directed Contract evaluation, project improvement plan, or corrective action for fulfillment of Contract requirements. The Contractor agrees to promptly provide the District with any supporting documentation or evidence it may request, including but not limited to, subcontracts. The failure of the Contractor to provide such documentation or adequately perform under this Contract may result in suspension, termination, debarment, or any other remedy the District deems appropriate.

19. **Most Favored Customer.** Contractor represents the prices charged the District do not exceed existing prices to other customers for the same or substantially similar items or services for comparable quantities under similar terms and conditions.

20. **Transition/Migration Cooperation.** The Contractor agrees that upon termination of this Contract for any reason, sufficient efforts and cooperation will be provided to ensure an orderly and efficient transition of services to the customer or to a different Contractor. The Contractor shall provide full disclosure to the subsequent Contractor and to the District on the equipment, software and required processes and procedures to perform the District's services. The Contractor agrees to transfer licenses or assign agreements for any software or services used to provide the services to the District or to a subsequent Contractor. The Contractor agrees to support the transition of code, data, and environments, including virtual server images if any.

21. Notice of Labor Disputes

A. If the Contractor or a subcontractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Contractor or subcontractor shall immediately give notice, including all relevant information, to the District's Project Manager and the District's Contracts Specialist.

B. The Contractor agrees to insert the substance of this clause, including this paragraph in any subcontract under which a labor dispute may delay the timely performance of this Contract; except that each subcontract should provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor should

immediately notify the next higher tier subcontractor or the Contractor, as the case may be, of all relevant information concerning the dispute.

22. **Licensing and Certifications.** Contractor is required to obtain all applicable business and professional licenses required to perform work within the Counties of Alameda, Contra Costa, San Francisco and San Mateo, State of California.

23. **Removal of Contract Personnel**

- A. The Contractor acknowledges that any person assigned to work under this Contract must perform their duties so as to not unduly impair contract performance. By assigning a person to work under this Contract, the Contractor agrees to be responsible for the behavior of that person during contract performance.
- B. The Contractor acknowledges that the District has the right to require the removal of any Contractor and any subcontractor employee that the District determines, at its sole discretion, to be negatively effecting performance of work under the contract. Examples of such behavior include, but are not limited to: (1) conduct which poses a threat to the safety of anyone working under the contract and any District employee; (2) conduct which is disruptive to contract performance; (3) careless work; (4) conduct which is not appropriate when working with District employees under this Contract; and (5) conduct in violation of District policy or local, state or federal laws.
- C. The District will provide written notice to the Contractor that a person's behavior is unacceptable or unduly impairing contract performance. Upon receipt of written notice from the District, the Contractor agrees to remove that person from doing any further work on the Contract, and to cause that person to be removed from providing service under this Contract. The Contractor agrees that it is not entitled to any additional costs it may incur as a result of the removal of the person from the District. The Contractor agrees to find a timely replacement and in no event shall this period exceed seventy-two (72) hours from that person being removed.

24. **Communication with Contractor's Staff.** In order to ensure efficient communication of operational needs, the District staff shall be permitted to communicate directly with Contractor's staff regarding day to day issues for the purpose of inquiry as to factual performance issues. The District will not give Contractor's staff directions concerning performance under this Contract. Issues which affect the Contract will be communicated through the General Manager.

25. **Application of Federal, State and Local Laws and Regulations.** During the Contract period of performance, the Contractor shall be subject to and comply with all current and new FTA, Federal, State and/or local laws, regulations, policies, procedures, and directives, and shall adhere to all financial privacy laws and regulations, if Federal funds are used to supplement District funding. Contractor agrees that the most recent of such Federal requirements will govern the administration of a contract at any particular time, except if there is sufficient evidence in the Contract of a contrary intent. To achieve compliance with changing requirements, the Contractor agrees to include in all agreements with subcontractors a statement that Federal requirements may change and that any changed requirement will apply. Federal terms and conditions will be incorporated through an amendment to the contract.

26. **Anti-Kickback and Gratuities.** The Contractor is prohibited from receiving any kickbacks, gratuities, payments, merchandise, equipment, supplies, services or favors in exchange for directing additional billable services to any sub-contractor.

27. **No Assignment.** This Contract is personal to each of the parties hereto. The Contractor shall not assign any of its rights nor transfer, convey, sublet or otherwise dispose of any of its obligations under this Contract without the prior written consent of the District. The written consent must appear on the contract or be attached to it.

28. **Force Majeure.** Each party shall be excused from performance of any of its obligations under this Contract if such inability was caused by an event beyond that party's reasonable control ("Force Majeure Event"). A Force Majeure Event shall include (i) natural disasters (*e.g., earthquake, hurricanes, floods, fire*); (ii) major upheavals (*e.g., war, riots, act of terrorism, sabotage, embargoes*); (iii) epidemics or pandemics; or (iv) government intervention (*e.g., government orders, court orders, confiscation, condemnation, future laws, government shutdown*).

If a Force Majeure Event occurs, then Contractor shall make all commercially reasonable efforts to deliver product or services to the District or to provide the District with replacement product or service. In either case, the District shall reimburse Contractor for reasonable costs incurred by Contractor in order to provide the product, replacement product or service. If the Force Majeure Event continues exceeds thirty (30) days, the District may pause or terminate the Contract for Convenience in accordance with *Section 29.A* of this Contract.

29. **Termination**

- A. **Termination for Convenience of the District.** The District, by written notice, may terminate this contract, in whole or in part, whenever the District determines that such termination is in its best interests. Any termination under this provision shall be affected by delivery to the Contractor of a notice of termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. After receipt of said notice, Contractor shall stop work on this contract on the date and to the extent specified in said notice, terminate all applicable orders and subcontracts, and complete all work not terminated by said notice. After receipt of said notice, Contractor shall submit to the District its termination claim setting forth Contractor's actual, direct, and unavoidable costs incurred which cannot be canceled as a result of said termination with such information as may be required by the District to evaluate the claim. The determination of the District on the claim shall be final subject only to an appeal pursuant to the dispute resolution procedures set forth herein.
- B. **Termination for Default.** In the event that the Contractor breaches the terms or violates the conditions of the contract and does not within ten (10) calendar days after receipt from the District of a notice of default (or, in the case of a default that

cannot be remedied within ten (10) calendar days, to commence to cure said default within said ten (10) calendar days and thereafter to diligently pursue said cure until the default is remedied), the District may in its discretion terminate the contract, or such portion thereof, as the District determines to be most directly affected by the default.

The term "default" for purposes of this provision includes, but is not limited to, the performance of work in violation of the terms of this contract; abandonment, assignment, delegation or subletting of this contract without approval of the District; bankruptcy or appointment of a receiver for Contractor's property; failure to perform services or other required acts within the time specified for the contract or any extension thereof; refusal or failure to provide proper workmanship; failure to take effective steps to end a prolonged labor dispute; and the performance of the contract in bad faith. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the convenience of the District.

C. Termination for Force Majeure. The performance of work under this Contract may be terminated by the District, in its discretion, based upon unforeseen causes beyond the control and without the fault or negligence of the Contractor such as *Force Majeure Events* which render impossible the Contractor's performance under the contract.

D. Termination for Non-Appropriation of Funds. The continuation of this Contract is contingent upon the appropriation of funds by local, state and federal bodies. If local, state or federal contracts, grants, or other authorizations of funding fail to appropriate sufficient funds or if funds are not otherwise made available for continued performance for any fiscal year of this Contract after the first fiscal year, or if such appropriation is reduced by the veto of the Governor, or for any other lawful purpose, and the effect of such reduction is to provide insufficient funds for the continuation of this Contract, the Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the District's or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the District from future performance of the Contract, but not from their rights and obligations existing at the time of termination. Upon termination of this Contract, the District shall pay the Contractor only its allowable costs to the date of termination. Contractor shall be entitled to payment for work performed satisfactorily and reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. If the Contractor has any property in its possession belonging to the District, the Contractor will account for the same and dispose of it in the manner the District directs. The District shall notify the Contractor, in writing, as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first. In the event of termination under the above Termination conditions, Contractor will be paid for those services performed or deliveries made pursuant to this Contract to the satisfaction of the District up to the effective date of termination. In no event will the District be liable for costs incurred by Contractor after receipt of notice of termination. If the Contractor has any property in its possession belonging to the District, the Contractor will account for the same and dispose of it in the manner the District directs. Contractor shall have the right to remove any of its equipment within sixty (60) days of the termination date.

- 30. Suspension of Work.** The District unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Director may determine to be appropriate for the convenience of the District. Upon suspension of Work, the District shall pay the Contractor its allowable costs to the date of suspension. Contractor shall be entitled to payment for work performed satisfactorily and reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract.
- 31. Dispute Resolution.** The District and Contractor agree to attempt in good faith to resolve all disputes informally. The Parties agree that any dispute arising from this Contract, that is not resolved within thirty (30) days by the Parties' representatives responsible for the administration of this Contract will be set forth in writing to the attention of the District's General Manager for resolution. If mutually agreed, the Parties may use an alternative dispute resolution process such as mediation and/or arbitration to resolve their dispute prior to initiating any formal action in court. Unless otherwise directed by the District, the Contractor shall continue performance under this Agreement while matters in dispute are being resolved.

In the event any controversy, claim or dispute between the District and the Contractor arising out of or related to this Contract, or the breach hereof, that has not been resolved by informal discussions and negotiations, either party may, by written notice to the other, invoke the formal dispute resolution procedures set forth herein. The written notice invoking these procedures shall set forth in reasonable detail the nature, background and circumstances of the controversy claim or dispute. During the thirty (30) days following said written notice, the parties shall meet, confer and negotiate in good faith to resolve the dispute. Either party may, during said thirty (30) day period, request the utilization of the services of a professional mediator, and the other party or parties to this dispute shall cooperate with such request and share the reasonable costs of such mediator.

A. In the event any controversy, claim or dispute between the District and the Contractor arising out of or related to this contract, or the breach hereof, cannot be settled or resolved amicably by the parties during the thirty (30) day period of good faith negotiations provided for above, the either party or any party hereto may submit said controversy, claim or dispute for binding arbitration before a single neutral arbitrator in accordance with the provisions contained herein and in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Rules"); provided, however, that notwithstanding any provisions of such Rules, the parties to the arbitration shall have the right to take depositions and obtain discovery regarding the subject matter of the arbitration, as provided in Title III of Part 4 (commencing with Section 1985) of the California Code of Civil Procedure, as and to the extent that the arbitrator deems fair and reasonable. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator shall determine all questions of fact and law relating to

any controversy, claim or dispute hereunder, including but not limited to whether or not any such controversy, claim or dispute is subject to the arbitration provisions contained herein.

- B. Any party desiring arbitration shall serve on the other party or parties and the San Francisco Office of the American Arbitration Association, in accordance with the aforesaid Rules, its Notice of Intent to Arbitrate ("Notice"). The parties shall select a single, neutral arbitrator who is generally familiar with the factual and legal issues that relate to this Contract and the dispute to be resolved by arbitration. In the event that the parties are unable to agree on a neutral arbitrator, then one shall be selected in accordance with the Rules. The arbitration / provided hereunder are hereby declared to be self-executing and it shall not be necessary to petition a court to compel arbitration.
- C. The parties to the arbitration shall share equally all costs of the arbitration, including the fee of the neutral arbitrator, and each party shall bear its own costs. The arbitrator shall have the authority, in accordance with the provisions of this Contract, to award to the prevailing party its costs, including its share of the arbitration costs, and reasonable attorneys' and expert witness fees and expenses.
- D. If a controversy, claim or dispute arises between the parties which is subject to the arbitration provisions hereunder, and there exists or later arises a controversy, claim or dispute between the parties, or either of them, and any third party, which controversy, claim or dispute arises out of or relates to the same transaction or series of transactions, said third party controversy, claim or dispute shall be consolidated with the arbitration proceedings hereunder; provided, however, that any such third party shall be a party to an agreement with either of the parties which provides for the arbitration of disputes thereunder in accordance with rules and procedures substantially the same in all material respects as provided for herein or, if not, shall consent to arbitration as provided for hereunder.
- E. All arbitration proceedings shall be held in Oakland, County of Alameda, California.
- F. The Notice of the demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.
- G. Unless otherwise directed by the District, the Contractor shall continue performance under this Agreement while matters in dispute are being resolved.

- 32. **Continuity of Services.** Contractor acknowledges that the timely and complete performance of its obligations pursuant to this Contract is critical to the business and operations of the District. Accordingly, in the event Contractor or its affiliate is unwilling or unable to perform the Services hereunder as contracted, the District shall have the right to engage a Third Party to perform such duties until such time as Contractor is able to fulfill the duties as contracted for.
- 33. **Records.** All Contractor and any subcontractor costs incurred in the performance of this Contract will be subject to audit. The Contractor shall provide the District with copies of fully executed subcontracts. The Contractor and any subcontractors shall permit the District or its authorized representatives to, within forty-eight (48) hours of notice, inspect, examine, make excerpts from, transcribe, and copy the Contractor's books, work, documents, papers, materials, payrolls records, accounts, and any and all data relevant to the Contract at any reasonable time, and to audit and verify statements, invoices or bills submitted by the Contractor pursuant to this Contract. The Contractor shall also provide such assistance as may be required in the course of such audit. The Contractor shall retain these records and make them available for inspection hereunder for a period of four (4) years after expiration or termination of the Contract.

If, as a result of the audit, it is determined by the District's Contractor or staff that reimbursement of any costs including profit or fee under this Contract was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, the Contractor agrees to reimburse the District for those costs within sixty (60) days of written notification by the District. The Contractor warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under *California Government Code §§ 1090 et seq. or §§ 87100 et seq.* during the performance of services under this Contract. The Contractor further covenants that it will not knowingly employ any person having such an interest in the performance of this Contract. Violation of this provision may result in this Contract being deemed void and unenforceable.

- 34. **Confidentiality.** In the course of performing work under this Contract, Contractor may have access to confidential information of the District, which may be exempt from public disclosure by law. Contractor acknowledges such information is secret and confidential and shall not disclose any such confidential information, directly or indirectly, or use it in any way either during the term of this Contract or at any time thereafter, except as required in the course of its performance in accordance with this Contract.
- 35. **Conflict of Interest.** By signing this Contract, Contractor warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under *California Government Code §§ 1090 et seq. or §§ 87100 et seq.* during the performance of services under this Contract. The Contractor further covenants that it will not knowingly employ any person having such an interest in the performance of this Contract. Violation of this provision may result in this Contract being deemed void and unenforceable.

Depending on the nature of the work performed, a Contractor of the District is subject to the same conflict of interest prohibitions that govern District employees and officials (*Cal. Govt. Code Section 1090 et seq. and Cal. Govt. Code Section 87100 et seq.* as well as all applicable federal regulations and laws). During the proposal process or the term of the Contract, Contractor and its employees may be required to disclose financial interests.

No person previously in the position of director, officer, employee or agent of the District may act as an agent or attorney for, or otherwise represent, the Contractor by making any formal or informal appearance, or any oral or written communication, before the District, or any

officer or employee of the District, for a period of twelve (12) months after leaving office or employment with the District if the appearance or communication is made for the purpose of influencing any action involving the issuance, amendment, award or revocation of a permit, license, grant or contract.

The Contractor shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Contract and other solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to the District; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other contract.

The Contractor shall not engage the services of any subcontractor or independent contractor on any work related to this Contract if the subcontractor or independent contractor, or any employee of the subcontractor or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Contract.

If at any time during the term of this Contract, the Contractor becomes aware of an organizational conflict of interest in connection with the work performed hereunder, the Contractor immediately shall provide the District with written notice of the facts and circumstances giving rise to this organizational conflict of interest. The Contractor's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the term of this Contract, the District becomes aware of an organizational conflict of interest in connection with the Contractor's performance of the work hereunder, the District shall similarly notify the Contractor. In the event a conflict is presented, whether disclosed by the Contractor or discovered by the District, the District will consider the conflict presented and any alternatives proposed and meet with the Contractor to determine an appropriate course of action. The District's determination as to the manner in which to address the conflict shall be final.

During the term of this Contract, the Contractor must maintain lists of its employees, and the subcontractors and independent Contractor used and their employees. The Contractor must provide this information to the District upon request. However, submittal of such lists does not relieve the Contractor of its obligation to assure that no organizational conflicts of interest exist. The Contractor shall retain this record for four (4) years after the District makes final payment under this Contract. Such lists may be published as part of future District solicitations.

The Contractor shall maintain written policies prohibiting organizational conflicts of interest and shall ensure that its employees are fully familiar with these policies. The Contractor shall monitor and enforce these policies and shall require any subcontractors and affiliates to maintain, monitor and enforce policies prohibiting organizational conflicts of interest.

Failure to comply with this section may subject the Contractor to damages incurred by the District in addressing organizational conflicts that arise out of work performed by the Contractor, or to termination of this Contract for breach.

36. **Statement of Economic Interest.** The District's Conflict of Interest Code designates some Contractors and Consultants as a category of persons who must complete Form 700, Statement of Economic Interest, at the beginning of the contract period and again at the termination of the contract. Selected Contractors may be required to complete the Form 700 before work may begin.
37. **Prohibited Interests.** By signing this Contract, Contractor represents and warrants that neither the General Manager nor any Director, officer, or employee of the District is in any manner interested, directly or indirectly, in the bid or in the contract which may be awarded under it, or in any expected profits to arise therefrom (*State of California Government Code section 1090 et Seq.*). No Director, officer, or employee of the District during his/her tenure or for one (1) year thereafter, shall have any interest direct or indirect, in this Agreement or the proceeds thereof. Contractor covenants that it presently has no interest, direct or indirect, which would conflict in any manner or degree with the performance of the services called for under this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor. The District may require Contractor to file an annual Statement of Economic Interest form pursuant to the *Political Reform Act of 1974 (Government Code Section 81000 et seq.)*.
38. **No Collusion Declaration.** By signing this Contract, Contractor represents and warrants that its proposal is genuine and not a sham or collusive or made in the interest of or on behalf of any person not named therein; that Contractor has not directly induced or solicited any other person to submit a sham proposal or any other person to refrain from submitting a proposal; and that Contractor has not in any manner sought collusion to secure any improper advantage over any other person submitting a proposal.
Penalty for Collusion. If, at any time, it shall be found that the person, firm or corporation to whom a contract has been awarded has, in presenting any proposal(s), colluded with any other party or parties, then the contract so awarded shall be null and void and the Contractor and its bondsmen shall be liable to the District for all loss or damage which the District may suffer thereby and the District may advertise for a new contract for said labor, supplies, materials, or equipment.
39. **Non-Discrimination Assurance – Title VI of the Civil Rights Act.** The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of *49 CFR Part 26* in the award and administration of U.S. DOT-assisted contracts. Further, the Contractor agrees to comply with all provisions prohibiting discrimination on the basis of race, color, or national origin of *Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq.*, and with U.S. DOT regulations, "*Non-discrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act,*" *49 C.F.R. Part 21*. The Contractor shall obtain the same assurances from its joint venture partners, subcontractors, and subconsultants by including this assurance in all subcontracts entered into under this Contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the District

deems appropriate, which may include, but is not limited to withholding monthly progress payments, assessing sanctions, liquidated damages, and/or disqualifying the contractor from future bidding as non-responsible.

During the performance of this Contract, Contractor and its subconsultants and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subconsultants or subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subconsultants shall comply with the provisions of the *Fair Employment and Housing Act* (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (*California Code of Regulations, Title 2, Section 7285 et seq.*). The applicable regulations of the *Fair Employment and Housing Commission* implementing *Government Code Section 12990 (a-f)*, set forth in *Chapter 5 of Division 4 of Title 2 of the California Code of Regulations*, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Contract.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

40. **Equal Employment Opportunity.** In connection with the performance of this Contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, citizenship, political activity or affiliation, national origin, ancestry, physical or mental disability, marital status, age, medical condition (as defined under California law), veteran status, sexual orientation, gender identity, gender expression, sex or gender (which includes pregnancy, childbirth, breastfeeding, or related medical conditions), taking or requesting statutorily protected leave, or any other characteristics protected under federal, state, or local laws. The Contractor shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, disability, national origin, or any other characteristic protected under state, federal, or local laws. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.
41. **Americans With Disabilities Act (ADA).** The Offeror agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this contract.
42. **Changes to Federal Requirements.** Offeror shall, at all times, comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA (24) dated October 1, 2017) between the District and FTA, as they may be amended or promulgated from time to time during the term of this contract. Offeror's failure to so comply shall constitute a material breach of this contract.
43. **Access to Third-Party Contract Records.** Offeror shall provide all authorized representatives of the District, the FTA Administrator, the State Auditor and the Comptroller General of the United States access to any books, documents, papers and records of the Offeror which are directly pertinent to this Contract for the purposes of making audits, copies, examinations, excerpts and transcriptions. Offeror also agrees to maintain, and require its subcontractors of all tiers, to maintain, all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Offeror agrees to maintain the same until the District, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. The Offeror agrees to permit the FTA and its Offerors to access the sites of performance under this contract as reasonably may be required.
44. **False Statements or Claims Civil and Criminal Fraud.** The Offeror acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT Regulations "Program Fraud Civil Remedies", 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Offeror certifies or affirms the truthfulness and accuracy of any statement it has made, it makes or it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Offeror further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Offeror to the extent the Federal Government deems appropriate.

The Offeror also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by the FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Offeror, to the extent the Federal Government deems appropriate.

The Offeror agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clauses shall not be modified, except to identify the Sub-Contractor who will be subject to the provisions.



- 45. **Assignability.** Any public agency (i.e., city, district, public authority, public agency, municipality, and other political subdivision, or any Federal Transit Administration-funded entity) shall have the option of participating in any award made as a result of this proposal at the same prices, and terms and conditions. District reserves the right to assign all or any portion of the vehicles awarded under this Contract including option quantities. This assignment, should it occur, shall be agreed to by District and the contractor. Once assigned, each agency will enter into its own contract and be solely responsible to contractor for obligations to the buses assigned. District's right of assignment will remain in force over the *five (5)* year period or until completion of the contract to include options, whichever occurs first. District shall incur no financial responsibility in connection with contracts issued by another public agency. The public agency shall accept sole responsibility for placing orders or payments to the Contractor.
- 46. **Attorney's Fees.** If any legal proceeding should be instituted by either of the parties to enforce the terms of this Contract or to determine the rights of the parties under this Contract, the parties agree the court having jurisdiction over such dispute shall have the authority to determine and fix reasonable attorney's fees to be paid to the prevailing party.
- 47. **Waiver.** Failure of any party to exercise any right or option arising out of a breach of this Contract shall not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach.
- 48. **Governing Law and Venue.** This Contract, its interpretation and all work performed under it shall be governed by the laws of the State of California. In the event of a dispute or breach of contract, venue shall be in Alameda County, California.
- 49. **Binding on Successors.** All of the terms, provisions and conditions of this Contract shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives.
- 50. **Third-Party Beneficiaries.** This Contract is not for the benefit of any person or entity other than the parties.
- 51. **Severability.** If any provision of this Contract shall be deemed invalid or unenforceable, that provision shall be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Contract, and in any event, the remaining provisions of this Contract shall remain in full force and effect.
- 52. **Entire Contract; Modification.** This Contract, including any attachments, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and all such agreements entered into prior hereto are revoked and superseded by this Contract, and no representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Contract may not be changed, modified or rescinded except in writing, signed by authorized representatives of all parties hereto, and any attempt at oral modification of this Contract shall be void and of no effect. In the event of a conflict between the terms and conditions of this Contract and the attachments, the terms of this Contract will prevail.

IN WITNESS WHEREOF, the parties have executed this Contract on the dates set forth below.

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT

CONTRACTOR:

Michael A. Hursh
General Manager

Date

Signature

Date

Printed Name

Approved as to Form and Content:

Title

Jill A. Sprague
General Counsel

Date

Signature

Date

Printed Name

Title

**If the Contractor is a corporation, this Contract must be executed by two (2) corporate officers, consisting of: (a) the president, vice president or chair of the board; and (b) the secretary, assistant secretary, chief financial officer or assistant treasurer. In the alternative, this Contract may be executed by a single officer or a person other than an officer provided that evidence satisfactory to the District is provided demonstrating that such individual is authorized to bind the corporation (e.g. a copy of a certified resolution from the corporation's board or a copy of the corporation's bylaws)*



ATTACHMENT 1-A
SCOPE OF SERVICES

See Section D of RFP 2021-1511
(Pages 10-27 above)

EXHIBIT 2
INSURANCE REQUIREMENTS

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
 2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, *Code 1* (any auto), or if Contractor has no owned autos, *Code 8* (hired) and *Code 9* (non-owned), with limit no less than \$2,000,000.00 per accident for bodily injury and property damage.
 3. **Workers’ Compensation** insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000.00 per accident for bodily injury or disease. (*Not required if Contractor provides written verification it has no employees*)
 4. **Professional Liability Errors and Omissions Insurance** appropriate to the Contractor’s profession and work hereunder, with limits not less than \$2,000,000.00 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Contractor in this contract and shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, invasion of privacy violations, information theft, the release of private 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.
 - a. The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of the Agency in the care, custody, or control of the Contractor. If not covered under the Contractor’s liability policy, such “property” coverage of the Agency may be endorsed onto the Contractor’s Cyber Liability Policy as covered property as follows:
 - i. Cyber Liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of the Agency that will be in the care, custody, or control of Contractor.
 - ii. The Insurance obligations under this contract shall be the greater of 1—all the Insurance coverage and limits carried by or available to the Contractor; or 2—the minimum Insurance requirements shown in this contract. Any insurance proceeds in excess of the specified limits and coverage required, which are applicable to a given loss, shall be available to Agency. No representation is made that the minimum Insurance requirements of this contract are sufficient to cover the indemnity or other obligations of the Contractor under this contract.
- If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.
5. **Other Insurance Provisions:** The insurance policies are to contain, or be endorsed to contain, the following provisions:
 - a. **Additional Insured Status:** The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor’s insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
 - b. **Primary Coverage:** For any claims related to this contract, the Contractor’s insurance coverage shall be primary insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor’s insurance and shall not contribute with it.
 - c. **Notice of Cancellation:** Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the Entity.
 - d. **Waiver of Subrogation:** Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.
 - e. **Self-Insured Retentions:** Self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Entity.

- f. **Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the Entity.
- g. **Claims Made Policies:** If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.
- h. **Verification of Coverage:** Contractor shall furnish the Entity with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language affecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Entity before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
- i. **Subcontractors:** Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Entity is an additional insured on insurance required from subcontractors.
- j. **Special Risks or Circumstances:** The District reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

EXHIBIT 3

PROPOSER QUESTIONNAIRE

Each question must be answered in the order given and refer to the number given to each question. Failure to follow this requested format may result in automatic disqualification from this RFP process. Please provide responses to the following:

Firm Experience

1. A brief description of the proposer including:
 - a. Contact information including fax number, e-mail address, and telephone numbers;
 - b. The names and background of principal owners, partners, or officers including a resume detailing experience;
 - c. Detail any changes in ownership over the past ten (10) years and what effect each change of ownership has had on the management of your firm;
 - d. List any changes to your firm's name over the past 10 years and the reason for each change; please advise how you notified your clients of this name change;
 - e. The length of time the firm has been in business of providing TPA services;
 - f. Provide the number of offices and locations. Include the address of the corporate headquarter, location of the claim office that would be assigned to service AC Transit and any location of any other key personnel staffed to AC Transit's account.
2. Indicate which services are owned by your company and which services you use subcontractors.
3. Advise if there are any major changes (e.g. relocation of firm/consolidation) planned for proposer during the next twelve (12) months.
4. Provide consolidated balance sheets for the past 5 years.
5. Describe any feature of your company that distinguishes you from your competitors.
6. Provide the top reasons the Proposer's firm is the best choice and should be selected.
7. Identify name and size of your largest accounts handled in California, by number of claims annually, and the number of staff dedicated to claims handling. List all public agency clients you handle in California, with a contact name and number for each public agency. State how long you have handled each account.
8. Identify all ancillary firms associated with your organization. Discuss your firm's affiliation with medical service providers, medical bill review services, investigators, vocational rehabilitation service providers, copying services and any other provider of services related to your handling of workers' compensation claims. Discuss to what extent you look forward to using these providers if you are awarded this contract.
9. Identify accomplishments in previous or ongoing similar contracts, particularly Bay Area public agency experience.
10. Indicate whether the proposer can comply with the Scope of Services, as outlined in in Section D of this RFP. If the proposer is unable to comply with a specific performance objective, please indicate which objective cannot be complied with and the reason(s) the objective cannot be met.
11. Describe any services not previously covered which you believe may be of value to the District.
12. Please provide information for five (5) current clients, including contact names and telephone numbers which similar types of claims-related services are provided. Of the five (5) current clients, please provide information for three (3) Public Agency (transportation experience preferred) clients, including contact names and telephone numbers.
13. Provide a list of clients (include contact information) who have elected to contract with other vendors during the past twenty-four (24) months; please describe reasons for the change.

Claims Administration

➤ Personnel

14. Identify the personnel (including management) who would be assigned to provide workers' compensation services to the District. In addition, provide detailed responses or resumes detailing the following:
 - a. The position each person occupies;
 - b. The education, years, and type of experience of each person (attach a resume or curriculum vitae);
 - c. The experience each person has servicing California public self-insured agency claims;
 - d. The length of time each person has been with the proposer;

- e. The job duties of persons outside the dedicated team that would be assigned to service the District's account.
 - f. The caseload for every person assigned to service any portion of the District's claims.
15. Explain what steps the manager assigned to service the District's account will take to be proactive regarding service and administrative issues.
 16. Describe your staffing plan to demonstrate that you can be adequately staffed with trained personnel to handle the District's full caseload and have the capability to recruit such staff.
 17. What is the personnel turnover rate (voluntary and non-voluntary) at the location that will handle the District's claims? If you feel that this rate is high, please explain the reason for the turnover, and any action your firm has taken to address this issue.
 18. How will you staff this account? Provide full details as to professional staff allocated, titles, caseloads and support staff. Provide a proposed organization chart.
 19. If you are successful in obtaining this account, do you have the necessary staff available? If not, how long do you anticipate it will take you to be fully staffed, and how will you handle claims in the interim?
 20. What minimal qualifications do you propose for each position? Provide a job description for each position.
 21. What is the maximum caseload you propose for each examiner on this account? Does this differ from the caseloads on your other accounts in this office? Define caseload.
 22. Describe any incentives; financial or otherwise, that accrues directly to your employees.
 23. Provide salary ranges of all job description of positions which will be assigned to this account, including minimum requirements for the position.
- **Alternative Dispute Resolution (ADR) "Carve-Out Program"**
24. Has your firm ever been involved in an ADR carve-out program? If you have, please name the client(s)?
 25. If you have worked with ADR programs, have the programs been partial ADR programs (i.e. physician lists only) or full ADR programs (Ombudsperson/Member Advocate, Mediation and Arbitration)?
 26. Did your firm feel the ADR program(s) you worked with was efficient and worthwhile? Please provide a detailed explanation.
 27. Explain what your company believes to be the benefit of an ADR program for a self-insured employer.
 28. Explain the role of the ombudsperson/member advocate; and explain whether you found any value in that position.
 29. Explain the nature of the interaction between the ombudsperson/member advocate and your claims examiners and how your firm utilized the ombudsperson/member advocate.
- **Reserves**
30. What is your firm's reserving philosophy?
 31. Who reviews and approves your reserving worksheet? How often are reserves reviewed?
 32. How do you advise your AC Transit of adverse reserve development?
- **Quality Control**
33. How do you monitor the quality of the work done in the location that you propose will be handling these claims? How do you propose to monitor the AC Transit claims?
 34. How do you train your staff?
 35. What are your standards for claims handling?
 36. Describe how your claims adjusters and supervisors are evaluated and how often evaluation occurs.
 37. Have you had an independent financial or systems audit within the last two (2) years? If yes, please provide the results. If no, would you be willing to submit to one as a condition of contract award?
 38. Have you been compliant with Statement on Standards for Attestation Engagements (SSAE) No. 16 for all clients? If not, please explain.
- **Communication**
39. What is your preferred method of communicating program results with your clients?

40. How and when would you communicate individual claim development?
41. How do you inform your clients of changes in Workers' Compensation laws, rules, or requirements?
42. When and how do you communicate with the injured employee?

➤ **Claim Management**

43. Describe your company's best practices in claims handling, claim supervision of litigated claims, claim status communication.
44. Do you offer designated/dedicated claim teams? If yes, please describe.
45. What is your optimal number of pending claims per adjuster by line? (Best Practices)
46. How often are adjuster's pending caseloads reviewed?
47. What action can be expected when a large disparity in an adjuster's caseload becomes apparent?
48. What are your average closing ratios?
49. Describe how your adjusters work is supervised.
50. How often do you ensure that your adjusters are adhering to the client's special handling instructions?
51. What is your standard level of settlement authority for adjusters? For supervisors?
52. What are your criteria for converting medical only to indemnity?
53. Describe how your company ensures compliance with workers' compensation newly enacted statutes and rules and regulations promulgated by the Department of Industrial Relations.
54. Describe in detail the training provided to your examiners regarding recent regulations, including AMA and ACOEM.
55. Describe in detail the training to be provided to the members of AC Transit regarding claims procedures and other pertinent areas of workers' compensation.
56. Detail your firm's standards, protocols, and timeframes for claims processing and management.
57. Describe your requirements for file documentation.
58. Describe procedures for determining compensability.
59. What is the average length of time a medical only file and indemnity file is open?
60. What are your criteria for assigning a case to defense counsel?
61. How do you monitor the quality and cost of the legal work done?
62. Describe your firm's procedures and requirements with respect to subrogation cases. Define your processes for identifying and pursuing subrogation.
63. Describe your referral process for potentially fraudulent claims.
64. Describe your firm's proposed investigative unit, including methods used to recognize potential suspicious claim activity. Do you have any limitations on outside investigations?
65. Describe your procedures for handling catastrophic claims.
66. What are your criteria for assigning a case to an outside investigator? How do you monitor the quality and timeliness of the work done?
67. Describe cost containment processes and strategies utilized by your firm that has been successfully implemented by other clients.
68. Does the Proposer have procedures in place to assist us with a Return-to-Work Program? If yes, please describe.
69. How are penalties paid? How do you notify the client of a penalty paid? If penalties are paid with the AC Transit's funds, how do you reimburse the client? How quickly are the reimbursements made?
70. Has a State auditor audited the location that you propose to handle the District's claims in the past 12 months? What were the auditor's findings? What steps did you take to correct any adverse finding?

➤ **Claims Systems**

71. Describe in detail your check writing system including security measures, timelines, procedures for manual entries and corrections, reconciliation processes, and your reporting formats and processes.

➤ **Implementation**

72. If awarded this account, outline in detail your transition plan and timeline for the transfer of services. Respondents are to provide a detailed transition plan outlining, but not limited to the transition of:
- Electronic Data
 - Movement of Physical Files
 - Benefit Payments (TD, PD, Life Pension, etc.)
 - Transition of Pending Utilization Review Authorizations
 - Educating District personnel regarding changes and/or interpretation of the workers' compensation law.
 - Timeline for each phase of the transition must be included with the proposal.

➤ **Claims Systems**

73. Describe your electronic claim management system available to your clients.
74. Describe any value-added services such as web-based application that enables the injured worker to access claim forms and submit them online.
75. Describe your ad hoc report producing capacity. Provide a sample of a year-end summary by department and division.
76. Describe your client access options for electronic claim files, loss reports and ad hoc reports.
77. Describe your location structure as well as nature and cause codes.
78. Describe your firm's proposed data producing capability to provide the reporting requirements outlined in this RFP as well as an efficient records and electronic data retention and back-up and business recovery plan.
79. Advise if your computer system tracks reserve changes.
80. Samples of computer-generated management reports must accompany the proposal.
81. Discuss your ability to provide web-based user queries, secure inbound and outbound data transmissions using PGP encryption, and banking positive pay fraud protection for claim payments.
82. Describe your ability to provide and generate regular and timely reports, including loss information, ad-hoc, and risk management reports, OSHA reports, claims and financial data analyses, trend analyses, and claimant profile information.
83. Provide two (2) samples stewardship analyses.
84. Describe your backup and data recovery plan.
85. Describe security measures used to ensure data integrity including security related to remote access.
86. Describe how new claims can be entered in the system.
- How will AC Transit staff access the system?
 - What notifications are sent to the District and claims staff?
 - Confirm if 5020, DWC-1 and any other required forms will be sent from system?
87. Does your electronic claims system provide the ability to support capture of video, audio and photos and relate them to a specific incident or claim? If yes, please describe.
88. Does your electronic claims system provide the ability to scan a document and link it to an incident and/or claim? If yes, please describe?
89. Does your electronic claims system provide the ability to easily configure the application with respect to thresholds, targets, due dates, deadline windows, compensation caps and other parameters used in the management of workers' compensation and third-party claims?
90. Does your electronic claims system provide the ability to import video, audio, photo and digital documents from one or more applications and relate them to the appropriate incident or claim? If yes, please describe the user interface that permits easy cross-referencing of documents, videos, audio and photographs and, efficiently organizes links to all documents, photos, videos, audio, and other records related to an incident and/or claim.

➤ **Managed Care Services**

91. Please complete the following table detailing your organization's managed care services:

Managed Care Service	Offered? (Yes/No)	First Year Offered	Leased or Subcontracted? (Yes/No. If Yes, specify provider) *
a) Medical Bill Review (MBR)			
b) Preferred Provider Organization (PPO)			
c) Medical Provider Network (MPN)			
d) Negotiation/Specialty Bill Review (SBR)			
e) Telephonic Case Management (TCM)			
f) Field Case Management (FCM)			
g) Utilization Review (UR) including Physician Advisor (PA)			
h) Pharmacy Benefits Management (PBM)			
i) Other Ancillary Services (as an aggregator intermediary performing referral, clinical management, and billing) such as diagnostics, physical medicine and DME. Please provide information for each service offered.			
j) Electronic Data Interface (EDI) to claims administration systems			
k) Other:			

* Refers to the leasing or subcontracting of software, PPO networks, ancillary vendor networks or third-party business relationships.

92. Please provide fiscal year July 2019 – June 2020 revenue and net income. Please provide both organization-wide revenue/income as well as a further breakdown by service line (i.e. Repricing, Case Management, Utilization Review). Please provide fiscal year July 2019 – June 2020 total bill volume and gross charge volume processed.

93. Please provide names and titles of principal staff that will be assigned to ongoing departmental operations on the District account. For each person, please indicate whether that person will be permanently designated to the account. For each respective staff member, please provide his/her primary office location, detailed professional experience, and related account experience. Please provide the principal staff member(s) for all the following account responsibilities:

- a. Senior/Executive Management Representative. Is your organization willing to commit to this representative's direct involvement as requested by the District on the Client program?
- b. Account Management
- c. Bill Review Operational Management
- d. Bill Review Analysts
- e. PBM Operational Management
- f. Other Ancillary Networks Operational Management
- g. Diagnostics Operational Management
- h. Systems and IT Support
- i. Product Support (i.e. report development)

94. Based on your knowledge of the District program, please provide organization/contact information for three like-account Clients that will provide the District with references regarding the workers' compensation managed care services provided by your organization. The District prefers that these clients are structurally like the District, with geographic dispersion of medical activity like the District's geographic dispersion, and approximate similarity in program size (as measured by medical charges and bill volume).

95. The District program will be required to operate in compliance with a comprehensive program specification (key protocols summarized below). Please indicate for each item whether your organization is willing to comply with each of these requirements:
- a. Technical bill review performed on an extensive range of CPT codes.
 - b. Other bill review specs set to maximize savings, even if additional operating cost is incurred.
 - c. Precise reporting as defined on in this solicitation.
 - d. Maximum organizational and account management responsiveness.
 - e. Maximum accountability for service results – commitment to reimburse all provider overpayments resulting from vendor error and all service fee overcharges.
96. Referring to the OEO subcontracting requirements for this RFP, please detail how your firm would propose to address this requirement specific to managed care and medical cost containment services only.

➤ **Pricing**

97. Please provide a pricing spreadsheet which includes pricing for all managed care offerings.
98. How are fees for savings below-fee schedule from PPO, Pharmacy Benefits Management (PBM), physical medicine/diagnostic services, and SBR services applied? Are different fees assessed for savings resulting from fee schedule application vs. PPO/PBM/physical medicine/diagnostic contract-driven savings? Are savings achievable through fee schedule/U&C/UCR recognized in all cases?
99. Is your organization willing to implement performance-based incentive structures for T the District's account, whereby your service rates are adjusted up or down based on savings performance, workflow accuracy and timeliness, and other financial or operational criteria?

➤ **Reporting**

100. Please confirm that your organization can and will provide monthly MBR savings summary reports that reflect the following parameters:
- a. Net full duplicate charges and savings (partial duplicates should be included). Please confirm.
 - b. Net all charges and savings related to examiner-directed full bill denials (partial denials should be included), review-only bills, and non-reviewable documents such as provider appeal letters. Please confirm.
 - c. Net all charges and savings related to full bill denials generated from sendbacks/additional information denials (partial denials should be included). Please confirm.
 - d. Net all charges and savings related to disallowances due to enforcement of Utilization Review and case management treatment determinations. Please confirm.
 - e. Savings reflect the net impact of reconsiderations (i.e. savings are adjusted down to reflect the impact of reconsiderations), and additionally that your results do not include both initial and reconsideration reviews. *Example: An original bill is reviewed in January and recon'd in February. Your January reports should contain the original review, and your February report should on a net basis contain only the incremental impact of the recon (charges unchanged, savings negative, allowance positive, fees reflecting only additional and refunded amounts)*. Please confirm.
101. Please confirm that your organization can provide monthly MBR summary reports, in compliance with the above reporting parameters and containing the following data elements:
- a. Bill count, net full duplicates
 - b. Gross charges
 - c. Fee schedule/bill review savings
 - d. PPO savings
 - e. Negotiated discount savings
 - f. Other savings (specifying each other type)
 - g. Total savings
 - h. Fee schedule/bill review fees
 - i. PPO fees
 - j. Negotiated discount fees

- k. Other fees (specifying each other type)
 - l. Total fees
102. Please confirm that your organization can provide monthly MBR bill detail reports, in compliance with the above reporting parameters and containing the following data elements for each bill:
- a. Bill identifier, claim number
 - b. Claimant
 - c. Provider
 - d. Date(s) of service
 - e. Gross charge
 - f. Reductions, separated by type
 - g. Fees, separate by type
 - h. Sum totals of bill volume, charge, reduction, and fee data by bill type (i.e. medical, inpatient hospital, outpatient hospital, pharmacy, medical legal, etc.)
103. Please confirm that your organization can provide monthly MBR line detail reports, in compliance with the above reporting parameters and containing the following data elements for each line:
- a. Bill identifier, claim number
 - b. Claimant
 - c. Provider
 - d. Date(s) of service
 - a. Procedure code
 - b. Related diagnosis code
 - c. Gross charge
 - d. Reductions, separated by type
 - e. Fees, separate by type
 - f. Sum totals of bill volume, charge, reduction, and fee data by bill type (i.e. medical, inpatient hospital, outpatient hospital, pharmacy, medical legal, etc.)
104. Please confirm that your organization can provide monthly CM summary reports that contain the following data elements and parameters:
- a. Separate reports for Telephonic Case Management and Field Case Management
 - b. Separate reports for New Referrals, Open Cases, and Closed Cases
 - c. Claim number
 - d. Claimant name
 - e. Claims examiner
 - f. Provider name
 - g. Injury dates
 - h. Referral dates
 - i. Referral lag (injury date to referral date)
 - j. Case duration
 - k. Fees charged in the month being reported
 - l. Fees to date
 - m. Hard Savings to date (documented treatment/durable medical equipment/Vocational Rehabilitation costs scheduled to be incurred and avoided through nurse intervention)

- n. Soft Savings to date (projected savings due to comparison of achieved treatment costs versus national treatment guidelines)
105. Please confirm that your organization can provide monthly CM detail reports that contain the following data elements and parameters for each case:
- a. Separate reports for Telephonic Case Management and Field Case Management
 - b. Separate reports for New Referrals, Open Cases, and Closed Cases
 - c. Claim number
 - d. Claimant name
 - e. Claims examiner
 - f. Provider name
 - g. Injury dates
 - h. Referral dates
 - i. Referral lag (injury date to referral date)
 - j. Case duration
 - k. Itemized fees with descriptions for each billing item (all reports)
 - l. Itemized savings with descriptions for each savings item (all reports)
106. Please confirm that your organization can provide monthly UR reports that contain the following data elements:
- a. Claim number
 - b. Claimant name
 - c. Claims examiner
 - d. Provider name
 - e. Injury dates
 - f. Referral dates
 - g. Referral lag (injury date to referral date)
 - h. Turnaround time for all decisions and notification elements for which there are deadlines under state statutes
 - i. Case duration
 - j. Itemized fees with descriptions
 - k. Itemized savings with descriptions (explicitly denied medical treatment or costs)
 - l. Categorically separated fees (i.e. UR fees, PR fees)
 - m. Outcome descriptions
 - n. Totals for each of the following:
 - i. Case/claim count
 - ii. UR count
 - iii. PR count
 - iv. UR fees
 - v. PR fees
 - vi. Total UR/PR savings
 - vii. Denials
 - viii. Modifications
 - ix. Appeals
 - x. Overturned denials
 - xi. Overturned modifications

➤ **Savings Performance**

107. Please confirm that in responding to all data requests contained in this RFP, all your organization's data for gross charges and savings will reflect all the following parameters:



- a. Net full duplicate charges and savings (partial duplicates should be included). Please confirm.
 - b. Net all charges and savings related to examiner-directed full bill denials (partial denials should be included), review-only bills, and non-reviewable documents such as provider appeal letters. Please confirm.
 - c. Net all charges and savings related to full bill denials generated from sendbacks/additional information denials (partial denials should be included). Please confirm.
 - d. Net all charges and savings related to disallowances due to enforcement of Utilization Review and case management treatment determinations. Please confirm.
 - e. Savings reflect the net impact of reconsiderations (i.e. savings are adjusted down to reflect the impact of reconsiderations), and additionally that your results do not include both initial and reconsideration reviews. *Example: An original bill is reviewed in January and reconsidered in February. Your January reports should contain the original review, and your February report should on a net basis contain only the incremental impact of the recon (charges unchanged, savings negative, allowance positive, fees reflecting only additional and refunded amounts).* Please confirm.
108. Will your organization commit to reimbursing the District in full for any and all provider overpayments resulting from incorrect payment recommendations you or any of your organization's subcontractors' issue, if after 90 days such overpayment has not been recaptured?

➤ **Repricing Service Structure & Workflow**

109. Is your organization willing to provide documentation or in-person representation, as required by the District and at no cost to the District, at all conferences and hearings related to disputes over the allowances and payments resulting from your review of the District's medical bills? Are you willing to provide such representation for the review results of the District's previous bill review vendor(s)?
110. Please briefly describe the implementation process you would employ in transitioning AC TRANSIT District managed care operations to your organization, addressing all aspects including account setup, EDI development/installation, history transfer, etc. Can you commit to fully implementing a program for the District within two months if selected by the District (excluding Claims System Integration, for which the District will provide a timeline)?

➤ **MBR Resources**

111. Please describe your medical bill review software, specifying the software provider, if leased, and how long you have leased bill review software from this provider. Please indicate how long your current software has been actively employed for your AC Transit's programs. Are you planning to move to a new software platform, and if so when will this transition occur?
112. Please describe in detail your bill review system's capability to integrate Utilization Review (UR) treatment determinations into Repricing rules and operations. What is the level of automation of each of these functions? Can your system apply UR determinations automatically at the procedure code level? If so, please concisely describe the system's precise capabilities in this area. What level of access can be provided to third parties for accessing your bill review system for the purpose of entering UR determinations directly into your bill review system?
113. Do you offer an internet-based portal for District claims personnel to view overall bill review activity and status? Please briefly describe the key functionality of this portal.
114. The District requires a highly experienced account staff that includes senior MBR personnel. Will your organization commit to servicing the District's account through a team including your most skilled senior bill review analysts?
115. Which of your office(s) will perform Repricing for the District account? What is the composition of your MBR staff at these office(s) (titles and number of associates per position)?
116. What is the average monthly bill volume processed by the office(s) that will serve the District account? Please provide a list of the five largest accounts served by these office(s), with corresponding average monthly bill volume. Will you need to hire additional staff at these location(s) to serve the District account, and if so, how many additional personnel for each position? What other resource additions will be required?
117. Is your system capable of downloading up to 3 years of the District's historical payment and fee data?

➤ **PPO and MPN**

118. List all PPO networks offered by your organization. Please indicate any tiering limitations or restrictions for all networks.
119. AC TRANSIT may elect to install a customized, proprietary MPN for the treatment of its injured workers. Can your organization install an AC Transit MPN as the primary network employed on the District program? What PPO networks can you make available to the District for secondary placement in the network lineup given that the AC TRANSIT MPN would be the primary network for providers? Will you load the District MPN into your system, supplement the MPN with a primary network for facilities,

coordinate its application with secondary networks, and provide update maintenance to the MPN? Please confirm and describe the processes that will be employed to accommodate these elements of service.

120. If the District sought to develop a customized MPN, what options and support can your organization or your PPO partners offer in the development of this MPN? Please be concise and specific in your answer.

➤ **Pharmacy Benefits Management (PBM)**

121. If applicable, please describe your Pharmacy Benefits Management (PBM) offering. What subcontractor or in-house program do you offer?
122. Do you maintain any relationships with third party billers (TPBs) such as Stone River, whereby TPBs runs all billing activity for your clients back through your network, allowing you to bring TPB claims back under the PBM? Please describe in detail any such relationships or other TPB relationships.
123. Please briefly describe the precise practices you can provide for the District program to manage the use of and repricing the following prescription types:
- a. Repackaged drugs
 - b. Compound medications
 - c. Narcotics
124. Are you willing to develop programs for management of each of the above prescription types, as directed by the District, at no extra cost to the District?
125. Are you willing to customize a formulary or formularies for the District at no additional cost to the District?
126. Are you willing to disclose all rates paid by your firm to network participating pharmacies and retail/mail order suppliers?
127. Are you willing to provide pricing to the District that is structured solely as a flat unit-based rate, with your actual cost being passed through to the District?
128. Are you willing to disclose all rebate/discount terms you maintain with pharmaceutical distributors/manufacturers and your mail order suppliers? Are you willing to refund to the District, on a prorated basis, 100% of rebates or any other discounts you receive from such distributors/manufacturers/suppliers?
129. Do you offer an online portal for claims examiners to access and direct prescription activity? If so, please concisely describe the functionality, range of data, data query options and range of examiner control offered by your portal.

➤ **Diagnostics**

130. If applicable, please describe your diagnostics services offering. What subcontractor(s) or in-house program do you offer?
131. Do you offer an online portal for claims examiners to access and direct diagnostics activity and view diagnostics images? If so, please concisely describe the functionality, range of data, data query options and range of examiner control offered by your portal.

➤ **Physical Medicine**

132. If applicable, please describe your physical medicine services offering. What subcontractor(s) or in-house program do you offer?
133. Please briefly describe your process of clinical management of patient treatment plans. What processes will you employ to ensure that appropriate, timely and cost-effective treatment is delivered to District employees?
134. Do you offer an online portal for claims examiners to access and direct physical medicine treatment activity? If so, please concisely describe the functionality, range of data, data query options and range of examiner control offered by your portal.

➤ **Case Management (CM)**

135. What is the current average nurse tenure at your organization, and average years of direct experience in workers' compensation?
136. What is the approximate maximum case load your onsite RN can support for Telephonic Case Management (TCM)? What is the approximate maximum caseload your onsite RN can support for Field Case Management (FCM)?
137. Please indicate all specific members of CM staff that have left or joined your organization over the last two years. For each individual, please indicate date of departure or arrival and his or her reason for leaving or joining. Please also provide specific turnover figures (actual departures and turnover percent) for your CM personnel. ("Turnover percent" is calculated as the number of departures throughout the period divided by total CM personnel at the end of the period.) For the purpose of assessing the stability of your nurse staff, please provide your organization's approximate nurse salary range, the primary determinant of salaries within this range (i.e. experience, region), and how these factors apply in setting actual nurse salaries.

138. Please provide the CVs of all RN candidate(s) you may already have identified for the District program, along with a thorough explanation of why you have selected the RN candidate(s) for the District.
139. If you have not identified candidate(s) for the District program at this time, please provide a detailed explanation of the channels you explore to find qualified candidates, and the factors you consider critical in identifying good nurses. How is your firm able to acquire and retain good nurses?
140. For each specific CM service, you provide (TCM, FCM, other), please provide your suggested referral criteria for service utilization.
141. For all CM services it employs, the District seeks a service provider that will prioritize efficient utilization of CM services that will maximize clinical results for District injured workers as well as minimize unnecessary service costs. In terms of avoiding excess service costs, what specific protocols do you currently employ and/or suggest being employed so that CM services are not being utilized excessively or billed inaccurately?
142. Are you willing to commit to a service rate for nurse travel & wait time that is 50% of the hourly nurse professional rate?
143. What is your standard protocol for billing time for travel (i.e. at what point does billable time commence and end)?

➤ **Utilization Review (UR)**

144. Please provide your suggested referral criteria for UR.
145. Please indicate all specific members of UR staff that have left or joined your organization over the last two years. For each individual, please indicate date of departure or arrival and his or her reason for leaving or joining. Please also provide specific turnover figures (actual departures and turnover percent) for your UR personnel. ("Turnover percent" is calculated as the number of departures throughout the period divided by total UR personnel at the end of the period.) For the purpose of assessing the stability of your nurse staff, please provide your organization's approximate nurse salary range, the primary determinant of salaries within this range (i.e. experience, region), and how these factors apply in setting actual nurse salaries?
146. Does your organization employ its own UR nurses and physician reviewers? Do you use any outside vendor(s)? If an outside vendor is used, what is the name of the firm? What part of the process do they provide? Please detail your measures for overseeing and assuring the quality of outside vendors.
147. Do you use physician reviewers who are licensed and practice medicine in California? Are they AME/QME qualified? If not, please provide your quality assurance/credentialing process, locations, and qualifications of your physician reviewers.
148. Are non-RN staff involved in the UR process, and if so, how and where in the process?
149. What is the physician status of your Medical Director? Is he/she board certified in Occupational Medicine? Please provide credentials and background information on your Medical Director.
150. Does your Medical Director assist in establishing best practices? Please provide your best practices criteria. Please also describe in detail your Medical Director's involvement in structuring and administering all aspects of your UR services.
151. For any regulatory audits performed in relation to your UR services, what were the results of such audit(s)? Please provide supporting documentation, with District information redacted as necessary.
152. Please attach samples of UR letters, and in your responses confirm whether these letters include any mandatory regulatory requirements.
153. Do you agree to pay any fines or penalties to regulatory agencies regarding utilization review if the fault is determined to lie with your company?
154. Please provide 2019 summary data for the following figures:
 - a. number of URs
 - b. number of approvals by non-physician or physician reviewer
 - c. number of denials
 - d. number of modified treatment requests
 - e. number of delayed treatment requests
 - f. number of appeals
 - g. number of appeals for which original decision was upheld
 - h. number of appeals for which original decision was overturned

➤ **Claims System Integration, IT Protocols**

155. Please indicate your organization's ability and willingness to implement within a two-month time period an interface with the chosen claims system. Please indicate if your organization is willing to implement this interface employing the Electronic Data Interface (EDI) specifications of the District.
156. What procedures do you employ to ensure that Claim/Vendor files and Payment files are uploaded/submitted successfully, and in the case of any individual record or whole file errors, such errors are consistently identified and corrected?
157. Do you provide IT support using your own staff or outsourced personnel (and if outsourced, who provides your IT support)? Which of your offices will perform implementation and ongoing systems maintenance for the District account? What is the composition of your IT staff at these office/these offices (titles and number of associates per position)?

➤ **OSHA Reporting**

158. Describe the process for determining OSHA recordables.
159. Describe the quality control process used to ensure accuracy.
160. What reports does your system provide? Provide examples.
161. How are loss days determined and factored into the injury frequency rate?
162. If the District incurs fines or penalties, as a result of vendor error, please describe the corrective action the vendor will take?
163. Provide an overview of system capabilities.

Data Security

164. Within the last months, have you completed an audit or certification process under a recognized standard (e.g., ISO 27001, FFIEC, NIST, SOC 2)?
 - If so, please provide details.
165. For each topic below, topic below, please indicate whether covered by your cybersecurity policy:
 - Data classification
 - Access controls and authentication
 - Background checks
 - Business continuity and disaster recovery
 - Third party vendor management
 - Network security
 - Physical security and environmental controls
 - Incident response
 - Risk assessment
 - Compliance monitoring
166. Will you use any subcontractors that will have access to confidential information? ...
 - If yes, please list subcontractors and describe their services.
167. Do you require all employees who will have access to our confidential information to undergo information security training?
168. Will you store any data outside the U.S., or will you use offshore personnel to process claims? If so, please describe access and security protocols?
169. Have you conducted penetration testing within the last 12 months? If no, please provide when you last had a penetration test or indicate if none have been performed.
170. Do you maintain an incident response plan? If yes
 - When you have last updated the plan?



- When have you last conducted a tabletop exercise on the plan? (If you have not done so, answer N/A).
171. Do you have a data retention policy that will apply to data processed in the course of performing your services to us?
- If yes, please describe.
172. Have you designated an officer or employee to oversee and implement your cybersecurity program?
173. Have you had a security incident or breach in the last 12 months?
174. Are you subject to pending or anticipated litigation relating to a security incident, breach, or violation of privacy or security law/regulation?