



**INVITATION TO NEGOTIATE NO. 15-0002  
FOR  
REINSURANCE ADVISORY AND BROKERAGE SERVICES**

**July 1, 2015**

**Refer ALL Inquiries to:**  
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**FAILURE TO FILE A PROTEST WITHIN THE TIME PRESCRIBED IN SECTION  
627.351 (6) (e), F.S., CONSTITUTES A WAIVER OF PROCEEDINGS.**

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**ATTACHMENTS:**

The below list of forms and documents pertain to this competitive solicitation. It is the Vendor's responsibility to review and submit all requested forms and information with their Response.

- Attachment A – Vendor Contact Information
- Attachment B – Vendor Conflict of Interest Disclosure Form
- Attachment C – Responsible Vendor Review Form
- Attachment D – FSBE, FBE & MBE Declaration Form
- Attachment E – Fee Schedule
- Attachment F – Business / Corporate References Form
- Attachment G – Financial Certification Form

**INITIAL RESPONSIVENESS CHECKLIST**

The Initial Responsiveness Checklist (“Checklist”) identifies the mandatory submission requirements that must be included in the Vendor's Initial Response. Mandatory submission requirements are identified in the referenced sections of the solicitation by the specific term “shall submit”. This Checklist identifies every mandatory submission requirement for the Vendor's initial Response; if an inconsistency exists between the Checklist and the solicitation and Attachments, this Checklist is controlling. Failure to provide any of the mandatory submission requirements prior to completion of the Responsiveness Review Period **will result in disqualification** of the Vendor (as non-responsive). This Checklist does not detail the substantive or technical requirements that are identified throughout the solicitation.

A Vendor may also be deemed non-responsive (and therefore disqualified) if they fail to meet substantive or technical requirements of the solicitation.

	MANDATORY SUBMISSION REQUIREMENTS	SECTION(S)
<input type="checkbox"/>	<b>Timely Response:</b> Proposals submitted according to the due date, time and location provided in Section 1.7, Calendar of Events	<b>1.7</b>
<input type="checkbox"/>	One (1) original electronic version of the Proposal in the form of a compact disk (CD);	<b>3.6</b>
<input type="checkbox"/>	Five (5) identical hardcopies of the original response	
<input type="checkbox"/>	Attachment A, Vendor Contact Information	<b>3.7, Tab 1</b>
<input type="checkbox"/>	Attachment B, Vendor Conflict of Interest Disclosure Form (Form No.: 501b)	
<input type="checkbox"/>	Attachment C, Responsible Vendor Review Form	
<input type="checkbox"/>	Attachment E, Fee Schedule	<b>3.7, Tab 2</b>
<input type="checkbox"/>	Attachment G, Financial Certification Form	<b>3.7, Tab 7</b>

## SECTION 1 INTRODUCTORY MATERIALS

**1.1 STATEMENT OF PURPOSE:** Citizens Property Insurance Corporation (Citizens) is seeking Responses from Vendors capable of timely delivery of Reinsurance Advisory and Brokerage Services for its three (3) accounts; the Personal Lines Account (PLA), the Commercial Lines Account (CLA), and the Coastal Account (Coastal). Florida Statutes require Citizens to put forth its best efforts to procure catastrophic reinsurance at reasonable rates to cover its projected 100 year Probable Maximum Loss (PML) as determined by Citizens' Board of Governors. The successful vendor(s) will provide comprehensive reinsurance advisory and brokerage services and be tasked with advising and assisting Citizens on all matters related to the transfer of risk of loss from catastrophic events, including, but not limited to:

- Catastrophe modeling ("CAT Modeling") using Citizens' in-force or hypothetical data sets;
- Loss scenario simulation analysis, including estimated scenario impacts to each reinsurance contract and to Citizens' financial statements;
- Exposure management using Geographic Information Systems ("GIS");
- Catastrophe claims management and reporting;
- Evaluation of types and amounts of potential risk-transfer facilities in an increasingly diverse global market for catastrophic risk; and
- Assistance with preparation for and participation in Citizens' Board of Governors and Committee meetings, and other services as requested.

**1.2 SPECIFIC GOALS OF THE ITN:** The primary goal of this solicitation is to engage a vendor(s) to advise Citizens in the procurement of reinsurance and provide the brokerage and analytical services related to risk transfer matters associated with any possible catastrophic event.

**1.3 QUESTIONS BEING EXPLORED AND FACTS BEING SOUGHT:** Citizens will explore the questions provided below in order to make its best value determination:

- What is the optimal mix of services to support Citizens?
- What level of overall experience and expertise is needed to provide the services?
- What related ancillary or additional services are available that will support Citizens' reinsurance process and strategic objectives?
- What pricing model is most appropriate for the services, including brokerage fees for specific reinsurance purchases and for ancillary or additional services?
- What commercially reasonable contractual terms and conditions adequately protect Citizens' interests?

**1.4 CITIZENS' BACKGROUND:** In 2002, the Florida Legislature created Citizens, a not-for-profit government entity, whose public purpose is to provide property insurance to applicants who are not able to purchase coverage in the private insurance market.

Citizens is governed by Section 627.351(6) F.S., and operates pursuant to a Plan of Operation that is approved by the Financial Services Commission of the State of Florida. Citizens' operations are supervised by a Board of Governors who are appointed by the Governor, CFO, President of the Senate and Speaker of the House. Additional information about Citizens is available at Citizens' website: <https://www.citizensfla.com>.

**1.5 DIVERSITY:** Florida is a state rich in its diversity and is dedicated to fostering the continued development and economic growth of small, minority, women and service-disabled veteran-owned business enterprises in the State of Florida. Participation of a diverse group of vendors doing business with Citizens is central to our effort. To this end, it is vital that small, minority, women and service-disabled veteran-owned business enterprises participate in Citizens' procurement process

as both prime contractors and subcontractors under prime contracts. Small, minority, women and service-disabled veteran-owned businesses are strongly encouraged to submit Responses to this solicitation.

**1.6 CONTRACT TERM:** The contract term is anticipated to be three (3) years, and, at Citizens' discretion, have two (2) optional one (1) year renewal terms. All terms, conditions and pricing will remain fixed for the term of the contract unless otherwise specified in the solicitation.

**1.7 CALENDAR OF EVENTS:** Listed below are important events and the corresponding dates and times relevant to this solicitation. These timeframes are subject to change at Citizens' sole discretion. It is a Vendor's responsibility to comply with these timeframes and to monitor Citizens' website for any changes.

CALENDAR OF EVENTS		
DATE:	TIME:	ACTIONS:
07/01/15		Solicitation Released
07/09/15	1:30 PM ET	Pre-bid Conference
07/13/15	5:00 PM ET	Questions Due
07/24/15		Answers Posted
07/31/15	2:00 PM ET	Responses Due
08/03/15 – 08/19/15		Initial Responsiveness Review Period and Review/Evaluation of Responses
08/24/15	11:00 AM ET	Anticipated Date for Evaluation Committee Public Meeting to determine the Vendor(s) to Recommend for Negotiations
08/31/15 – 09/02/15		Negotiations
09/10/15	10:00 AM ET	Public Meeting – Best Value Determination

**1.8 NO CONTACT OR LOBBYING:** Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following Citizens posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response. The foregoing prohibition against contact includes contacting any Citizens employee (other than the Procurement Officer), members of the Board of Governors, or any Vendor acting on Citizens' behalf with regard to the solicitation.

**1.9 PUBLIC MEETINGS:** Public meetings will be held on the dates and times indicated in Section 1.7, Calendar of Events. The details related to accessing each meeting are identified below. Vendors may, but are not required, to attend. Any person requiring an accommodation because of a disability should contact the Procurement Officer listed on page one (1) of the solicitation at least five (5) business hours prior to the public meeting.

**A. Pre-Bid Conference:** A Pre-Bid Conference will be held to provide Vendors with pertinent information, answer questions(s) and clarify any points in the solicitation that may not be fully understood.

Attendance at the Pre-Bid Conference is non-mandatory and is for informational purposes only; therefore attendance is not required to respond to this solicitation.

The Pre-Bid Conference will be held using the conference call number below at the date

and time, as specified in Section 1.7, Calendar of Events.

***Teleconference Number: 877-336-1828, Access Code: 1470720***

- B. Recommend Vendor(s) for Negotiations:** Citizens will hold a telephonic public meeting to determine which Vendor(s) the Evaluation Committee would like to recommend for advancing to Phase 2, Negotiations of the solicitation.

***Teleconference Number: 877-336-1828, Access Code: 1470720***

Discussion between the Evaluation Committee and the Subject Matter Experts is permitted. However, since the purpose of this meeting is to announce the decisions of the Evaluation Committee, no discussion concerning the responses may occur between the Evaluation Committee members and any Vendor during this public meeting.

- C. Best Value Determination:** Citizens will hold a telephonic public meeting to determine which Vendor(s) the Negotiation Committee would like to recommend for award.

***Teleconference Number: 877-336-1828, Access Code: 1470720***

Discussion between the Negotiation Committee and the Subject Matter Experts is permitted. However, since the purpose of this meeting is to announce the decisions of the Negotiation Committee, no discussion of any nature concerning the responses may occur between any of the Negotiation Committee members and any Vendor during this public meeting.

## SECTION 2 SCOPE OF SERVICES

**2.1 PROJECT BACKGROUND:** Citizens is required by 627.351(6)(c)(9) Florida Statutes to put forth its best effort to procure catastrophic reinsurance at reasonable rates to cover its projected 100-year Probable Maximum Loss (“PML”) as determined by Citizens’ Board of Governors. Citizens currently contracts with two qualified Reinsurance Co-Brokers to provide reinsurance advisory and brokerage services that include advising and assisting Citizens on all matters related to the transfer of risk of loss from catastrophic events. These vendors help Citizens plan its annual “Risk Transfer Program” that spreads the insurance losses from catastrophic events worldwide and reduces the possibility and amount of assessments on most Florida policyholders. Additional services will include marketing efforts and analytical, actuarial and modeling services as listed below for Citizens three (3) Accounts; the Personal Lines Account (“PLA”), the Commercial Lines Account (“CLA”), and the Coastal Account (“Coastal”):

- Catastrophe modeling (“CAT Modeling”) using Citizens’ in-force or hypothetical data sets;
- Loss scenario simulation analysis, including estimated scenario impacts to each reinsurance contract and to Citizens’ financial statements;
- Exposure management using Geographic Information Systems (“GIS”);
- Catastrophe claims management and reporting;
- Evaluation of types and amounts of potential risk-transfer facilities in an increasingly diverse global market for catastrophic risk; and
- Assistance with preparation for and participation in Citizens’ Board of Governors and Committee meetings, and other services as requested.

**2.2 DEFINITIONS:**

- **A.M. Best** – means A.M. Best Company, which is a full-service credit rating organization dedicated to serving the financial services industries, including the banking and insurance sectors;
- **CAT** – means Catastrophe, which is a natural or man-made event where Citizens receives or anticipates receiving no less than 500 claims;
- **Citizens** - means Citizens Property Insurance Corporation, a State of Florida legislatively created governmental entity governed by subsection 627.351(6), Florida Statutes, and the Plan of Operation adopted, which is available on Citizens’ website at [www.citizensfla.com](http://www.citizensfla.com);
- **Citizen’s Confidential Information** – means all information, data, and documentation, whether marked as confidential or not, disclosed to Vendor in the course of The Contract to be awarded under this solicitation that is either: (a) Protected under any applicable state or federal law (including Chapter 119, Florida Statutes; Sections 501.171, and 627.351(6), Florida Statutes; Chapter 690-128, Florida Administrative Code; and, 15 U.S.C. § 6801 et seq.); (b) private information concerning Citizens’ employees or policyholders (including social security numbers, personal health information, personal credit information, banking information, drivers’ license numbers, personal email addresses, personal phone numbers, and home addresses); or, (c) related to any Citizens manuals, lists, operating and other systems or programs, business practices or, procedures, insurance policies, claimants or claims, or any business, governmental, and regulatory matters affecting Citizens. “Citizens Confidential Information” does not include any information, data or documentation that: (a) is publicly available through no fault of Vendor or Vendor Staff; or, (b) Vendor developed independently without relying in any way on Citizen’s Confidential Information.
- **Contract** - means the written agreement between Citizens and a Vendor (to which the terms and conditions specified in this solicitation are incorporated by reference) that results from the competitive procurement;

- **FHCF** - means Florida Hurricane Catastrophe Fund;
- **Response** - means all materials submitted by the Vendor pursuant to the solicitation instructions;
- **Responsiveness Review Period** – the period of time when the Citizens will review Vendor Responses for mandatory submission requirements. Citizens may seek clarifications and supplemental items/information during the Responsiveness Review Period;
- **The Office or OIR** – means the Florida Office of Insurance Regulation; and
- **Vendor** – means an entity that responds to this solicitation.

**2.3 MINIMUM REQUIREMENTS:** Failure to satisfy the below minimum requirements may result in not being eligible for award.

- A. Vendor must be able to provide all required services identified in this solicitation, including; Market Access, Brokerage Administration and Analytical Services, in order to be considered for award.
- B. Vendor must provide proof of and adhere to federal and state licensing requirements.

**2.4 STANDARD REQUIREMENTS AND SPECIFICATIONS:** The successful Vendor(s) will be required to research and make sound recommendations to management on various reinsurance options and alternatives that transfer risk of loss from catastrophic events.

- A. Comprehensive Reinsurance Advisory and Brokerage Services: For each year of the resulting contract, the successful Vendor(s) shall provide the following, including:
  - 1. Access to all risk-transfer markets;
  - 2. Brokerage administration services;
  - 3. Catastrophe modeling;
  - 4. Loss scenario simulation analysis;
  - 5. Exposure management using Geographic Information Systems (“GIS”);
  - 6. Catastrophe claims management and Reporting;
  - 7. Evaluation (type, coverage and cost) of potential risk-transfer measures;
  - 8. Other analytical services;
  - 9. Assistance with preparation for and participation in Citizens’ Board of Governors and related committee meetings; and
  - 10. Other services as requested by management.
- B. Risk-Transfer Plan: The successful Vendor(s) will work with Citizens’ personnel and will report directly to Citizens’ Chief Financial Officer. On or before the first business day of the month of February of each Calendar year, the successful Vendor(s) shall submit to Citizens’ Chief Financial Officer a proposed Risk-Transfer Plan (the “Proposed Plan”) for the upcoming hurricane season, including Citizens’ statutorily-required level of participation in the mandatory layer of the Florida Hurricane Catastrophe Fund.
  - 1. The Proposed Plan shall include the following for each layer of risk-transfer facility proposed:
    - a. Description;
    - b. Potential amount of coverage / risk-transfer; and
    - c. Potential cost of coverage / risk-transfer.

Citizens will evaluate the Proposed Plan. Citizens' Chief Financial Officer will inform the successful Vendor(s) of the risk-transfer plan selected for the upcoming hurricane season – including selected types and layers of risk-transfer protection (the "Plan").

2. If the Plan includes risk-transfer facilities from the private market, Citizens will work with the successful Vendor to determine a date by which the Vendor shall submit the following for each layer of risk-transfer facility in the Plan, including Citizens' statutorily-required level of participation in the mandatory layer of the Florida Hurricane Catastrophe Fund:
  - a. Description;
  - b. Amount of coverage / risk-transfer;
  - c. Cost of coverage / risk-transfer;
  - d. Participating reinsurers and respective participating percentages;
  - e. State and/or country of domicile and status with the Florida Office of Insurance Regulation (e.g., authorized, accredited, etc.) for each participating reinsurer; and
  - f. A.M. Best ratings for each participating reinsurer.

Citizens' Board of Governors will make the final decision as to whether or not to purchase the types and amounts of private risk-transfer facilities for each hurricane season.

## SECTION 3 RESPONSE INSTRUCTIONS & EVALUATION CRITERIA

- 3.1 QUESTIONS:** There is an open question period beginning upon release of the solicitation and ending on the date and time specified in Section 1.7, Calendar of Events. Vendors may submit questions in writing to the Procurement Officer identified on page 1 of this solicitation. Citizens will post answers to the questions on Citizens' website in accordance with the Calendar of Events so all questions and answers are made available at the same time to all Vendors.

**VENDORS ARE STRONGLY ENCOURAGED TO RAISE ANY QUESTIONS OR CONCERNS THEY MAY HAVE REGARDING THE REQUIREMENTS OF THIS PROCUREMENT, INCLUDING THE TERMS AND CONDITIONS, DURING THE OPEN QUESTION PERIOD OF THIS SOLICITATION.**

- 3.2 CHANGES TO SOLICITATION:** If any changes are made to this solicitation, such changes will be formally noted through an amendment or addendum posted on Citizens' website. It is the Vendors' obligation to monitor Citizens' website to review amendments or addendums.

- 3.3 RESPONSES SUBMITTED ARE PUBLIC RECORDS:** By participating in this solicitation process and submitting a Response, a Vendor acknowledges the requirements of Florida's public records laws found in Ch. 119, Florida Statutes and s. 24(a), Art. I of the Florida Constitution (the "Public Records Laws"), and agrees to the provisions set forth in this section. Citizens is a public entity subject to the Public Records Laws. All Vendor Responses and written communications regarding this solicitation become public records upon receipt by Citizens and therefore are subject to public disclosure. If a Vendor asserts that any portion of its Response or written communication is exempt from disclosure under the Public Records Laws (a "Protected Record") then the Vendor **MUST** comply with the following process:

1. Clearly identify each portion of its Protected Record(s) that it believes is statutorily protected from disclosure;
2. Submit a separate complete electronic copy of Vendor's Protected Record with only the protected portions redacted; and
3. Submit a separate redaction log that provides a specific legal authority justifying each redaction.

If Vendor does not identify each portion of a Protected Record as specified herein, Citizens may produce Vendor's non-redacted copy in response to a public records request. If Vendor has complied with the provisions of this section and Citizens receives a public records request for a Protected Record, then Citizens will produce the redacted copy provided by Vendor in response to the public records request. If a request is made for the entire non-redacted Protected Record, then Citizens will promptly notify Vendor of the request. Vendor must take immediate and affirmative action to seek legal protection of its Protected Records at issue. Citizens will not defend Vendor's claim in regard to this section. Failure by a Vendor to take action in accordance with this section shall constitute a waiver of its assertion that the Protected Records are exempt from disclosure under the Public Records Laws, and Citizens may either produce the Protected Records or submit the Protected Records to the clerk of court for an in-camera inspection and judicial determination to resolve the dispute. Notwithstanding the provisions of this section, in accordance with Federal or State law, Citizens will comply with any court order or government agency directive to produce a Protected Record.

- 3.4 RESPONSE DUE DATE AND SUBMISSION:** Responses must be received by the Procurement Officer identified on page 1 on or before the date and time specified in Section 1.7, Calendar of Events.

Clearly identify which solicitation your Response is for on the front of your submittal as follows:  
**ITN No.: 15-0002, Reinsurance Advisory and Brokerage Services**

**3.5 RESPONSE FORMAT:** This section prescribes the format in which Responses are to be submitted. Any information deemed appropriate by the Vendor may be included, but is required to be placed within the pertinent sections.

Citizens is under no obligation to look for responsive information contained in incorrect sections or that is not organized according to these instructions. All Responses must contain the sections outlined below. All Responses submitted should include numbered sections clearly separating and identifying each section as indicated below.

It is the Vendors' responsibility to provide complete answers and/or descriptions for all areas in which Citizens has requested information. Do not assume Citizens will know what your company capabilities are or what items/services you can provide, even if you have previously contracted with Citizens. **Responses are evaluated solely on the information and materials provided in your written Response, the use of outside materials or external website links is not allowed. Any links provided in a Vendor's Response will not be reviewed or used to score Responses.** Vendors are required to provide complete information and documentation within their submission which will be used for evaluation.

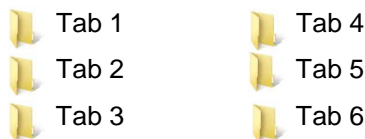
- A. Original CD Response: Vendor shall submit with their Response one (1) CD original of their entire Response.
- B. Additional Response(s) Copies: Vendor shall submit five (5) identical hard copies of the original Response.

**Please Note that the hardcopy response(s) and original CD response will be used for review and evaluation purposes and should be identical in form and content.**

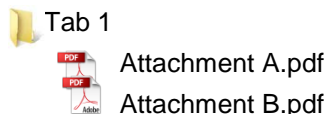
- C. Redacted Copy of Response: In addition to the CD required in Section A. above, if Vendor asserts that its Response contains information that is exempt from disclosure under Florida's Public Records Laws, the Vendor must submit an additional CD with their Response containing a full "Redacted" electronic version of their Response in accordance with Section 3.3, above. This CD should be labeled "**Redacted Response**" and be void of any information the Vendor deems exempt from Florida's Public Records Laws.

**3.6 RESPONSE CONTENTS:** The purpose of the Vendor's Response is to demonstrate its qualifications, competence and capacity to provide services in conformity with the requirements of this solicitation.

- The CD-ROM should have separate folders for each Response "Tab."
- Tab folders should be plainly titled "Tab 1," "Tab 2," etc., as shown below.



- Attachments should be plainly titled "Attachment A," "Attachment B," "Attachment C," etc., as shown below.



Response areas that require form submissions (e.g., occupational licenses, financial documents, insurance certificates, etc.) should be submitted in PDF format and plainly titled with file names not exceeding 12 characters in length.

Each of the "Tab" folders should contain the corresponding Response area as requested below.

**Tab 1. Forms and Documents:** Tab 1 is separated into two areas as identified below:

A. Vendor shall submit:

1. **Attachment A**, Vendor Contact Information
2. **Attachment B**, Vendor Conflict of Interest Disclosure Form (Form No.: 501b);
3. **Attachment C**, Responsible Vendor Review Form.

B. Vendor should submit:

1. Florida Small Business Enterprises: Citizens encourages participation by Florida Small Business Enterprises (FSBE). Submit Attachment D, FSBE, FBE & MBE Declaration Form in this section. This form is for informational purposes only and will not be used in scoring your Response.

**Tab 2. Pricing:** The Vendor shall submit a completed copy of Attachment E, Fee Schedule which includes details of all proposed fees, including but not limited to a fixed brokerage fee, additional ancillary services, and a supplemental fee structure.

**Tab 3. Business / Corporate Qualifications:** Vendor should provide behind Tab 3 the information requested below that best describes the Vendor's company profile.

A. Firm Overview: Vendor shall provide the following information about its corporate background:

1. Size, nature and length of time in business under the same corporate name;
2. If the Vendor was acquired by or merged with another firm in the past five (5) years please identify the predecessor firm's name(s) along with the dates of such acquisitions or mergers;
3. Transaction volume brokered annually for Florida property (wind) since 2011;
4. Transaction volume brokered annually nationwide for national property (wind) since 2011;
5. Number and size of Florida-specific property insurer accounts (include personal and commercial residential accounts and commercial non-residential accounts) annually since 2011 for which reinsurance advisory services have been provided;
6. Number and location of the Vendor's employees and offices; and
7. The location of Vendor's office that will perform the majority of the work on this engagement.

B. Licenses and Qualifications: Vendor shall provide the following information about the Vendor's licenses and qualifications:

1. The entire range of services as a reinsurance broker that the Vendor is offering to provide to Citizens, including identification of which licenses, if any, Vendor holds;

2. A summary of the experience and tenure of Vendor's Management Team who will service or supervise the service of the Citizens account;
  3. Describe Vendor's expertise in the areas of personal or commercial residential, or commercial non-residential lines of business; and
  4. Describe Vendor's recent accomplishments in advancing the analysis, management and sharing of catastrophic risks.
- C. Key Personnel: Vendor will provide services to Citizens by means of staff of the same approximate quantity and with the same approximate qualifications and experience (the "Staffing Level") as described by Vendor in the Vendor's Response for Reinsurance Advisory and Brokerage Services. Deviations from the Staffing Levels represented in the Vendor's Response are subject to approval by Citizens' Contract Manager. Vendor shall provide the following information about Vendor's Key Personnel:
1. Provide a matrix listing Vendor's proposed personnel who will be performing the services contemplated in this solicitation. The matrix should include the amount of experience (in number of years) in the global market and United States property insurance industry in the following categories:
    - a. Evaluating and proposing / recommending placements of private market risk-transfer facilities;
    - b. Enterprise risk management;
    - c. CAT modeling;
    - d. Simulation-based financial analysis;
    - e. Exposure management using Geographic Information Systems;
    - f. Ratemaking and calculating rate indications; and
    - g. Catastrophe claims management and reporting.
  2. Provide biographies for Vendor's proposed personnel including the following:
    - a. Brief description of applicable background and experience of each proposed person who will work on the Citizens account;
    - b. Identify each of the key personnel who will be responsible for and supervise the delivery of all proposed services to Citizens ("Management Team"), and identify the position they will occupy on the proposed team;
    - c. Provide a positional chart listing each proposed person on the Citizens account, their proposed title, and their area of work or supervision;
    - d. For each proposed person describe all applicable professional, trade and technical qualifications, such as:
      - Fellow of the Casualty Actuarial Society (FCAS);
      - Member of the American Academy of Actuaries (MAAA);
      - Chartered Property Casualty Underwriter (CPCU);
      - Other related designations; and
      - Advanced degrees and academic qualifications.
    - e. For each proposed person, briefly describe their recent significant accomplishments in the following areas:
      - Advancing the analysis, management and sharing of catastrophic risks; and
      - Recent transactions handled.
- D. Attachment F, Business / Corporate References Form: The Vendor should submit a minimum of three (3) business / corporate references with their Response,

utilizing the form provided in the solicitation. In order to ensure current expertise, services described by corporate references are required to be ongoing or have been completed within the 36 months preceding the issue date of this solicitation. All references are required to have two (2) + years' experience with the proposed service.

The reference should include a paragraph describing how services are similar to those listed in the solicitation. References may be contacted to confirm the services provided as well as confirm the quality of services received.

**Tab 4.** Market Access and Brokerage Administration: Vendor shall provide behind Tab 4, information that best describes the Vendor's market access and brokerage services, including:

- A. Market Access: The extent of the Vendor's business relationships, and the ability to represent Citizens in the following markets:
1. Domestic (United States) reinsurance;
  2. Bermuda reinsurance;
  3. London reinsurance;
  4. Capital markets for insurance-linked securities (ILS); and
  5. Other world-wide reinsurance markets.

Provide an approximate distribution of transactions brokered in each market, and any examples of recent transactions that are particularly relevant to Citizens, such as large catastrophe risk-transfer transactions for Florida property (wind) insurers.

- B. Brokerage Administration: Describe the capabilities of the Vendor in various administrative areas associated with traditional reinsurance such as:
1. Contract and cover-slip drafting and administration;
  2. Marketing and syndication of occurrence-based and annual aggregate excess-of-loss catastrophe reinsurance programs;
  3. Handling and escrow of ceded premiums, ceding commissions, and ceded loss payments;
  4. Preparation of bordereaux and loss petitions;
  5. Preparation of Quarterly CAT Modeling results using models accepted by the Florida Commission on Hurricane Loss Projection Methodology;
  6. Assistance with resolving amounts in dispute between ceding insurers and assuming reinsurers; and
  7. Assistance with methods for evaluating the financial strength and position of potential reinsurers.

**Tab 5.** Vendor Capabilities: The Vendor shall provide information behind Tab 5 that demonstrates Vendor's capabilities to provide the services listed below. Specify any area where Vendor has not either previously provided those services, or proposed staff has no past experience providing those services.

- A. Analytical Services: Describe the specific analytical services Vendor is offering to Citizens in the areas of:

1. Real-time catastrophe assistance (pre and post landfall) with loss estimates for individual loss events – indicate CAT models available to Citizens for pricing, claims planning, and reserving;
  2. CAT Modeling (using Citizens’ unit-level exposure data) – CAT Modeling considers the benefits of loss mitigation features (provide a list of models the Vendor proposes for use);
  3. Location-level CAT Modeling results;
  4. Historical and scenario storm loss estimates from various models;
  5. CAT Model version comparison analyses to identify the impact of model updates on Citizens’ portfolios;
  6. Portfolio optimization analysis to that identifies relative contribution of blocks of exposures to various PML levels and attractive blocks for depopulation initiatives;
  7. Dynamic Financial Analyses that provide probability distributions of the impact of catastrophic events on Citizens’ financial statements both gross and net of reinsurance, where it is preferable that Citizens be able to license software to perform this analysis internally;
  8. GIS mapping of exposures and catastrophe impacts (dynamic exposure-level maps that embed key underwriting characteristics and modeled hurricane loss statistics);
  9. Provide cost estimates and quotations for various risk-transfer methods, traditional and involving insurance-linked securities;
  10. Ratemaking analyses of the impact of catastrophic costs (annual averages and costs of capital) at product line and territory levels;
  11. Incorporation of Florida Hurricane Catastrophe Fund (FHCF) rates, formulas, and financial position, and the effects of FHCF and other assessments, on all analysis of Citizens’ data;
  12. Synthesis and presentation of modeling, mapping and optimization results;
  13. Describe any self-contained software applications developed by the Vendor for analytical services;
  14. Describe the procedures on what the Vendor will require for cloud-based CAT Model(s). Provide all necessary and required agreement and/or acknowledgment documentation that Citizens must sign regarding data security and privacy constraints in order to use the cloud-based application(s). Describe the data security measures the Vendor will employ to ensure data will not be breached while residing in the cloud environment either with the CAT Model or its third-party provider(s); and
  15. Identify and describe any other services the Vendor has the capability to provide that could benefit Citizens.
- B. Program Design and Case Studies:
1. Describe specific, recent marketplace successes in Florida property risk-transfer. Include a short “case study” outlining the program design challenges, creativity and skill of the Vendor; identify any personnel proposed on the Citizens account who participated; and ultimately, the innovative solution brought to market for a client (may remain anonymous);
  2. Describe Vendor’s view of the unique circumstances and challenges facing Citizens in securing transfer of its catastrophe risk; and

3. Outline a proposal for traditional reinsurance in each of Citizens' accounts (PLA/CLA and Coastal), possibly supplemented by capital market transactions and alternative risk-transfer arrangements, which significantly reduces the probability and amount of assessments to Florida property policyholders at an up-front cost which is practical and realistic given Citizens' current surplus, business volume, and expected operating environment (particularly with respect to prices). Highlight how the proposed program would:
    - Accommodate Citizens' level of participation (90%) in the mandatory layer of the FHCF, and respond with additional scenarios if Citizens was allowed to buy 45% or 75% coverage instead;
    - Consider potential options for Citizens to buy additional coverage below, along-side, and / or above the current FHCF Mandatory layer;
    - Protect Citizens against the risk from multiple occurrences / events;
    - Consider the cash flows associated with direct premiums, ceded premiums; ceded losses, and the impact on liquidity during hurricane season; and
    - Allow quantification for the public of the reduction in probability and amount of potential assessments.
  4. Vendor shall make an overall recommendation on how Citizens can efficiently transfer risk to the private market.
- C. Timeline and Workflow: Provide a broad schedule of activities and workflow reflecting the Vendor's resources and approach for the design and marketing of a risk-transfer program for Citizens' 2016 Hurricane Season.

**Tab 6.** Financial Review: In Tab 6, Vendor **shall submit** the financial information requested in Attachment G, Financial Certification Form. This information will be reviewed by Citizens' Vendor Management Office, with the assistance of an independent CPA, to evaluate the Vendor's financial stability, viability, and capacity.

**3.7** REVIEW AND EVALUATION PROCESS: Citizens will conduct a comprehensive review to validate all timely submitted Responses for compliance with the mandatory requirements. Failure to meet any mandatory requirement will result in rejection of the Vendor's Response. Responses that comply with mandatory requirements will be forwarded to the Evaluation team members for individual and independent review and evaluation using the allocation of scores as indicated below.

**A. PHASE 1 - Written Response Evaluation**

For the purpose of evaluation, scoring and ranking, review categories have been divided into multiple sections. The following reflects the pass / fail criteria and the maximum number of points that may be awarded by category:

TAB NO.	EVALUATION CRITERIA	POINTS
1	Submission of All Mandatory Forms and Documents	Pass/Fail
2	Fixed Brokerage Fee	15 Points
2	Analytics Pricing	5 Points
3	Business/Corporate Qualifications	20 points

5	Market Access and Brokerage Administration	30 points
6	Vendor Capabilities	30 points
7	Financial Certification	Pass/Fail
	<b>Total Points:</b>	<b>100 Points</b>

**Pricing Point Allocation**

1. Reinsurance Brokerage Fee: The following formula will be used to evaluate the Reinsurance Brokerage Fee. The lowest proposed brokerage fee (Total A on the Fee Schedule) from all responsive Vendors will be awarded 15 points and henceforth be known as Lowest Total Brokerage Fee (LTB). Responses of other Vendors will be scored using the following methodology: LTA divided by the Response Fee (RF) being considered times maximum points score of 15 will equal the points awarded.  
 Formula:  $(LTB / RF) \times 15 = \text{Score}$
2. Analytical Service Fees: The following formula will be used to evaluate the Analytical Service Fees. Total B and Total C on the Fee Schedule will be combined. Using that total, the lowest proposed fees from all responsive Vendors will be awarded 5 points and henceforth be known as Lowest Total Analytical (LTA) Fee. Responses of other Vendors will be scored using the following methodology: LTA divided by the Response Fees (RF) being considered times maximum points score of 5 will equal the points awarded.  
 Formula:  $(LTA / RF) \times 5 = \text{Score}$
3. The scores from paragraph 1 and 2 above will be combined and the resulting score will be the total price score for each Vendor.

After the Responses are evaluated and scored by the individual evaluators the scores will be combined and averaged to determine the initial ranking of each Vendor. The Evaluation Team will meet in a public meeting to review the scores and rankings in order to determine which Vendors will advance to Negotiations.

**B. PHASE 2 - NEGOTIATIONS:** The rankings from Phase 1 will not be used as a scoring factor during Negotiations. Phase 2 will proceed as follows:

1. Citizens reserves the right to negotiate with responsive Vendor(s) serially or concurrently to determine the best suited solution.
2. Vendors that proceed to negotiations may be required to make a presentation / demonstration, and may be required to provide additional references, an opportunity for a site visit, etc. Citizens reserves the right to require attendance by particular representatives of the Vendor. Any written summary of presentations or demonstrations provided by Vendor shall include a list of persons attending on behalf of Vendor, a copy of the agenda, copies of all visuals or handouts, and shall become part of the Vendor's Response. Failure to provide requested information may result in disqualification of the Vendor.
3. Before award, Citizens reserves the right to seek clarifications, to request Response revisions, and to request any information deemed necessary for proper determination of which Vendor offers the best value to Citizens. If necessary, Citizens will request revisions to the approach submitted by the top-rated Vendor(s) until it is satisfied that the contract model will serve Citizens' needs and is determined to provide the best value to Citizens.
4. Citizens reserves the right to cease negotiations with any Vendor, and Citizens may not issue a written request for a BAFO to a Vendor with whom negotiations have ceased. At the conclusion of negotiations, Citizens may issue a written request for best and final offer(s) (BAFO) to one or more of the Vendors with which the negotiation team has conducted negotiations.

At a minimum, based upon the negotiation process, the best and final offers may contain:

- A revised Scope of Services;
- All negotiated terms and conditions to be included in final contract; and
- A final cost offer.

Prior to contract execution, clarifying changes may be made to contract documents. If BAFOs are requested they will be delivered to the negotiation team for review.

5. The focus of the negotiations will be on achieving the solution that provides the best value to Citizens based upon the selection criteria and the requirements of this procurement. The selection criteria includes, but is not limited to, the Vendor's demonstrated ability to effectively provide the services, technical proposal, and price. Citizens reserves the right to utilize subject matter experts, subject matter advisors and other advisors to assist the negotiation team. The negotiation process may also include negotiation of the terms and conditions of the contract.
6. As part of the negotiation process, Citizens may contact references provided to obtain independent verification of the information contained in the Response and to assess the extent of success of the projects associated with those references. Such contact is in addition to any verification sought upon initial submission of a Response. Citizens also reserves the right to contact references not provided by Vendor. Vendors may be requested to provide additional references. The results of the reference checking may influence negotiations and best value determination.
7. Citizens does not anticipate reopening negotiations after receiving the BAFOs, but reserves the right to do so if it believes doing so will be in its best interests.
8. Thereafter the negotiation team will meet in a public meeting to determine which offer(s) constitutes the best value to Citizens based upon the selection criteria.

**3.8 VENDOR'S REPRESENTATION AND AUTHORIZATION:** Submission of a Response to this solicitation by a Vendor certifies its acceptance of and agreement to the requirements, terms and conditions of this solicitation.

## SECTION 4 SOLICITATION GENERAL CONDITIONS

**4.1 PROTESTS:** There are two types of procurement decisions that may be challenged under this solicitation:

1. There may be a protest of the terms, conditions, and specifications contained in the solicitation, including but not limited to, any provisions governing the methods for ranking Responses, awarding contracts, or modifying or amending any contract. **A notice of intent to protest, made pursuant to this paragraph, must be filed in writing with Citizens' Executive Director within 72 hours after the posting of the solicitation (excluding Saturdays, Sundays and state holidays);** or
2. A person adversely affected by Citizens' intended decision to award a contract or to reject all Responses pursuant to Sections 287.057(1) or (3) (c), F.S., may challenge the intended decision. **A written notice of intent to protest, made pursuant to this paragraph, must be filed in writing with Citizens' Executive Director within 72 hours after Citizens posts notice of its intended decision.**

After the timely filing of a written notice of intent to protest, the protestor must then file a formal written protest. **The formal written protest must be filed within 10 calendar days after the date the notice of intent to protest is filed.** The formal written protest must state with particularity the facts and law upon which the protest is based and comply with Citizens' Board of Governors Procedure: Procurement Protests (Section 4-5.00). Questions or statements submitted to the Procurement Officer do not constitute formal notice of a protest.

Any protest concerning this solicitation shall be governed by Section 627.351(6) (e), F.S., and the Citizens' Board of Governors Procedure: Procurement Protests which is located at <https://www.citizensfla.com/shared/generalInfo/pdf/ProcurementProtestsProcedure.pdf>. Failure to timely file an intent to protest or timely file a formal written protest within the time prescribed pursuant to Section 627.351(6)(e), F.S., constitutes a waiver of proceedings.

The address of Citizens' Clerk for the filing of the notice of intent to protest, the formal written protest and any other documents related to a protest, is:

Citizens Property Insurance Corporation  
Attn: Althea Gaines, Clerk  
2312 Killlearn Center Blvd, Building A  
Tallahassee, FL 32309  
Email: [Agency.Clerk@citizensfla.com](mailto:Agency.Clerk@citizensfla.com)

**4.2 CORPORATE CHANGE:** If Vendor is involved in or undergoing a sale, purchase, merger, or other change in ownership or control ("Change") that will in any way alter the Vendor's legal entity, name, structure, financial status or business operations, Vendor should submit in Tab 1 of its Response, if applicable:

- A section disclosing all current entities involved in the Change, when the Change is anticipated to take place and any information related to the Change that may affect the Response;
- Each area in Vendor's Response should contain a separate section that discusses whether the Change will alter, modify or otherwise affect the Vendor's Response; and
- If this is not applicable to your Response, Vendor should provide a statement that this section is "not applicable."

**4.3 COSTS OF PREPARING RESPONSES:** Citizens is not liable for any costs incurred by a Vendor in responding to this solicitation, including costs for materials, meetings and/or travel, if applicable.

**4.4 DISPOSAL OF RESPONSES:** Other than the Vendor's intellectual property, all Responses

become the property of Citizens and will be a matter of public record subject to the Public Records provisions of Chapter 119, Florida Statutes, and 24(a), Article I of the Florida Constitution. To the extent allowed by law, Citizens shall have the right to use all ideas, or adaptations of those ideas, contained in any Response received in response to this solicitation. Selection or rejection of the Response will not affect this right.

- 4.5 ELECTRONIC POSTING:** Citizens will electronically post all notices, solicitation documents and addenda on Citizens' website which is located at:  
<https://www.citizensfla.com/about/purchasing/purchasing-solicitations.cfm>.
- 4.6 WITHDRAWAL OF A RESPONSE:** A submitted Response may be withdrawn from consideration by written request signed by an authorized representative of the Vendor, delivered to the Procurement Officer before the opening date listed in the competitive solicitation. Any Response submitted, and not properly withdrawn, shall remain a valid Response for one hundred and eighty (180) calendar days after the opening date. All Responses submitted shall remain property of Citizens and may be subject to the Public Record provisions of Chapter 119, Florida Statutes and 24(a), Art. I of the Florida Constitution.
- 4.7 MINOR IRREGULARITIES / MATERIAL DEVIATIONS:** Citizens reserves the right to waive any minor irregularity which reflects a non-material deviation from the solicitation specifications, if Citizens determines that doing so will serve Citizens' best interests. Citizens may reject any Response with a material deviation or Response not submitted in the manner specified by the solicitation documents.
- 4.8 MISREPRESENTATION:** All information provided and representations made by the Vendor are material and important and will be relied upon by Citizens in awarding the contract. Any intentional or negligent misstatement may be treated as a fraudulent inducement to award Vendor the contract and a fraudulent concealment from Citizens of the true facts relating to submission of the Response. A misrepresentation may be punishable under law, including, but not limited to, Chapter 817 Florida Statutes. Furthermore, any misrepresentation may be immediate grounds for termination of any contract related to this solicitation and said Vendor will not be able to participate in future solicitations or other business opportunities with Citizens for the duration of this contract term, including renewal period(s).
- 4.9 NO PRIOR INVOLVEMENT AND CONFLICTS OF INTEREST:** The Vendor may not compensate in any manner, directly or indirectly, any officer, agent or employee of Citizens for any act or service which he/she may do, or perform for, or on behalf of, any officer, agent, or employee of the Vendor. No officer, agent, or employee of Citizens may have any interest, directly or indirectly, in any contract or purchase made, or authorized to be made, by anyone for, or on behalf of, Citizens. The Vendor shall have no interest and shall not acquire any interest that will conflict in any manner or degree with the performance of the services required under this solicitation.
- 4.10 REJECTION OF RESPONSES:** Submission of a Response indicates acceptance by Vendor of the conditions contained in this solicitation, and any attachments including the Standard Terms and Conditions unless otherwise specified, as indicated in the competitive solicitation.
- 4.11 NEGOTIATION SUBSEQUENT TO TERMINATION FOR CAUSE:** In the event that a Contract entered into pursuant to this solicitation is terminated for cause by Citizens, Citizens reserves the right to re-procure substitute contractual services through negotiations with another responsive Vendor under this solicitation.
- 4.12 VERBAL INSTRUCTIONS:** No negotiations, decisions, or actions shall be initiated or executed by the Vendor as a result of any verbal discussions with a Citizens employee. Only written communications from authorized Citizens staff will be considered as authorized on behalf of Citizens. Only written communications from the Vendor signed by an authorized representative will be recognized by Citizens.

## SECTION 5 CONTRACT TERMS AND CONDITIONS

The following terms and conditions shall be included in the contract resulting from this solicitation. By submitting a response to the ITN, Vendor agrees to comply with the following terms should Vendor be awarded a contract:

### 5.1 **Services; Service Requirements**

- 5.1.1 Temporary Suspension of Services. Citizens may, in its sole discretion, temporarily suspend all or certain portions of the Services at any time by providing written notice to Vendor. Upon receiving a suspension notice, Vendor shall cease performing the Services in accordance with the suspension notice. Within ninety (90) days after Citizens provides the suspension notice, or any longer period agreed to by Vendor, Citizens shall either: (a) issue a notice authorizing resumption of the Services, at which time the Services shall resume; or, (b) exercise its right under Section 5.7.1 Termination without Cause to terminate this Agreement without cause. Nothing in this Section allows Citizens to withhold or delay any payment for Services satisfactorily performed prior to the suspension. However, Vendor shall not be entitled to any additional compensation for the suspension of Services.
- 5.1.2 General Warranty. Vendor warrants that the Services will be performed and delivered in a professional, first-class manner in accordance with this Agreement and the standards prevailing in the industry. To this end, Vendor will undertake the following actions without additional consideration during the term of this Agreement and for one (1) year thereafter: (a) promptly make necessary revisions or corrections to resolve any errors and omissions on the part of Vendor; and, (b) confer with Citizens as Citizens deems appropriate for the purpose of interpreting any of the Services or information furnished. Acceptance of or payment for the Services by Citizens shall not relieve Vendor of these responsibilities. The warranties and covenants in this Section will extend to and bind Vendor's subcontractors, if any.
- 5.1.3 Ability to Perform. As of the Effective Date, Vendor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish Vendor's ability to perform the Services or satisfy its contractual obligations. During the term of this Agreement, Vendor shall notify Citizens of any change in circumstances that would in any way diminish Vendor's ability to perform the Services or satisfy its contractual obligations.
- 5.1.4 Monitoring of Performance. Vendor shall continuously monitor and record its performance to ensure that all of Vendor's responsibilities and obligations hereunder are being met and fulfilled. Citizens may conduct programmatic and other administrative contract monitoring during the term of this Agreement. The purpose of this monitoring is to ensure that all of Vendor's responsibilities and obligations are being met and fulfilled. Such monitoring may include on-site visits, report reviews, invoice reviews, compliance reviews, and a review of any other areas reasonably necessary.
- 5.1.5 Trained and Qualified Vendor Staff. Vendor warrants that all Vendor Staff shall

be properly trained and qualified. Upon request, Vendor shall furnish a copy of all technical certifications or other proof of qualification. All Vendor Staff must comply with all reasonable administrative requirements of Citizens and with all controlling laws and regulations relevant to the Services.

5.1.6 Removal and Replacement of Vendor Staff. Without limiting Citizens' other rights and remedies under this Agreement, including suspension of Services and termination of this Agreement, where any Vendor Staff fails to comport to any of the training or qualification requirements in this Agreement or, in Citizens' determination, is unsuitable for the performance of the Services, Citizens has the right, at Citizens' sole election, to disallow such Vendor Staff from performing the Services. Upon Citizens' request, Vendor shall promptly provide qualified replacement Vendor Staff reasonably acceptable to Citizens.

5.1.7 Title to Work Product. With the exception of the Pre-Existing Materials described in Section 5.1.8 Pre-Existing Materials, Citizens will have all right, title and interest in and to each Work Product and any derivative works relating thereto (including ownership of copyrights). The use of these Work Products in any manner by Citizens shall not support any claim by Vendor for additional compensation. Each Work Product, and any portion thereof, shall be a "work made for hire" for Citizens pursuant to federal copyright laws. To the extent any of the Work Product is not deemed a work made for hire by operation of law, Vendor hereby irrevocably assigns, transfers, and conveys to Citizens, or its designee, without further consideration all of its right, title, and interest in such Work Product, including all rights of patent, copyright, trade secret, trademark, or other proprietary rights in such materials. Vendor acknowledges that Citizens shall have the right to obtain and hold in its own name any intellectual property right in and to the Work Product. Vendor agrees to execute any documents or take any other actions as may reasonably be necessary, or as Citizens may reasonably request, to perfect or evidence Citizens' ownership of the Work Product. This Section shall survive the termination of this Agreement.

5.1.8 Pre-Existing Materials.

5.1.8.1 Citizens acknowledges that, in the course of performing the Services, Vendor may use materials, software, reports, routines, language, instructions, methods, techniques, trade secrets, patents or copyrights that have been previously developed by Vendor or by third parties (collectively, the "Pre-Existing Materials"), and that such Pre-Existing Materials shall remain the sole and exclusive property of Vendor or the third parties. Where Vendor seeks to embody Pre-Existing Materials in the Work Product, Vendor must first obtain written approval from Citizens.

5.1.8.2 If and to the extent any Pre-Existing Materials of Vendor are embodied or reflected in the Work Product, Vendor hereby grants to Citizens the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to: (a) use, execute, reproduce, display, perform, distribute copies of and prepare derivative works based upon such Pre-existing Materials and any derivative works thereof for Citizens' internal business purposes only; and, (b) authorize others to do any or all of the foregoing for Citizens' internal business purposes only.

- 5.1.8.3 If and to the extent any Pre-Existing Materials of third parties are embodied or reflected in the Work Product, Vendor shall secure for Citizens an irrevocable, perpetual, non-exclusive, worldwide, royalty-free and fully paid-up right to use, execute, display, and perform such Pre-Existing Materials. Vendor shall secure such right at its expense and prior to incorporating any such Pre-Existing Materials into any Work Product, and such right must include, if practicable, a right to: (a) copy, modify, and create derivative works based upon such Pre-Existing Materials; and, (b) sublicense all or any portion of the foregoing rights to an affiliate or a third party service provider of Citizens. This Section does not apply to standard office software (e.g., Microsoft Office).
- 5.1.8.4 The provisions of this Section shall survive the termination of this Agreement.

## **5.2 Changes.**

- 5.2.1 Citizens may unilaterally require changes altering, adding to, or deducting from the Services (each, a "Change"), provided that a Change is within the general scope of this Agreement. Citizens will make an equitable adjustment in this Agreement price or delivery date if a Change materially affects the cost or time of performance of the Services. Such equitable adjustments require the written consent of Vendor, which consent shall not be unreasonably withheld, delayed or conditioned. The Parties will cooperate in good faith to determine the scope and nature of a Change, the availability of Vendor Staff, the expertise and resources to provide such Change, and the time period in which such Change will be implemented.
- 5.2.2 A Change resulting in an increase or decrease to the Agreement price or the scope of Services must be evidenced by a formal amendment to this Agreement. All other changes shall be evidenced by either a writing signed by the Contract Manager or designee of each Party or a formal amendment to this Agreement.

## **5.3 Acceptance.**

- 5.3.1 Acceptance Period. For all Services provided under this Agreement, Vendor grants to Citizens a thirty (30) day acceptance period ("Acceptance Period") commencing on the date completed Services are delivered to Citizens. Citizens shall have the right to reject the Services, in whole or in part, during the Acceptance Period for Vendor's failure to meet the specifications associated with the delivered Services, with such determination to be made in Citizens' reasonable judgment. At the end of the Acceptance Period, if Citizens has not rejected the Services, the Services shall be deemed to be accepted by Citizens; provided, however, that Citizens' acceptance of the Services shall not be deemed a waiver of any of Citizens' warranty rights as expressly provided in this Agreement.
- 5.3.2 Opportunity to Cure. Upon being advised of Citizens' rejection of Services within the Acceptance Period, Vendor shall have thirty (30) days to cure any deficiency identified by Citizens. In the event Vendor is unable to cure said deficiency within this thirty (30) day period, Citizens may, in its sole discretion, terminate this Agreement in whole or in part for cause and pursue such other rights and

remedies allowable in law or equity. This thirty (30) day cure period applies only to the failure to deliver Services as specified in this Agreement and is a limited exception to the general cure period set forth in Section 5.7.2 Termination for Cause.

- 5.3.3 Corrective Action Plan. At any stage during the thirty (30) day cure period provided above or whenever Citizens identifies a deficiency in Vendor's performance of this Agreement, Citizens may require Vendor to take the following actions: (a) perform a cause analysis to identify the cause of the deficiency; (b) provide a written plan (the "Corrective Action Plan") detailing the cause of, and procedure for, correcting such deficiency (Citizens will be afforded the time necessary to review and approve the proposed Corrective Action Plan or require Vendor to make revisions); (c) implement the Corrective Action Plan as approved by Citizens; and, (d) provide Citizens with satisfactory assurance that such deficiency will not reoccur following the implementation of the Corrective Action Plan. In the case of a deficiency identified by Citizens during an Acceptance Period, completion of the cause analysis and implementation of the Corrective Action Plan by Vendor must occur before the end of the thirty (30) day cure period provided above, unless otherwise agreed to by Citizens in its sole discretion.

## 5.4 Compensation.

- 5.4.1 Invoices. Vendor must timely submit all requests for compensation for Services or expenses, where permitted, in sufficient detail for a pre- or post-audit. Vendor shall also submit a copy, marked as duplicate, of the original, legible, signed, dated, page-numbered invoice to Citizens' Contract Manager or designee.

All invoices must be submitted to Citizens' Accounts Payable department at [AccountsPayable@citizensfla.com](mailto:AccountsPayable@citizensfla.com) or Post Office Box 10749, Tallahassee, Florida 32302-2749 in accordance with the Compensation Schedule and must include, at a minimum, the following:

- Agreement/Contract number, if applicable;
- Purchase Order number, if applicable;
- Vendor's name and address;
- Vendor's Federal Employment Identification Number;
- Itemized Services for which compensation is being sought;
- Invoice Date;
- Services period; and
- Citizens' Contract Manager's name.

Citizens may require any other information from Vendor that Citizens deems necessary to verify any compensation request placed under this Agreement and Vendor agrees that it will provide such information as reasonably requested by Citizens. Payment shall be due net thirty (30) days of Citizens' actual receipt of a complete and undisputed invoice. Where Citizens submits payment to Vendor net ten (10) days of Citizens' actual receipt of a complete and undisputed invoice, Citizens shall be entitled to reduce the invoiced amount by two-percent (2%) in consideration of Citizens' early payment. Where a submitted invoice is incomplete, such as not containing the information described in this Section, Citizens will return the incomplete invoice to Vendor for correction within thirty

(30) days of Citizens' actual receipt of such invoice. Where Citizens reasonably disputes any part of a complete invoice, such as the amount of the compensation request, Citizens shall pay any undisputed portion of the invoiced amount within (30) days of Citizens' actual receipt of the complete invoice and will describe the basis for the disputed portion of the invoiced amount. Where Vendor disagrees with Citizens dispute of any invoice, the Parties shall seek to resolve the dispute in accordance with the Dispute Resolution Process further described in this Agreement. In no case shall Citizens be subject to late payment interest charges where Vendor has submitted an incomplete invoice or where Citizens has reasonably disputed an invoice. Where Vendor fails to submit an invoice within twelve (12) calendar months of the Services for which compensation is being requested, Vendor acknowledges and agrees that any payment due for such Services is forfeited by Vendor for its failure to timely submit an invoice.

- 5.4.2 Travel-related Expenses. Vendor agrees to comply with Citizens' then-current Vendor Travel Reimbursement Guidelines. All travel-related expenses must be pre-approved in writing by Citizens' Contract Manager or designee. Citizens shall reimburse Vendor for pre-approved travel-related expenses incurred in the performance of Services following Citizens' receipt of Vendor's reimbursement request submitted in accordance with the then-current Vendor Travel Reimbursement Guidelines.
- 5.4.3 No Additional Charges. Except for the compensation described in the Compensation Schedule and travel-related expenses, if permitted, Citizens shall not be billed for or be obligated to pay to Vendor any charges, expenses, or other amounts for the Services or otherwise.
- 5.4.4 Offsets and Credits. Any amounts due from Vendor may be applied by Citizens against any amounts due to Vendor. Any such amounts that are not so applied shall be paid to Citizens by Vendor within thirty (30) days following Citizens' request.
- 5.4.5 Taxes. Citizens is a State of Florida, legislatively created, governmental entity which does not pay federal excise or state sales taxes on direct purchases of tangible personal property. Vendor represents and warrants that it is an independent contractor for purposes of federal, state, and local employment taxes. Vendor agrees that Citizens is not responsible to collect or withhold any federal, state, or local employment taxes, including personal property tax, income tax withholding, and social security contributions, for Vendor or Vendor Staff. Any and all taxes, interest or penalties, including personal property tax or any federal, state, or local withholding or employment taxes, imposed, assessed, or levied as a result of this Agreement shall be paid or withheld by Vendor or, if assessed against and paid by Citizens, shall be immediately reimbursed by Vendor upon demand by Citizens.

## **5.5 Indemnification and Limitation of Liability.**

- 5.5.1 Indemnification. Vendor shall be fully liable for the actions of Vendor Staff and shall fully indemnify, defend, and hold harmless Citizens, and its officers, members of the Board of Governors, agents and employees (each, an "Indemnitee" and collectively, the "Indemnitees") from suits, actions, damages, liabilities, demands, claims, fines, penalties, fees, and costs of every name and description (collectively, "Claims"), including reasonable attorneys' fees, costs,

and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from an Indemnitee arising out of or relating to any act, error or omission, or misconduct of Vendor or Vendor Staff during the performance of this Agreement. The foregoing obligation applies, without limitation, to Claims arising out of or relating to: (a) a violation of federal, state, local, international, or other laws or regulations for the protection of persons or members of a protected class or category of persons; (b) sexual discrimination or harassment based upon any protected characteristic; (c) bodily injury (including death) or damage to tangible personal or real property; (d) breaches of any representations made by Vendor under this Agreement; (e) any claim that any Work Product violates or infringes upon a trademark, copyright, patent, trade secret or intellectual property right; or, (f) Vendor's failure to timely forward a public records request to Citizens for handling.

5.5.1.1 Vendor's obligations of indemnification with respect to any Claim are contingent upon Citizens (or other Indemnitee) providing Vendor: (a) written notice of the Claim; (b) the opportunity to settle or defend against the Claim at Vendor's sole expense; and, (c) assistance in defending against or settling the Claim at Vendor's sole expense. Vendor shall not be liable for any cost, expense, or compromise incurred or made by an Indemnitee in any legal action without Vendor's prior written consent, which shall not be unreasonably withheld.

5.5.1.2 Notwithstanding anything in this Agreement to the contrary, Vendor shall not indemnify for that portion of a Claim proximately caused by: (a) a negligent act or omission of an Indemnitee; or, (b) an Indemnitee's misuse or modification of the Service or Work Product.

5.5.1.3 The obligations in this Section are separate and apart from, and in no way limit Citizens' rights under any insurance provided by Vendor pursuant to this Agreement or otherwise.

5.5.1.4 The provisions of this Section shall survive the termination of this Agreement.

5.5.2 Limitation of Liability. Notwithstanding any other provision of this Agreement to the contrary, neither Party shall be liable to the other for any: (a) speculative or remote damages, including lost profits, arising out of or in connection with a breach of this Agreement; or, (b) any damages arising out of or in connection with this Agreement in excess of twice the amount of fees payable under this Agreement. These limitations apply regardless of whether the action or claim is based in contract, equity, tort, or otherwise. These limitations shall not apply to: (a) any obligation of indemnification set forth in this Agreement; (b) any claim or damage caused by a party's gross negligence or wilful misconduct; (c) any claim or damage to the extent covered by an insurance policy required in this Agreement; or, (d) any claim or damage caused by vendor's breach of its obligations of confidentiality set forth in this Agreement. Nothing in this section or in this Agreement shall be construed as a waiver of the limit on Citizens' liability for tort claims under Section 768.28, Florida Statutes. This section shall survive the termination of this Agreement.

5.6 Insurance. During the term of this Agreement, Vendor will maintain at its sole expense the following insurance, purchased from an insurer licensed to transact business in the

State of Florida:

- 5.6.1 Workers' Compensation insurance which provides coverage for Vendor's employees or independent contractors' employees, regardless of the state of hire, in at least the minimum statutory limits required by the State of Florida, and Employers' Liability with limits of \$1 million.
- 5.6.2 Commercial General Liability with minimum limits of \$1 million per occurrence (to include contractual liability on a blanket basis for liability assumed hereunder) and \$2 million in the aggregate; Citizens shall be named as additional insured in the Commercial General Liability policy.
- 5.6.3 Umbrella/Excess General Liability and Auto Liability insurance with minimum limits of \$4 million in the aggregate.
- 5.6.4 Professional Liability (errors and omissions) with minimum limits of \$1 million per occurrence and \$2 million in the aggregate.
- 5.6.5 Network Security Liability with data breach coverage limits of \$10 million per occurrence and \$10 million in the aggregate.

Upon execution of this Agreement, Vendor must provide to Citizens a current in-force certificate of insurance evidencing the above coverage limits and subsequent certificates prior to their expiration. Vendor further agrees that it will maintain insurance to cover any indemnity obligation that it has assumed under this Agreement. All policies will include provisions that the insurers waive the rights of recovery or subrogation against Citizens. Citizens shall be exempt from, and in no way liable for, any sum of money which may represent a deductible in any of the aforementioned insurance policies. The payment of such deductible shall be the sole responsibility of Vendor. Unless otherwise agreed in writing by the Contract Administrator, all policies shall require ninety (90) calendar days prior written notice to Citizens of cancellation or change in any coverage.

## **5.7 Agreement Termination; Transition Assistance.**

- 5.7.1 Termination without Cause. By thirty (30) days advance written notice, Citizens may terminate this Agreement in whole or in part, at its sole discretion and without the need to specify a reason for termination. The actual date of termination of this Agreement will be thirty (30) days from the date of the written notice, or as otherwise specified in Citizens' written notice (the "Termination Date"). Where Citizens elects to terminate this Agreement in part, Vendor shall continue to provide Services on any portion of the Agreement not terminated. Vendor shall be entitled to payment for Services satisfactorily performed through the Termination Date but shall not be entitled to recover any cancellation charges or damages, including lost profits or reliance damages. Vendor shall not have a reciprocal right to terminate without cause; it being understood that Citizens' payment for Services forms the consideration for Vendor not having this right. In the event of Citizens' termination without cause, Citizens, at Citizens' sole election, may also require Vendor to provide the Transition Assistance as further described in this Agreement.
- 5.7.2 Termination for Cause. Either Party may terminate this Agreement if the other Party fails to honor its material obligations under this Agreement. Unless otherwise provided herein, before terminating this Agreement, the Party that believes the other Party is failing to perform this Agreement shall notify the other Party, in writing, of the nature of the failure to perform and provide a reasonable

time certain for correcting the failure (such time should not generally be less than ten (10) days from receipt of the notice). If the other Party does not correct its failure to perform within the time provided, and its failure is not legally excusable, the Party claiming failure to perform may thereafter notify the other Party, in writing, that it considers the other Party in default and may terminate this Agreement and pursue any remedies allowed in law or equity. Instead of terminating this Agreement in whole, Citizens may elect to terminate this Agreement in part, in which case Vendor shall continue to provide Services on any portion of the Agreement not terminated. If after termination it is determined that Vendor was not in default, or that the default was excusable, the rights and obligations of the Parties shall be the same as if the termination had been issued without cause under Section 5.7.1 Termination without Cause.

5.7.3 Transition Assistance. At any time prior to the date this Agreement expires or terminates for any reason (either, the "Termination Date"), Citizens may request Vendor to provide transition assistance services ("Transition Assistance"). Vendor shall provide such Transition Assistance until Citizens notifies Vendor that Citizens no longer requires such Transition Assistance, which shall in no event be more than [TBD period] following the Termination Date.

5.7.3.1 Transition Assistance shall mean any transition services, functions, or responsibilities that are ordinarily or customarily provided to a purchaser to ensure that the services provided to that purchaser by a vendor are fully transitioned in a smooth and efficient manner to the purchaser or to a successor vendor. Transition Assistance includes the development and implementation of a detailed transition plan, if requested. To the extent the Transition Assistance will involve a successor vendor, Vendor agrees that it will cooperate with such successor vendor. As reasonably required by Vendor, Citizens shall cause any successor vendor to execute Vendor's non-disclosure agreement.

5.7.3.2 Transition Assistance rendered before the Termination Date shall be provided at no additional cost to Citizens. Transition Assistance rendered after the Termination Date shall be provided at the rates negotiated by the Parties prior to the rendering of the post-termination Transition Assistance, which rates shall not exceed the standard market rates Vendor charges to government entities for comparable services; provided however, that if Citizens terminates this Agreement because of a breach by Vendor, then the post-termination Transition Assistance shall be provided at no cost to Citizens. Vendor may withhold Transition Assistance after the Termination Date if Citizens does not provide reasonable assurance that the charges for such Transition Assistance will be paid to Vendor.

## 5.8 Disputes.

5.8.1 Dispute Resolution Process. Vendor acknowledges that Citizens is not an agency for purposes of the Florida Administrative Procedure Act, Chapter 120, Florida Statutes. Prior to commencing any litigation relating to this Agreement, the Parties agree that they will attempt to resolve any dispute through non-binding mediation. The Parties agree that, if a disagreement arises as to the

terms or enforcement of any provision of this Agreement, each Party shall in good faith attempt to resolve the disagreement prior to the filing of a lawsuit or commencing a legal action. Vendor acknowledges that any dispute or disagreement under this Agreement relating to Citizens Confidential Information shall not be subject to the foregoing dispute resolution process.

5.8.2 Jurisdiction and Venue; Waiver of Jury Trial. This Agreement shall be deemed to have been made in the State of Florida and shall be subject to, and governed by, the laws of the State of Florida, and no doctrine of choice of law shall be used to apply any law other than that of the State of Florida. Each Party hereby irrevocably consents and submits to the exclusive jurisdiction of the Circuit Court of Leon County, Florida, for all purposes under this Agreement, and waives any defense to the assertion of such jurisdiction based on inconvenient forum or lack of personal jurisdiction. The Parties also agree to waive any right to jury trial.

5.8.3 The provisions of this Section shall survive the termination of this Agreement.

## 5.9 Records; Audits.

5.9.1 Vendor's Records. Vendor shall retain all records relating to this Agreement for the longer of: (a) three (3) years after the termination of this Agreement; or, (b) the period required by the General Records Schedules maintained by Citizens' Records Management. Citizens' follows the GS1-SL state schedule for records retention.

5.9.2 Right to Audit Records. Citizens, as required by law shall have reasonable access to the Vendors facilities and the right to review and audit any of Vendor's records related solely to this Agreement, upon written notice to Vendor of at least three (3) business days. Vendor shall not unreasonably delay or inhibit Citizens' right to audit as set forth in this Section. The Vendor shall cooperate with auditor(s), providing requested documentation in a timely manner (preferably within five (5) business days). Vendor must resolve any deficiencies discovered during the audit within ninety (90) calendar days from being reported. Citizens may extend the response time period in its sole discretion. Citizens has the right to conduct follow-up audit procedures to assess Vendor's corrective action(s). Any entity performing auditing services pursuant to this Section shall execute a non-disclosure agreement with regard to Vendor's proprietary information, unless precluded from doing so by law. Vendor agrees to reimburse Citizens for the reasonable costs of investigation incurred by Citizens for investigations of Vendor's compliance with this Agreement which result in termination for cause or in regulatory or criminal penalties in connection with performance of this Agreement. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; expert witness fees and, documentary fees.

5.9.3 Public Records. Vendor acknowledges that Citizens is subject to Chapter 119, Florida Statutes, and Section 627.351(6)(j), Florida Statutes; therefore, any information provided to Citizens or maintained by Vendor in connection with this Agreement may fall within the disclosure requirements of Chapter 119, Florida Statutes. Section 627.351(6)(x)1.e., Florida Statutes, provides that proprietary information licensed to Citizens under a contract providing for the confidentiality of such information is confidential and exempt from the provisions of Section 119.07(1), Florida Statutes, and Section 24(a), Article I of the State Constitution.

Vendor must clearly label and mark each page or section of information provided to Citizens in connection with this Agreement that it considers proprietary information or otherwise confidential or exempt from Chapter 119, Florida Statutes and Section 24(a), Article I., State Constitution (“Vendor’s Confidential Information”).

- 5.9.3.1 If Citizens receives a Public Records Request (“PRR”) or a request from any regulatory or legislative entity regarding Vendor’s Confidential Information, it shall promptly notify Vendor in writing, or electronically. The Parties agree (to the extent permitted by law) that Citizens shall not produce Vendor’s Confidential Information unless authorized by Vendor, or by order of a court of competent jurisdiction. In the event a legal proceeding is brought to compel the production of Vendor’s Confidential Information, the Parties agree that Citizens is authorized to deliver Vendor’s Confidential Information to the court or other legal tribunal for disposition. If Vendor continues to assert in good faith that Vendor’s Confidential Information is confidential or exempt from disclosure or production pursuant to Chapter 119, Florida Statutes, then Vendor shall be solely responsible for defending its position, or seeking a judicial declaration. Nothing in this Agreement shall create an obligation or duty for Citizens to defend or justify Vendor’s position. Vendor also agrees to indemnify and hold harmless any Citizens Indemnitee for any Claims, including attorneys’ fees, costs, and expenses incidental thereto, incurred by Citizens in connection with this Section.
- 5.9.3.2 If Vendor receives a PRR that is in any way related to this Agreement, Vendor agrees to immediately notify Citizens’ Custodian of Records and forward the PRR to Citizens’ Custodian of Records for logging and processing. Citizens’ Custodian of Records’ email address is: [Recordsrequest@citizensfla.com](mailto:Recordsrequest@citizensfla.com). Citizens shall be the Party responsible for coordinating the response and production to the PRR. Vendor shall communicate with Citizens to determine whether requested information is confidential and/or exempt from public records disclosure requirements. Vendor agrees to assist Citizens in responding to any PRR in a prompt and timely manner as required by Chapter 119, Florida Statutes.
- 5.9.3.3 Without limiting Citizens’ other rights of termination as further described in this Agreement, Citizens may unilaterally terminate this Agreement for refusal by Vendor to comply with this Section by not allowing public access to all documents, papers, letters, emails, or other material made or received by Vendor in conjunction with this Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07 (1), Florida Statutes.
- 5.9.3.4 To the extent Vendor is providing Services and is “acting on behalf of” Citizens as provided under Section 119.011(2), Florida Statutes, Vendor must: (a) keep and maintain public records that ordinarily and necessarily would be required by Citizens in order to perform Services; (b) provide the public with access to public records on the same terms and conditions that Citizens would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes,

or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and, (d) meet all requirements for retaining public records and transfer, at no cost, to Citizens all public records in possession of Vendor upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to Citizens in a format that is compatible with the information technology systems of Citizens.

5.9.4 The provisions of this Section shall survive the termination of this Agreement.

## 5.10 **Security and Confidentiality.**

- 5.10.1 **General Requirements.** Vendor shall implement and maintain appropriate safeguards to: (a) ensure the security and confidentiality of Citizens Confidential Information; (b) protect against any anticipated threats or hazards to the security or integrity of Citizens Confidential Information; and, (c) protect against unauthorized access to or use of Citizens Confidential Information that could cause harm or inconvenience to Citizens or any customer of Citizens.
- 5.10.2 **Implementation of NIST 800-53 Controls.** Except as permitted in writing by Citizens' Contract Manager or designee, Vendor agrees to implement the privacy and security controls that follow the guidelines set forth in NIST Special Publication 800-53, "Security and Privacy Controls for Federal Information Systems and Organizations," as amended from time to time.
- 5.10.3 **Data Encryption.** Vendor and Vendor Staff will encrypt all electronic data and communications containing Citizens Confidential Information using a strong cryptographic protocol that is consistent with industry standards.
- 5.10.4 **Data Storage.** Except as permitted in writing by Citizens' Contract Manager or designee, Vendor and Vendor Staff shall not store Citizens Confidential Information on portable external storage devices or media (such as "thumb drives," compact disks, or portable disk drives).
- 5.10.5 **Data Export.** Except as permitted in writing by Citizens' Contract Manager or designee, Vendor and Vendor Staff are prohibited from: (a) performing any Services outside of the United States; or, (b) sending, transmitting, or accessing any Citizens Confidential Information outside of the United States.
- 5.10.6 **Security of Vendor Facilities.** All Vendor and Vendor Staff facilities in which Citizens Confidential Information is located or housed shall be maintained in a reasonably secure manner. Within such facilities, all printed materials containing Citizens Confidential Information should be kept locked in a secure office, file cabinet, or desk (except when materials are being used).
- 5.10.7 **Labeling of Confidential Information.** Any documents or electronic files created by Vendor or Vendor Staff that contain Citizens Confidential Information must be conspicuously labeled or marked so that the individual viewing or receiving the information understands that the information is confidential.
- 5.10.8 **Photocopying and Faxing Restrictions.** Vendor and Vendor Staff shall not make photocopies or send facsimiles of Citizens Confidential Information unless there

is a business need.

- 5.10.9 Transmission of Confidential Information Materials. In the event it is necessary to transport materials containing Citizens Confidential Information via mail, parcel delivery service or other means, Vendor Staff must subsequently verify that such materials have been received by the intended parties.
- 5.10.10 Disposal of Confidential Information. The disposal of all printed materials containing Citizens Confidential Information must be done in a manner that renders the information inaccessible to others (the use of a reputable third party shredding company is permissible).
- 5.10.11 Authority to Disclose Confidential Information to Others. Vendor acknowledges and agrees that any Citizens Confidential Information disclosed to or acquired by Vendor is disclosed and/or acquired solely for the purposes of facilitating the provision of the Services. Vendor shall restrict access to Citizens Confidential Information to Vendor Staff who will actually perform Services and Vendor shall provide such Vendor Staff with work environments that protect against inadvertent disclosure to others. Vendor shall be solely responsible for informing any individual or entity with access to Citizens Confidential Information of the provisions of this Agreement and shall be responsible for any acts of those individuals and entities that violate such provisions.
- 5.10.12 Unauthorized Disclosure of Confidential Information. Vendor will notify Citizens as soon as possible of any potential or actual unauthorized disclosure, misuse, or misappropriation of Citizens Confidential Information of which it becomes aware and will cooperate in remedying such situation promptly. Pursuant to Section 501.171, Florida Statutes, if Vendor maintains computerized data that includes personal information, as defined in such statute, on behalf of Citizens, Vendor shall disclose to Citizens any breach of the security of the system as soon as practicable, but no later than ten (10) days following the determination of the breach of security or reason to believe the breach occurred.
- 5.10.13 Return of Confidential Information. During the term of this Agreement upon Citizens written request or upon the termination of this Agreement for any reason, Vendor shall promptly return to Citizens all copies, whether in written, electronic or other form or media, of Citizens Confidential Information in its possession, or securely dispose of all such copies, and certify in writing to Citizens that Citizens Confidential Information has been returned to Citizens or disposed of securely.
- 5.10.14 Notification of Anticipatory Breach. Vendor agrees that should it, for any reason, not be able to provide or maintain appropriate safeguards to fulfill its obligations under this Section, it will immediately inform Citizens in writing of such inability and such inability on Vendor's part will serve as justification for Citizens' termination of this Agreement, at Citizens' sole election, at any time after the inability becomes known to Citizens.
- 5.10.15 Remedies. Vendor acknowledges that breach of Vendor's obligation of data security and confidentiality may give rise to irreparable injury to Citizens and Citizens' customers, which damage may be inadequately compensable in the form of monetary damages. Accordingly, Citizens may seek and obtain injunctive relief against the breach or threatened breach of the provisions of this Section, in addition to any other legal remedies which may be available,

including, at the sole election of Citizens, the immediate termination, without penalty to Citizens, of this Agreement in whole or in part.

- 5.10.16 Subcontractors. Except as permitted in writing by Citizens' Contract Manager or designee, the provisions of this Section shall apply to each of Vendor's subcontractors at any level who obtain access to Citizens Confidential Information in connection with this Agreement.
- 5.10.17 The provisions of this Section shall survive the termination of this Agreement.

## **5.11 Miscellaneous.**

- 5.11.1 Relationship of the Parties. Vendor is an independent contractor with no authority to contract for Citizens or in any way to bind or to commit Citizens to any agreement of any kind or to assume any liabilities of any nature in the name of or on behalf of Citizens. Under no circumstances shall Vendor or Vendor Staff hold itself out as or be considered an agent, employee, joint venturer, or partner of Citizens. In recognition of Vendor's status as an independent contractor, Citizens shall carry no Workers' Compensation insurance or any health or accident insurance to cover Vendor or Vendor Staff. Citizens shall not pay any contributions to Social Security, unemployment insurance, federal or state withholding taxes, any other applicable taxes whether federal, state, or local, nor provide any other contributions or benefits which might be expected in an employer-employee relationship. Neither Vendor nor Vendor Staff shall be eligible for, participate in, or accrue any direct or indirect benefit under any other compensation, benefit, or retirement plan of Citizens.
- 5.11.2 Vendor Conflicts of Interests. Vendor, and all principals in its business, must execute a Conflict of Interest Form as required by Citizens. Vendor shall not have a relationship with a Citizens officer or employee that creates a conflict of interest. If there is the appearance of a conflict of interest, Vendor will promptly contact Citizens' Contract Manager or designee to obtain a written decision as to whether action needs to be taken to ensure a conflict does not exist or that the appearance of a conflict is not significant.
- 5.11.3 No Gifts. Vendor shall not give a gift or make an expenditure to or for the personal benefit of a Citizens officer or employee.
- 5.11.4 Convicted Vendor List. Vendor shall immediately notify Citizens' Contract Manager or designee in writing if it or any of its affiliates are placed on the convicted vendor list maintained by the State of Florida pursuant to Section 287.133, Florida Statutes, or on any similar list maintained by any other state or the federal government.
- 5.11.5 Compliance with Laws. Vendor and Vendor Staff will comply with all applicable laws, ordinances, rules, and regulations governing Vendor's performance under this Agreement.
- 5.11.6 Subcontracting. Vendor shall not enter into any subcontracts for the performance of the Services, or assign or transfer any of its rights or obligations under this Agreement, without Citizens' prior written consent and any attempt to do so shall be void and without effect. Citizens' consent to Vendor's request to subcontract any of the Services shall not relieve Vendor of any of its duties or obligations under this Agreement, and Vendor shall indemnify and hold Citizens harmless from any payment required to be paid to any such subcontractors.

- 5.11.7 Severability. If a court deems any provision of this Agreement void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.
- 5.11.8 Headings. The sections and headings herein contained are for the purposes of identification only, and shall not be considered as controlling in construing this Agreement.
- 5.11.9 Publicity; Use of Names and Logos. Vendor may use Citizens' name and logo in its marketing materials, website and social media to indicate that it is a participating or contracted vendor for Citizens. However, Vendor may not in any way state, imply or infer that it holds a "preferred," "approved," "awarded," "selected" or otherwise special status with Citizens in any such materials. This prohibition includes, but is not limited to, the use of endorsements or quotes from Citizens officials, Citizens vendor scores, or any other Citizens-related materials that may directly or indirectly imply that Vendor enjoys a special or preferred status with Citizens. Citizens reserves the right to determine that its name and/or logo have been misused and to request that Vendor cease using its name and/or logo in any way it deems inappropriate. Failure to comply will result in disciplinary action, up to and including contract termination. Vendor may only use the approved Citizens logo, which is available for download at: <https://www.citizensfla.com/about/mediaresources.cfm>.
- 5.11.10 Waiver. The delay or failure by a Party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of the Party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.
- 5.11.11 Entire Agreement. This Agreement, and any exhibits, schedules and attachments hereto, set forth the entire agreement and understanding of the Parties with respect to the subject matter hereof, and supersedes any prior or contemporaneous proposals, agreements or understandings with respect to the subject matter hereof.
- 5.11.12 Modification of Terms. This Agreement may only be modified or amended upon a mutual written contract amendment signed by Citizens and Vendor or as otherwise permitted by this Agreement. Vendor may not unilaterally modify the terms of this Agreement in any manner such as by affixing additional terms to any Deliverable (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" or "click through" terms, whether written or electronic) or by incorporating such terms onto Vendor's order or fiscal forms or other documents forwarded by Vendor for payment and any such terms shall have no force or effect upon Citizens or this Agreement. Citizens' acceptance of any Service or processing of documentation on forms furnished by Vendor for approval or payment shall not constitute acceptance of any proposed modification to terms and conditions or any conflicting terms and conditions.
- 5.11.13 Assignments. This Agreement shall inure to the benefits of, and be binding upon, the successors and assigns of each Party, but only as permitted under this Agreement. Each Party binds itself and its respective successors and assigns in all respects to all of the terms, conditions, covenants and provisions of this Agreement. Vendor shall not sell, assign or transfer any of its rights (including

rights to payment), duties or obligations under this Agreement without the prior written consent of Citizens. In the event of any assignment, Vendor shall remain liable for performance of this Agreement unless Citizens expressly waives such liability. Citizens may assign this Agreement with prior written notice to Vendor of its intent to do so. Nothing herein shall be construed as creating any personal liability on the part of any officer, employee or agent of Citizens.

- 5.11.14 Notice and Approval of Changes in Ownership. Because the award of this Agreement may have been predicated upon Vendor's ownership structure, Vendor agrees that any transfer of a substantial interest in Vendor by any of its owners shall require Citizens' prior written approval, which approval shall not be unreasonably withheld or unreasonably delayed. By execution of this Agreement, Vendor represents that it has no knowledge of any intent to transfer a substantial interest in Vendor. A substantial interest shall mean at least twenty-five percent (25%) of the voting shares or control over Vendor. This Section shall not apply to: (a) transfers occurring upon the incapacitation or death of an owner; (b) transfers associated with an initial public offering on a major stock exchange; or, (c) transfers to a company whose stock is publicly traded on a major stock exchange.
- 5.11.15 Assignment of Antitrust Claims. Vendor and Citizens recognize that in actual economic practice, overcharges resulting from antitrust violations are usually borne by the ultimate consumer. Therefore, Vendor hereby assigns to Citizens any and all claims under the antitrust laws of Florida or the United States for overcharges incurred in connection with this Agreement.
- 5.11.16 Force Majeure. Because of the nature of Citizens' business, Citizens requires that the Services be performed during or immediately after catastrophic events which might otherwise be considered force majeure. Therefore, Vendor acknowledges and agrees that force majeure will not constitute an excuse for non-performance of the Services as this Agreement and the Services are considered and designated as essential to Citizens' operations.
- 5.11.17 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute but one and the same Agreement. The Parties agree that a faxed or scanned signature may substitute for and have the same legal effect as the original signature.

**END OF DOCUMENT**