

PROFESSIONAL SERVICES AGREEMENT

This **PROFESSIONAL SERVICES AGREEMENT** ("Agreement") is made and entered into by and between the **CITY OF FORT WORTH** (the "City"), a Texas home rule municipal corporation, acting by and through Susan Alanis, its duly authorized Assistant City Manager, and **Roach Howard Smith & Barton** ("Broker"), a Texas Corporation, and acting by and through Allison Nixon, its duly authorized Assistant Vice President, each individually referred to as a "**party**" and collectively referred to as the "**parties**."

AGREEMENT DOCUMENTS:

The Agreement documents shall include the following:

1. This Professional Services Agreement;
2. Exhibit A – Statement of Work, Broker's Proposal in response to RFP 17-0384;
3. Exhibit B – Workers' Compensation Insurance Broker and Consulting Services Qualifications Questionnaire;
4. Exhibit C – Fees and Charges Schedule;
5. Exhibit D – Litigation Disclosure;
6. Exhibit E – Verification of Signature Authority Form.

Exhibits A, B, C, D and E, which are attached hereto and incorporated herein, are made a part of this Agreement for all purposes. In the event of any conflict between the terms and conditions of Exhibits A, B, C, D or E and the terms and conditions set forth in the body of this Agreement, the terms and conditions of this Agreement shall control.

1. SCOPE OF SERVICES.

Broker hereby agrees to develop bid requests and to secure at the direction of City Excess Works' Compensation Insurance, and to provide related Broker consulting services for Workers' compensation, occupational safety and accident prevention/loss control, for the Human Resources Department ("Services"). Attached hereto and incorporated for all purposes incident to this Agreement is **Exhibit "A,"** Scope of Work, more specifically describing the services to be provided hereunder.

2. TERM.

This Agreement shall begin on October 11, 2017 ("Effective Date") and shall expire on October 10, 2020 ("Expiration Date"), unless terminated earlier in accordance with this Agreement ("Initial Term"). Following the Initial Term, there shall be two (2) one-year renewals at the City's sole option (each a "Renewal Term"). The City shall provide Broker with written notice of its intent to renew at least thirty (30) days prior to the end of each term.

3. COMPENSATION.

The City shall pay Broker in accordance with the provisions of this Agreement and the Fees and Charges Schedule attached as **Exhibit "C,"** which is incorporated for all purposes herein; however, total payment made under this Agreement by the City for all Services shall **not exceed Three Hundred Ninety-Five Thousand Dollars (\$395,000.00)**. Broker shall not perform any additional services or bill for actual expenses related to work for the City not specified by this Agreement unless the City requests and approves in writing the additional costs or expenses for such services. The City shall not be liable for any additional expenses of the Broker not specified by this Agreement unless the City first approves such expenses in writing.

4. TERMINATION.

4.1. Written Notice. City or Broker may terminate this Agreement at any time and for any reason by providing the other party with 30 days' written notice of termination.

4.2. Non-appropriation of Funds. In the event no funds or insufficient funds are appropriated by City in any fiscal period for any payments due hereunder, City will notify Broker of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to City of any kind whatsoever, except as to the portions of the payments herein agreed upon for which funds have been appropriated.

4.3. Duties and Obligations of the Parties. In the event that this Agreement is terminated prior to the Expiration Date, City shall pay Broker for services actually rendered up to the effective date of termination and Broker shall continue to provide City with services requested by City and in accordance with this Agreement up to the effective date of termination. Upon termination of this Agreement for any reason, Broker shall provide City with copies of all completed or partially completed documents prepared under this Agreement. In the event Broker has received access to City Information or data as a requirement to perform services hereunder, Broker shall return all City provided data to City in a machine readable format or other format deemed acceptable to City.

5. DISCLOSURE OF CONFLICTS AND CONFIDENTIAL INFORMATION.

5.1. Disclosure of Conflicts. Broker hereby warrants to City that Broker has made full disclosure in writing of any existing or potential conflicts of interest related to Broker's services under this Agreement. In the event that any conflicts of interest arise after the Effective Date of this Agreement, Broker hereby agrees immediately to make full disclosure to City in writing.

5.2. Confidential Information. Broker, for itself and its officers, agents and employees, agrees that it shall treat all information provided to it by City ("City Information") as confidential and shall not disclose any such information to a third party without the prior written approval of City.

5.3. Unauthorized Access. Broker shall store and maintain City Information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt City Information in any way. Broker shall notify City immediately if the security or integrity of any City Information has been compromised or is believed to have been compromised, in which event, Broker shall, in good faith, use all commercially reasonable efforts to cooperate with City in identifying what information has been accessed by unauthorized means and shall fully cooperate with City to protect such City Information from further unauthorized disclosure.

6. RIGHT TO AUDIT.

Broker agrees that City shall, until the expiration of three (3) years after final payment under this contract, or the final conclusion of any audit commenced during the said three years, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records, including, but not limited to, all electronic records, of Broker involving transactions relating to this Contract at no additional cost to City. Broker agrees that City shall have access during normal working hours to all necessary Broker facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City shall give Broker reasonable advance notice of intended audits.

7. INDEPENDENT BROKER.

It is expressly understood and agreed that Broker shall operate as an independent Broker as to all rights and privileges and work performed under this Agreement, and not as agent, representative or employee of City. Subject to and in accordance with the conditions and provisions of this Agreement, Broker shall have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its officers, agents, servants, employees, consultants and SubBrokers. Broker acknowledges that the doctrine of *respondeat superior* shall not apply as between City, its officers, agents, servants and employees, and Broker, its officers, agents, employees, servants, Brokers and SubBrokers. Broker further agrees that nothing herein shall be construed as the creation of a partnership or joint enterprise between City and Broker. It is further understood that City shall in no way be considered a Co-employer or a Joint employer of Broker or any officers, agents, servants, employees or SubBroker of Broker. Neither Broker, nor any officers, agents, servants, employees or SubBroker of Broker shall be entitled to any employment benefits from City. Broker shall be responsible and liable for any and all payment and reporting of taxes on behalf of itself, and any of its officers, agents, servants, employees or SubBroker.

8. LIABILITY AND INDEMNIFICATION.

8.1 LIABILITY - BROKER SHALL BE LIABLE AND RESPONSIBLE FOR ANY AND ALL PROPERTY LOSS, PROPERTY DAMAGE AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, TO THE EXTENT CAUSED BY THE NEGLIGENT ACT(S) OR OMISSION(S), MALFEASANCE OR INTENTIONAL MISCONDUCT OF BROKER, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES.

8.2 GENERAL INDEMNIFICATION - BROKER HEREBY COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS OR LAWSUITS OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, FOR EITHER PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS TO BROKER'S BUSINESS AND ANY RESULTING LOST PROFITS) AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OR MALFEASANCE OF BROKER, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES.

8.3 INTELLECTUAL PROPERTY INDEMNIFICATION – Broker agrees to defend, settle, or pay, at its own cost and expense, any claim or action against City for infringement of any patent, copyright, trade mark, trade secret, or similar property right arising from City's use of the software and/or documentation in accordance with this Agreement, it being understood that this agreement to defend, settle or pay shall not apply if City modifies or misuses the software and/or documentation. So long as Broker bears the cost and expense of payment for claims or actions against City pursuant to this section, Broker shall have the right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise and to settle or compromise any such claim; however, City shall have the right to fully participate in any and all such settlement, negotiations, or lawsuit as necessary to protect City's interest, and City agrees to cooperate with Broker in doing so. In the event City, for whatever reason, assumes the responsibility for payment of costs and expenses for any claim or action brought against City for infringement arising under this Agreement, City shall have the sole right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise and to settle or compromise any such claim; however,

Broker shall fully participate and cooperate with City in defense of such claim or action. City agrees to give Broker timely written notice of any such claim or action, with copies of all papers City may receive relating thereto. Notwithstanding the foregoing, City's assumption of payment of costs or expenses shall not eliminate Broker's duty to indemnify City under this Agreement. If the software and/or documentation or any part thereof is held to infringe and the use thereof is enjoined or restrained or, if as a result of a settlement or compromise, such use is materially adversely restricted, Broker shall, at its own expense and as City's sole remedy, either: (a) procure for City the right to continue to use the software and/or documentation; or (b) modify the software and/or documentation to make it non-infringing, provided that such modification does not materially adversely affect City's authorized use of the software and/or documentation; or (c) replace the software and/or documentation with equally suitable, compatible, and functionally equivalent non-infringing software and/or documentation at no additional charge to City; or (d) if none of the foregoing alternatives is reasonably available to Broker terminate this Agreement, and refund all amounts paid to Broker by City, subsequent to which termination City may seek any and all remedies available to City under law.

9. ASSIGNMENT AND SUBCONTRACTING.

9.1 Assignment. Broker shall not assign or subcontract any of its duties, obligations or rights under this Agreement without the prior written consent of City. If City grants consent to an assignment, the assignee shall execute a written agreement with City and Broker under which the assignee agrees to be bound by the duties and obligations of Broker under this Agreement. Broker and Assignee shall be jointly liable for all obligations of Broker under this Agreement prior to the effective date of the assignment.

9.2 Subcontract. If City grants consent to a subcontract, SubBroker shall execute a written agreement with SubBroker referencing this Agreement under which SubBroker shall agree to be bound by the duties and obligations of SubBroker under this Agreement as such duties and obligations may apply. SubBroker shall provide City with a fully executed copy of any such subcontract.

10. INSURANCE.

Broker shall provide City with certificate(s) of insurance documenting policies of the following minimum coverage limits that are to be in effect prior to commencement of any work pursuant to this Agreement:

10.1 Coverage and Limits

(a) Commercial General Liability:

\$1,000,000 - Each Occurrence
\$2,000,000 - Aggregate

(b) Automobile Liability:

\$1,000,000 - Each occurrence on a combined single limit basis

Coverage shall be on any vehicle used by Broker, its employees, agents, representatives in the course of the providing services under this Agreement. "Any vehicle" shall be any vehicle owned, hired and non-owned.

(c) Worker's Compensation:

Statutory limits
Employer's liability

\$100,000 - Each accident/occurrence
\$100,000 - Disease - per each employee
\$500,000 - Disease - policy limit

This coverage may be written as follows:

Workers' Compensation and Employers' Liability coverage with limits consistent with statutory benefits outlined in the Texas workers' Compensation Act (Art. 8308 – 1.0 et seq. Tex. Rev. Civ. Stat.) and minimum policy limits for Employers' Liability of:

\$100,000 - each accident/occurrence, \$500,000 bodily injury disease policy limit
\$100,000 - per disease per employee.

(d) Professional Liability (Errors & Omissions)

\$1,000,000 - Each Claim Limit
\$1,000,000 - Aggregate Limit

Professional Liability coverage may be provided through an endorsement to the Commercial General Liability (CGL) policy, or a separate policy specific to Professional E&O. Either is acceptable if coverage meets all other requirements. Coverage shall be claims-made, and maintained for the duration of the contractual agreement and for two (2) years following completion of services provided. An annual certificate of insurance shall be submitted to City to evidence coverage.

10.2 General Requirements

- (a) The commercial general liability and automobile liability policies shall name City as an additional insured thereon, as its interests may appear. The term City shall include its employees, officers, officials, agents, and volunteers in respect to the contracted services.
- (b) The workers' compensation policy shall include a Waiver of Subrogation (Right of Recovery) in favor of City.
- (c) A minimum of Thirty (30) days' notice of cancellation or reduction in limits of coverage shall be provided to City. Ten (10) days' notice shall be acceptable in the event of non-payment of premium. Notice shall be sent to the Risk Manager, City of Fort Worth, 200 Texas Street, Fort Worth, Texas 76102, with copies to the Fort Worth City Attorney at the same address.
- (d) The insurers for all policies must be licensed and/or approved to do business in the State of Texas. All insurers must have a minimum rating of A- VII in the current A.M. Best Key Rating Guide, or have reasonably equivalent financial strength and

solvency to the satisfaction of Risk Management. If the rating is below that required, written approval of Risk Management is required.

- (e) Any failure on the part of City to request required insurance documentation shall not constitute a waiver of the insurance requirement.
- (f) Certificates of Insurance evidencing that Broker has obtained all required insurance shall be delivered to the City prior to Broker proceeding with any work pursuant to this Agreement.

11. COMPLIANCE WITH LAWS, ORDINANCES, RULES AND REGULATIONS.

Broker agrees that in the performance of its obligations hereunder, it shall comply with all applicable federal, state and local laws, ordinances, rules and regulations and that any work it produces in connection with this Agreement will also comply with all applicable federal, state and local laws, ordinances, rules and regulations. If City notifies Broker of any violation of such laws, ordinances, rules or regulations, Broker shall immediately desist from and correct the violation.

12. NON-DISCRIMINATION COVENANT.

Broker, for itself, its personal representatives, assigns, SubBrokers and successors in interest, as part of the consideration herein, agrees that in the performance of Broker's duties and obligations hereunder, it shall not discriminate in the treatment or employment of any individual or group of individuals on any basis prohibited by law. **IF ANY CLAIM ARISES FROM AN ALLEGED VIOLATION OF THIS NON-DISCRIMINATION COVENANT BY BROKER, ITS PERSONAL REPRESENTATIVES, ASSIGNS, SUBBROKERS OR SUCCESSORS IN INTEREST, BROKER AGREES TO ASSUME SUCH LIABILITY AND TO INDEMNIFY AND DEFEND CITY AND HOLD CITY HARMLESS FROM SUCH CLAIM.**

13. NOTICES.

Notices required pursuant to the provisions of this Agreement shall be conclusively determined to have been delivered when (1) hand-delivered to the other party, its agents, employees, servants or representatives, (2) delivered by facsimile with electronic confirmation of the transmission, or (3) received by the other party by United States Mail, registered, return receipt requested, addressed as follows:

To CITY: City of Fort Worth Attn: Susan Alanis, Assistant City Manager 200 Texas Street Fort Worth, TX 76102-6314 Facsimile: (817) 392-8654 With copy to Fort Worth City Attorney's Office at same address	To BROKER: Roach Howard Smith & Barton Attn: Allison Nixon, Assistant Vice President 8750 N. Central Expressway, Suite 500 Dallas, TX 75321 Facsimile: (817) 390-3569
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14. SOLICITATION OF EMPLOYEES.

Neither City nor Broker shall, during the term of this Agreement and additionally for a period of one year after its termination, solicit for employment or employ, whether as employee or independent Broker, any person who is or has been employed by the other during the term of this Agreement, without the prior written consent of the person's employer. Notwithstanding the foregoing, this provision shall not apply to an employee of either party who responds to a general solicitation of advertisement of employment by either party.

15. GOVERNMENTAL POWERS.

It is understood and agreed that by execution of this Agreement, City does not waive or surrender any of its governmental powers or immunities.

16. NO WAIVER.

The failure of City or Broker to insist upon the performance of any term or provision of this Agreement or to exercise any right granted herein shall not constitute a waiver of City's or Broker's respective right to insist upon appropriate performance or to assert any such right on any future occasion.

17. GOVERNING LAW / VENUE.

This Agreement shall be construed in accordance with the laws of the State of Texas. If any action, whether real or asserted, at law or in equity, is brought pursuant to this Agreement, venue for such action shall lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas, Fort Worth Division.

18. SEVERABILITY.

If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

19. FORCE MAJEURE.

City and Broker shall exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but shall not be held liable for any delay or omission in performance due to force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any government law, ordinance or regulation, acts of God, acts of the public enemy, fires, strikes, lockouts, natural disasters, wars, riots, material or labor restrictions by any governmental authority, transportation problems and/or any other similar causes.

20. HEADINGS NOT CONTROLLING.

Headings and titles used in this Agreement are for reference purposes only, shall not be deemed a part of this Agreement, and are not intended to define or limit the scope of any provision of this Agreement.

21. REVIEW OF COUNSEL.

The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or Exhibits A, B, and C.

22. AMENDMENTS/ MODIFICATIONS/ EXTENSIONS.

No amendment, modification, or extension of this Agreement shall be binding upon a party hereto unless set forth in a written instrument, which is executed by an authorized representative of each party.

23. ENTIRETY OF AGREEMENT.

This Agreement, including Exhibits A, B and C, contains the entire understanding and agreement between City and Broker, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.

24. COUNTERPARTS.

This Agreement may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute one and the same instrument.

25. WARRANTY OF SERVICES.

Broker warrants that its services will be of a professional quality and conform to generally prevailing industry standards. City must give written notice of any breach of this warranty within thirty (30) days from the date that the services are completed. In such event, at Broker's option, Broker shall either (a) use commercially reasonable efforts to re-perform the services in a manner that conforms with the warranty, or (b) refund the fees paid by City to Broker for the nonconforming services.

26. IMMIGRATION NATIONALITY ACT.

City actively supports the Immigration & Nationality Act (INA) which includes provisions addressing employment eligibility, employment verification, and nondiscrimination. Broker shall verify the identity and employment eligibility of all employees who perform work under this Agreement. Broker shall complete the Employment Eligibility Verification Form (I-9), maintain photocopies of all supporting employment eligibility and identity documentation for all employees, and upon request, provide City with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Agreement. Broker shall establish appropriate procedures and controls so that no services will be performed by any employee who is not legally eligible to perform such services. Broker shall provide City with a certification letter that it has complied with the verification requirements required by this Agreement. Broker shall indemnify City from any penalties or liabilities due to violations of this provision. City shall have the right to immediately terminate this Agreement for violations of this provision by Broker.

27. OWNERSHIP OF WORK PRODUCT.

City shall be the sole and exclusive owner of all reports, work papers, procedures, guides, and documentation, created, published, displayed, and/or produced in conjunction with the services provided under this Agreement (collectively, "Work Product"). Further, City shall be the sole and exclusive owner of all copyright, patent, trademark, trade secret and other proprietary rights in and to the Work Product. Ownership of the Work Product shall inure to the benefit of City from the date of conception, creation or fixation of the Work Product in a tangible medium of expression (whichever occurs first). Each copyrightable aspect of the Work Product shall be considered a "work-made-for-hire" within the meaning of the Copyright Act of 1976, as amended. If and to the extent such Work Product, or any part thereof, is not considered a "work-made-for-hire" within the meaning of the Copyright Act of 1976, as amended,

Broker hereby expressly assigns to City all exclusive right, title and interest in and to the Work Product, and all copies thereof, and in and to the copyright, patent, trademark, trade secret, and all other proprietary rights therein, that City may have or obtain, without further consideration, free from any claim, lien for balance due, or rights of retention thereto on the part of City.

28. **SIGNATURE AUTHORITY.**

The person signing this Agreement hereby warrants that he/she has the legal authority to execute this Agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. This Agreement and any amendment hereto, may be executed by any authorized representative of Broker whose name, title and signature is affixed on the Verification of Signature Authority Form, which is attached hereto as Exhibit "C". Each party is fully entitled to rely on these warranties and representations in entering into this Agreement or any amendment hereto.

"E"

29. **CHANGE IN COMPANY NAME OR OWNERSHIP**

Broker shall notify City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of Broker or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

30. **PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL**

Broker acknowledges that in accordance with Chapter 2270 of the Texas Government Code, the City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. **By signing this contract, Broker certifies that Broker's signature provides written verification to the City that Broker: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiples this _____ day of _____, 2017.

(signature page follows)

ACCEPTED AND AGREED:

<p>CITY OF FORT WORTH:</p> <p>By: _____ Name: <u>Susan Alanis</u> Assistant City Manager</p> <p>Date: _____</p> <p>APPROVAL RECOMMENDED:</p> <p>By: _____ Name: <u>Brian Dickerson</u> Title: <u>Human Resources Department</u></p> <p>ATTEST:</p> <p>By: _____ City Secretary</p> <p>CONTRACT COMPLIANCE MANAGER: By signing I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.</p> <p>By: _____ Name: _____ Title: _____</p> <p>APPROVED AS TO FORM AND LEGALITY:</p> <p>By: _____ Name: <u>Matthew A. Murray</u> Assistant City Attorney I</p> <p>CONTRACT AUTHORIZATION: M&C: _____</p> <p>Date: _____</p>	<p>BROKER: Roach Howard Smith & Barton</p> <p>By: _____ Name: <u>Allison Nixon</u> Title: <u>Assistant Vice President</u></p> <p>Date: _____</p> <p>ATTEST:</p> <p>By: _____</p> <p>Title: _____</p>
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EXHIBIT A
STATEMENT OF WORK

I. SCOPE OF WORK

1.0 INSURANCE PLACEMENT SERVICES

- 1.1 Broker shall work closely with City to develop bid requests to secure Excess Workers' Compensation Insurance for the City insurable risks. The objective is to place Excess Insurance Program over City Self-Insurance Program in accordance with the desired retentions and limits to be designed by the City. Broker shall make available to City all resources at its disposal to properly collect, organize and review all data placed into the bid request.
- 1.2 Broker shall market City account to qualified Excess Workers' Compensation Insurance companies. Marketing shall include, but not be limited to, assisting in the development of insurance specifications and underwriting criteria, assist in developing Requests For Quotes (RFQ's) from insurance companies, canvassing insurance markets, reviewing suitable manuscript policies, negotiations on behalf of City, consultation and professional advice on proposed changes or enhancements to the program, and ongoing advisory services for the duration of the contract concerning changes or enhancements to the program.
- 1.3 Bids of Excess Workers' Compensation Insurance. Broker shall represent City in all phases of this project. Direct negotiations on terms and pricing with the insurance company shall take place with the direction of City. Placement of any program of insurance shall be conducted as a bid directly to insurance market underwriters. Broker shall review bids and assist City in the selection thereof and shall provide a report to City summarizing the results of all negotiations. It is clearly understood that any resulting product from the Broker of Record Contract cannot be accepted nor bound until approved by City. All procurement of insurance shall be conducted in accordance with the Texas Local Government Code and all applicable law.
- 1.4 Broker shall review and analyze policies for accuracy of coverage and advise City regarding all aspects of policy interpretation; provide confirmation of evidence of insurance (binders, cover notes) or the status of a placement prior to the renewal date; timely issue certificates of insurance; arrange periodic meetings with City staff to discuss pertinent topics, and attend meetings with City Staff or Council as requested; provide notice of claim on behalf of City to the excess carrier in accordance with the notification provisions of the policy; provide claims status reports upon reasonable request; provide loss runs upon request; and serve in a consulting capacity to City on any loss settlement negotiation with the excess insurer if needed. Broker shall continue to act in an advisory and consulting role to City for the duration of the Broker's Contract to ensure that the insurance program accepted by City continues to work smoothly, effectively and in the best interests of the City.

2.0 ACTUARIAL SERVICES

Broker shall arrange, coordinate and cause to be performed an annual actuarial study, and shall coordinate the collection of data for actuarial services on the City Workers' Compensation Claim Fund. The actuarial study shall commence during the month of October, and a final actuarial report shall be provided to the City Assistant Human Resources Director for Risk Management, no later than December 31st of the same year. Broker shall review actuarial reports, advise City regarding interpretation of actuarial reports and make recommendations for program modifications. Cost of actuarial studies shall be paid by City.

3.0 WORKERS' COMPENSATION CLAIMS AUDIT SERVICES

Broker shall arrange for, coordinate and cause to be performed annual audits of the City's Workers' Compensation Third Party Administrator and 504 Workers' Compensation Provider Panel Administrator. The audit shall commence during the month of October and a final audit report shall be provided to the City's Assistant Human Resources Director for Risk Management no later than December 31 of the same year. Costs of the audit shall be paid by City in accordance with Exhibit C.

4.0 OCCUPATIONAL SAFETY, ACCIDENT PREVENTION AND WORKERS' COMPENSATION LOSS CONTROL SERVICES

Broker shall be available to serve in a consulting capacity to City Risk Management Division on Occupational Health & Safety/Workers' Compensation related issues and projects as City shall request, including, but not limited to, reviewing new laws; assisting in reviewing claims as needed; answering loss control questions; evaluating high-risk activities; providing safety engineering services; conducting ergonomic studies, safety program evaluations, and job safety/hazard analyses on specific worker activities; and conducting accident investigations. Broker shall provide approximately 500 hours of these services.

5.0 OTHER BROKER SERVICES

Broker shall also be required to assist City in evaluating proposals from potential\contractors for other Occupational Health & Safety / Workers' Compensation programs of the City. Broker shall propose additional services for consideration by City.

EXHIBIT B
CITY OF FORT WORTH
WORKERS' COMPENSATION INSURANCE BROKER AND CONSULTING SERVICES
RECORD QUALIFICATION QUESTIONNAIRE

The purpose of this Questionnaire is to assist in the initial stages of selecting a Broker of Record for the City Excess Workers' Compensation Insurance program and related Broker consulting services. **All Questions shall be answered.**

PART A. BROKER AGENCY QUALIFICATIONS

1	Name of Broker Agency		Roach Howard Smith & Barton, Inc.			
	Headquarters Address		8750 N. Central Expressway, Suite 500			
	City	Dallas	State	Texas	Zip Code	75231
	Telephone	(972) 231-1300 or (817) 332-1313		Fax	(972) 231-1368	
2	Principal Owner(s) / Partners / Officers Tom Hughston – CEO, John Losurdo - COO, Karen Bitzer - CIO,					
	Grady Allums - CFO, (Board of Directors – Tom Hughston, CEO, Bart Tucker, SVP (Chairman),					
	David Kohl – SVP, Doug Jones – SVP, John Hall – SVP)					
	Other Principals: Brian Tucker –VP, Courtney Woodruff – VP, David Cooper – EVP,					
	Denise Bump – AE, Drew Raetzman – VP, Julia Spracklen – VP, Spencer McClenahan – VP					
3	Date Company Founded / Opened		1945			
4	Total number of employees in the company		66			
5	Total number of clients of the company		1,205 (total number of Commercial Clients Only)			
6	Total number of governmental entity clients of the company				21	
7	Approximate total Excess WC premium volume for all clients				\$1,013,608	
8	Approximate total Excess WC premium volume for all governmental entity clients				\$1,013,608	
9	Approximate average size of all accounts				\$65,928	
10	Approximate average size of all governmental entity accounts				\$500,541	
11	Approximate size of the largest account				\$4,134,035	
12	Approximate size of the largest governmental entity account				\$3,106,408	
13	Amount of Errors and Omissions Insurance you carry				\$10,000,000	
14	Provide a brief description of the Broker / Agency / Company and it's qualifications: RHSB is an independent insurance broker providing insurance solutions to companies, families, and individuals. Experienced Public Entity Service Team					
15	List below your three (3) largest Texas governmental entity clients:					
15.1	Name of Gov. Entity		City of Waco			
	Address		P.O. Box 2570			
	City	Waco	State	TX	Zip Code	76702
	Length of Relationship with this entity		15+ Years			
	Contact Name	Melissa Sullinger	Phone	254-750-5746	Email	msullinger@wacotx.gov
15.2	Name of Gov. Entity		Mansfield Independent School District			
	Address		605 E. Broad Street			
	City	Mansfield	State	TX	Zip Code	76063
	Length of Relationship with this entity		9+ years			
	Contact Name	Shelley Taylor	Phone	817-299 -6330	Email	shelleytaylor@misdmail.org

Items in Red are considered Proprietary and Confidential to RHSB

15.3	Name of Gov. Entity	Frisco Independent School District				
	Address	5515 Ohio Drive				
	City	Frisco	State	TX	Zip Code	75035
	Length of Relationship with this entity	9+ Years				
	Contact Name	Tim Sanz	Phone	469-633-6340	Email	sanzt@friscoisd.org
16	List below the three (3) most recent Texas governmental entity clients that did <u>not</u> renew their contracts for your services or renew their insurance coverage through your agency.					
16.1	Name of Gov. Entity	City of Baytown – non-renewed in 2012. Contact person moved to city of Waco.				
	Address	2401 Market Street				
	City	Baytown	State	TX	Zip Code	77522
	Length of Relationship with this entity	5 Years				
	Contact Name	Colleen Martin	Phone	281-420-5846	Email	Colleen.martin@baytown.org
		*note contact as of 2012				
16.2	Name of Gov. Entity	La Joya Independent School District – Non-renewed in 2012. High claims activity and lost to a local agent over more favorable pricing through RFP.				
	Address	310-C East Expressway 83				
	City	La Joya	State	TX	Zip Code	78560
	Length of Relationship with this entity	5 years				
	Contact Name	Eli Rodriguez	Phone	956-580-5000	Email	e.rodriguez2@lajoyaisd.net
		*note contact as of 2012				
16.3	Name of Gov. Entity	Housing Authority of New Orleans – non-renewed in 2008. High turnover after Katrina.				
	Address	4100 Touro Street				
	City	New Orleans	State	LA	Zip Code	70122
	Length of Relationship with this entity	6 Years				
	Contact Name -	Kim Variste	Phone	504-670-3375	Email	kvariste@hano.org
		*note contact as of 2008				
17	Does your agency anticipate any mergers, transfer of ownership, management reorganization, or departure of key personnel within the next 12 months that shall affect the agency's ability to carry out its proposal?				Yes	(No)
18	Is your agency, affiliates and/or subsidiaries under any contract that possibly creates a conflict of interest that would prohibit your agency from providing Broker services to the City of Fort Worth?				Yes	(No)
19	Indicate the Texas Department of Insurance license number of the Broker /agency.				1360	
20	Has anyone filed a complaint with the Texas Department of Insurance during the past three (3) years about your firm?				Yes	(No)
21	If Yes, please explain below.					
22	Is your firm audited by an outside independent auditor?					
	<input type="checkbox"/>					
	<input type="checkbox"/>	Yes, as a part of parent corporation				
	<input checked="" type="checkbox"/>	No (Please explain below)				
	Our firm uses an outside accounting firm but we do not have our financials audited.					
	If Yes, enclose a copy of most recent audit report with your proposal.					
23	Has any insurance company ever withdrawn its authority to provide any coverage of your firm?				Yes	(No)
24	Shall City of Fort Worth Account be serviced through a joint venture or partnership?				Yes	(No)
	If Yes, provide the following information for each servicing firm.					

Items in Red are considered Proprietary and Confidential to RHSB

24.1	Firm Name	
	Principal	
	Account Representative	
	Area of work to be performed	
24.2	Firm Name	
	Principal	
	Account Representative	
	Area of work to be performed	
24.3	Firm Name	
	Principal	
	Account Representative	
	Area of work to be performed	

PART B. SERVICING OFFICE QUALIFICATIONS

25	The City of Fort Worth Account shall be serviced at the following office location:							
	Service Office Address		8750 North Central Expressway Suite 500					
	City	Dallas			State	Texas	Zip Code	75231
	Telephone		(972) 231-1300			Fax	(972) 231-1368	
26	Date Service Office Founded / Opened				1945			
27	Total number of employees at the service office location				50			
28	Total number of clients of the service office location				1,205 (total number of Commercial Clients)			
29	Total number of governmental entity clients of the service office location						21	
30	Services Available		<u>In-House Staff</u>			<u>Available through Affiliate</u>		
30.1	Actuarial Services					Lewis and Ellis		
30.2	Bid Request Development		Public Entity Service Team					
30.3	Claims Audit		Julia Spracklen, J.D., VP of Risk Services, Principal Demond Blanton, Claims Advocate					
30.4	Insurance Placement Services		Public Entity Service Team					
30.5	Occupational Safety/Accident Prevention and Workers' Compensation Loss Control Services		Julia Spracklen, J.D., VP of Risk Services, Principal Demond Blanton, Claims Advocate			Commercial Risk Services		
30.6	RMIS		Succeed, Risk Management Software - See RHSB Overview section for details on our Risk Management Center and Brochure regarding its features			We can outsource a full RMIS system. We also offer a fully outsourced Certificate of Insurance Program, ITS (Insurance Tracking Services) at additional cost		
30.7	Training / CEUs		Public Entity Service Team			Commercial Risk Services		

PART C. ACCOUNT EXECUTIVE'S QUALIFICATIONS

31	Name of Account Executive	Courtney Woodruff
32	Total Number of Clients	59
33	Total Number of Governmental Entity Clients	21
34	Length of Time with Broker / Agency	10 Years with RHSB, 18 years' experience in Insurance

35	Indicate the Texas Department of Insurance license number of the Account Executive. Enclose a copy of license with proposal	1454468	
36	Length of Career in Insurance / Risk Management	18 years	
37	College Degree(s)	Bachelors - Financial Management	
38	Professional / Associate Designations / Certifications: Certified Insurance Counselor, Certified Risk Manager Include a copy of all Designations / Certifications with proposal.	Yes <input checked="" type="checkbox"/> <input type="checkbox"/>	
39	Has anyone filed a complaint with the Texas Department of Insurance during the past three (3) years about the account executive?	Yes	<input checked="" type="radio"/> No
40	If Yes, please explain below.		

PART D. CONTACT PERSON

41	Provide the following information for your designated person whom CITY shall call regarding your proposal and setting dates for meetings.					
	Name of Contact		Allison Nixon			
	Address		1320 S. University Drive, Suite 1000			
	City	Fort Worth	State	Texas	Zip Code	76107
	Telephone	(817) 390-3519	Fax	(817) 390-3569	Email	anixon@rhsb.com

PART E. PROPOSAL REQUIRMENTS – Reference Section 10 of this RFP

		Proposal Component Included?	
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42	Agreement and Acceptance – City of Fort Worth Standard Terms and Conditions (Reference Section 29.0 of this RFP) (Section 33.3)	<input checked="" type="radio"/> Yes	<input type="radio"/> No
		<input checked="" type="radio"/>	<input checked="" type="radio"/>
44	Broker Qualifications Questionnaire – Attachment A	<input checked="" type="radio"/> Yes	<input type="radio"/> No
		<input checked="" type="radio"/>	<input checked="" type="radio"/>
46	Conflict of Interest Questionnaire – Attachment C	<input checked="" type="radio"/> Yes	<input type="radio"/> No
		<input checked="" type="radio"/>	<input checked="" type="radio"/>
48	M/WBE Information concerning the M/WBE(s) that shall participate in the contract to meet City required 10% M/WBE goal (Sec. 25.0) (Section 26.0)	Yes	<input checked="" type="radio"/> No
49	Financial Information - Most current year-end audited financial statement or Statement of Financial Responsibility (Sec. 26.7) (Section 34.7)	<input checked="" type="radio"/> Yes Unaudited included	<input type="radio"/> No
50	Organizational Information - Broker / Agency brochures, annual reports, other pertinent information (Sec. 26.8) (Section 34.8)	<input checked="" type="radio"/> Yes	<input type="radio"/> No
		RHSB Overview	
51	Organization Chart of Servicing Office (Sec. 26.9)) (Section 34.9)	<input checked="" type="radio"/> Yes	<input type="radio"/> No

52	Certificates of Insurance for the following coverages: Commercial General Liability; Automobile Liability; Workers' Compensation and Employers' Liability; and Errors & Omissions (Sec. 26.10) (Sec. 34.10)	<input checked="" type="radio"/> Yes	No
53	Insurance Licenses - Copy of Texas Department of Insurance license of the Broker / Agent and assigned Account Executive (Sec. 26.11)) (Sec. 34.11)	<input checked="" type="radio"/> Yes All Service Team	No
54	Professional Certifications - Copies of all Professional / Associate Designations / Certifications of assigned account executive (Sec. 26.12)) (Sec. 34.12)	<input checked="" type="radio"/> Yes	No
55	Resumes of all persons who shall provide services to City account (Sec. 26.13)) (Sec. 34.13)	<input checked="" type="radio"/> Yes	No

PART F. ACKNOWLEDGMENTS

Acknowledged?

56	All submissions relative to this RFP shall become the property of CITY and are non-returnable.	<input checked="" type="radio"/> Yes	No
57	Any and all costs associated with the preparation of any proposal in response to this RFP shall be borne by BROKER / respondent.	<input checked="" type="radio"/> Yes	No
58	All information submitted by BROKER / respondent shall be retained by CITY and is subject to the Texas Public Information Act. We have marked proprietary & confidential items on pages 28 & 29	<input checked="" type="radio"/> Yes	No
59	This RFP and proposal submitted do not commit CITY to enter into a contract or provide reimbursement of any costs associated with this overall selection process.	<input checked="" type="radio"/> Yes	No
60	Final award of any contract is subject to CITY approval.	<input checked="" type="radio"/> Yes	No
61	Does CITY have your permission to conduct an investigation of Broker / Agency's financial condition, reputation, etc.?	<input checked="" type="radio"/> Yes	No
62	BROKER / respondent acknowledgement of receipt of any Amendments to this RFP, if applicable.	<input checked="" type="radio"/> Yes	No

TO THE BEST OF MY KNOWLEDGE, THE ABOVE INFORMATION IS TRUE AND CORRECT.

Allison Nixon / 7/12/17
Signature of Authorized Representative / Date

Allison Nixon. Assistant Vice President / 7/12/17
Typed Name of Authorized Representative / Date

Roach Howard Smith & Barton. Inc.

Name of Broker / Agency / Company

EXHIBIT C
FEES AND CHARGES SCHEDULE

This form is required. Failure to complete and return all schedules shall result in rejection of proposal.

BROKER SERVICE PROVIDED	FEE STRUCTURE	CONTRACT YEAR	ANNUAL FEE – NOT TO EXCEED AMOUNT
Insurance Placement Services (Ref. 6.1) (Section 32.1)	Flat Fee Other – Specify:	Year 1	\$ 25,000
		Year 2	\$ 20,000
		Year 3	\$ 20,000
		Year 4	\$ 20,000
		Year 5	\$ 20,000

Actuarial Services (Ref. 6.2) Lewis & Ellis (Section 32.2) ** The City is staying with Milliman for Actuarial Services.	Flat Fee Other – Specify: Price range TBD - see proposal for details	Year 1	\$ 8,000 to 10,000
		Year 2	\$ 8,000 to 10,000
		Year 3	\$ 8,000 to 10,000
		Year 4	\$ 8,000 to 10,000
		Year 5	\$ 8,000 to 10,000

Claims Auditing Services (Ref. 6.3) (Section 32.3)	Flat Fee Other – Specify:	Year 1	\$ Included in Broker Fee
		Year 2	\$ Included in Broker Fee
		Year 3	\$ Included in Broker Fee
		Year 4	\$ Included in Broker Fee
		Year 5	\$ Included in Broker Fee

Occupational Safety / Accident Prevention and Workers' Comp. Loss Control Services (500 Hours) – (Ref. 6.4) Commercial Risk Services (Section 32.4)	Flat Fee Other – Specify: Hourly rate option of \$110/hour rather than yearly option of 500 hrs	Year 1	\$48,000 for 500 hours
		Year 2	\$48,000 for 500 hours
		Year 3	\$48,000 for 500 hours
		Year 4	\$48,000 for 500 hours
		Year 5	\$48,000 for 500 hours

Other Broker Services (Ref. 6.5) (Section 32.5)	Flat Fee Other – Specify:	Year 1	\$ Included in Broker Fee
		Year 2	\$ Included in Broker Fee
		Year 3	\$ Included in Broker Fee
		Year 4	\$ Included in Broker Fee
		Year 5	\$ Included in Broker Fee

Value Added Services – Specify:	Succeed Risk Management System	NO CHARGE
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Authorized Signature:

Allison Nixon

Name of Authorizing Authority:

Allison Nixon

EXHIBIT D
CITY OF FORT WORTH
INSURANCE BROKER OF RECORD
LITIGATION DISCLOSURE

Failure to fully and truthfully disclose the information required by this Litigation Disclosure form shall result in the disqualification of your proposal from consideration or termination of the contract, once awarded.

1. Have you or any member of your Firm or Team to be assigned to this engagement ever been indicated or convicted of a felony in the last five (5) years?

Circle One

YES

NO

2. Have you or any member of your Firm or Team been terminated (for cause or otherwise) from any work being performed for the City of Fort Worth or any other Federal, State, or Local Government, or Private Entity?

Circle One

YES

NO

3. Have you or any member of your Firm or Team been involved in any claim or litigation with the City of Fort Worth or any other Federal, State or Local Government, or Private Entity during the last ten (10) years?

Circle One

YES

NO

If you have answered “YES” to any of the above questions, please indicate the names(s) of the person(s), the nature, and the status and/or outcome of the indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your proposal.

EXHIBIT E

VERIFICATION OF SIGNATURE AUTHORITY

Full Legal Name of Company: Roach Howard Smith & Barton
Legal Address: 8750 N. Central Expressway, Suite 500
Dallas, TX 75321

Services to be provided: Broker hereby agrees to acquire City Excess Works' Compensation Insurance, and to provide related Broker consulting services for Workers' compensation, occupational safety and accident prevention/loss control.

Auditor hereby agrees to provide City with independent audit basic financial statements, but also the fair presentation of the financial statements of individual funds.

Execution of this **Signature Verification Form** ("Form") hereby certifies that the following individuals and/or positions have the authority to legally bind Broker and to execute any agreement, amendment or change order on behalf of Broker. Such binding authority has been granted by proper order, resolution, ordinance or other authorization of Broker. City is fully entitled to rely on the warranty and representation set forth in this Form in entering into any agreement or amendment with Broker. Broker will submit an updated Form within ten (10) business days if there are any changes to the signatory authority. City is entitled to rely on any current executed Form until it receives a revised Form that has been properly executed by Broker.

1. Name:
Position:

Signature

2. Name:
Position:

Signature

3. Name:
Position:

Signature

Name:

Signature of President / CEO

Other Title: _____

Date: _____