

# City of Las Cruces®

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 15 Ordinance/Resolution# 11-12-410

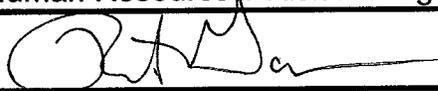
For Meeting of \_\_\_\_\_  
(Ordinance First Reading Date)

For Meeting of December 19, 2011  
(Adoption Date)

**TITLE:** A RESOLUTION INCREASING AN EXISTING CONTRACT WITH CANNON COCHRAN MANAGEMENT SERVICES, INC (CCMSI) OF ALBUQUERQUE, NM BY AN ADDITIONAL \$100,000.00 FOR A TOTAL OF \$149,999.00, PENDING AVAILABLE BUDGET, TO PROVIDE WORKERS' COMPENSATION THIRD PARTY ADMINISTRATION SERVICES.

### PURPOSE(S) OF ACTION:

To increase funds for third party administration services of City workers' compensation cases.

<b>COUNCIL DISTRICT: N/A</b>		
<b>Drafter/Staff Contact:</b> Mark Anthony Castillo	<b>Department/Section:</b> Human Resources/ Risk Management	<b>Phone:</b> 528-3665
<b>City Manager Signature:</b>		

### BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

In February 2011, the New Mexico Workers' Compensation Administration (WCA) conducted an audit of the Risk Management Section handling workers' compensation for the City of Las Cruces as self-insured and found significant deficiencies. In order to correct these deficiencies and prevent similar problems from arising in the future, the City has contracted with CCMSI to provide third party administration of City workers' compensation cases for Fiscal Year 2012. Under the contract, CCMSI provides services such as self-insured workers' compensation claims administration, medical control, employee consulting, program development, filing of appropriate renewal application forms and periodic reports required by state administrative agencies to maintain the City's Self-Insured Program. Initial contract amount was for \$49,999 using an existing contract from another municipality. Transfer of previous workers' comp claims and new claims has exceeded initial contract amount necessitating supplemental funding. It is anticipated this additional funding should be sufficient until a new contract is competitively bid.

### SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Purchasing Manger's Request to Contract, (PMRC).
3. Exhibit "B", Services Agreement (11-12-359) with CCMSI.

### SOURCE OF FUNDING:

(Continue on additional sheets as required)

**SOURCE OF FUNDING:**

<b>Is this action already budgeted?</b>	Yes	<input checked="" type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
<b>Does this action create any revenue?</b>	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____.
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

Existing initial appropriation of \$49,999 was approved by CM Garza on July 26, 2011; please see "REQUEST APPROVAL TO CONTRACT FOR Third Party Administrator for Workers' Compensation" in Exhibit B. Additional requested funding is available through Workers' Comp-Professional and Technical Services account as indicated below in the fund summary.

**FUND EXPENDITURE SUMMARY:**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds Current FY	Remaining Funds	Purpose for Remaining Funds
Workers' Comp	63000050-710900	\$149,999.00	\$150,000.00	\$1	none

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will allow the City to remain in compliance with New Mexico Workers' Compensation statutes and regulations.
2. Vote "No"; this will result in a lack of third party administration of the City's workers' compensation cases and thus non-compliance with New Mexico Workers' Compensation statutes and regulations.
3. Vote to "Amend"; this could modify the Resolution to reflect the wishes of the City Council.

**REFERENCE INFORMATION:**

N/A

**RESOLUTION NO. 11-12-410**

**A RESOLUTION INCREASING AN EXISTING CONTRACT WITH CANNON COCHRAN MANAGEMENT SERVICES, INC (CCMSI) OF ALBUQUERQUE, NM BY AN ADDITIONAL \$100,000.00 FOR A TOTAL OF \$149,999.00, PENDING AVAILABLE BUDGET, TO PROVIDE WORKERS' COMPENSATION THIRD PARTY ADMINISTRATION SERVICES.**

The City Council is informed that:

**WHEREAS**, the City of Las Cruces requires third party administration services (TPA) of City workers' compensation cases involving City employees to ensure compliance with New Mexico Workers' Compensation statutes and regulations; and

**WHEREAS**, these services provide an effective program to the City; and

**WHEREAS**, under the contract, CCMSI provides services such as self-insured workers' compensation claims administration, medical control, employee consulting, program development, filing of appropriate renewal application forms and periodic reports required by state administrative agencies to maintain the City's Self-Insured Program.

**NOW, THEREFORE**, be it resolved by the governing body of the City of Las Cruces:

**(I)**

**THAT** the additional funds, in the estimated amount of \$100,000.00, be added to the existing price agreement with CCMSI of Albuquerque, NM, to provide workers' compensation third party administration services which is attached as Exhibit "B" and is hereby approved.

**(II)**

**THAT** City staff is hereby authorized to do all deeds necessary in the accomplishment of the above.

DONE AND APPROVED on this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

VOTE:

Mayor Miyagishima: \_\_\_\_\_

Councillor Silva: \_\_\_\_\_

Councillor Smith: \_\_\_\_\_

Councillor Pedroza: \_\_\_\_\_

Councillor Small: \_\_\_\_\_

Councillor Sorg: \_\_\_\_\_

Councillor Thomas: \_\_\_\_\_

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

# CITY OF LAS CRUCES

## PURCHASING MANAGER'S REQUEST FOR CHANGE ORDER

For Meeting of: December 5, 2011

Resolution No.: 11-12-410

### Change Order to Existing Contract For Worker's Compensation Third Party Administration Services

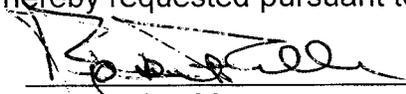
The Las Cruces City Council is provided the following information concerning this request:

#### BID/RFP SOLICITATION INFORMATION:

- 1. Original Bid/RFP & Due Date: see 11-12-359 – Exhibit B
- 2. Description of Bid/RFP: **Worker's Compensation Third Party Administration Svcs**
- 3. Contract Award: July 29, 2011
- 4. Contract Revision:
  - Previous Contract Award Amount: \$49,999.00
  - Change Order Amount: \$150,000.00
  - New Contract Amount: \$199,999.00
- 5. Contractor: **Cannon Cochran Management Services, Inc. of Albuquerque, NM**
- 6. Using Department: **Human Resources / Risk Management**
- 7. Contract Duration: **August 31, 2012 – pending available budget**

#### PROCUREMENT CODE COMPLIANCE:

The City of Las Cruces Procurement Code was administered in the conduct of this procurement and approval to change the above contract is hereby requested pursuant to **Section 24-228.**

  
 Purchasing Manager 11/2/2011  
Date

#### CONFIRMATION OF FUND ENCUMBRANCE:

REQUISITION OR PURCHASE ORDER NUMBER:	TBD
---------------------------------------	-----

**REQUEST APPROVAL TO CONTRACT  
FOR  
Third Party Administrator for Workers' Compensation**

**PROCUREMENT INFORMATION:**

1. Using Department:	<u>Risk Management</u>
2. Current Authorizing Resolution No.	<u>None : Contract less than \$50,000.00</u>
3. Existing Contract Number & Expiration:	<u>No.: 0-108 Expires June 30, 2014</u>
4. Existing Contract Issuing Agency:	<u>City of Santa Fe</u>
5. Current Award Recommendation To:	<u>Cannon Cochran Management Services, Inc.</u>
6. Current Total Contract Cost	<u>\$50,000.00</u>
7. Current Contract Period:	<u>October 8 2010, thru June 30, 2014</u>
8. Current Requisition Number:	<u>No. 12100481</u>
9. Current Folder:	<u>No. 11-12-359</u>

**DEPARTMENTAL RECOMMENDED ACCEPTANCE:**

*Purchasing:*

 7/26/2011  
Signature Date

*Administration: HUMAN RESOURCES*

 7-26-2011  
Signature Date

*Community Development:*

\_\_\_\_\_  
Signature Date

*Facilities:*

\_\_\_\_\_  
Signature Date

*Finance:*

\_\_\_\_\_  
Signature Date

*Information Technology:*

\_\_\_\_\_  
Signature Date

*Legal:*

\_\_\_\_\_  
Signature Date

*MVRDA/SCSWA/Municipal Court:*

\_\_\_\_\_  
Signature Date

*Public Safety:*

\_\_\_\_\_  
Signature Date

*Public Services:*

\_\_\_\_\_  
Signature Date

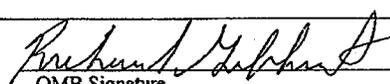
*Public Works:*

\_\_\_\_\_  
Signature Date

*Utilities:*

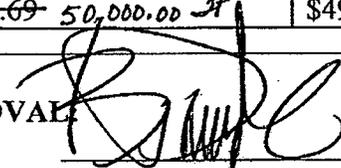
\_\_\_\_\_  
Signature Date

**BUDGET AVAILABILITY:**

 7/26/11  
OMB Signature Date

Fund Source(s)	Current Balance	Funds to Be Encumbered
63000050-762332-710900 <i>JP</i>	\$1,450,651.69 <del>50,000.00</del> <i>JP</i>	\$49,999.00

**CITY MANAGER/BOARD CHAIR APPROVAL**

 7/26/11  
City Manager /Board Chair Date

NOTE: After City Manager or Board Chair approval, please return to Purchasing Section.

B. TELLES

COPY



City of Las Cruces

July 25, 2011

11 JUL 25 3:24PM

Via email (rcangiolosi@ccmsi.com)  
and U.S. Mail

Rich Cangiolosi  
Regional Vice President  
CCMSI  
4300 San Mateo Blvd. NE  
Suite A3000  
Albuquerque, NM 87110

**Re: Third Party Administrator (TPA) Services for the City of Las Cruces**

Dear Mr. Cangiolosi:

This letter follows recent discussions that the City of Las Cruces Legal Department has had with you concerning acquiring the services of Cannon Cochran Management Services, Inc. (CCMSI) to act as a third party administrator for Workers' Compensation claims for the City of Las Cruces.

In February 2011, the New Mexico Workers' Compensation Administration (WCA) conducted an audit of the Risk Management office handling Workers' Compensation for the City of Las Cruces as self-insured and found significant deficiencies. In order to correct these deficiencies and prevent similar problems from arising in the future, the City has concluded that it is appropriate to retain a TPA to handle Workers' Compensation cases for the City of Las Cruces. We currently have a reported 258 open cases involving indemnity claims or medical only. Risk Management is currently in the process of closing a number of these claims. The City is currently using the David Corporation/Renaissance Program to track its Workers' Compensation cases.

Our Purchasing Department has indicated that the City is allowed to "piggy-back" onto existing contracts that you have with other municipalities in order to comply with the City's Procurement Code. It is our understanding that you have a Services Agreement with the City of Santa Fe acting as TPA. It is also our understanding that payment is made for services rendered at a rate of \$800.00 for indemnity claim and \$135.00 for medical claim only, plus additional expenses for your bill processing fees and a percentage from savings from bill reduction. You indicated informally on the telephone that you would be able to offer the City of Las Cruces the same rates currently given to Santa Fe. If you are able to offer the same terms, then pursuant to LCMC

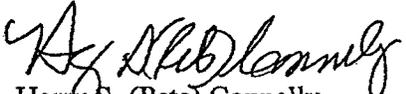
*Rich Cangiolosi*  
*CCMSI*  
*July 25, 2011*  
*Page 2*

1997, § 24-316, we could "piggy-back" on to the existing Santa Fe contract. The City would anticipate that this contract would be in place for a one year period of time after which time the services for TPA would have to be advertised with requests for proposals in order to comply with the procurement code.

Finally, our excess carrier Safety National has indicated a reluctance to provide excess coverage to the City past August 1, 2011 unless we retain a qualified TPA. I have attached the City of Las Cruces proposed Services Agreement. Again, we have been advised by procurement that the terms and conditions of a service agreement would have to be the same as existing City of Santa Fe agreement. That agreement would be an exhibit to the Las Cruces "piggy-back" service agreement. We would also anticipate that there would be an initial appropriation of \$50,000 to be approved by the City Manager. Recognizing the fact that your services may exceed the \$50,000, we would then start the process for getting City Council approval, if necessary, to obtain additional funding.

I trust the above information and documentation is enough to begin the process of retaining CCMSI as our Third Party Administrator. Again, time is of the essence in order to maintain our excess coverage. Should you have any additional questions or need for additional information, please feel free to contact me at (575) 541-2128.

Sincerely,

  
Harry S. (Pete) Connelly  
City Attorney

/bjr

Enclosures: as stated

- c. Robert Garza, City Manager (w/enclosures)
- Brian Denmark, Assistant City Manager/COO (w/enclosures)
- Andre Moquin, Human Resources Director (w/enclosures)



## SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this August 1, 2011, by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Cannon Cochran Management Services, Inc (CCMSI), of 4300 San Mateo NE, Suite A300, Albuquerque, NM 87110 hereinafter called "CONTRACTOR".

### RECITAL

The City requires third party administration services (TPA) of City Workers' Compensation cases involving City employees and to ensure compliance with New Mexico Workers' Compensation statutes and regulations. For this project, LCMC Section 24-316 allows the City to use existing contracts held by other intrastate governmental bodies.

### 1. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as incorporated herein by reference and as set forth in Paragraph 1 of Exhibit A (City of Santa Fe Agreement dated October 8, 2010, attached hereto and made a part of this Agreement).

### 2. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

### 3. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount as agreed to for each claim (indemnity or medical claim only) and for bill processing fees and savings from bill reduction as set forth in Exhibit A, plus applicable taxes. CONTRACTOR shall perform the SERVICES upon receipt of a written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR shall comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

4. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of projects that are required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

5. TERM AND SCHEDULE

This Agreement shall become effective on August 1, 2011 for a term of one year through August 31, 2012. Contractor is advised that City intends to request proposals to provide TPA services for subsequent years after August 2012

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit A.

6. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

7. TERMINATION

This Agreement may be terminated as set forth in Paragraph 6 of Exhibit A.

8. RECORDS AND AUDITS

Records and audits are as set forth in Paragraph 16 of Exhibit A.

9. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

Any confidential information is governed by Paragraph 8 of Exhibit A.

10. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

#### 11. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

#### 12. ASSIGNMENT.

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

#### 13. INSURANCE

CONTRACTOR shall comply with the terms and conditions set forth in Paragraph 12 of Exhibit A.

#### 14. INDEMNITY AND LIMITATION

CONTRACTOR shall comply with the terms and conditions set forth in Paragraph 13 of Exhibit A.

15. APPLICABLE LAW

CITY and CONTRACTOR shall comply with the terms and conditions set forth in Paragraph 17 with the exception that both parties agree that venue shall be in the Third Judicial District, State of New Mexico.

16. THIRD PARTY BENEFICIARIES

Third Party beneficiaries are not intended and are governed by Paragraph 15 of Exhibit A.

17. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces  
PO Box 20000  
Las Cruces, NM 88004  
ATTENTION: Human Resources Manager

With Copies to: City Attorney  
Purchasing Manager

TO CONTRACTOR: CCMSI  
4300 San Mateo NE, Suite A300  
Albuquerque, NM 87110

*This page inserted per Pete C. (7-27-11)*

*(Signed)*

18. SCOPE OF AGREEMENT

The scope of this agreement is governed by Paragraph 19 of Exhibit A.

CCMSI  
CONTRACTOR

THE CITY OF LAS CRUCES

BY: *Bradley J. Holden*  
PRINCIPAL

BY: *[Signature]*  
PURCHASING MANAGER

DATE: 7/26/11

DATE: 07/27/11

*Reg # 12100481*

APPROVED AS TO FORM:

*[Signature]*  
CITY ATTORNEY

**EXHIBIT A**  
**SERVICES**

CITY OF SANTA FE

ITEM # 10-1008

PROFESSIONAL SERVICES AGREEMENT

Contract #

THIS AGREEMENT is made and entered into by and between the City of Santa Fe (the "City") and Cannon Cochran Management Services, Inc (CCMSI) (the "Contractor"). The date of this Agreement shall be the date when it is executed by the City.

1. SCOPE OF SERVICES

The Contractor shall provide the following services for the City:

- A. Self-insured Workers' Compensation Claims Administration.
  1. Review all claim and loss reports received from City during the term of this Agreement and process each claim or loss report in accordance with applicable statutory and administrative regulations.
  2. Conduct an investigation of each reported claim or loss under subparagraph (1) above (hereinafter referred to as a "qualified claim or loss") to the extent deemed necessary by Contractor in the performance of its obligations hereunder.
  3. Arrange for independent investigators or medical or other experts to the extent deemed necessary by Contractor in connection with processing any qualified claim or loss.
  4. Pay medical and death benefits, temporary and permanent disability compensation and other losses and expenses, but only if in the sole judgment of Contractor, such payment would be prudent for the City and the anticipated amount thereof does not exceed the limit specified or the City specifically approves or directs such action in writing.
  5. Perform reasonable and necessary administrative and clerical work in connection with qualified claims or losses including the preparation of checks bearing the name of City and drawn on the account or accounts established pursuant to paragraph 2(D) below.
  6. Maintain a file for each qualified claim or loss which shall become the property of City and which shall be available for review by the City at any

reasonable time.

7. Notify excess insurers of all qualified claims or losses with values that may exceed the City's retention, providing such insurers with necessary information on the current status of those claims or losses, unless relieved of this obligation by the City, pursuant to paragraph 2(A) below.
8. The Contractor's control supervisor shall review all open claims, at least monthly to make certain that claims and expense reserves are accurately set at the ultimate expected cost (no step reserving).
9. The Contractor shall assist the City Attorney with selection of counsel to defend qualified claims or losses, if requested by the City.
10. The Contractor shall assist the City's counsel, if requested, in preparing the defense of litigated cases, negotiating settlements and pursuing subrogation or contribution actions.
11. In the event of a fatality resulting from an on-the-job injury, personal contact with the family is required as soon as possible to explain benefits.
12. Personal contact with the claimant or claimant's family is required within 24 hours of receipt of a claim indicating an injury requiring hospitalization or immediate surgery.
13. All indemnity lost time claims shall be handled to conclusion by the same adjuster. The control supervisor may assign lost time claims to a telephone claims representative if the injury has stabilized and is of a type which requires a long term rehabilitation or healing process (or for other good reason with which is documented in the file).
14. ~~In person statements are required from every claimant receiving weekly benefits or settlements. Telephonically recorded statements are acceptable in unusual circumstances.~~
15. Medical only claims will be handled by the control office; however, if a medical only claim develops into a lost time injury, the case will be reassigned to a lost time adjuster. The control supervisor may alter this procedure if warranted but must indicate the exceptional reason in the claim file. Copies of correspondence indicating status of claim must be provided to the city claims administrator.
16. Monitor the treatment programs recommended for employees by physicians, specialists and other health care providers by reviewing all reports prepared by them and maintaining such contact with these providers as may be appropriate in the sole judgment of the Contractor.

17. As the City directs, assist in interpreting medical reports to consider the circumstances under which an ill or injured employee could return to work in the shortest period of time.
18. Assist the City in arranging for rehabilitation or retraining of employees in appropriate cases.
19. Maintain a current estimate of the expected total cost of each qualified claim or loss that considers indemnity, medical and expense components and is based on facts known at the estimation date, but is not trended or actuarially developed.
20. Utilize computer programs to furnish to the City selected loss and information reports either monthly, quarterly or annually which are entitled:
  - i. Composite claim summary, with graphs by division yearly and monthly
  - ii. Accident trend report, with graphs by division monthly
  - iii. Loss analysis report, with graphs by division monthly
  - iv. State reports, as needed
  - v. Accumulated report monthly
  - vi. Injury codes to identify body part and type
  - vii. Number system of claims to identify type
  - viii. Program access City staff
  - ix. Indexing
  - x. Check register monthly

These reports shall contain such information as incident date, condensed incident description, department, other identifiers, payments made, estimated future costs and total expected costs of claims or losses, as well as summary and other data deemed relevant by the Contractor, but not IBNR (incurred but not reported) claims or actuarially developed loss values.
21. Annually report federal, state and local 1099 information under the City's tax identification numbers, when the City has provided all required IRS authorizations, for vendor payments issued by the Contractor on bank accounts owned by the City, but not for payment authorizations when the Contractor does not issue the checks.
22. Provide narrative reports of major or litigated claims, if requested by the City.
23. Provide claim forms and other forms believed by the Contractor to be

appropriate for the efficient operation of the self-insurance program.

24. Return to the City all claim files upon termination of the contract at the City's expense.

B. Medical Control:

(1) The control supervisor shall establish reasonable and customary fees negotiated with providers for service to employees including doctor visits, therapy and other injury related costs. The control supervisor shall direct all appointments after work hours when possible in accordance with the New Mexico Workers' Compensation Act.

(2) Assist the City, where State rules and regulations permit, in the selection of a panel of physicians or other providers of health care to initially treat employees and a panel of medical specialists to provide long-term or specialty care.

(3) Consult with the City in order to develop ways of using medical facilities and providers more effectively.

C. Employee Consulting:

(1) As the City directs, provide information to ill or injured employees regarding the benefits available under the self-insurance program and counsel any such employees who wish to obtain the assistance of third parties in dealing with problems arising out of work-related illnesses or injuries.

(2) If the City requests, consult with employee groups in regard to specific aspects of the self-insurance program.

(3) Assist the City in developing policies and procedures to ensure that an employee's return to work or reassignment is consistent with any findings of an appropriate state administrative agency.

D. Program Development, upon the City's request:

(1) Consult with the City on the establishment and coordination of necessary procedures and practices to meet any applicable state requirements and the needs of the City.

(2) Participate in the orientation of the City's personnel who are directly or indirectly involved in the processing of qualified claims or losses.

(3) Provide information on changes or proposed changes in certain legislation, regulations or rules affecting the responsibility of the City.

(4) Review the development of the self-insurance program periodically with representatives of the City in order to identify problems and recommend

corrective action.

E. Contractor shall furnish appropriate renewal application forms and, upon the City's written request, shall file all periodic reports and renewal applications required by state administrative agencies to maintain the City's self-insurance program.

F. Contractor shall not provide any risk control services.

G. Contractor may subcontract to its affiliated corporations various services to

be provided under this agreement. It is understood, however, that Contractor

will be responsible for the performance of all services to be provided to the

City hereunder in accordance with this agreement, including any

subcontracted services.

## 2. STANDARD OF PERFORMANCE; LICENSES

A. The Contractor represents that it possesses the experience and knowledge necessary to perform the services described under this Agreement.

B. The Contractor agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors.

## 3. COMPENSATION

A. The City shall pay to the Contractor in full payment for services rendered, a sum not to exceed two hundred thousand dollars (\$200,000), inclusive of applicable gross receipts taxes. Payment shall be made for services actually rendered at a rate of eight hundred dollars (\$800.00) per indemnity claim and one hundred thirty five dollars (\$135.00) per medical only claim. Bill processing fees will be \$7.00 per bill and 15% of the savings from bill reduction on CCMSI's PPO Network and 27% of the savings from bill reduction on all other PPO Networks.

B. The Contractor shall be responsible for payment of gross receipts

taxes levied by the State of New Mexico on the sums paid under this Agreement.

C. Payment shall be made upon receipt and approval by the City of detailed statements containing a report of services completed. Compensation shall be paid only for services actually performed.

4. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

5. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the City and terminate on June 30, 2014, unless sooner pursuant to Article 6 below.

6. TERMINATION

~~A. This Agreement may be terminated by the City upon 30 days written notice to the Contractor.~~

(1) The Contractor shall render a final report of the services performed up to the date of termination and shall turn over to the City original copies of all work product, research or papers prepared under this Agreement.

(2) If compensation is not based upon hourly rates for services rendered, the City shall pay the Contractor for the reasonable value of services satisfactorily performed through the date Contractor receives notice of such termination,

and for which compensation has not already been paid.

(3) If compensation is based upon hourly rates and expenses, then Contractor shall be paid for services rendered and expenses incurred through the date Contractor receives notice of such termination.

7. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement.

B. Contractor shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

C. The Contractor shall comply with City of Santa Fe Minimum Wage, ~~Article 28-1-SFCC 1987~~, as well as any subsequent changes to such article throughout the term of this Agreement.

8. CONFIDENTIALITY

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

9. CONFLICT OF INTEREST

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

10. ASSIGNMENT; SUBCONTRACTING

The Contractor shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the City. The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City.

11. RELEASE

The Contractor, upon acceptance of final payment of the amount due under this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

12. INSURANCE

A. The Contractor, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the

maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than 30 days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance as a condition prior to performing services under this Agreement.

B. Contractor shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the City with evidence of its compliance with such requirement.

C. Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

### 13. INDEMNIFICATION

The Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Contractor's performance under this Agreement as well as the performance of Contractor's employees, agents, representatives and subcontractors.

### 14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this

Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

15. THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Contractor. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

16. RECORDS AND AUDIT

The Contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit the billing both before and after payment. ~~Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.~~

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of

competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

18. AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

19. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understandings have been merged into this Agreement. This Agreement expresses the entire Agreement and understanding between the parties with respect to said services. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or

any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

22. NOTICES

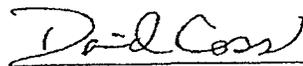
Any notices required to be given under this Agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

City of Santa Fe:  
Barbara Boltrek  
Risk Management  
P.O. Box 909  
Santa Fe, NM 87504

Contractor:  
Cannon Cochran Management Services, Inc  
4300 San Mateo NE A300  
Albuquerque, NM. 87110

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:



DAVID COSS, MAYOR

DATE: 10-3-10

ATTEST:

*Yolanda Y. Vigil*  
YOLANDA Y. VIGIL  
CITY CLERK *ccmtg 6/30/10*

APPROVED AS TO FORM:

*Geno Zamora*  
GENO ZAMORA, CITY ATTORNEY

CONTRACTOR:

*CCMSE*  
By: *Rudney Golden COO*  
(Name & Title)

CRS # *02-498336-005*  
City of Santa Fe Business  
Registration # *10-00016754*

APPROVED:

*Walter Penning*  
FINANCE DEPARTMENT

*62111.510300*  
Business Unit Line Item