

# **City of Venice**

Administrative Services Department

## Interoffice Memorandum

DATE:

March 23, 2017

TO:

City Council

FROM:

Alan Bullock, Director of Administrative Services

THROUGH:

Ed Lavallee, City Manager

SUBJECT:

Risk Management / Workers' Compensation Claims Administrator

#### Background

The city is self-insured for Workers' Compensation and outsources the specialized activity of claims handling to a third party administrator (TPA). The current TPA is Commercial Risk Management (CRM). The city released a Request for Qualifications (RFQ) in February of 2013. Four bidders responded to the RFQ, including CRM. The responses were assessed by a review committee comprising risk managers from the City of Venice, the City of North Port, the City of Bradenton and Sarasota County. Factors considered were vendors' experience, market knowledge, cost, responsiveness to the RFQ requirements and staff qualifications. The review committee assessed various aspects of the responses and, all things considered, determined CRM to be the successful bidder. Council approved a three-year contract effective October 1, 2013 with an annual flat fee of \$19,000. CRM specializes in serving employers who have elected to self-insure their workers' compensation liabilities in Florida and has provided excellent service to the City of Venice throughout the contract term. The contract allows for two annual extensions at the city's sole discretion. The city has already exercised its right to the first annual extension for the period October 1, 2016 to September 30, 2017.

#### Request

We request that Council approve the attached agreement to allow CRM to continue to provide Workers' Compensation claims TPA services to the city for the final allowable year, from October 1, 2017 to September 30, 2018. The annual flat fee of \$19,000 will remain unchanged.

City Attorney Review
Completed

Risk Management Review Completed

#### Funds Availability

Funding will be included in the FY2017-2018 Workers' Compensation Self Insurance Fund.

### SERVICE AGREEMENT

THIS SERVICE AGREEMENT (the "Agreement") is made and entered into by and between COMMERCIAL RISK MANAGEMENT, INC. (referred to as the "Company") and CITY OF VENICE, FLORIDA (referred to herein as the "Self-Insured").

In consideration of the covenants and conditions set forth below to be performed and observed by the parties hereto and in consideration of the sum of ten dollars (\$10.00) and other good and valuable considerations passing between the parties hereto, it is agreed as follows:

- 1. The excess workers' compensation and employers liability insurance coverage is to be placed by others.
- 2. So long as this Agreement remains in effect, the Company will furnish workers' compensation claims handling and statistical data, including filing of all forms and reports (from data supplied by the Self-Insured) as required by the Florida Department of Financial Services.

Excess reporting, monthly loss reports, quarterly large loss reports, check processing, check register reports, check stock and BSI-17's are included in the quoted annual service fee.

All subrogation as well as excess insurance recoveries and Special Disability Trust Fund recoveries will be handled as part of the annual service fee. The issuance of Form 1099's is also included in the annual service fee.

The open claims with dates of accident prior to October 1, 2012, were transferred and converted into the Commercial Risk Management, Inc. claims system in 2012. The cost for handling of these claims will be included in the initial term of the Service Agreement and for each renewal of the Agreement.

3. The Company will handle to a conclusion all claims which occur during the period that this Agreement remains in effect. The cost of handling the tail for the initial term of this Agreement and for each one-year renewal of the term of this Agreement will be considered to be included in the annual service fee. However, in the event of any cancellation of this Agreement, the Self-Insured shall pay to the Company an administrative fee for handling the tail in an amount to be negotiated between the Company and the Self-Insured, which administrative fee shall not exceed ten percent (10%) of paid loss, and which administrative fee shall be payable on a monthly basis as invoiced by the Company.

Furthermore, in the event of any cancellation of this Agreement, the Company agrees to continue to provide claims adjusting services on all claims incurred during the period that this Agreement was in effect, if requested to do so by the Self-Insured, for a maximum period of

ninety (90) days. The Company shall be entitled to a fee for such continuing claims adjusting services equal to a pro-rata portion of the annual service fee specified below, payable monthly as invoiced by the Company.

In the event claims files and claims servicing responsibilities are transferred to a new service company, the Company will provide an accounting of all claims and claims activity to the new service company. Upon the transfer of the files and final accounting of the claims activity, the Company shall be released from all further responsibility and liability under this Agreement.

In the event of the insolvency of the Self-Insured, the Company will provide claims adjusting services on all claims incurred during the period that this Agreement was in effect for a maximum period of ninety (90) days or until relieved of this responsibility by the Division of Workers' Compensation of the Department of Financial Services. The Company shall be entitled to a fee for such continuing claims adjusting services equal to a pro rata portion of the Annual Service Fee specified below, payable monthly as invoiced by the Company.

The Company acknowledges that files containing the records of the Self-Insured's claims shall belong to the Self-Insured, provided that the Company shall, at its expense, have the right to retain copies of any and all such records to the extent determined appropriate by the Company.

All claim expenses commonly referred to in the insurance industry as "Allocated Claims Expenses" shall be the responsibility of, and paid by, the Self-Insured. Without limiting the generality of the immediately preceding sentence, the term "Allocated Claims Expenses" shall include such items as attorneys' fees, court costs and independent investigative claims costs.

4. The Self-Insured shall pay to the Company, for the Company's services under this Agreement (except as otherwise provided in this Agreement), an annual service fee (referred to herein as the "annual service fee"). The annual service fee shall be \$19,000.00 for each of years one, two and three of the Agreement. In the event the Self-Insured exercises its sole discretion to offer one or two additional one-year extensions, the annual service fee will be negotiable for each of the additional years. The annual service fee is payable in four quarterly payments of \$4,750.00 as invoiced by the Company.

MMSEA reporting by the Company for \$5.00 per query and \$25.00 per input filed is also included. The Company will assist the City of Venice in set up with CMS.

5. The term of this Agreement shall be thirty-six (36) months, with such term being deemed to have commenced at 12:01 a.m. on October 1, 2013, and with such term to terminate at 12:01 a.m. on September 30, 2016. Any renewal of the term of this Agreement shall be documented by an instrument in writing signed on behalf of both the Company and the Self-Insured.

Notwithstanding the foregoing provisions of this paragraph, either the Self-Insured or the Company shall have the right to cancel this Agreement solely by giving the other not less than sixty (60) days' advance written notice of the proposed date of cancellation. Any such cancellation of this Agreement shall be subject to all of the applicable terms and provisions of this Agreement.

6. Each notice, request, demand, consent, approval or other communication required or permitted under this Agreement (collectively a "notice") shall be valid only if it is (a) in writing [or sent by telex, telegram or telecopy and promptly confirmed in writing] and (b) addressed by the sender to the other party at its address and in the manner set forth below:

a. If to the Company: COMMERCIAL RISK MANAGEMENT, INC.

Post Office Box 18366 Tampa FL 33679-8366

b. If to the Self-Insured: CITY OF VENICE, FLORIDA

401 W. Venice Avenue Venice FL 34285

Except as otherwise provided herein, each notice shall be effective on the earlier of its receipt, if delivered personally or by courier, or the third day after it (or the written confirmation of it) is postmarked for dispatch by first-class, postage prepaid, certified or registered, United States Mail, with return receipt requested (whether or not the return receipt is subsequently received by the sender).

Any party wishing to change the person or address to which notices are to be given may do so by complying with the notice provisions of this paragraph.

7. This Agreement embodies the entire Agreement and understanding between the parties with respect to the subject matter hereof, expressly superseding all prior Agreements and understanding, whether oral or written. No amendment, modification or attempted waiver of any provisions of the Agreement shall be binding upon either party to this Agreement unless reduced to writing and signed by or on behalf of each of the parties to this Agreement. The waiver by either party of any breach of any covenant or condition of this Agreement shall not be construed as a waiver of any subsequent breach of such covenant or condition or of the breach of any other covenant or condition contained in this Agreement. Any number of counter parts of this Agreement may be signed and delivered, each of which shall be considered an original and all of which, together, shall constitute one and the same instrument. The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be utilized in the interpretation or construction of this Agreement. This Agreement shall be governed by and shall be construed in accordance with the laws of the State of Florida. In the event any litigation shall be instituted for the purpose of enforcing any of the provisions of this Agreement, the prevailing party, as determined by the court having jurisdiction thereof, shall be entitled to recover from the non-prevailing party, in addition to all other relief, an amount equal to all costs and expenses incurred in connection with such litigation, including, without limitation, reasonable attorneys' fees at the pretrial level, the trial level and in connection with all appellate proceedings. The provisions of this Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto, and their respective successors and assigns.

IN WITNESS WHEREOF, the Com- undersigned officers duly authorized this effective as of October 1, 2013.	pany has caused this Agreement to be executed by its 17 2day of 2013, but
	COMMERCIAL RISK MANAGEMENT, INC.
	COMMERCIAL RISK MANAGEMENT, INC.
	Ву:
	its Vice President
ATTEST:	
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By: Xun i / hun	<u> </u>
President	
IN WITNESS WHEREOF, the Self-	Insured has caused this Agreement to be executed by
its undersigned officers duly authorized thi but effective as of October 1, 2013.	s 11th day of June, 2013,
	CITY OF VENICE, FLORIDA
	$O(1) \setminus O(1)$
	By: Hour
	As MAYOR
ATTEST:	
· P · ( )	
By: Tydii Mysotti	
Its ASSISTANT City CLERK	
16 ITSSISTANT CITY CREEK	<u> </u>
	Approved By City Council

Daie: June 11 2013

# SERVICE AGREEMENT EXTENSION

THIS SERVICE AGREEMENT EXTENSION (the "Extension Agreement") is made and entered into by and between COMMERCIAL RISK MANAGEMENT, INC. (referred to as the "Company") and CITY OF VENICE, FLORIDA (referred to herein as the "Self-Insured").

In consideration of the covenants and conditions set forth below to be performed and observed by the parties hereto and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations passing between the parties hereto, it is agreed as follows:

- 1. The Company and the Self-Insured entered into a Service Agreement, approved by City Council on June 11, 2013, which commenced October 1, 2013 (the "Service Agreement); and
- 2. Pursuant to Paragraph 5 of the Service Agreement, the Service Agreement is scheduled to terminate on September 30, 2016; and
- 3. Pursuant to Paragraph 4 of the Service Agreement, the Self-Insured has the right, but not the obligation, to extend the Service Agreement for up to two (2) one-year terms; and
- 4. Further, pursuant to Paragraph 4 of the Service Agreement, the Company and the Self-Insured shall negotiate an annual service fee for the one-year extension; and
- 5. The parties hereto have agreed that the annual fee shall remain the same as currently provided in the Service Agreement; and
- 6. The term of this Service Agreement Extension shall be from October 1, 2016, through September 30, 2017.

All other terms, conditions, fees and obligations as set forth in the Service Agreement shall remain the same unless specifically modified in accordance with the paragraphs above.

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IN WITNESS WHEREOF, the Company has caused this Agreement Extension to be executed by its undersigned officers duly authorized this Agreement day of March, 2016, but effective as of October 1, 2016.

COMMERCIAL RISK MANAGEMENT, INC.

By:/

ATTEST:

By: And The Its: CCO

IN WITNESS WHEREOF, the Self-Insured has caused this Agreement Extension to be executed by its undersigned officers duly authorized this 104h day of 10000 \_\_\_\_\_\_, 2016, but effective as of October 1, 2016.

CITY OF VENICE, FLORIDA

By:

ATTEST:

By:

City Clerk

3/8/2016

Approved as to form and correctness:

City Attorney, City of Venice

SECEIVED

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GRM. INC TAMPA

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- 1. The Company and the Self-Insured entered into a Service Agreement, approved by City Council of June 11, 2013, which commenced October 1, 2013 (the "Service Agreement"); and
- 2. Pursuant to Paragraph 5 of the Service Agreement, the Service Agreement was scheduled to terminate on September 30, 2016; and
- 3. Pursuant to Paragraph 4 of the Service Agreement, the Self-Insured has the right, but not the obligation, to extend the Service Agreement for up to two (2) one-year terms; and
- 4. The Self-Insured exercised its right to extend the Service Agreement for one year from October 1, 2016 to September 30, 2017; and
- 5. Pursuant to Paragraph 4 of the Service Agreement, the Company and the Self-Insured shall negotiate an annual service fee for the one-year extension; and
- 6. The parties hereto agreed that the annual fee should remain the same as provided in the Service Agreement for the first annual extension; and
- 7. The parties hereto agreed that the annual fee should remain the same as provided in the Service Agreement for the second annual extension; and
- 8. The term of this Service Agreement Extension shall be from October 1, 2017, through September 30, 2018.

All other terms, conditions, fees and obligations as set forth in the Service Agreement shall remain the same unless specifically modified in accordance with the paragraphs above.

	ed this Agreement Extension to be executed by its day of, 2017, but effective as of
	COMMERCIAL RISK MANAGEMENT, INC.
	Ву:
	lts:
ATTEST:	
Ву:	
lts:	
	used this Agreement Extension to be executed by its day of, 2017, but effective as of
	CITY OF VENICE, FLORIDA
	Ву:
	Mayor
ATTEST:	
Ву:	
City Clerk	
Approved as to form and correctness:	
City Attorney, City of Venice	