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A-2023-140

**AGREEMENT FOR CONSULTANT SERVICES BETWEEN
CITY OF SANTA ANA AND ARTHUR J. GALLAGHER RISK
MANAGEMENT SERVICES LLC**

INSURANCE BROKER SERVICES

O: HR(1)
(B.Lynch)(DF)

AUG 22 2023

THIS AGREEMENT is made and effective as of August 1, 2023 between the City of Santa Ana, a municipal corporation (hereinafter referred to as "City"), and Arthur J. Gallagher Risk Management Services LLC, a Delaware limited liability company (hereinafter referred to as "Consultant"). City and Consultant are also referred to collectively as "the Parties" or singularly as a "Party." In consideration of the mutual covenants and conditions set forth herein, the Parties agree as follows:

1. TERM

This Agreement shall commence on August 1, 2023, and shall remain and continue in effect until tasks described herein are completed, but in no event later than August 31, 2026 unless sooner terminated pursuant to the provisions of this Agreement. The Parties acknowledge that Consultant has been providing services since July 1, 2023. This Agreement can be canceled by either Party with thirty (30) days written notice to the other Party.

2. SERVICES

Consultant shall perform insurance brokerage services for the placement of the City of Santa Ana's insurance programs as outlined in Exhibit A.

3. PERFORMANCE

Consultant shall at all times faithfully, competently and to the best of his or her ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. PAYMENT

a. The City agrees to pay Consultant for insurance premiums invoiced for insurance placements.

b. Consultant will submit invoices for insurance premiums. Invoices shall be submitted once insurance coverage is bound. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

5. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers

and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

6. RELEASE OF INFORMATION

a. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from Risk Management Department or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

b. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

7. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

Mailing Address: City of Santa Ana
20 Civic Center Plaza, M-28
Risk Management, 4th Floor
Santa Ana, CA 92701

AND

City Clerk
City of Santa Ana
20 Civic Center Plaza, M-30
Santa Ana, CA 92702

To Consultant: Arthur J. Gallagher & Co., Insurance Brokers of
California., Inc.
Susan J. Blankenburg
San Francisco, CA 94111
415-536-8417
Susan_Blankenburg@ajg.com

8. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

9. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

10. GOVERNING LAW

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Santa Ana. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

11. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

12. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he or she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder. The **Risk Management Department** is authorized to enter into an amendment on behalf of the City to make the following non-substantive modifications to the agreement: (a) name changes; (b) extension of time; (c) non-monetary changes in scope of work; (d) agreement termination.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF SANTA ANA

Arthur J. Gallagher & Co.

By: 
Kristine Ridge
City Manager

By: Michael Gallagher
Michael Gallagher, Area President

ATTEST:

By:  
Jennifer Hall
City Clerk

APPROVED AS TO FORM:

Sonia R. Carvalho
City Attorney

By: Laura A. Rossini
Laura A. Rossini
Chief Assistant City Attorney

CONSULTANT
Arthur J. Gallagher & Co.

Susan J. Blankenburg
1255 Battery Street, Suite 450
San Francisco, CA 94111
(415) 536-8417
Susan.Blankenburg@aig.com

PM Initials:
Date:

CLIENT SERVICE AGREEMENT

EXHIBIT A

The following outlines Services provided by Gallagher over the term of this Agreement:

- Use its best efforts to secure the following lines of insurance coverage on Client's behalf:
 - List of Insurance Placements:
 - Underground Storage Tanks
 - Excess Liability (Buffer)
 - Excess Workers' Compensation (Buffer)
 - Terrorism
 - Difference in Conditions (Earth Movement & Flood)
- Work with Client to prepare comprehensive underwriting data and criteria for insurance carrier negotiations.
- Formally present coverage submissions to agreed upon insurance carrier(s) and negotiate terms on behalf of Client.
- Summarize the results of executing the marketing strategy developed with Client and communicate program recommendations.
- Provide consultation to Client on exposures, existing coverage, and the desirability and/ or feasibility of potential program changes, retention and data analysis as recommended by Gallagher.
- Request change endorsements, when requested by the Client or when otherwise necessary, ensuring accuracy and delivery in a timely manner.
- Administration of insurance program (only if applicable), including policy review and issuance, invoicing, coordination and/ or issuance of required documentation, i.e., certificates of insurance, and other program administration, as required by the Client.
- Review accounting and billing data; audit information from insurance carriers to ensure accuracy.
- Other Services:
 - Risk Control Services
 - Loss control consultation and claim advocacy
 - Certificate Tracking