



## **Request for Proposal**

**#27992**

## **Retiree Private Healthcare Exchange for the City of Memphis**

**Date Issued: August 1, 2016**

**Proposal Submission Deadline:**

**August 19, 2016**

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## 1. OVERVIEW

### 1.1 PURPOSE OF THIS RFP

The City of Memphis (“City”) is seeking a partnership with a private exchange to offer its retirees and their dependents affordable coverage and enhanced plan choices.

The City is making all decisions regarding its exchange selection with a focus on what is best for the retirees. It is of high importance to the City that a private exchange be able to provide a high level of communication and decision support to its retirees during the initial implementation period, as well as on an ongoing basis.

### 1.2 OVERVIEW OF PROJECT

Currently, the City of Memphis self-administers retiree medical benefits to many of the City’s retirees and their dependents. Coverage options and City subsidization vary by Medicare status and whether the individual is considered grandfathered.

#### **Current Landscape**

##### Current Pre-65 coverage

Grandfathered status relates only to pre-65 coverage and includes deceased line of duty beneficiaries and disabled line of duty inactives. Participants are able to choose between two different PPO options. Grandfathered participants pay approximately 30% of the cost of coverage. Non grandfathered participants are offered coverage at 100% of the cost.

##### Current Post-65 coverage

Individuals eligible for Part A and Part B are able to choose between several Medicare Supplement plans plus Medicare PDPs. Those not eligible for Part A and Part B continue coverage under the PPO options.

#### **Exchange Offering**

The City of Memphis wishes to offer a private exchange to its pre-65 retirees and their dependents and Medicare eligible retirees and dependents effective March 1, 2017. Additionally, as of the current date, there are retirees and dependents who have not elected Medicare Part B coverage. These individuals will be enrolled in Medicare Part B during the next open enrollment period (January 1 – March 31, 2017).

The following chart illustrates the number of retiree lives as of June 1, 2016 that could potentially move onto the exchange effective March 1, 2017 plus the number of retiree lives that will elect Part B coverage and could potentially move onto the exchange effective July 1, 2017. The chart below does not include eligible dependents.

Note, there are approximately an additional 6,100 actives employees that will be eligible for retiree medical benefits in the future.

<b>Coverage Group: Currently Enrolled in City of Memphis Plans</b>	<b>Exchange Effective Date</b>	<b># of retirees</b>
Not Medicare eligible – Grandfathered	March 1, 2017	537
Not Medicare eligible – Non-grandfathered	March 1, 2017	169
Medicare eligible – Currently enrolled in Part B	March 1, 2017	1,356
Medicare eligible – Enrolled in Part B effective 7/1/2017	July 1, 2017	540
<b>Additional Potential Enrollment</b>	<b>Exchange Effective Date</b>	<b># of retirees</b>
Not Medicare eligible – Currently declined coverage in City of Memphis Plans	March 1, 2017	671
Medicare eligible – Currently declined coverage in City of Memphis Plans	March 1, 2017	626
<b>Total potential retiree lives</b>		<b>3,899</b>

The City of Memphis will provide HRA funding to assist in paying the cost of coverage. Although the design work related to the amount of funding is still under development, the City intends to fund at a budget neutral level. In other words, the HRA funding spend will equal the City’s current retiree medical spend.

The below guiding principles are the foundation for the potential private exchange program and the vendor evaluation process:

1. Develop a meaningful healthcare offering for retirees – both pre and post age 65 – that provides affordable coverage options and maximizes subsidies provided by the City
2. Offer retiree plan & carrier choice
3. Support retirees through exchange provided education and strong advocacy, through the initial transition and throughout their coverage period
4. Establish a retiree healthcare offering that aids in attracting and retaining city employees.
5. Reduce or contain long term financial OPEB liability
6. Maintain City insight on the retiree population
7. Private exchange vendor will be held accountable to the City for delivering a quality retiree experience
8. Simplify administration for the City
9. Ensure solution provides a fair alternative for retirees and the City

### 1.3 STRUCTURE OF RFP

The RFP s structured as follows:
Section 1: Overview
Section 2: Specifications

Section 3: Proposal Response
Section 4: Instruction on RFP Process
Section 5: Evaluation Model
Section 6: RFP Terms and Conditions
Section 7: Attachments and Exhibits

## 2. SPECIFICATIONS

### 2.1 MINIMUM CRITERIA

This Section 2 details the minimum criteria Proposer’s private exchange organization must comply with in order for its Proposal to be accepted for evaluation by the City of Memphis. Proposers will be asked to confirm compliance with these criteria as part of the Proposal response.

#### 2.1.1. PRIVATE EXCHANGE MODEL

- 2.1.1.1. Supports pre-Medicare retiree, Medicare-eligible retiree and Medicare eligible disabled populations in purchasing ACA compliant medical insurance through private exchange platform
- 2.1.1.2. Offers individual fully-insured policies
- 2.1.1.3. Offers medical plans through multiple carriers
- 2.1.1.4. Offers broad plan choice
  - 2.1.1.4.1. Including Medicare advantage plans, Medicare supplement plans and PDP plans for Medicare eligible retirees
  - 2.1.1.4.2. Including bronze, silver and gold metal plans for pre-Medicare retirees
  - 2.1.1.4.3. Offers multi-carrier offering
  - 2.1.1.4.4. Provides access to the public exchange platform for pre-Medicare retirees in addition to private exchange platform

#### 2.1.2. EXCHANGE EXPERIENCE

- 2.1.2.1. Has been serving Medicare-eligible retirees with regard to medical plan selection and enrollment for a minimum of 5 years
- 2.1.2.2. Has been serving pre-Medicare retirees with regard to medical plan selection and enrollment for a minimum of 2 years
- 2.1.2.3. Has enrolled a minimum of 50,000 retirees in ACA compliant medical plans
- 2.1.2.4. Has experience serving large employers with greater than 1,000 retiree exchange participants

#### 2.1.3. RETIREE EXPERIENCE

- 2.1.3.1. Supports retirees throughout the transition to the exchange and ongoing
- 2.1.3.2. Provides a full service call center with easily accessible retiree support and back-up
- 2.1.3.3. Offers one-on-one retiree advocacy/customer service to
  - 2.1.3.3.1. Provide Medicare and healthplan education
  - 2.1.3.3.2. Facilitate retiree needs assessments
  - 2.1.3.3.3. Aid in healthplan evaluation and selection
  - 2.1.3.3.4. Facilitate plan enrollment
  - 2.1.3.3.5. Provide ongoing health system/plan navigation and support
  - 2.1.3.3.6. Provide Health Reimbursement Account support
- 2.1.3.4. Provides a user-friendly online portal that displays
  - 2.1.3.4.1. Side-by-side comparisons of medical plan options (plan design and pricing)
  - 2.1.3.4.2. Plan evaluation and selection tools
  - 2.1.3.4.3. Health Reimbursement Account status and reimbursement tools

**2.1.4. COMMUNICATION & EDUCATION**

- 2.1.4.1. Offers a robust standard communications package, including letters/pamphlets, postcards and checklists, to educate retirees regarding the exchange platform and resources
- 2.1.4.2. Plans and leads on-site retiree meetings prior to open enrollment to educate retirees regarding the exchange platform and resources

**2.1.5. EMPLOYER EXPERIENCE**

- 2.1.5.1. Provides account management
  - 2.1.5.1.1. To allow the City to maintain insight on its retiree population
  - 2.1.5.1.2. To act as advocate to the City and its retirees
- 2.1.5.2. Provides implementation management to provide transition and pre-enrollment support to the City and its retirees
- 2.1.5.3. Eligibility assistance to help ensure eligible retiree data is transmitted properly and in a timely manner to the exchange and to assist in issue resolution
- 2.1.5.4. Health Reimbursement Account (HRA) Administration simplifying program administration for the City
- 2.1.5.5. Management reporting to allow insight into the experience and actions of retirees

**2.1.6. FINANCIAL PROPOSAL**

- 2.1.6.1. Full suite of services at a competitive financial arrangement
- 2.1.6.2. Financial risk for exchange performance that falls below mutually agreed upon performance measures
- 2.1.6.3. Retiree advisors are not influenced by commission levels for particular carrier and plan enrollments.

**2.1.7. CONTRACTING WITH SMALL AND MINORITY FIRMS AND WOMEN’S BUSINESS ENTERPRISE.** The Contractor shall take affirmative action to ensure that small, minority-owned and women-owned businesses, which have been certified by the City, are utilized when possible as sources of supplies, equipment and services.

**3. PROPOSAL RESPONSE**

This Section 3 describes the contents of Proposer’s Proposal and provides an outline of how the Proposer should organize it. Proposer’s Proposal will not be considered responsive unless it fully complies with the requirements in this Section, as well as, the additional instructions provided in Section 4.5 regarding the required Proposal formats and submission process.

Specifically, Proposer’s Proposal shall include each of the sections referenced in the table below. The requirements for each of these Proposal sections are described in more detail in this Section.

**PROPOSER'S PROPOSAL WILL BE DISQUALIFIED FROM THIS RFP PROCESS IF THE PROPOSER FAILS TO CONFORM TO THE PROPOSAL INSTRUCTIONS IN THIS SECTION 3.**

Sections and Topics
Section 1 – Cover Letter
Section 2 – Executive Summary
Section 3 – Confirmation of Compliance with Minimum Criteria

<b>Sections and Topics</b>
Section 4 – Responses to Questionnaire
Section 5 – Completed Exhibits
Section 6 – Pricing Model
Section 7 – References

Sections and Topics
Section 8 – Proposer’s Due Diligence Requirements
Section 9 – Insurance and Indemnification
Section 10 – Annual Report: May be included in separate cover from bound copies, but must be included with response

### 3.1. COVER LETTER

Section 1 of Proposer’s Proposal shall contain a cover letter acknowledging Proposer’s understanding of the RFP process and requirements set forth in this RFP, including its commitment to its Proposal. The cover letter shall be signed by an authorized representative of Proposer’s company.

### 3.2. EXECUTIVE SUMMARY

Section 2 of Proposer’s Proposal shall begin with an executive summary providing an overview of Proposer’s private exchange offering, with a focus on how its offering will support the City’s guiding principles detailed in Section 1.2 (Overview). The Executive Summary should include a description of the following:

- A description of Proposer’s private exchange offering
- A description of how Proposer’s exchange offering will support the City’s guiding principles
- A description of Proposer’s pricing approach
- A description of Proposer’s relevant experience serving and/or working with other municipal, local government and public sector clients
- A summary of any key differentiators that make Proposer uniquely positioned to provide a retiree private healthcare exchange to the City

### 3.3. CONFIRMATION OF COMPLIANCE WITH MINIMUM CRITERIA

In Section 3 of its Proposal, Proposer shall restate and explicitly confirm its ability to comply with each of the minimum criteria as set forth in Section 2 of this RFP.

### 3.4. RESPONSES TO QUESTIONNAIRE

In Section 4 of its Proposal, Proposer shall restate each question below and provide response. **To the extent that your response differs for your Pre-Medicare retiree exchange platform and your Medicare-Eligible retiree exchange platform, please be sure to identify and provide two separate responses as appropriate.**

Please note that direct and succinct responses will be favorably considered.

### **3.4.1. GENERAL**

- 3.4.1.1. Please provide the name and contact information (phone number and email address) for your organization's primary contact who will be responding to this RFP.
- 3.4.1.2. Briefly describe the history and ownership of your exchange organization, including any prior mergers, acquisitions, or significant restructuring in the last five years.
- 3.4.1.3. Do you expect any changes in organizational structure (e.g. mergers, acquisitions, restructuring, etc.) over the next two years? If so, explain any changes and their anticipated impact on your employer clients and on the members you serve.
- 3.4.1.4. Do you outsource any exchange operations/functions (web platform, advocacy/call center, enrollment, public exchange advocacy/enrollment, etc.) related to your retiree exchange? If so, identify whether this relationship is specific to a certain population (e.g. Pre-Medicare or Medicare eligible) and the resources provided by or functions performed by the Subcontractor. Also provide the name of your subcontractor partner, and the length of time your organizations have been working together.
- 3.4.1.5. Do you offshore any exchange operations/functions with regard to your retiree exchange? If so, identify the operations/functions offshored, provide the physical service location, and provide the length of time this operation /function has been in place.
- 3.4.1.6. Identify and describe any key differences between your Medicare eligible retiree exchange platform and your Pre-Medicare retiree exchange platform. Please be sure to identify and address any differing subcontracted relationships, differing shopping platforms and tools, differing advocacy resources and models, differing call centers, differing enrollment procedures, etc.
- 3.4.1.7. Please describe any guidelines your organization has implemented to control membership growth and ensure adequate resource capabilities to serve your exchange members.
- 3.4.1.8. Describe your process for managing the workforce and system requirements during spikes in enrollment (i.e., open enrollment).
- 3.4.1.9. Is information that is obtained about retirees through your exchange (either in the enrollment process or in talking with a representative) used for other purposes (such as marketing other products, etc.) or shared with another entity (such as vendor partners, etc.) or sold?
- 3.4.1.10. Please describe any services, capabilities or qualities that differentiate your retiree exchange offering from its competitors.

### **3.4.2. BACKGROUND**

- 3.4.2.1. On what date did you enroll the first Medicare Eligible retiree onto your exchange?
- 3.4.2.2. What is the total number of employers and members enrolled on your Medicare-Eligible Exchange as of July 1, 2016?
- 3.4.2.3. Does your Medicare eligible exchange have any limitations with regard to enrolling Medicare eligible disableds? If so, explain.
- 3.4.2.4. On what date did you enroll the first Pre-Medicare retiree onto your exchange?
- 3.4.2.5. What is the total number of employers and members enrolled through your Pre-Medicare retiree exchange offering as of July 1, 2016?
- 3.4.2.6. Describe any challenges you have experienced with regard to the pre-Medicare exchange market and any solutions or recommendations you have developed for overcoming these challenges.

- 3.4.2.7. Please provide the following distribution information regarding your Pre-Medicare Retiree book of business. Please insert results into the table labeled "Medicare-Eligible Retirees" found in the Exhibits.

**3.4.3. MODEL PROPOSITION**

- 3.4.3.1. Do you market your retiree exchange platform to
- a. Individuals (directly)?
  - b. Small employer groups (less than 100 lives)
  - c. Mid-size employer groups (101 – 4,000 lives)
  - d. Large employer groups (4,001 – 10,000 lives)
  - e. Jumbo employer groups (10,001 + lives)
- 3.4.3.2. Do you apply any restrictions (group size, employer funding, required participation of active or Medicare eligible retirees, etc.) with regard to accepting Pre-Medicare retiree groups on your exchange? If so, please explain.
- 3.4.3.3. Do you require an employer subsidy for all retirees/dependents? If so, please describe.
- 3.4.3.4. Do you offer access to off exchange (private exchange) and on exchange (public exchange) plan options?
- 3.4.3.5. Are any voluntary benefits offered to participants on your exchange? If so, describe.
- 3.4.3.6. What key lessons have been learned through your exchange implementations performed to date, and what improvements have been made within your organization as a result of these lessons learned?

**3.4.4. IMPLEMENTATION**

- 3.4.4.1. Confirm you can successfully implement an exchange transition for the majority of the City's pre-Medicare and Medicare eligible retirees, effective March 1, 2017 and a secondary transition effective July 1, 2017 for the City's retirees whom will be purchasing Medicare Part B during the 2017 late enrollment period. If not, please explain.
- 3.4.4.2. Confirm you have attached an implementation project plan, assuming March 1, 2017 and July 1, 2017 effective dates, including the timing of significant tasks, responsibilities of Exchange/City of Memphis, transition with incumbent vendors, etc.
- 3.4.4.3. Confirm you will provide an implementation project manager to work with The City of Memphis during the implementation of your exchange?
- 3.4.4.4. Will the implementation manager have ongoing responsibility for or accountability to The City of Memphis account after implementation? If yes, how long will the implementation manager remain on the City's account team?
- 3.4.4.5. What percentage of the implementation manager's time will be dedicated to The City of Memphis's during the implementation process?
- 3.4.4.6. How many other clients will the implementation manager have responsibility for during the City's implementation?
- 3.4.4.7. Describe the implementation manager's experience with your organization and his/her experience managing retiree exchange implementations.
- 3.4.4.8. During initial implementation, will you provide a resource to assist The City of Memphis HR/Benefits representatives in responding to initial retiree/family questions? If yes, please explain how you propose providing this support.
- 3.4.4.9. Will you provide reference material and/or training to the City of Memphis HR/benefits staff to aid in educating retirees regarding the exchange.
- 3.4.4.10. What do you believe to be key factors in a successful exchange implementation? If applicable differentiate between pre-Medicare and Medicare eligible retiree groups.

3.4.4.11. Please provide examples of successful implementations that included both pre-Medicare and Medicare eligible retirees and are of like-size and complexity to the City of Memphis.

3.4.4.12. Are you willing to accept financial risk for the on time delivery of a successful implementation? Please explain.

**3.4.5. ACCOUNT MANAGEMENT**

3.4.5.1. Describe your proposed account management team and structure. Please address the following for the proposed account and implementation managers, as well as for all other key team members:

- a. Name
- b. Location
- c. Background/Qualifications
- d. Years of experience
- e. Years of experience in your organization
- f. Years of experience in proposed role

**3.4.6. ELIGIBILITY DATA**

3.4.6.1. Describe your approach for handling eligibility data for the

- a. initial implementation file
- b. ongoing files
- c. age-in process

3.4.6.2. Through which methods are you able to accept eligibility data (e.g. paper, EDI, portal entry/upload, other - describe)?

3.4.6.3. What is your standard eligibility feed schedule (e.g. weekly, monthly, annual, other-describe)?

3.4.6.4. Describe your capabilities and process for loading and correcting eligibility data.

3.4.6.5. Will you provide updated eligibility (incorporating deaths, address changes, etc.) back to the City of Memphis or a third party? If so, how would you propose sharing this information and how often would you share updated eligibility?

3.4.6.6. Confirm you have provided your standard eligibility file layout/format.

3.4.6.7. Identify and describe any common hurdles you encounter with eligibility feeds.

**3.4.7. ENROLLMENT**

3.4.7.1. Do you offer the following options for plan enrollment? Describe any special processes or procedures that must be followed when using each available enrollment vehicle. Please respond separately for pre-Medicare and Medicare eligible populations if appropriate.

- a. Mail
- b. Telephone
- c. Online Portal
- d. Mobile App
- e. Other – please describe

- 3.4.7.2. Describe how you would reach out to retirees (and dependents) with regard to communicating available plan options and aiding in their determination of a best-fit plan. If the process differs for pre-Medicare retirees and Medicare eligible retirees, please describe.
- 3.4.7.3. Please describe the process by which a split family (one individual is pre-Medicare and one is Medicare eligible) would enroll through your exchange.
- 3.4.7.4. Are your representatives able to enroll retirees through the public exchanges if that is deemed to be the best fit for a retiree? Describe any limitations or special processes necessary.
- 3.4.7.5. How do you handle enrollment eligible retirees who are not responsive to your outreach?
- 3.4.7.6. Does the exchange staff facilitating enrollment (customer representatives) have access to online eligibility additions, corrections and terminations?
- 3.4.7.7. For any phone outreach, what will your phone system display for caller ID?

**3.4.8. CARRIER & PLAN OFFERINGS**

- 3.4.8.1. Do you employ any type of best in class plans/network offerings in order to limit the number of insurance companies or plan offerings available to members by county? If so, please describe.
- 3.4.8.2. Describe any narrow network plans included in your Medicare offering.
- 3.4.8.3. Please describe any minimum standards you require of insurance companies offered on your exchange (e.g. quality ratings, star ratings, etc.).
- 3.4.8.4. Provide the range of increases, as well as the average premium increase, from 2014-2015 and from 2015-2016 for all Medicare Supplement Plans available on your exchange to retirees in the Memphis area.
- 3.4.8.5. Provide the range of increases, as well as the average premium increase, from 2014-2015 and from 2015-2016 for all Medicare Advantage Plans available on your exchange to retirees in the Memphis area.
- 3.4.8.6. Provide the range of increases, as well as the average premium increase, from 2014-2015 and from 2015-2016 for all Medicare Part D Plans available on your exchange to retirees in the Memphis area.
- 3.4.8.7. Provide the range of increases, as well as the average premium increase, from 2014-2015 and from 2015-2016 for all Medicare Advantage with Drug (MAPD) Plans available on your exchange to retirees in the Memphis area.
- 3.4.8.8. Provide the range of increases, as well as the average premium increase, from 2014-2015 and from 2015-2016 for all plans available to pre-Medicare retirees in the Memphis area on your exchange.
- 3.4.8.9. Do any of the carriers offered on your exchange offer premium discounts for upfront premium payment (e.g. annual or quarterly)? If so, explain.

**3.4.9. ACCOUNT ADMINISTRATION**

- 3.4.9.1. Do you administer HRAs internally or through a partner? If you utilize a partner, please provide partner's name and the period of time for which your organizations have partnered.
- 3.4.9.2. How is the HRA administered (address deposits and reimbursements)?
- 3.4.9.3. Can you accommodate various employer HRA funding methodologies (e.g. monthly, annual, etc.)?
- 3.4.9.4. Describe your process for tracking HRA rollovers.

- 3.4.9.5. From the administrator's standpoint, which expenses will you allow to be paid for or reimbursed by HRA funds (e.g. Premiums for Plans Purchased Through Your Exchange, Premiums for Plans Purchased Outside Your Exchange, Plan Cost Sharing, Other 213d Eligible Expenses, Medicare Part B premiums, Other)?
- 3.4.9.6. Do you offer a debit card option for accessing HRA funds? If yes, through what organization/bank is your debit card offered?
- 3.4.9.7. Can your exchange administer different HRA funding amounts for different groups of retirees?
- 3.4.9.8. Do you offer auto-reimbursement of premium payments from an HRA? If yes, explain the process.
- 3.4.9.9. Do you offer special purpose HRAs or any other solutions that can utilized to offset retiree prescription drug costs incurred through the donut hole?

**3.4.10. MEMBER EXPERIENCE**

***Be sure to address any differences that exist for pre-Medicare and Medicare eligible populations in your responses to the following questions***

- 3.4.10.1. Will you provide The City of Memphis a designated customer service/advocate team(s) that may be trained on The City of Memphis culture? If Yes, How many members will the designated team be comprised of and how many other employer clients will this team serve?
- 3.4.10.2. Do you own your call center or outsource it? If outsourcing, please provide the name and headquarter address of the organization to which you outsource call center functions.
- 3.4.10.3. Are all call centers capable of handling all types of retiree questions, i.e. enrollment questions, HRA reimbursement questions, advocacy questions? If not, please explain
- 3.4.10.4. Provide the location of your proposed call center and hours of operation for The City of Memphis retiree population.
- 3.4.10.5. How is overflow to the call center handled?
- 3.4.10.6. Please describe the process of how a retiree works with your exchange to identify their best-fit plan option and enroll in a medical plan. How many individuals must an enrolling member speak with when requesting assistance with plan selection and then to enroll in the plan. Define the various exchange staff roles (e.g. does one staff role aid in plan selection and a different staff role handle enrollment?).
- 3.4.10.7. Will the same advocacy/customer service team serve Pre-Medicare retirees and Medicare Eligible retirees? If yes, and a retiree has developed a relationship with a particular advocate, can she/he continue to work with that advocate as she/he transitions from Pre-Medicare to Medicare eligible status?
- 3.4.10.8. In the case of a split family (one individual is Medicare eligible and one is not) can a single exchange advocate work with both individuals to identify the best fit plan for each? If so, could this process be undertaken for each individual during the same advisory session/call?
- 3.4.10.9. Are your advocates able to consider both private exchange and public exchange offerings in helping retirees assess a best-fit plan option? If so explain the process utilized by the advocates and describe any limitations.
- 3.4.10.10. Do your advocates counsel retirees regarding any election restrictions or underwriting they might encounter in subsequent years based on the current year's election? If so identify the possible scenarios.
- 3.4.10.11. What is your advocate staffing ratio per retiree?

- 3.4.10.12. Do you require any minimum qualifications, certifications, licenses or work backgrounds of your advocates? If yes, please describe any differentiating requirements for different staff roles.
- 3.4.10.13. Indicate the types of training provided to your advocates?
- 3.4.10.14. Do you typically assign individuals a specific advocate to work with on an ongoing basis? If yes, can an individual request to speak to another advocate at any time if their assigned advocate is not available? If you do not assign advocates to retirees, can an individual request to speak with an advocate with whom they have talked with in the past?
- 3.4.10.15. With regard to initial, and then ongoing annual, plan selection, do you have retirees/dependents schedule appointments with an advocate for plan selection assistance? If yes, how are appointments scheduled and what is the wait time for an appointment date/time during open/annual enrollment?
- 3.4.10.16. Are retirees able to call in at their convenience to work with an advocate? If so, what is the average wait time on the phone for an advocate/customer service representative?
- 3.4.10.17. Describe the process you utilize in facilitating members' selection of the plan option that best fits their specific needs.
- 3.4.10.18. Detail the types of information your advocates collect from retirees and members in assisting in the selection of a best-fit plan.
- 3.4.10.19. Are you able to pre-populate historical retiree/dependent claims (medical and pharmaceutical) data into your decision support tools? If so, describe.
- 3.4.10.20. What enrollment support tools are available to assist in retiree/dependent plan selection and through what means may they be utilized?
- 3.4.10.21. Detail the types of inquiries your advocates are able to address (e.g. insurance questions, health reimbursement account questions, general healthcare advocacy, etc.).
- 3.4.10.22. Do you provide members support with regard to prescription drug coverage and options?
- 3.4.10.23. Do you provide guidance with regard to accessing low income subsidies? If so, explain
- 3.4.10.24. Do your advocates provide referrals to third-parties (e.g. insurance company, HRA administrator, etc.)? If yes, please describe the types of situations that would be referred and to whom. Will you make a warm transfer?
- 3.4.10.25. What are the standard hours of operation for your advocates? Please indicate if hours vary by staff role and time of year (e.g. open enrollment).
- 3.4.10.26. How are after-hours telephone inquiries handled?
- 3.4.10.27. Describe how service inquiries are tracked and reported.
- 3.4.10.28. What options can you provide for the City to gain an understanding of the experience its retirees have with your advocates (e.g. listening to record PHI scrubbed calls)?
- 3.4.10.29. What metrics are in place to monitor the performance of member advocates/customer service representatives? Please indicate whether metrics vary according to staff role.
- 3.4.10.30. How are advocates compensated, including incentive compensation, for performance?
- 3.4.10.31. What was your annual 2015 turnover rate for retiree advocates/customer service representatives?
- 3.4.10.32. During annual enrollment, what percentage of your retiree advocates and customer service representatives are contracted/seasonal workers? What percentage is contracted outside of the annual enrollment period?
- 3.4.10.33. What was the average call time for a new enrollee during 2015? Please address how this differs based on the purpose of the call (e.g. assistance with determining best-fit plan, actual enrollment, etc.).

- 3.4.10.34. What was the average 2015 wait time for a live advocate/customer service representative per call during the most recent Annual Enrollment Period? Please indicate if there are variances based on the purpose of the call (e.g. assistance with plan selections, enrollment, etc.).
- 3.4.10.35. What was the average 2015 wait time per call outside of the Annual Enrollment Period? Please indicate if there are variances based on the purpose of the call (e.g. assistance with plan selections, enrollment, etc.).
- 3.4.10.36. Provide a brief overview of your web capabilities. Address the types of inquiries that can be handled online and the types of support that can be provided through the Web. Address whether there are click through terms, and if so whether they are customizable.
- 3.4.10.37. How does the web based shopping platform differ for Pre-Medicare retirees from that for Medicare eligible retirees (other than the differing plan options available)?
- 3.4.10.38. Is your shopping platform able to display both private exchange and public exchange offerings on your website? If so, does your platform allow for side-by-side comparison of retiree out-of-pocket amounts on exchange and off exchange plan options, incorporating any eligible federal subsidy amounts (on exchange) and incorporating any eligible employer-provided HRA funds (off exchange)?
- 3.4.10.39. Please provide a user name and password to access your member portal or demo portal site.
- 3.4.10.40. What information is provided to retirees/dependents in order to aid in plan selection, and through what means is this information provided?
- 3.4.10.41. What percentage of retirees change their plan selection in the second year?
- 3.4.10.42. Do you offer members any other consumer tools for ongoing use beyond enrollment (e.g. treatment and procedure cost estimators, price and quality transparency tools, claim tracking, HRA tracking)? If Yes, Please describe.
- 3.4.10.43. Describe the outreach and advocacy process for subsequent year enrollments.
- 3.4.10.44. In the case of a “split family” (one individual is Medicare eligible and one is not) can a single exchange advocate work with both individuals to identify the best fit plan for each? If so, could this process be undertaken for each individual during the same advisory session/call?
- 3.4.10.45. Please describe the process by which a “split family” would enroll through your exchange.

**3.4.11. COMMUNICATIONS & EDUCATION**

- 3.4.11.1. Describe how you will work with The City of Memphis to draft introductory communications/education pieces to disseminate to the City’s retirees and their families prior to initial enrollment through your exchange, as well as ongoing communications?
- 3.4.11.2. Please confirm you have attached samples of a full communications campaign included with your standard exchange offering for both pre-Medicare and Medicare eligible retirees. Please include samples for
  - a. Initial enrollment
  - b. Ongoing or subsequent enrollments (i.e. next annual enrollment)
  - c. Medicare age-ins
- 3.4.11.3. How often do employers purchase additional/enhanced communication support beyond your standard communications campaign? Address what types of additional pieces are purchased, providing associated costs.
- 3.4.11.4. Can communications be customized and branded? If yes, describe any limitations to customization as well as any additional cost to the City.

- 3.4.11.5. How many face-to-face retiree educational meetings will you support? Please explain any criteria you impose around this support (i.e. fees, geographical constraints, attendees required). Please indicate any additional fees that could be charged.
- 3.4.11.6. Confirm you have provided a sample agenda and sample communications/presentation you would utilize during the face-to-face retiree meetings.
- 3.4.11.7. When a retiree transitions from pre-Medicare to Medicare-eligible status, what type of outreach or communications does your exchange provide to aid in the transition?
- 3.4.11.8. What decision support tools will you offer retirees and their family members?
- 3.4.11.9. When a retiree transitions from Pre-Medicare to Medicare eligible status, what type of outreach or communications does your exchange provide to aid in the transition?

**3.4.12. MANAGEMENT REPORTING**

- 3.4.12.1. Please list your standard employer reports along with the frequency with which each report is provided. Please indicate which reports are associated with initial enrollment and which are associated with ongoing administration.
- 3.4.12.2. Describe your ability to provide ad hoc reporting.
- 3.4.12.3. Please confirm you have provided examples of your standard management reports.
- 3.4.12.4. Can reporting be set to push to the City on a designated schedule? Please explain.

**3.5. COMPLETED EXHIBITS**

Section 5 of Proposer’s Proposal will include completed Exhibits 2 - 7.

**3.6. PRICING MODEL**

In Section 6 of Proposer’s Proposal, Proposer shall provide a detailed breakdown of costs using the pricing template provided in Exhibit 8. Also, please submit a Letter of Non-Collusion (template also in Exhibit 8).

**3.7. REFERENCES**

In Section 7 of the Proposer’s Proposal, Proposers shall provide a list of three references to demonstrate qualifications to perform Work. Each proposer shall submit four references from four private exchange implementations within the last three years. Of the four references, at least one reference should be of a similar size of population, at least one reference should be from a public sector client, at least one reference should be with the same implementation manager proposed, and at least two references should include both pre-Medicare and Medicare eligible populations. Proposer shall include the following information regarding the references:

- 1. Reference name and contact information.
- 2. Company.
- 3. Scope of work.
- 4. Size of Medicare eligible population
- 5. Size of Pre-Medicare population.
- 6. Exchange effective date

**3.8. PROPOSER’S DUE DILIGENCE REQUIREMENTS**

In Section 8 of its Proposal, Proposer should submit a detailed list of any additional due diligence – such as review of specific information and interviews of particular City personnel – that Proposer would need to

perform following down-selection, if Proposer were chosen as a down-selected provider, in order to develop and submit a detailed and unqualified best and final offer.

### 3.9. INSURANCE AND RISK OF LOSS

In Section 9 of its Proposal, Proposer should submit a statement of compliance to all listed insurance in the reply to this RFP or note any exceptions.

THE COMPANY SHALL NOT COMMENCE ANY WORK UNDER THIS CONTRACT UNTIL IT HAS OBTAINED AND CAUSED ITS SUBCONTRACTORS TO PROCURE AND KEEP IN FORCE ALL INSURANCE REQUIRED. THE COMPANY SHALL REQUIRE ALL SUBCONTRACTORS TO CARRY INSURANCE AS OUTLINED BELOW, IN CASE THEY ARE NOT PROTECTED BY THE POLICIES CARRIED BY THE COMPANY. THE COMPANY IS REQUIRED TO PROVIDE COPIES OF THE INSURANCE POLICIES UPON REQUEST. THE COMPANY SHALL FURNISH THE RISK MANAGER A CERTIFICATE OF INSURANCE AND/OR POLICIES ATTESTED BY A DULY AUTHORIZED REPRESENTATIVE OF THE INSURANCE CARRIER EVIDENCING THAT THE INSURANCE REQUIRED HEREUNDER IS IN EFFECT. ALL INSURANCE COMPANIES MUST BE ACCEPTABLE TO THE CITY OF MEMPHIS AND LICENSED IN THE STATE OF TENNESSEE.

If any of the Insurance Requirements are non-renewed at the expiration dates, payment to the company may be withheld until those requirements have been met, or at the option of the City. The City may pay the renewal premiums and withhold such payments from any monies due the Company.

The Company shall indemnify, defend, save and hold harmless the City, its officers, employees, and agents, from and against any and all claims, demands, suits, actions, penalties, damages, settlements, costs, expenses, or other liabilities of any kind and character arising out of or in connection with the breach of this Agreement by Company, its employees, subcontractors, or agents, or any negligent act or omission of Company, its employees, subcontractors, or agents, which occurs pursuant to the performance of this Agreement, and this indemnification shall survive the expiration or earlier termination of this Agreement. The provisions of this paragraph shall not apply to any loss or damage caused solely by the acts, errors, or omissions of the City, its officers, employees and agents.

Each certificate or policy shall require and state in writing the following clauses:

**Company shall provide notice to the City within three (3) business days following receipt of any notice of cancellation or material change in Company's insurance policy from Company's insurer. Such notice shall be provided to City by registered mail, to the following addresses:**

City of Memphis	City of Memphis
Attn: Risk Management	Attn: Purchasing Agent
2714 Union Extended, Suite 200	125 North Main, Room 354
Memphis, TN 38112	Memphis, TN 38103

The Certificate of Insurance shall state the following: "The City of Memphis, its officials, agents, employees and representatives shall be named as additional insured on all liability policies." The additional insured endorsements shall be attached to the Certificate of Insurance and the Certificate of Insurance shall also state: "The additional insured endorsement is attached to the Certificate of Insurance."

**3.9.1. COMMERCIAL GENERAL LIABILITY**

Comprehensive General Liability Insurance, including Premises and Operations, Contractual Liability, Independent Contractor’s Liability, and Broad Form Property Damage Liability Coverage with Minimum Limits of:

\$ 5,000,000	General Aggregate (Per Project/Per Location)
\$ 1,000,000	Products-Completed Operations
\$ 1,000,000	Personal and Advertising Injury
\$ 1,000,000	Each Occurrence (Bodily Injury & Property Damage)
\$ 50,000	Fire Damage any One Fire
\$ 5,000	Medical Expense any One Person

**3.9.2. ERRORS AND OMISSIONS LIABILITY**

The company shall maintain such coverage for at least three (3) years from the termination or expiration of this agreement with minimum limits of:

\$ 2,000,000	Each occurrence/Aggregate
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### 3.10. ANNUAL REPORT

In section 11 of its Proposal, the Proposer shall submit their most recent annual report or current audited financial statements. The financial stability of the Proposer and the Proposer's length of time in business will be closely evaluated. Financial information may be included in separate cover from bound copies, but must be included with response. These documents are subject to the Tennessee Public Records Act.

## 4. INSTRUCTIONS ON RFP PROCESS

### 4.1. USE OF INFORMATION

Proposer may not make any public announcement relating to this RFP or otherwise publicize the existence or contents of this RFP. Any Proposer that discusses this RFP or the Initiative with anyone within or outside the City other than the persons and entities permitted pursuant to this RFP will risk elimination from further participation in the bidding process due to breach of confidentiality, in addition to enforcement by the City of any other remedies available to it.

**All correspondence about this RFP and the Initiative should be limited to the Principal Contact described in Section 4.2 or other designated City personnel or agents.**

### 4.2. PRINCIPAL CONTACT AND INFORMATION REQUESTS

**Eric Mayse** is the single point of contact (the "Principal Contact") for all matters relating to this RFP. Proposer should direct all inquiries to the Principal Contact at:

**Eric.Mayes@memphistn.gov**

Proposer should not, under any circumstances, contact any City personnel (including senior City management or City employees with whom Proposer has an existing business or personal relationship) to discuss this RFP without the Principal Contact's prior written consent. Utmost discretion is expected of Proposer and all other RFP recipients. Any recipient attempting to circumvent this process will risk elimination from further participation in the bidding process.

### 4.3. SCHEDULE OF ACTIVITIES

- 4.3.1.** In order to accelerate the business transformation, service improvements and cost savings the City anticipates, the City has developed an estimated timeline for this Initiative. The City will move as quickly and efficiently as possible to determine the feasibility of Proposer's Proposal (and other RFP recipients' proposals), and to move forward with term sheet discussions and ultimately conclude an agreement accordingly.
- 4.3.2.** As a result, the City requests that Proposer make a dedicated team available to participate in the proposal development and evaluation processes as necessary to participate in the activities and meet the deadlines provided in the table below.
- 4.3.3.** It is the City's option to conduct interviews with finalists. However, in no way is the City obligated to interview finalists.
- 4.3.4.** The City reserves the right to modify or update this schedule at any point in time.

**In no event shall the deadline for submission of the proposal be changed except by written modification by the City of Memphis Purchasing Department.**

<b>Activity</b>	<b>Date</b>
Publish RFP	August 1, 2016
Proposer Questions Deadline	August 8, 2016; 8:00 AM CT
City Response to Questions	August 12, 2016
Proposal Submission Deadline	August 19, 2016; 2:00 PM CT
Finalist Selections – Optional	Week of September 5, 2016
Finalist Presentations – Optional (City’s Discretion)	TBD (If necessary, week of September 19, 2016)
Site Visits (City’s Discretion)	TBD
Negotiations	October, 2016
Agreement Finalization	October, 2016

**4.3.5.** Several of the activities identified in the above table are described in more detail in the remainder of this Section 4.

#### 4.4. INITIAL QUESTIONS SUBMISSION, FINAL QUESTIONS SUBMISSION

Proposer may submit an initial set of questions based on its review of this RFP, by completing the template provided at Exhibit 1 (Proposer Questions Template) and sending it via email by August 8, 2016 by 8:00 am CDT. Questions received after 8:00 a.m. will not be answered. This email should be sent to the individual(s) described in Section 4.2, with the subject heading: “[Your company’s name] – Initial City of Memphis Private Healthcare Exchange RFP Questions.” The City will post the responses to the questions on the City’s web site August 12, 2016 by 5:00 pm CDT. To ensure the fair and consistent distribution of information, no individual answers will be given. The only official answer or position of the City will be the one posted via the City's website.

#### 4.5. PROPOSAL SUBMISSIONS

##### 4.5.1. PROPOSAL SUBMISSION AND DUE DATE

Proposer shall submit in a sealed package, (A) one (1) original (marked as such) and seven(7) complete printed copies of its Proposal (including the signed Cover Letters); and (B) 2 CDs or DVDs containing softcopies of its entire Proposal (including PDFs of the Signed Cover Letters) on or before **August 19, 2016 at 2:00 pm CDT**, to the addressee provided below:

**City of Memphis Purchasing Department  
125 N. Main Street, Room 354  
Memphis, TN 38103**

The label should identify the contents as: **City of Memphis Retiree Private Healthcare Exchange RFP #27992**

**PROPOSALS SUBMITTED AFTER THE DEADLINE OR WHICH STATE THAT INFORMATION WILL BE PROVIDED 'AT A LATER DATE', OR WHICH ARE OTHERWISE INCOMPLETE OR FAIL TO COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS RFP WILL BE DISQUALIFIED FROM PARTICIPATION IN THIS RFP PROCESS.**

- 4.5.1.1. Proposals may not be amended after the submission deadline.
- 4.5.1.2. Notwithstanding any legends on the proposal or any other statements to the contrary, all materials submitted in connection with proposer's response to this RFP will become the property of the city and may be returned only at the city's option.
- 4.5.1.3. With respect to the information contained on proposer's CDs or DVDs:
  - 4.5.1.3.1. The folders and/or files should be organized in such a way as to preserve the order and labeling of how such information is presented in proposer's printed copy of its proposal;
  - 4.5.1.3.2. Each document (and file name) should clearly show the name of proposer;
  - 4.5.1.3.3. Each file should be pre-formatted by proposer to facilitate on-line viewing and printing in a form consistent with proposer's printed copy of its proposal;
  - 4.5.1.3.4. All documents should be presented in a native Microsoft office format (e.g., word, excel, PowerPoint, project) or PDF.
  - 4.5.1.3.5. Documents should not include embedded files.
  - 4.5.1.3.6. Proposals must be sealed

**4.5.2. PROPOSAL FORMAT**

The City expects the Proposal to be a compilation of various documents, in particular because Proposer's Proposal must utilize the RFP response templates set forth in the Exhibits in this RFP. The Proposal should be structured so that there is a primary, "core" document (organized in accordance with Section 3) that incorporates by reference, as applicable, the other documents.

Proposer shall use Microsoft Office file formats in preparing its Proposal to the maximum extent possible. All pages should be formatted to print on 8 ½" x 11" paper, unless another format is provided by the response template. **Proposer responses should be specific, factual, brief and to the point, and should avoid pure sales and marketing content to the extent possible.**

#### **4.5.3. PROPOSAL EXPIRATION DATE**

Proposals in response to this RFP shall remain valid for nine (9) months from the Proposal due date. The City may request an extension of time if needed.

#### **4.5.4. PROPOSER DATA**

The confidentiality of information and data contained in Service Provider's Proposal shall be subject to and governed by the Open Records Act and any other Public Records laws with which the City is legally obligated to comply (including a Freedom of Information Act Request under "FOIA").

#### **4.5.5. DEADLINE EXTENSION**

The City reserves the right to extend the submission deadline, if such action is considered necessary by the City.

#### **4.5.6. AMBIGUITY, CONFLICT, OR OTHER ERRORS IN THE RFP**

If a Proposer discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP, it shall immediately notify, in writing e-mail, the City of such error request modification or clarification of the document. The Proposer shall include the RFP number, page number and the applicable paragraph title. The City will issue/post any revisions to the RFP on the City's website ([www.memphistn.gov](http://www.memphistn.gov)). The Proposer is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error in the Request for Proposals prior to submitting the proposal or any ambiguity, conflict, discrepancy, etc. shall be waived.

#### **4.5.7. FAILED COMPETITION**

The City reserves the right to reject any or all proposals which are not responsive to the specifications of this Request for Proposal (RFP). Competitive negotiation requires that at least two responsive proposals for the same scope of work and service area be received in response to the RFP. A competition is considered failed if only one responsive proposal is received. If a competition has been declared failed, the City then has the option to reopen the procurement or enter into a non-competitive procurement.

#### **4.5.8. WITHDRAWING OR AMENDING A PROPOSAL**

At any time prior to the scheduled deadline for receipt of proposals, the Proposer may withdraw or amend its proposal by submitting a written request from the authorized representative whose name and signature appears on the proposal. A written request to withdraw or amend the proposal must be submitted to the individual and address to whom/which the proposal was submitted in accordance with the section above titled "PROPOSAL SUBMISSION AND DUE DATE."

#### **4.5.9. ACCEPTANCE/REJECTION OF PROPOSALS**

The City reserves the right to accept or reject, in whole or in part, any or all proposals submitted. The City shall reject the proposal of any Proposer that is determined to be non-responsive.

#### **4.5.10. INFORMALITIES/MINOR IRREGULARITIES**

The City reserves the right to waive minor irregularities or informalities in a Proposer's proposal when the City determines that it will be in City's best interest to do so. Any such waiver shall not modify any remaining RFP specifications or excuse the Proposer from full compliance with the RFP specifications and other contract requirements if the Proposer is awarded the contract.

#### **4.5.11. PROPOSER INDEBTED TO THE CITY**

No contract will be knowingly awarded to any organization which, in the City's sole discretion, is in arrears to the City of Memphis upon any debt or contract, or which is a defaulter as surety or otherwise under any obligations to the City of Memphis, or which has failed to perform faithfully on any previous contract with the City of Memphis.

#### **4.5.12. TAX PAYMENTS**

The City of Memphis exempt from federal excise, state and local taxes on all purchases and will issue tax exemption certificates, upon request.

#### **4.5.13. GENERAL**

Subject to questions and clarifications raised on specific issues in accordance with Section 4.4, Proposer shall be deemed, by the submission of its Proposal, to have understood fully the meaning of the overall RFP. Any claims of ambiguity after contract award will not be accepted by the City.

### **4.6. FINALIST SELECTIONS (OPTIONAL)**

The City may or may not select a number of the RFP respondents who will be asked to give an oral presentation of its proposal to the City. However the City is not obligated to interview any finalist. If interviews are conducted, these providers will be selected based on an evaluation of their Proposals against the criteria described in Section 5 of this RFP. RFP recipients that are not selected to progress to the oral presentations likely will be excluded from further consideration.

For this reason, Proposer is strongly encouraged to make as complete and compelling a Proposal as possible. The RFP recipient who fails to comply risks being dropped from further consideration without having an opportunity to improve its offer.

### **4.7. RECIPIENT PRESENTATIONS (OPTIONAL)**

Details pertaining to the oral presentation phase of the RFP process will be confirmed after Proposal submissions.

If Proposer is asked to give an oral presentation, Proposer should prepare a comprehensive presentation that concentrates on the business and technical aspects of the Proposal, and should not be marketing discussions. **PROPOSER'S PROPOSAL WILL NOT BE ALTERED OR ENHANCED DURING THE ORAL PRESENTATION.**

Appropriate visual and written materials are expected, but the format will be left to the discretion of the Proposer. A soft copy of all presentation materials must be delivered to the Principal Contact at least one business day before the beginning of the presentation. Proposer should also bring a sufficient number of printed copies of the materials for the City attendees at the presentation.

The City may provide a last minute agenda or other direction for the Proposer's presentation based on the City's initial review of the Proposals.

#### 4.8. CONTRACT AWARD

The award of contract will be made on the basis of the best proposal, as determined by the City, which meets the requirements and criteria set forth in the solicitation. The City may fund all or any part of a proposal, and the City will only accept proposals for the services requested. The proposal submitted in response to this solicitation is not a legally binding document; however, the contract, which will be based on information provided in the proposal, becomes legally binding once all parties have signed it. Any contract resulting from this RFP shall be subject to the City of Memphis General Terms and Conditions set forth in this solicitation. The successful Contractor shall be required to execute the contract originated by the City of Memphis and satisfy all contract requirements as specified by the City. One or more contracts may be awarded under this RFP, and any contract awards and amounts are subject to the availability and appropriation of funds. Unless changed by the City, the anticipated contract will commence upon contract execution and end three years after the contract execution. The City reserves the option to extend the contract term for 2 additional 12-month periods.

#### 4.9. PROTESTS

Any protest of award must be filed in writing with the Purchasing Agent within five (5) calendar days of the award announcement at the following address:

City of Memphis Purchasing Agent:

125 North Main, Room 354, Memphis, Tennessee 38103.

Alternatively, protests may be emailed to Eric Mayes at [Eric.Mayes@memphistn.gov](mailto:Eric.Mayes@memphistn.gov).

#### 4.10. MODIFICATION OR TERMINATION OF RFP PROCESS

Subject to the rules and regulations of the City's Procurement Office, including with respect to providing notification and, where applicable, providing the opportunity to revise proposals, the City reserves the right to, in its sole discretion, discontinue, amend, supplement, or otherwise change this RFP, the Initiative, the process used for evaluation, and the expected timeline at any time and for any reason, and makes no commitments, implied or otherwise, that this process will result in a business transaction with any provider.

#### 4.11. SUPPLEMENTAL INFORMATION

If, subsequent to issuance of this RFP, additional relevant material is produced by or becomes available to the City, such material will (where appropriate) be transmitted to all RFP participants for their consideration. The City will make modifications by issuing a written addendum, which will be posted on the City's website. Any revisions to the solicitation will be made only by an addendum issued by the City. It is the responsibility of the Proposer to check the website for possible addenda and should consider such information in its Proposal. The City will assume that all changes or additional requirements transmitted have been taken into account in Proposer's Proposal (including with respect to pricing), unless otherwise specified.

#### 4.12. NO REPRESENTATIONS OR WARRANTIES

The City makes no representations or warranties regarding the accuracy or completeness of the information contained in this RFP or otherwise provided by the City through the RFP process. Proposer is responsible for making its own evaluation of information and data contained in this RFP or otherwise provided by the City, and for preparing and submitting responses to the RFP. The City has attempted to validate the information provided in this RFP, but it is possible that Proposer may detect inconsistencies or potential errors. While Proposer should identify these potential issues in its questions or in an appendix to its Proposal, Proposer should use the information provided on an "as-is" basis for its initial Proposal. Information regarding the City and the Initiative may be revised or updated, and republished for inclusion in a final response.

#### 4.13. PROPOSAL PREPARATION COSTS

Proposer will be responsible for all costs it incurs in connection with this RFP process (including but not limited to Proposal preparation, personnel time, travel-related costs, and other expenses) and any subsequent agreement negotiations.

#### 4.14. OWNERSHIP AND INTELLECTUAL PROPERTY

The City will own all of the data contained within the Private Healthcare Exchange Solution.

### 5. EVALUATION MODEL

#### 5.1. QUALIFYING PROPOSALS

City will review each submitted Proposal to determine whether it is a Qualifying Proposal. A Qualifying Proposal is one that meets all of the minimum criteria set forth in Section 2.1 above. All Proposals that ARE NOT a Qualifying Proposal will be disqualified from this RFP process.

## 5.2. EVALUATION OF QUALIFYING PROPOSALS

City will evaluate each Qualifying Proposal based on the degree to which it complies with City's requirements, as articulated in this RFP. The primary categories to be evaluated, as well as their weighting in the evaluation process will be as follows:

<b>Evaluation Category</b>	<b>Award of Service</b>
Private Exchange Overview	10%
Retiree Experience	25%
Communication, Education & Change Management	25%
Employer Experience	20%
Financial Proposal	20%
<b>TOTAL</b>	<b>100%</b>

## 6. RFP TERMS AND CONDITIONS

See following pages.

## Terms and Conditions

### RFP TERMS

#### REQUEST FOR PROPOSAL TERMS

The City of Memphis seeks proposals from Companies who have the expertise to provide a private healthcare exchange in accordance with this RFP document. This is a Request for Proposal that may be modified by the City in the selection process.

THE CITY OF MEMPHIS ENCOURAGES THE PARTICIPATION OF SMALL, MINORITY AND WOMEN-OWNED BUSINESSES IN THE PURCHASING PROCESS.

The City of Memphis is an Equal Opportunity Employer and does not discriminate on the basis of race, color, national origin, sex, religion, age or handicap status in employment or in the provision of services.

This procurement may be subject to the requirements of Ordinance No. 5114 which establishes a local preference for local businesses located within the City of Memphis. A copy of your current Memphis and Shelby County Tennessee Business Tax Receipt must accompany the proposal for consideration of this ordinance.

Any protest of award must be filed in writing with the Purchasing Agent within five (5) calendar days of the intent to award announcement at the following address: City of Memphis Purchasing Agent; 125 North Main, Room 354; Memphis, Tennessee 38103. Notice will be posted on the City's website and outside Council Chambers, located on the lobby floor of City Hall. The intent to award notification shall be deemed publicly announced on the date specified on the notice.

Only proposals submitted on the provided form(s) with no changes, additions or deletions to the terms and conditions will be considered. Proposals containing terms and conditions other than those contained herein may be considered nonconforming.

No objections with regard to the application, meaning, or interpretation of the specifications will be considered after the opening of the subject proposals. If there are questions or concerns regarding any part of plans, terms, specifications or other proposed documents, a written request for interpretation thereof may be submitted to the City Purchasing Agent prior to the deadline date. The organization submitting the request shall be responsible for the prompt delivery of the request. Any interpretation in response to the written request will be made only by addendum duly issued, and a copy of such addendum will be mailed or delivered to each organization receiving a set of such documents and/or posted on the City's website. The City of Memphis will not be responsible for any other explanation or interpretation of the proposed documents. By submission of its proposal, a proposer shall be deemed to have understood fully the contents and meaning of the RFP.

All proposals must be signed by an authorized representative of your organization. Unsigned proposals will be considered nonconforming.

Any contract resulting from the proposals received in response to this solicitation shall be construed in accordance with and governed by the laws of the State of Tennessee. All actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Agreement shall be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee without regard to conflicts of laws principles.

By order of the Mayor of the City of Memphis, Tennessee.

**JIM STRICKLAND**

Eric Mayse, City Purchasing Agent

Published in The Daily News on \_\_\_\_\_ 2 Copies

**INSTRUCTIONS TO PROPOSERS**

Proposers shall submit their signed proposal in a sealed envelope INDICATING ON THE OUTSIDE: THE COMPANY NAME and THE REQUEST FOR PROPOSAL NUMBER.

Proposers must comply with all applicable licensing requirements. Pursuant to the City of Memphis Charter, Article 71, Section 777 et seq., it is unlawful to operate a business within the limits of the city of Memphis without possessing a Memphis and Shelby County business license, excepting non-profit organizations that qualify as tax exempt under Sec. 501(c)(3) of the Internal Revenue Code. Upon award notification and prior to the City issuing a properly executed purchase order or entering into a contract with the proposer, the successful proposer, whose principal business address is located within the limits of the city of Memphis, will be required to submit, along with the required insurance and other required documentation, a copy of (1) the tax-exempt ruling or determination letter from the Internal Revenue Services; or (2) its current Memphis and Shelby County Business Tax Receipt/License.

Issuance of this RFP does not obligate the City to contract, in whole or in part, for services specified herein. The City of Memphis reserves the right to cancel this solicitation, in whole or in part, or to reject, in whole or in part, any and all proposals. Cancellation of this RFP or any subsequent award will be posted on the City's website: [www.memphistn.gov](http://www.memphistn.gov) under the section titled "Government News."

Any firm receiving a mailed solicitation on the above subject and not bidding will be electronically removed from the City's mailing list used for the above-referenced subject after 3 consecutive non-responses or no bids.

For additional information concerning this solicitation, please contact: Eric Mayes via e-mail at [Eric.Mayes@memphistn.gov](mailto:Eric.Mayes@memphistn.gov)

This solicitation shall be in accordance with the City of Memphis Ordinances and Purchasing Policies and Procedures, which may be amended from time to time.

All materials submitted pursuant to this RFP shall become the property of the City of Memphis.

To the extent permitted by law, all proposals submitted in response to this RFP shall be kept confidential until the proposals have been evaluated and the intent to award is announced. Until the intent to award is announced, no information regarding any proposal will be released to anyone, except members of the Evaluation Committee who are responsible for evaluating the proposals and other appropriate City staff. All information provided by the Proposer in response to this RFP will be considered by the Evaluation Committee in evaluating the proposal and making an award recommendation to the City.

The Mayor of the City of Memphis is the only individual who can legally sign contracts on behalf of the City. Costs chargeable to the proposed contract shall not be incurred before receipt of a fully executed contract.



## **Exhibit 2**

### *Medicare Eligible Retiree*

Please provide the following distribution information regarding your Medicare Eligible book of business.  
Please insert results into the table below.

Size of Client Enrolled Medicare-Eligible Population	Number of Employers			
	Number of Years Employer Has Been Your Medicare-Eligible Exchange Client			
	0 – 1	1 – 2	3 - 5	5+
0 – 500				
501 – 2,000				
2,001 – 5,000				
5,001 +				

## **Exhibit 3**

### *Pre - Medicare Eligible Retiree*

Please provide the following distribution information regarding your Pre – Medicare Eligible book of business.  
Please insert results into the table below.

Size of Client Enrolled Pre - Medicare-Eligible Population	Number of Employers			
	Number of Years Employer Has Been Your Pre - Medicare-Eligible Exchange Client			
	0 – 1	1 – 2	3 - 5	5+
0 – 500				
501 – 2,000				
2,001 – 5,000				
5,001 +				

## **Exhibit 4**

Please indicate the number of insurance companies offering Medicare Supplement Plans, Medicare Advantage Plans (with and without Drugs), and Medicare Part D Plans, as well as the number of offerings available, in each of the 3-digit zip codes. Also provide 2016 premiums for your lowest and highest cost plan in each 3-digit zip code, along with Plan indication. Input your responses into the tables below.

### *Medicare Supplement Plans*

3-Digit Zip	Number of Insurers Offering Medicare Supplement Plans	Number of Medicare Supplement Plan Offerings	2016 Premium for Lowest Cost Offering	Lowest Cost Medicare Supplement Plan Name (e.g. Plan A)	2016 Premium for Highest Cost Offering	Highest Cost Medicare Supplement Plan Name (e.g. Plan F)
381						
380						

383						
386						
388						
725						

*Medicare Advantage Plans (without Drugs)*

3 – Digit Zip	Number of Insurers Offering MA Plans	Number of MA Plan Offerings	2016 Premium for Lowest Cost Offering	Key Plan Provisions of Lowest Cost Offering	2016 Premium for Highest Cost Offering	Key Plan Provisions of Lowest Cost Offering
381						
380						
386						
383						
388						
725						

*Medicare Part D Plans*

3 – Digit Zip	Number of Insurers Offering Medicare Part D Plans	Number of Medicare Part D Plan Offerings	2016 Premium for Lowest Cost Offering	Key Plan Provisions of Lowest Cost Offering	2016 Premium for Highest Cost Offering	Key Plan Provisions of Lowest Cost Offering
381						
380						
386						
383						
388						
725						

*Medicare Advantage Plans (with Drugs)*

3 – Digit Zip	Number of Insurers Offering MAPD Plans	Number of MAPD Plan Offerings	2016 Premium for Lowest Cost Offering	Key Plan Provisions of Lowest Cost Offering	2016 Premium for Highest Cost Offering	Key Plan Provisions of Lowest Cost Offering
381						
380						
386						

383						
388						
725						

### **Exhibit 5**

Please indicate the number of insurance companies offering Pre-Medicare Gold Plans, Pre-Medicare Silver Plans, and Pre-Medicare Bronze Plans, as well as the number of offerings available, in each of the 3-digit zip codes. Also provide 2016 premiums for your lowest and highest cost plan in each 3-digit zip code, along with Plan indication. Input your responses into the tables below.

#### *Pre-Medicare Gold Plans*

County & State	Number of Insurers Offering Gold Plans	Number of Gold Plan Offerings	2016 Premium for Lowest Cost Offering	Key Plan Provisions of Lowest Cost Offering	2016 Premium for Highest Cost Offering	Key Plan Provisions of Lowest Cost Offering
Shelby, TN						
Desoto, TN						
Tipton, TN						
Hardin, TN						
Tishomingo, MS						
Cleburn, AR						

#### *Pre-Medicare Silver Plans*

County & State	Number of Insurers Offering Silver Plans	Number of Silver Plan Offerings	2016 Premium for Lowest Cost Offering	Key Plan Provisions of Lowest Cost Offering	2016 Premium for Highest Cost Offering	Key Plan Provisions of Lowest Cost Offering
Shelby, TN						
Desoto, TN						
Tipton, TN						

TN						
Hardin, TN						
Tishomingo, MS						
Cleburn, AR						

Pre-Medicare Bronze Plans

County & State	Number of Insurers Offering Bronze Plans	Number of Bronze Plan Offerings	2016 Premium for Lowest Cost Offering	Key Plan Provisions of Lowest Cost Offering	2016 Premium for Highest Cost Offering	Key Plan Provisions of Lowest Cost Offering
Shelby, TN						
Desoto, TN						
Tipton, TN						
Hardin, TN						
Tishomingo, MS						
Cleburn, AR						

**Exhibit 6**

Medicare Eligible Retiree

Please Complete the below table, indicating the number of Medicare-Eligible Plan offerings, by Med Supp, MA, PDP and MAPD available within each 3-digit zip code.

3 Digit Zip	Number of Retirees	Number of Plan Offerings			
		Medicare Supplement	Medicare Advantage (with Drugs)	Medicare Advantage (without Drugs)	Medicare Part D

381	1,661				
380	1,092				
386	584				
383	117				
388	47				
725	40				
382	33				
723	33				
724	27				
389	24				
356	22				
370	22				
371	18				
721	16				
726	15				
720	14				
719	10				
325	9				
385	9				

377	9				
397	8				
727	8				
378	8				
384	8				
300	7				
372	7				
337	7				
327	6				
310	6				
420	6				
324	5				
852	5				
365	5				
391	5				
376	5				
335	4				
393	4				
357	4				

394	4				
786	4				
638	4				
346	4				
373	3				
301	3				
288	3				
360	3				
305	3				
779	3				
639	3				
983	3				
716	3				
655	3				
864	3				
897	3				
287	3				
342	2				
379	2				

535	2				
363	2				
805	2				
374	2				
712	2				
750	2				
296	2				
261	2				
606	2				
672	2				
837	2				
322	2				
355	2				
971	2				
349	2				
318	2				
320	2				
329	2				
210	2				

923	2				
520	2				
474	2				
880	2				
704	2				
785	2				
780	2				
339	2				
650	2				
763	2				
774	2				
187	2				
400	2				
321	2				
710	2				
454	2				
390	2				
433	2				
714	2				

338	2				
553	1				
421	1				
657	1				
809	1				
351	1				
936	1				
240	1				
334	1				
232	1				
813	1				
217	1				
658	1				
718	1				
315	1				
316	1				
467	1				
600	1				
387	1				

777	1				
451	1				
302	1				
870	1				
299	1				
490	1				
708	1				
853	1				
350	1				
722	1				
294	1				
285	1				
970	1				
765	1				
326	1				
030	1				
392	1				
577	1				
782	1				

731	1				
775	1				
807	1				
787	1				
597	1				
307	1				
762	1				
452	1				
286	1				
751	1				
284	1				
838	1				
344	1				
760	1				
743	1				
423	1				
652	1				
313	1				

## Exhibit 7

### Pre Medicare Retiree

Please complete the table below, indicating the number of Pre-Medicare Eligible Plan offerings, by Gold, Silver, and Bronze Plans available within each County.

County	Number of Pre Medicare Retirees	Number of Plan Offerings		
		Gold	Silver	Bronze
Shelby	716			
Desoto	38			
Tipton	37			
Fayette	33			
De Soto	13			
Hardin	9			
Marshall	8			
Panola	7			
Carroll	6			
Hardeman	5			
Stone	4			
Madison	4			
Garland	4			
Davidson	3			
Jefferson	3			
Lauderdale	3			
Polk	3			
Denton	3			
Wilson	3			
Benton	3			

Baxter	3			
Williamson	3			
Pinellas	3			
Mississippi	2			
Gibson	2			
Fulton	2			
El Paso	2			
Harrison	2			
Tunica	2			
Union	2			
Sevier	2			
Decatur	2			
Cape Girardeau	2			
Hillsborough	2			
Hamilton	2			
Tate	2			
Maury	2			
Dallas	2			
Sharp	2			
Montgomery	2			
Henry	2			
Cook	2			
Beauregard	1			
Pulaski	1			
Craighead	1			
Jackson	1			

Lewis	1			
St Francis	1			
Calhoun	1			
Carter	1			
Knox	1			
Brevard	1			
San Bernardino	1			
Baltimore	1			
Pasco	1			
Mclean	1			
Honolulu	1			
Chester	1			
Washington	1			
Coryell	1			
Wayne	1			
Elko	1			
Manatee	1			
Lee	1			
Christian	1			
Haywood	1			
Brunswick	1			
Lake	1			
Blount	1			
Johnson	1			
Calloway	1			
Orange	1			

Baldwin	1			
Mesa	1			
Cumberland	1			
Collin	1			
Mc Nairy	1			
Bay	1			
Faulkner	1			
Wake	1			
Essex	1			
Tishomingo	1			
Boone	1			
Warren	1			
Choctaw	1			
Walton	1			
Dekalb	1			
Clark	1			
Miami-Dade	1			
Glynn	1			
Barnstable	1			
Bexar	1			
Broward	1			
Osceola	1			
Ellis	1			
Erie	1			
Crawford	1			
Osage	1			

Limestone	1			
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**Exhibit 8 – PRICE FORMS**

The undersigned PROPOSER proposes and agrees, if this Proposal is accepted, to enter into an Agreement with CITY to complete all Work as specified or indicated in Contract Documents for Contract Price and within Contract Time indicated in this Proposal and in accordance with Contract Documents.

In submitting this Proposal, PROPOSER represents, as more fully set forth in Agreement, that:

PROPOSER has examined copies of all Contract Documents and of the following addenda (receipt of all of which is hereby acknowledged):

Addenda #	_____	Date	_____	Signature	_____
Addenda #	_____	Date	_____	Signature	_____
Addenda #	_____	Date	_____	Signature	_____

PROPOSER will complete Work for price(s) listed below. All prices shall remain in effect for a contract period of three years. To the extent a service is “included” at no additional cost, please indicate below.

<b>General</b>		
What is your standard contract period?		
Will any on-going fees kick-in before the period noted above ends?		
<b>Service</b>	<b>Standard Fee</b>	<b>Fee Proposed for The City</b>
<b>Fees Charged to the Retiree</b>		
<b>Implementation</b>		
<b>Standard Communications</b>		
<b>Custom Communications</b>		
<b>Retiree Meetings</b>		
<b>Additional retiree meetings (if requested by client)</b>		
<b>Live Audio Call</b> Retirees can dial-in and listen to presentation of an already scheduled retiree meeting		
<b>HRA Implementation/set up</b>		
<b>On-going HRA Administrative Fee*</b>		
<b>Ongoing data transfer/acceptance fees</b> Files moving from the City or other vendor to the exchange and vice versa		
<b>Data changes/clean up</b> Ability to change/overwrite data if there is an accuracy issue		
<b>Ad hoc reporting</b> Reports generated outside the standard reports included on your exchange		

Service	Standard Fee
<b>Anytime Teleconference</b> Allows retirees to listen to a recorded transition meeting through a dial-in number any time.	
<b>Anytime Web Recording</b> Allows retirees to watch a recorded transition meeting online at any time.	
<b>Live Conference Call – Operator Assisted</b> Live audio call meetings where retirees can listen to a transition meeting ask questions during the call.	
<b>Live Webinar Meeting</b> Allow retirees to watch the presentation at a transition meeting (webex) and ask questions via online chat.	
<b>HRA SPD Printing and Mailing</b>	
<b>RSVP Services for Retiree Meetings</b> Retirees receive printed communications with meeting schedule and RSVP number to call.	
<b>Venue Management for Retiree Meetings</b> Exchange will research, find, and make reservations for a venue per city location.	
<b>Secondary HRA set up/implementation</b>	
<b>Secondary HRA on-going administrative fee</b>	
<b>Population analytics for employer</b> Assess make-up of retiree population (geographic area, plan choice, etc.) to ensure HRA amount is meeting retiree needs	
<b>Other services (please describe services and fees) -- intent is to capture any and all possible fees the employer or retiree could possibly incur</b>	
<b>Service Credits Offered - describe amount and any limitations for employer usage</b>	

**Non-collusion affidavit**

The Proposer, by its officers and its agents or representatives present at the time of filing this Proposal, being duly sworn on their oaths say, that neither they nor any of them have in any way, directly or indirectly, entered into any arrangement or agreement with any other Proposer, or with any officer of the Owner or Owner's representative whereby such affiant or affiants or either of them has paid or is to pay such other Proposer or officer any sum of money, or has given or is to give to such other Proposer or officer anything of value whatever, or such affiant or affiants or either of them has not directly or indirectly, entered into any arrangement or agreement with any other free competition into the letting of the contract sought for by the attached prices that no inducement of any form or character other than that which appears on the face of the Proposal will be suggested, offered, paid or delivered to any person whomsoever to influence the acceptance of the Proposal or awarding of the Contract, nor has this Proposer any agreement or understanding of any kind whatsoever, with any person whomsoever to pay, deliver to, or share with any other person in any way or manner, any of the proceeds of the Contractor sought by this Proposal.

Submitted By:

Firm Name \_\_\_\_\_

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

**SIGNATURES**

If PROPOSER is:

A. An Individual

By \_\_\_\_\_ (SEAL)  
(Individual's Name)

Doing business as \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

**B. A Partnership**

By \_\_\_\_\_ (SEAL)  
(Firm Name)

\_\_\_\_\_  
\_\_\_\_\_  
(General Partner)

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

**C. A Corporation**

By \_\_\_\_\_ (SEAL)  
(Corporation Name)

\_\_\_\_\_  
(State of Incorporation)

By \_\_\_\_\_  
(Name of Person Authorized to Sign)

Title \_\_\_\_\_

Attest \_\_\_\_\_  
(Secretary)

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

**D. A Joint Venture**

By \_\_\_\_\_  
(Name)

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_  
(Name)

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Each joint venture member must sign. The manner of signing for each individual partnership and corporation that is party to joint venture should be in manner indicated above.

## **Exhibit 9**

### **CITY OF MEMPHIS SERVICE AGREEMENT GENERAL TERMS AND CONDITIONS (PROCUREMENT ATTACHMENT)**

**The successful Contractor will be required to comply with and execute an agreement specifying the following general terms and conditions, as may be modified and/or supplemented at the City's sole discretion:**

**REPORTS.** Upon request, the Contractor shall prepare and submit reports of its activities, funded under this agreement, to the originating department of the City. The reports shall include an itemization of the use of the City's funds, inclusive of specific services delivered by the Contractor. Any such reports provided to the City shall be prepared with the understanding that the City may make such reports available to the public.

In addition, Contractor shall submit and, as necessary, update subcontractor information (including but not limited to payments thereto), for **any and all subcontractors** used on City project(s), in the City's compliance tracking software, B2GNow. The City shall have the right to withhold future disbursement of funds under this Agreement and any future Agreements until the requirements of this provision have been met.

**ENTIRE AGREEMENT.** This Agreement constitutes the full and final understanding of the parties with respect to the subject matter hereof and supersedes and replaces any and all prior or contemporaneous agreements or understandings, whether written or oral, express or implied, between the parties with respect to the subject matter of the Agreement.

**STANDARD OF PERFORMANCE.** All services by the Contractor shall be performed in compliance with the specified requirements, in a manner satisfactory to the City, and in accordance with the generally accepted business practices and procedures of the City and pursuant to the governing rules, practices and regulations of the industry, based on the type of services performed hereunder.

**HEADINGS.** Titles and headings used herein are for the convenience of reference only and shall be disregarded completely in the interpretation and validity of this Agreement or any of its terms.

**MODIFICATION AND AMENDMENT.** This Agreement shall be amended or modified only by a written document signed by the parties hereto, in accordance with applicable laws and regulations.

**CONFIDENTIALITY.** While performing work under this Agreement, the Contractor may gain access to proprietary and/or confidential information that, if disclosed to third parties, may be damaging to the City or its officials or employees. Such information shall include materials considered to be confidential information as a matter of law (e.g., personnel records), and shall also include (i) all materials in any form developed or created by the City related to funding and financial and business information; (ii) all information owned, possessed or used by the Contractor, which is communicated to, learned, developed or otherwise acquired by the Contractor in the performance of the Services for the City; (iii) the terms, conditions and pricing contained herein; and (iv) any other information that the Contractor has been advised by the City is confidential, privileged or proprietary. Confidential information, as used in this Agreement, shall not include (i) information in the Contractor's possession prior to disclosure by the City; (ii) information generally available to the public or that becomes available to the public through a source other than the City, or (iii) information that was rightfully obtained by the Contractor from a third party who is under no obligation of confidentiality to the City with respect to such information. The Contractor agrees that it will accept and hold confidential information obtained from the City in confidence at all times during and after termination of this Agreement. The Contractor shall neither use nor disclose such information, except as provided in this Agreement or as required by law, without the prior written permission of the City.

The Contractor acknowledges and agrees that a breach of this section by the Contractor will cause the City irreparable injury and damage; therefore, the Contractor expressly agrees that the City shall be entitled to injunctive or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement. The Contractor agrees that it will disclose confidential information only to those employees who have a right to know, and shall require its employees, agents, and subcontractors to comply with the requirements of this provision and the requirements of the provisions herein titled "Public Statements" and "Rights in Data."

**PUBLIC STATEMENTS.** The Contractor shall not make any announcement, release any information, or authorize or participate in any interview concerning this Agreement and goods and/or services required herein, without obtaining prior written consent from the City. The Contractor shall require its employees, agents, and subcontractors to comply with the requirements of this provision. This provision shall survive the expiration or termination of this Agreement.

**RIGHTS IN DATA.** The Contractor agrees that all reports, studies, plans, models, drawings, specifications, and any other information or data of any type produced under this Agreement, whether or not the same is accepted or rejected by the City, shall remain the property of the City and shall not be published by the Contractor or any other party without the express prior written consent of the City. In implementing the foregoing, the Contractor hereby grants and assigns to the City all rights and claims of whatever nature, whether now or hereafter, arising in and to any and all of such reports, studies, plans, models, drawings, specifications, and other information or data and shall cooperate fully with the City in any steps the City may take to obtain copyrights, trademark or like protections with respect thereto. The signing of this Agreement shall constitute a complete transfer of ownership, intellectual property and copyright of all documents from the Contractor to the City upon the Contractor's delivery of such documents and/or information to the City or upon completion of the Project, whichever occurs first. The Contractor shall not construe such transfer as a grant for usage nor can the Contractor revoke it.

**EMPLOYMENT OF CITY WORKERS.** The Contractor shall not engage, on a full, part-time or any other basis during the term of this Agreement, any professional or technical personnel who are or have been at any time during the term of this Agreement in the employ of the City.

**CONTRACTOR'S PERSONNEL.** The Contractor certifies that it presently has adequate qualified personnel to perform all services required under this Agreement and that all work performed under this Agreement shall be supervised by the Contractor. Contractor will make its personnel aware of and cause them to comply with the City's policies that have been made known to Contractor while performing pursuant to this Agreement. The Contractor further certifies that all of its employees assigned to perform any work hereunder shall have such knowledge and experience as required to perform the duties assigned to them. Any employee of the Contractor who, in the opinion of the City, is incompetent, whose conduct becomes detrimental to the work, or whom the City deems to be unsatisfactory for any reason, shall immediately be removed from association with the services hereunder per the City's request. Upon such request, the Contractor shall use all reasonable efforts to promptly replace such employee(s) with substitute employee(s) having appropriate skills and training. Contractor is responsible for the acts or omissions of its personnel under or relating to this Agreement.

The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement, all employee compensation and benefits. The City shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, health, welfare and disability benefits, Federal and local taxes, or other compensation, benefits or taxes for any personnel provided on behalf of the Contractor. In addition, the Contractor shall be solely liable and responsible for any and all workers' compensation benefits to any person as a result of injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Agreement.

**INDEPENDENT CONTRACTORS.** Nothing in this Agreement shall be deemed or construed to represent that the Contractor, or any of the Contractor's employees or agents, are the agents, representatives, or employees of the City. The Contractor acknowledges that it is an independent contractor over the details and means for performing the services hereunder. Anything in this Agreement which may appear to give the City the right to direct the Contractor as to the details of the performance of its obligations hereunder or to exercise a measure of control over the Contractor is solely for purposes of compliance with local, state and federal regulations and means the Contractor will follow the desires of the City only as to the intended results of the scope of this Agreement.

It is further expressly agreed and understood by the Contractor that neither it nor its employees or agents shall hold itself out contrary to the terms of this paragraph, and the City shall not be liable for any representation, act or omission of the Contractor contrary to the provisions hereof..

#### **TERMINATION**

1. It shall be cause for the immediate termination of this Agreement if, after its execution, the City determines that either:
  - a. the Contractor or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has plead nolo contendere, or has plead or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, misappropriation of government funds, or any other collusive and illegal activity pertaining to bidding and governmental contracting; or
  - b. the Contractor subcontracted, assigned, delegated, or transferred its rights, obligations or interests, voluntarily or involuntarily, under this Agreement without the City's consent or approval; or
  - c. the Contractor has filed bankruptcy, has been adjudicated bankrupt, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer is appointed to take charge of all or part of the Contractor's assets.
2. The City may cancel/terminate this Agreement, in whole or in part, upon providing written notice to the Contractor of the City's intention to terminate the Agreement as a result of Contractor's failure to provide the goods/services specified under this Agreement or in violation(s) of any of the terms herein, and the Contractor has failed to cure such breach within (TBD) business days of such notice. The City may reject the goods/services and cancel this Agreement for any goods/services rendered or to be rendered hereunder. At its option, the City may return the rejected portion of such products to Contractor at its expense or hold the same for such disposal as Contractor shall indicate. In the event of any such rejection/termination, the City shall, at the City's option, have the right to obtain like goods/services elsewhere or to take over the work and prosecute the same to completion, both at the Contractor's expense; and in such event, the City may take possession of and utilize in completing the work, such materials, appliances, etc. as may be on the site of the work and necessary therefore. The Contractor shall be liable to the City for any loss, damage, or additional cost incurred thereby, including but not limited to any difference between the cost for procuring such like services and the price specified herein, attorneys' fees and court costs.

3. Notwithstanding the foregoing or any section herein to the contrary, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor, for the purpose of setoff, until such time as the exact amount of damages due the City from the Contractor is determined.
4. The City may, in its sole discretion, suspend and/or terminate this Agreement for convenience upon giving (TBD) business days prior written notice to the Contractor. In the event a purported termination for cause by the City is in error, then such termination may, at the City's sole discretion, be deemed to be a termination for convenience under this section. In the event of such termination, the Contractor shall be entitled to receive just and equitable compensation, as determined by the City, for any goods accepted and/or satisfactory authorized work performed in accordance with the Agreement up to the termination date; but in no event shall the City be liable to the Contractor for expenses incurred after the termination date. All goods accepted by the City/services completed by the Contractor prior to the Termination Date shall be documented and all tangible work documents shall be transferred to the City prior to payment for services rendered, and shall become the sole property of the City. Such termination by the City shall not be deemed a Breach of Contract by the City, and the Contractor shall not be compensated for any anticipatory profits, or other damages of any description, that have not been earned as of the date of termination.
5. The Contractor shall deliver to the City all hard copy and electronic files maintained on behalf of the City within thirty (30) calendar days of termination of this Agreement. Upon reasonable request, the City reserves the right to obtain such information prior to the termination of this Agreement.

**COMPENSATION FOR CORRECTIONS.** No compensation shall be due or payable to the Contractor pursuant to this Agreement for any of the services performed by the Contractor to correct services, when such corrections are required as a direct result of negligence by the Contractor to properly fulfill any of its obligations herein.

**CITY'S RIGHT TO WITHHOLD CERTAIN AMOUNTS AND MAKE APPLICATION THEREOF.** If evidence is produced before the final settlement of all or any balances that the Contractor has failed to pay laborers employed on his work or failed to pay for materials used therein, or if the City has reason to suspect the same, the City may withhold such balances and upon evidence satisfactory to the City as to the amount due for such labor and materials, the City, acting as the agent of the Contractor, may settle and pay for the same and charge the amounts to the Contractor and deduct the same from the said balance or balances.

**REMEDIES CUMULATIVE.** All remedies available to the City herein are cumulative and shall be in addition to all other rights and remedies provided by law. The termination, expiration, or suspension of this Agreement shall not limit the City from pursuing other remedies available at law or in equity.

**SUBCONTRACTING, ASSIGNMENT or TRANSFER.** The Contractor shall not subcontract, assign, delegate or transfer all or part of its rights, responsibilities, or interest under this Agreement without the prior written consent of the City. Any purported assignment, transfer, or delegation in violation of this Section shall be voidable by the City. No subcontracting, assignment, delegation or transfer shall relieve the Contractor from performance of its duties hereunder; neither shall the City be responsible for the fulfillment of the Contractor's obligations to its transferors or subcontractors. Upon request of the City, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the transfer. At any time, City may, in its sole discretion, revoke its prior approval of a subcontractor and direct Contractor to replace such subcontractor or perform the services that were being performed by such contractor itself if the City finds in its reasonable judgment that (i) such subcontractor's performance is materially deficient or otherwise unacceptable to City; (ii) good faith doubts exist concerning the subcontractor's ability to render future performance because of changes in the subcontractor's ownership, management, financial condition, or otherwise; or (iii) there have been one (1) or more material misrepresentations by or concerning the subcontractor. The City reserves the right to terminate the Agreement if Contractor, in whole or in part, is acquired by another entity during the term of this Agreement.

In the event the Contractor is allowed to sublet any part of the Agreement, the Contractor shall be as fully responsible to the City for the acts and omissions of the subcontractor and of the persons employed or directly or indirectly employed by the subcontractor as he is for the acts and omissions of persons employed by Contractor. The Contractor shall not be allowed to subcontract more than (TBD)% of the work on this project. The computation for percentages shall be based on monetary values.

**CONFLICT OF INTEREST.** Neither party shall engage in any conduct or activity in the performance of this Agreement that constitutes a conflict of interest under applicable federal, state or local laws, rules and regulations.

The Contractor covenants that it has no public or private interest, and shall not acquire, any interest, directly or indirectly, which would conflict in any manner with the performance required under this Agreement, and the Contractor covenants that no gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer, official, agent or employee of the City, in an effort to secure the Agreement or favorable treatment with respect to any determinations concerning the performance of the Agreement. The Contractor warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the City as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to the Contractor in connection with any work contemplated or performed relative to this Agreement. For breach or violation of this provision, the City shall have the right to recover or withhold the full amount of such gratuities.

**COVENANT AGAINST CONTINGENT FEES.** The Contractor warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this provision, the City shall have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

**GENERAL COMPLIANCE WITH LAWS.** The Contractor certifies that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it shall take such action as, from time to time, may be necessary to remain so qualified and shall obtain and maintain, at its own expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Agreement. Such permits and licenses shall be made available to the City, upon request.

The Contractor is assumed to be familiar with and shall comply with all applicable federal, state, and local laws, ordinances, and regulations in performing any of its obligations under this Agreement, including but not limited to the City of Memphis Living Wage Ordinance, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA), and the Americans with Disabilities Act (ADA). The Contractor shall promptly notify the City of any conflict discovered between this Agreement and any applicable laws, rules, regulations, and/or permits and licenses, and await resolution of the conflict.

**NON-DISCRIMINATION.** The Contractor hereby agrees to comply with Title VI and Title VII of the Civil Rights Act of 1964 and all other federal, state or local laws prohibiting discrimination, which provide in whole or in part, that no person shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement or in the Contractor's employment practices on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, State or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination, and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination. In the event the Contractor fails to comply with the City's non-discrimination policy and any and all other laws prohibiting discrimination, this Agreement may be canceled, terminated or suspended in whole or in part by the City.

The City reserves the right to investigate any claims of illegal discrimination by the Contractor and in the event a finding of discrimination is made and upon written notification thereof, the Contractor shall take all necessary steps to cure and rectify such action to the reasonable satisfaction of the City. The Contractor's failure or refusal to do so shall be cause for termination of this Agreement in accordance with the terms of this Agreement.

**EMPLOYMENT OF ILLEGAL IMMIGRANTS.** The Contractor hereby certifies to comply with all applicable federal and state laws prohibiting the employment of individuals not legally authorized to work in the United States. Contractor shall not knowingly (i) utilize the services of illegal immigrants; or (ii) utilize the services of any subcontractor who will utilize the services of illegal immigrants in the performance of the contract. In the event the Contractor fails to comply with any and all local, state and federal laws prohibiting the employment of individuals not legally authorized to work in the United States, this agreement may be canceled, terminated or suspended in whole or in part by the City, and the Contractor may be prohibited from contracting to supply goods and/or services to the City for a period of one (1) year from the date of discovery of the usage of illegal immigrant services in the performance of a contract with the City.

**SEVERABILITY.** If any terms or provisions of this Agreement are held to be illegal, invalid or unenforceable as a matter of law, such provision shall be fully severable, and the remaining provisions of this Agreement shall remain in full force and effect and continue to be binding and shall not be affected by such provision or by its severance herefrom. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, the parties may negotiate in good faith to replace such provision with a valid, legal and enforceable provision that most closely approximates the parties' original intent.

**NO WAIVER OF CONTRACTUAL RIGHT.** No term or provision of this Agreement, or of any document executed pursuant hereto, shall be held to be waived, modified or deleted unless in writing and executed by the parties hereto and specifically identified as a waiver of any succeeding breach thereto or of any other provision herein contained. No delay or failure of the City to enforce any right or provision of this Agreement or in any document executed pursuant hereto shall operate as a waiver or relinquishment of the City's right to subsequently enforce and compel strict compliance with such provision or any other provision herein or in any document related hereto.

**SUBJECT TO FUNDING.** This Agreement is subject to availability and annual appropriation of funds by the Memphis City Council. In the event sufficient funds for this Agreement are not available or appropriated by the Memphis City Council for any of its fiscal period during the term hereof, then the City shall immediately terminate this Agreement upon written notice to the Contractor. In the event of such termination, the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work performed up to the termination date. Such termination by the City shall not be deemed a Breach of Contract by the City, and the Contractor shall have no right to any actual, general, specific, incidental, consequential, or any other damages whatsoever of any description or amount that have not been earned as of the date of termination.

**CONTRACTING WITH SMALL AND MINORITY FIRMS AND WOMEN'S BUSINESS ENTERPRISE.** The Contractor shall take affirmative action to ensure that small, minority-owned and women-owned businesses, which have been certified by the City, are utilized when possible as sources of supplies, equipment, construction and services.

**PUBLIC RECORDS.** Notwithstanding anything to the contrary contained herein or within any other document supplied to the City by the Contractor, the Contractor understands and acknowledges that the City is a governmental entity subject to the State of Tennessee Public Records Act, and any reports, data or other information supplied to the City regarding services performed hereunder may be subject to disclosure as a public record in accordance with the laws of the State of Tennessee.

**ORGANIZATION STATUS AND AUTHORITY.** The Contractor represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.

The execution, delivery and performance of this Agreement by the Contractor has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of the Contractor, any provision of any indenture, agreement or other instrument to which the Contractor is a party, or by which the Contractor's respective properties or assets are bound, in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets.

Each person executing this Agreement represents that: he/she is lawfully authorized to sign the Agreement on behalf of the party he/she represents and execution of the Agreement was duly and regularly authorized by the party's governing body.

**WARRANTY.** The Contractor warrants to the City that all goods/work shall be free from defects in design and faulty or improper workmanship and shall be in strict compliance with the terms of this Agreement. This warranty shall be effective for a period of not less than one year from the date of acceptance by the City of such goods and/or services as satisfactorily complete, and shall be in addition to all other warranties, express, implied or statutory. The warranty shall survive the termination or expiration of this Agreement.

**RECORDS AND AUDITS.** The Contractor shall make and keep as the same accrue, full and complete books, documents, accounting records and other evidence, that specifically relate to this Agreement, in accordance with generally accepted accounting principles. The Contractor shall retain such records, and shall make same available to the City, upon reasonable request, during the term of this Agreement, and for a minimum period of three (3) full years after completion of the contract obligations or from the date of final payment under this Agreement, whichever is later. In the event any litigation, claim or audit is instituted prior to the expiration of the required three-year retention period, such records shall be retained until such litigation, claim or audit finding has been resolved. Copies of said records shall be furnished to the City upon request.

Upon reasonable notice, the Contractor shall permit the City, any other governmental entity, any agency participating in the funding of this Agreement, or any of their duly authorized representatives, to enter the Contractor's offices, during regular business hours, to interview employees and to inspect and/or copy said records and books of accounts together with any and all documents pertaining hereto that may be kept, maintained or possessed by the Contractor. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places.

**DISPUTE RESOLUTION.** In the event of any dispute(s), controversy, or claim arising out of or relating to this Agreement or the breach thereof, the parties agree that they shall first use their best efforts in an attempt to settle the dispute through negotiations involving themselves or their representatives as they each deem appropriate.

Any dispute concerning a question of fact in connection with this Agreement between the Contractor and the City shall be referred in successive order for resolution, first to the City Purchasing Agent, second to the City Attorney, and thirdly, to the Mayor of the City of Memphis, whose decision regarding same shall be final.

**FORCE MAJEURE.** The City shall not be deemed in default hereunder, nor shall the City be responsible for any delay, interruption, or cessation in the performance of its obligations under this Agreement where such failure of performance is the result of any force majeure event, including, but not limited to, acts of God, riots, wars, strikes, epidemics, acts, governmental authorities or acts of nature or other similar cause beyond its control.

**SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

**NOTICES.** All notices and other communications required or permitted to be given hereunder shall be written and hand delivered with signed receipt; delivered by facsimile; delivered by a nationally recognized overnight courier; or mailed via certified U.S. mail, postage prepaid and return receipt requested. All notices shall be deemed received and effectively given as follows: (i) if by hand delivery, on the date of delivery; (ii) if by fax, on the day the fax transmission is received at the receiving location and receipt is telephonically confirmed by the sender; (iii) if by delivery via U.S. mail, on the date of receipt appearing on a return receipt card; or (iv) if by overnight courier, on the date receipt is confirmed by such courier service. All notices must be addressed to the respective party at the following addresses or to such other person or address as either party may designate in writing and deliver as provided herein.

**NO THIRD PARTY BENEFICIARY.** This Agreement is entered into solely between, and may be enforced only by, City and Contractor. Unless otherwise specified herein, this Agreement shall not be deemed to create any rights in third parties, including suppliers or customers of either party.

**SERVICE MARKS.** The Contractor agrees that it shall not, without City's prior written consent, use the name, service mark or trademarks of the City.

**NUMBER AND GENDER.** Unless the context requires otherwise, (i) use of a specific gender imports the other gender(s); and (ii) use of the singular imports the plural and vice versa.

**SURVIVAL.** The parties hereto acknowledge that provisions that require or contemplate performance or observance after expiration or termination of this Agreement shall survive the expiration or termination of this Agreement and continue in full force and effect.

**CITY LIABILITY.** The City shall have no liability except as specifically provided in this Agreement. The City, by execution of this Agreement, assumes no liability for damages caused to persons or property by reason of Contractor providing services herein or for injury to any employee, agent or subcontractor of the Contractor performing under this Agreement.

**INDEMNIFICATION.** Contractor shall indemnify, defend, save and hold harmless the City and its officers, agents and employees from and against any and all claims, demands, suits, actions, penalties, damages, settlements, costs, expenses, or other liabilities of any kind and character, including without limitation attorney fees and litigation expenses, arising out of or in connection with the breach of this Agreement by Contractor, its employees, subcontractors, or agents, or any negligent acts or omission of Contractor, its employees, subcontractors, or agents, which occurs pursuant to the performance of this Agreement, excepting those losses or damages directly caused solely by the acts, errors, or omissions of the City or any of its officers, agents or employees. This indemnification shall survive the expiration or termination of this Agreement.

The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the Contractor's responsibility to indemnify, defend, save and hold harmless the City or its elected or appointed officials, officers, employees, agents, assigns, and instrumentalities as herein required.

The City reserves the right to appoint its own counsel regarding any matter defended hereunder. The Contractor acknowledges that the City has no obligation to provide legal counsel or defense to the Contractor, its employees or subcontractors in the event that a suit, claim or action of any character is brought by any person not a party to this agreement against the Contractor as a result of or relating to obligations under this agreement. The City shall have no obligation for the payment of any judgments or the settlement of any claims asserted against the Contractor or its subcontractors or employees as a result of or relating to the Contractor's obligations hereunder.

The Contractor shall immediately notify the City c/o City Attorney; 125 North Main, Suite 336; Memphis, TN 38103, of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from or relating to the Contractor's obligations under this Agreement and agrees to cooperate, assist and consult with the City in the defense or investigation thereof.

**PATENT INDEMNIFICATION.** The Contractor warrants that any goods/services furnished hereunder do not infringe or violate any United States or Canadian patent, trademark, copyright, trade secret, or any other proprietary right of any third party; that it shall defend all suits that may arise with respect thereto; and that it shall indemnify, defend, save and hold harmless the City, its officials, employees, agents, successors and assigns, from and against all liabilities, suits, claims, damages, costs or expenses, including without limitation attorney and expert witness fees, for or by reason of any actual or alleged claim the goods/services purchased by City hereunder infringe any patent, copyright, or is a violation of trade secret disclosure laws, whether by reason of the Contractor's purchase or otherwise. This indemnification shall survive the expiration or termination of this Agreement.

**CITY LIABILITY.** The City shall have no liability except as specifically provided in this Agreement. The City, by execution of this Agreement, assumes no liability for damages caused to persons or property by reason of Contractor providing services herein or for injury to any employee, agent or subcontractor of the Contractor performing under this Agreement.

**GOVERNING LAW, JURISDICTION AND VENUE.** The terms and conditions of this Agreement shall be construed in accordance with and governed by the laws of the State of Tennessee. All actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Agreement shall be instituted and litigated in the state or federal courts of the State of Tennessee, located in Shelby County, Tennessee, without regard to conflicts of laws principles. In accordance herewith, the parties to this Agreement submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.