



City Clerk Document No. _____

City Council Meeting Date: October 17, 2024

**CITY OF CHANDLER SERVICES AGREEMENT
EMPLOYEE BENEFITS CONSULTING SERVICES
CITY OF CHANDLER AGREEMENT NO. 4802**

THIS AGREEMENT (Agreement) is made and entered into by and between the City of Chandler, an Arizona municipal corporation (City), and The Segal Company (Western States), Inc., an Arizona corporation, (Contractor), (City and Contractor may individually be referred to as Party and collectively referred to as Parties) and made _____, 2024 (Effective Date).

RECITALS

A. City proposes to enter an agreement for employee benefits consulting services as more fully described in Exhibit A, which is attached to and made a part of this Agreement by this reference.

B. Contractor is ready, willing, and able to provide the services described in Exhibit A for the compensation and fees set forth and as described in Exhibit B, which is attached to and made a part of this Agreement by this reference.

C. City desires to contract with the Contractor to provide these services under the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual promises contained in this Agreement, City and Contractor agree as follows:

SECTION I: DEFINITIONS

For purposes of this Agreement, the following definitions apply:

Agreement means the legal agreement executed between the City and the Contractor

City means the City of Chandler, Arizona

Contractor means the individual, partnership, or corporation named in the Agreement

Days means calendar days

May, Should means something that is not mandatory but permissible

Shall, Will, Must means a mandatory requirement

SECTION II: CONTRACTOR'S SERVICES

Contractor must perform the services described in Exhibit A to the City's satisfaction within the terms and conditions of this Agreement and within the care and skill that a person who provides

similar services in Chandler, Arizona exercises under similar conditions. All work or services furnished by Contractor under this Agreement must be performed in a skilled and workmanlike manner. Unless authorized by the City in writing, all fixtures, furnishings, and equipment furnished by Contractor as part of the work or services under this Agreement must be new, or the latest model, and of the most suitable grade and quality for the intended purpose of the work or service.

SECTION III: PERIOD OF SERVICE

Contractor must perform the services described in Exhibit A for the term of this Agreement.

The term of the Agreement is one year, and begins on January 1, 2025, and ends on December 31, 2025, unless sooner terminated in accordance with the provisions of this Agreement. The City and the Contractor may mutually agree to extend the Agreement for up to four additional terms of one year each, or portions thereof. The City reserves the right, at its sole discretion, to extend the Agreement for up to 60 days beyond the expiration of any extension term.

SECTION IV: PAYMENT OF COMPENSATION AND FEES

4.1 Unless amended in writing by the Parties, Contractor's compensation and fees as more fully described in Exhibit B for performance of the services approved and accepted by the City under this Agreement must not exceed \$120,000. Contractor must submit requests for payment for services approved and accepted during the previous billing period and must include, as applicable, detailed invoices and receipts, a narrative description of the tasks accomplished during the billing period, a list of any deliverables submitted, and any subcontractor's or supplier's actual requests for payment plus similar narrative and listing of their work. Payment for those services negotiated as a lump sum will be made in accordance with the percentage of the work completed during the preceding billing period. Services negotiated as a not-to-exceed fee will be paid in accordance with the work completed on the service during the preceding month. All requests for payment must be submitted to the City for review and approval. The City will make payment for approved and accepted services within 30 days of the City's receipt of the request for payment.

4.2 Applicable Taxes. The Contractor will pay all applicable taxes. The City is subject to all applicable state and local transaction privilege taxes. To the extent any state and local transaction privilege taxes apply to sales made under the terms of this Agreement, it is the responsibility of the Contractor to collect and remit all applicable taxes to the proper taxing jurisdiction of authority.

4.3 Tax Indemnification. The Contractor and all subcontractors will pay all Federal, state, and local taxes applicable to its operation and any persons employed by the Contractor. The Contractor will and require all subcontractors to hold the City harmless from any responsibility for taxes, damages, and interest, if applicable, contributions required under Federal, state, and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security, and Worker's Compensation.

4.4 All prices offered herein shall be firm against any increase for the initial term of the Agreement. Prior to commencement of subsequent renewal terms, the City may approve a fully documented request for a price adjustment. The City shall determine whether any requested price increases for extension terms is acceptable to the City. If the City approves the price increase, the price shall

remain firm for the renewal term for which it was requested. If a price increase is agreed upon by the Parties a written Agreement Amendment shall be approved and executed by the Parties.

SECTION V: GENERAL CONDITIONS

5.1 Records/Audit. Records of the Contractor's direct personnel payroll, reimbursable expenses pertaining to this Agreement and records of accounts between the City and Contractor must be kept on the basis of generally accepted accounting principles and must be made available to the City and its auditors for up to three years following the City's final acceptance of the services under this Agreement. The City, its authorized representative, or any federal agency, reserves the right to audit Contractor's records to verify the accuracy and appropriateness of all cost and pricing data, including data used to negotiate this Agreement and any amendments. The City reserves the right to decrease the total amount of Agreement price or payments made under this Agreement or request reimbursement from the Contractor following final contract payment on this Agreement if, upon audit of the Contractor's records, the audit discloses the Contractor has provided false, misleading, or inaccurate cost and pricing data. The Contractor will include a similar provision in all of its contracts with subcontractors providing services under the Agreement Documents to ensure that the City, its authorized representative, or the appropriate federal agency, has access to the subcontractors' records to verify the accuracy of all cost and pricing data. The City reserves the right to decrease Contract price or payments made on this Agreement or request reimbursement from the Contractor following final payment on this Agreement if the above provision is not included in subcontractor agreements, and one or more subcontractors refuse to allow the City to audit their records to verify the accuracy and appropriateness of all cost and pricing data. If, following an audit of this Agreement, the audit discloses the Contractor has provided false, misleading, or inaccurate cost and pricing data, and the cost discrepancies exceed 1% of the total Agreement billings, the Contractor will be liable for reimbursement of the reasonable, actual cost of the audit.

5.2 Alteration in Character of Work. Whenever an alteration in the character of work results in a substantial change in this Agreement, thereby materially increasing or decreasing the scope of services, cost of performance, or Project schedule, the work will be performed as directed by the City. However, before any modified work is started, a written amendment must be approved and executed by the City and the Contractor. Such amendment must not be effective until approved by the City. Additions to, modifications, or deletions from this Agreement as provided herein may be made, and the compensation to be paid to the Contractor may accordingly be adjusted by mutual agreement of the Parties. It is distinctly understood and agreed that no claim for extra work done or materials furnished by the Contractor will be allowed by the City except as provided herein, nor must the Contractor do any work or furnish any materials not covered by this Agreement unless such work is first authorized in writing. Any such work or materials furnished by the Contractor without prior written authorization will be at Contractor's own risk, cost, and expense, and Contractor hereby agrees that without written authorization Contractor will make no claim for compensation for such work or materials furnished.

5.3 Termination for Convenience. The City and the Contractor hereby agree to the full performance of the covenants contained herein, except that the City reserves the right, at its discretion and without cause, to terminate or abandon any service provided for in this Agreement, or abandon any portion of the Project for which services have been performed by the Contractor. In the event the City abandons or suspends the services, or any part of the services as provided in this Agreement, the City will notify the Contractor in writing and

immediately after receiving such notice, the Contractor must discontinue advancing the work specified under this Agreement. Upon such termination, abandonment, or suspension, the Contractor must deliver to the City all drawings, plans, specifications, special provisions, estimates and other work entirely or partially completed, together with all unused materials supplied by the City. The Contractor must appraise the work Contractor has completed and submit Contractor's appraisal to the City for evaluation. The City may inspect the Contractor's work to appraise the work completed. The Contractor will receive compensation in full for services performed to the date of such termination. The fee shall be paid in accordance with Section IV of this Agreement, and as mutually agreed upon by the Contractor and the City. If there is no mutual agreement on payment, the final determination will be made in accordance with the Disputes provision in this Agreement. However, in no event may the payment exceed the payment set forth in this Agreement nor as amended in accordance with Alteration in Character of Work. The City will make the final payment within 60 days after the Contractor has delivered the last of the partially completed items and the Parties agree on the final payment. If the City is found to have improperly terminated the Agreement for cause or default, the termination will be converted to a termination for convenience in accordance with the provisions of this Agreement.

5.4 Termination for Cause. The City may terminate this Agreement for Cause upon the occurrence of any one or more of the following events: in the event that (a) the Contractor fails to perform pursuant to the terms of this Agreement, (b) the Contractor is adjudged a bankrupt or insolvent, (c) the Contractor makes a general assignment for the benefit of creditors, (d) a trustee or receiver is appointed for Contractor or for any of Contractor's property (e) the Contractor files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws, (f) the Contractor disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or (g) the Contractor fails to cure default within the time requested. Where Agreement has been so terminated by City, the termination will not affect any rights of City against Contractor then existing or which may thereafter accrue.

5.5 Indemnification. The Contractor (Indemnitor) must indemnify, defend, save and hold harmless the City and its officers, officials, agents and employees (Indemnatee) from any and all claims, actions, liabilities, damages, losses or expenses (including court costs, attorneys' fees and costs of claim processing, investigation and litigation) (Claims) caused or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of the Contractor or any of its owners, officers, directors, agents, employees, or subcontractors in connection with this Agreement. This indemnity includes any claim or amount arising out of or recovered under workers' compensation law or on account of the failure of the Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Contractor must indemnify Indemnatee from and against any and all Claims, except those arising solely from Indemnatee's own negligent or willful acts or omissions. The Contractor is responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Agreement, the Contractor agrees to waive all rights of subrogation against Indemnatee for losses arising from or related to this Agreement. The obligations of the Contractor under this provision survive the termination or expiration of this Agreement.

5.6 Insurance Requirements. Contractor must procure insurance under the terms and conditions and for the amounts of coverage set forth in Exhibit C against claims that may arise

from or relate to performance of the work under this Agreement by Contractor and its agents, representatives, employees, and subcontractors. Contractor and any subcontractors must maintain this insurance until all of their obligations have been discharged, including any warranty periods under this Agreement. These insurance requirements are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The City in no way warrants that the minimum limits stated in Exhibit C are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Agreement by the Contractor, the Contractor's agents, representatives, employees, or subcontractors. Contractor is free to purchase such additional insurance as may be determined necessary.

5.7 Cooperation and Further Documentation. The Contractor agrees to provide the City such other duly executed documents as may be reasonably requested by the City to implement the intent of this Agreement.

5.8 Notices. Unless otherwise provided, notice under this Agreement must be in writing and will be deemed to have been duly given and received either (a) on the date of service if personally served on the party to whom notice is to be given, or (b) on the date notice is sent if by electronic mail, or (c) on the third day after the date of the postmark of deposit by first class United States mail, registered or certified, postage prepaid and properly addressed as follows:

For the City

Name: Christina Pryor
 Title: Procurement and Supply Senior Manager

 Address: 175 S. Arizona Avenue, 3rd Floor
 Chandler, AZ 85225
 Phone: 480-782-2403
 Email: christina.pryor@chandleraz.gov

For the Contractor

Name: Richard Ward
 Title: Senior Vice President Western Region
 Director, Public Sector
 Address: 1501 W. Fountainhead Pkwy, St. 370
 Tempe, AZ 85282
 Phone: 818-956-6714
 Email: rward@segalco.com

5.9 Successors and Assigns. City and Contractor each bind itself, its partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns, and legal representatives of such other party in respect to all covenants of this Agreement. Neither the City nor the Contractor may assign, sublet, or transfer its interest in this Agreement without the written consent of the other party. In no event may any contractual relation be created between any third party and the City.

5.10 Disputes. In any dispute arising out of an interpretation of this Agreement or the duties required not disposed of by agreement between the Contractor and the City, the final determination at the administrative level will be made by the City Purchasing and Materials Manager.

5.11 Completeness and Accuracy of Contractor's Work. The Contractor must be responsible for the completeness and accuracy of Contractor's services, data, and other work prepared or compiled under Contractor's obligation under this Agreement and must correct, at Contractor's expense, all willful or negligent errors, omissions, or acts that may be discovered. The fact that the City has accepted or approved the Contractor's work will in no way relieve the Contractor of any of Contractor's responsibilities.

5.12 Withholding Payment. The City reserves the right to withhold funds from the Contractor's payments up to the amount equal to the claims the City may have against the Contractor until such time that a settlement on those claims has been reached.

5.13 City's Right of Cancellation. The Parties acknowledge that this Agreement is subject to cancellation by the City under the provisions of Section 38-511, Arizona Revised Statutes (A.R.S.).

5.14 Independent Contractor. For this Agreement the Contractor constitutes an independent contractor. Any provisions in this Agreement that may appear to give the City the right to direct the Contractor as to the details of accomplishing the work or to exercise a measure of control over the work means that the Contractor must follow the wishes of the City as to the results of the work only. These results must comply with all applicable laws and ordinances.

5.15 Project Staffing. Prior to the start of any work under this Agreement, the Contractor must assign to the City the key personnel that will be involved in performing services prescribed in the Agreement. The City may acknowledge its acceptance of such personnel to perform services under this Agreement. At any time hereafter that the Contractor desires to change key personnel while performing under the Agreement, the Contractor must submit the qualifications of the new personnel to the City for prior approval. The Contractor will maintain an adequate and competent staff of qualified persons, as may be determined by the City, throughout the performance of this Agreement to ensure acceptable and timely completion of the Scope of Services. If the City objects, with reasonable cause, to any of the Contractor's staff, the Contractor must take prompt corrective action acceptable to the City and, if required, remove such personnel from the Project and replace with new personnel agreed to by the City.

5.16 Subcontractors. Prior to beginning the work, the Contractor must furnish the City for approval the names of subcontractors to be used under this Agreement. Any subsequent changes are subject to the City's written prior approval.

5.17 Force Majeure. If either party is delayed or prevented from the performance of any act required under this Agreement by reason of acts of God or other cause beyond the control and without fault of the Party (financial inability excepted), performance of that act may be excused, but only for the period of the delay, if the Party provides written notice to the other Party within ten days of such act. The time for performance of the act may be extended for a period equivalent to the period of delay from the date written notice is received by the other Party.

5.18 Compliance with Laws. Contractor understands, acknowledges, and agrees to comply with the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. All services performed by Contractor must also comply with all applicable City of Chandler codes, ordinances, and requirements. Contractor agrees to permit the City to verify Contractor's compliance.

5.19 No Israel Boycott. By entering into this Agreement, Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of the Agreement, not to engage in a boycott of Israel as defined by state statute.

5.20 Legal Worker Requirements. A.R.S. § 41-4401 prohibits the City from awarding a contract to any contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214, subsection A. A breach of this warranty will be deemed a material breach of the Agreement and may be subject to penalties up to and including termination of the Agreement. City retains the legal right to inspect the papers of any Contractor's or subcontractor's employee who provides services under this Agreement to ensure that the Contractor and subcontractors comply with the warranty under this provision.

5.21 Lawful Presence Requirement. A.R.S. §§ 1-501 and 1-502 prohibit the City from awarding a contract to any natural person who cannot establish that such person is lawfully present in the United States. To establish lawful presence, a person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. This requirement does not apply to business organizations such as corporations, partnerships, or limited liability companies.

5.22 Forced Labor of Ethnic Uyghurs Prohibited. By entering into this Agreement, Contractor certifies and agrees Contractor does not currently use and will not use for the term of this Agreement: (i) the forced labor of ethnic Uyghurs in the People's Republic of China; or (ii) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or (iii) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

5.23 Covenant Against Contingent Fees. Contractor warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of the Chandler City Council, or any City employee has any interest, financially, or otherwise, in Contractor's firm. For breach or violation of this warrant, the City may annul this Agreement without liability or, at its discretion, to deduct from the Agreement price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

5.24 Non-Waiver Provision. The failure of either Party to enforce any of the provisions of this Agreement or to require performance of the other Party of any of the provisions hereof must not be construed to be a waiver of such provisions, nor must it affect the validity of this Agreement or any part thereof, or the right of either Party to thereafter enforce each and every provision.

5.25 Disclosure of Information Adverse to the City's Interests. To evaluate and avoid potential conflicts of interest, the Contractor must provide written notice to the City, as set forth in this Section, of any work or services performed by the Contractor for third parties that may involve or be associated with any real property or personal property owned or leased by the City. Such notice must be given seven business days prior to commencement of the services by the Contractor for a third party, or seven business days prior to an adverse action as defined below. Written notice and disclosure must be sent to the City's Purchasing and Materials Manager. An adverse action under this Agreement includes, but is not limited to: (a) using data as defined in the Agreement acquired in connection with this Agreement to assist a third party in pursuing

administrative or judicial action against the City; or (b) testifying or providing evidence on behalf of any person in connection with an administrative or judicial action against the City; or (c) using data to produce income for the Contractor or its employees independently of performing the services under this Agreement, without the prior written consent of the City. Contractor represents that except for those persons, entities, and projects identified to the City, the services performed by the Contractor under this Agreement are not expected to create an interest with any person, entity, or third party project that is or may be adverse to the City's interests. Contractor's failure to provide a written notice and disclosure of the information as set forth in this Section constitute a material breach of this Agreement.

5.26 Data Confidentiality and Data Security. As used in the Agreement, data means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by, obtained by, or transmitted to the Contractor or its subcontractors in the performance of this Agreement. The Parties agree that all data, regardless of form, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the Contractor or its subcontractors in connection with the Contractor's or its subcontractor's performance of this Agreement is confidential and proprietary information belonging to the City. Except as specifically provided in this Agreement, Contractor or its subcontractors must not divulge data to any third party without the City's prior written consent. Contractor or its subcontractors must not use the data for any purposes except to perform the services required under this Agreement. These prohibitions do not apply to the following data provided to the Contractor or its subcontractors have first given the required notice to the City: (a) data which was known to the Contractor or its subcontractors prior to its performance under this Agreement unless such data was acquired in connection with work performed for the City; or (b) data which was acquired by the Contractor or its subcontractors in its performance under this Agreement and which was disclosed to the Contractor or its subcontractors by a third party, who to the best of the Contractor's or its subcontractors knowledge and belief, had the legal right to make such disclosure and the Contractor or its subcontractors are not otherwise required to hold such data in confidence; or (c) data which is required to be disclosed by virtue of law, regulation, or court order, to which the Contractor or its subcontractors are subject. In the event the Contractor or its subcontractors are required or requested to disclose data to a third party, or any other information to which the Contractor or its subcontractors became privy as a result of any other contract with the City, the Contractor must first notify the City as set forth in this Section of the request or demand for the data. The Contractor or its subcontractors must give the City sufficient facts so that the City can be given an opportunity to first give its consent or take such action that the City may deem appropriate to protect such data or other information from disclosure. Unless prohibited by law, within ten calendar days after completion or termination of services under this Agreement, the Contractor or its subcontractors must promptly deliver, as set forth in this Section, a copy of all data to the City. All data must continue to be subject to the confidentiality agreements of this Agreement. Contractor or its subcontractors assume all liability to maintain the confidentiality of the data in its possession and agrees to compensate the City if any of the provisions of this Section are violated by the Contractor, its employees, agents or subcontractors. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. Contractor agrees that the requirements of this Section must be incorporated into all subcontracts entered into by Contractor. A violation of this Section may result in immediate termination of this Agreement without notice.

5.27 Personal Identifying Information-Data Security. Personal identifying information, financial account information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times by Contractor and any of its subcontractors. At a minimum, Contractor must encrypt or password-protect electronic files. This includes data saved to laptop computers, computerized devices, or removable storage devices. When personal identifying information, financial account information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed. In the event that data collected or obtained by Contractor or its subcontractors in connection with this Agreement is believed to have been compromised, Contractor or its subcontractors must immediately notify the City contact. Contractor agrees to reimburse the City for any costs incurred by the City to investigate potential breaches of this data and, where applicable, the cost of notifying individuals who may be impacted by the breach. Contractor agrees that the requirements of this Section must be incorporated into all subcontracts entered into by Contractor. It is further agreed that a violation of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice. The obligations of Contractor or its subcontractors under this Section must survive the termination of this Agreement.

5.28 Jurisdiction and Venue. This Agreement is made under, and must be construed in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions thereof. Any action to enforce any provision of this Agreement or to obtain any remedy with respect hereto must be brought in the courts located in Maricopa County, Arizona, and for this purpose, each Party hereby expressly and irrevocably consents to the jurisdiction and venue of such court.

5.29 Survival. All warranties, representations, and indemnifications by the Contractor must survive the completion or termination of this Agreement.

5.30 Modification. Except as expressly provided herein to the contrary, no supplement, modification, or amendment of any term of this Agreement will be deemed binding or effective unless in writing and signed by the Parties.

5.31 Severability. If any provision of this Agreement or the application to any person or circumstance may be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application will not be affected and will be enforceable to the fullest extent permitted by law.

5.32 Integration. This Agreement contains the full agreement of the Parties. Any prior or contemporaneous written or oral agreement between the Parties regarding the subject matter is merged and superseded.

5.33 Time is of the Essence. Time of each of the terms, covenants, and conditions of this Agreement is hereby expressly made of the essence.

5.34 Date of Performance. If the date of performance of any obligation or the last day of any time period provided for should fall on a Saturday, Sunday, or holiday for the City, the obligation will be due and owing, and the time period will expire, on the first day after which is not a Saturday, Sunday or legal City holiday. Except as may otherwise be set forth in this Agreement, any performance provided for herein will be timely made if completed no later than 5:00 p.m. (Chandler time) on the day of performance.

5.35 Delivery. All prices are F.O.B. Destination and include all delivery and unloading at the specified destinations. The Contractor will retain title and control of all goods until they are delivered and accepted by the City. All risk of transportation and all related charges will be the responsibility of the Contractor. All claims for visible or concealed damage will be filed by the Contractor. The City will notify the Contractor promptly of any damaged goods and will assist the Contractor in arranging for inspection.

5.36 Third Party Beneficiary. Nothing under this Agreement will be construed to give any rights or benefits in the Agreement to anyone other than the City and the Contractor, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of City and the Contractor and not for the benefit of any other party.

5.37 Conflict in Language. All work performed must conform to all applicable City of Chandler codes, ordinances, and requirements as outlined in this Agreement. If there is a conflict in interpretation between provisions in this Agreement and those in the Exhibits, the provisions in this Agreement prevail.

5.38 Document/Information Release. Documents and materials released to the Contractor, which are identified by the City as sensitive and confidential, are the City's property. The document/material must be issued by and returned to the City upon completion of the services under this Agreement. Contractor's secondary distribution, disclosure, copying, or duplication in any manner is prohibited without the City's prior written approval. The document/material must be kept secure at all times. This directive applies to all City documents, whether in photographic, printed, or electronic data format.

5.39 Exhibits. The following exhibits are made a part of this Agreement and are incorporated by reference:

- Exhibit A - Project Description/Scope of Services
- Exhibit B - Compensation and Fees
- Exhibit C - Insurance Requirements
- Exhibit D - Business Associate Agreement

5.40 Special Conditions. As part of the services Contractor provides under this Agreement, Contractor agrees to comply with and fully perform the special terms and conditions set forth in Exhibit D, which is attached to and made a part of this Agreement.

5.41 Cooperative Use of Agreement. In addition to the City of Chandler and with approval of the Contractor, this Agreement may be extended for use by other municipalities, school districts and government agencies of the State. Any such usage by other entities must be in

accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

If required to provide services on a school district property at least five times during a month, the Contractor will submit a full set of fingerprints to the school of each person or employee who may provide such service. The District will conduct a fingerprint check in accordance with A.R.S. 41-1750 and Public Law 92-544 of all Contractors, subcontractors or vendors and their employees for which fingerprints are submitted to the District. Additionally, the Contractor will comply with the governing body fingerprinting policies of each individual school district/public entity. The Contractor, sub-contractors, vendors and their employees will not provide services on school district properties until authorized by the District.

Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The City will not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.

5.42 Non-Discrimination and Anti-Harassment Laws. Contractor must comply with all applicable City, state, and federal non-discrimination and anti-harassment laws, rules, and regulations.

5.43 Licenses and Permits. Beginning with the Effective Date and for the full term of this Agreement, Contractor must maintain all applicable City, state, and federal licenses and permits required to fully perform Contractor's services under this Agreement.

5.44 Warranties. Contractor must furnish a one-year warranty on all work and services performed under this Agreement. Contractor must furnish, or cause to be furnished, a two-year warranty on all fixtures, furnishings, and equipment furnished by Contractor, subcontractors, or suppliers under this Agreement. Any defects in design, workmanship, or materials that do not comply with this Agreement must be corrected by Contractor (including, but not limited to, all parts and labor) at Contractor's sole cost and expense. All written warranties and redlines for as-built conditions must be delivered to the City on or before the City's final acceptance of Contractor's services under this Agreement.

5.45 Emergency Purchases. City reserves the rights to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the Contractor.

5.46 Non-Exclusive Agreement. This agreement is for the sole convenience of the City of Chandler. The City reserves the right to obtain like goods or services from another source when necessary.

5.47 Budget Approval Into Next Fiscal Year. This Agreement will commence on the Effective Date and continue in full force and effect until it is terminated or expires in accordance with the provisions of this Agreement. The Parties recognize that the continuation of this Agreement after the close of the City's fiscal year, which ends on June 30 of each year, is subject to the City Council's approval of a budget that includes an appropriation for this item as expenditure. The City does not represent that this budget item will be actually adopted. This determination is solely made by the City Council at the time Council adopts the budget.

This Agreement shall be in full force and effect only when it has been approved and executed by the duly authorized City officials.

FOR THE CITY

FOR THE CONTRACTOR

By: _____

By: Richard Ward

Its: Mayor

Its: Sr. Vice President

APPROVED AS TO FORM:

By: _____
City Attorney *REL*

ATTEST:

By: _____
City Clerk

EXHIBIT A SCOPE OF SERVICES

Scope of Services

The Contractor shall provide consulting services upon request. Services may include:

- 1. Assist in the development and management of Requests for Proposals for benefit plans.**
 These services may include project planning to set goals; review and redline of City prepared draft of RFP, review RFP responses and provide summary information on each RFP; attend RFP committee meetings as resource for technical issues; vendor negotiations; contract terms and conditions review, assist with the development, negotiation and implementation of performance standards and guarantees. Assist with the implementation of new plans and vendors. May involve legal and actuarial review, including interpretation of technical payroll deduction issues associated with insurance deductions. The City acknowledges that the Contractor does not provide legal services or advice.
- 2. Make recommendations and participate in renewal negotiations for benefit plans**
 Make recommendations on matters such as, but not limited to, premium rates, benefit levels, performance standards and guarantees, contractual terms and conditions as they relate to the service benefit, quality assurance standards, utilization and performance reports, statistical and/or financial reports and plan specific data such as medical conditions, prescription drugs, high-cost procedures, in-patient data, etc.
- 3. Assist the City with implementation for any plan changes**
 The services may involve third party administrators and may involve actuarial and legal review. The City acknowledges that the Contractor does not provide legal services or advice.
- 4. Review and make recommendations regarding existing and potential benefit plans and programs**
 Services may also include modifications to existing plan design, implementation, administration, cost (rates), and quality, adequacy, competitiveness, cost effectiveness of employee benefit plans and programs. Advise on alternative delivery systems, financing alternatives, employee contributions, benefits and HR Administration Systems and other areas as appropriate. Provide financial and/or performance reviews of benefit plans. Evaluate cost and risk implication related to plan design changes. Review of benefits program to determine whether employer/employee premium structure is appropriately divided. Review of accrual rates for any City benefit plan. May involve actuarial and legal review. The City acknowledges that the Contractor does not provide legal services or advice.
- 5. Assist the City in modifying and editing plan documents**
 Including Certificates of Coverage, Plan booklets, Benefit Guides and Summaries of Benefits and Coverage (SBCs) as needed.
- 6. Provide regular and timely communication of changes in law and regulation**
 These services include proposed changes in federal and state statutes and regulation that may impact the City's employee benefit plans and programs. Recommend procedures and/or policies that the City should implement to comply with federal and state statutes and

regulations. May involve on-site training regarding legislative updates or best practice seminars.

7. Provide day-to-day service support

Provide services including plan interpretation, legal consultation and advice, problem resolution support, calls, meetings, and/or written reporting on any employee benefit insurance program. May include working with insurance companies and benefit providers to answer questions and resolve issues on the City's behalf.

8. Perform research and provide responses

Provide services upon request to provide responses to questions posed by the City. May involve comparison surveys of other public employers' benefit plans and programs, especially Arizona, to determine competitiveness.

9. Assist in evaluating the City's wellness initiatives

Services include identifying areas needing to be addressed based on analysis of high claim costs and apparent risk factors.

10. Provide communications consulting as needed

Services may include the following:

- Assist with annual and ongoing enrollment communications materials
- Participate in open enrollment planning
- Review and comment on internal communications
- Provide technical and creative assistance with the on-going development and preparation of various employee/retiree communications about existing and new insurance offerings and wellness
- Assist with special projects such as benefits summary, newsletters, etc.
- Assist with the design of benefits web-site and provide content advice
- Presentations to various employee and retiree groups and to Mayor and Council
- Presentations to the City's Health Care Trust Board at regularly scheduled meetings to include reporting on enrollment, claims and utilization

12. Accept broker fees from voluntary insurance plan providers

Maintain on account for City expenditures related to administration, communication and support for any and all benefit plans and account for the fees and expenditures on a monthly basis.

Additional Requirements

1. The Contractor shall comply with the provisions of A.R.S. 23-908 and the privacy rule provisions of the Health Insurance Portability and Accountability Act regarding the use and disclosure of medical information to the extent applicable by these laws or their successor sections.
2. The Contractor shall have no interest in other projects or independent contracts that conflict with the interests of the City. The Consultant shall immediately notify the City of any relationship or project that represents an actual or perceived conflict of interest.
3. The Contractor shall maintain effective relationships with appropriate industry commissions.
4. The Contractor shall maintain effective relationships with appropriate industry providers, networks and carriers.
5. The Contractor shall provide additional, closely related services upon request of the City.

EXHIBIT B
COMPENSATION AND FEES

The Contractor shall provide services per the Scope of Work upon request in accordance with the following fee schedule.

Consulting Services:	\$325.00 per hour
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EXHIBIT C INSURANCE

INSURANCE

General.

- A. At the same time as execution of this Agreement, the Contractor shall furnish the City a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to City. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.
- B. The Contractor and any of its subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.
- D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect Contractor from liabilities that might arise out of the performance of the Agreement services under this Agreement by Contractor, its agents, representatives, employees, subcontractors, and the Contractor is free to purchase any additional insurance as may be determined necessary.
- E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the Contractor from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- F. Use of Subcontractors: If any work is subcontracted in any way, the Contractor shall execute a written contract with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the Contractor in this Agreement. The Contractor is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

Minimum Scope and Limits of Insurance. The Contractor shall provide coverage with limits of liability not less than those stated below.

- A. *Commercial General Liability-Occurrence Form.* Contractor must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent

contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

- B. *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles*
Vehicle Liability: Contractor must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on Contractor owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

- C. *Workers Compensation and Employers Liability Insurance:* Contractor must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.

- D. *Professional Liability.* If the Agreement is the subject of any professional services or work performed by the Contractor, or if the Contractor engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Contractor must maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by the Contractor, or anyone employed by the Contractor, or anyone whose acts, mistakes, errors and omissions the Contractor is legally liable, with a liability limit of \$1,000,000 each claim and \$2,000,000 all claims. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage must extend for three years past completion and acceptance of the work or services, and the Contractor, or its selected Design Professional will submit Certificates of Insurance as evidence the required coverage is in effect. The Design Professional must annually submit Certificates of Insurance citing that the applicable coverage is in force and contains the required provisions for a three year period.

Additional Policy Provisions Required.

- A. *Self-Insured Retentions or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.
 - 1. The Contractor's insurance must contain broad form contractual liability coverage.
 - 2. The Contractor's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees

shall be in excess of the coverage provided by the Contractor and must not contribute to it.

3. The Contractor's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
4. Coverage provided by the Contractor must not be limited to the liability assumed under the indemnification provisions of this Agreement.
5. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the Contractor for the City.
6. The Contractor, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of three years following completion and acceptance of the Work. The Contractor must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this three year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.
7. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement.

B. *Insurance Cancellation During Term of Contract/Agreement.*

1. If any of the required policies expire during the life of this Contract/Agreement, the Contractor must forward renewal or replacement Certificates to the City within ten days after the renewal date containing all the required insurance provisions.
2. Each insurance policy required by the insurance provisions of this Contract/Agreement shall provide the required coverage and shall not be suspended, voided or canceled except after 30 days prior written notice has been given to the City, except when cancellation is for non-payment of premium, then ten days prior notice may be given. Such notice shall be sent directly to Chandler Law-Risk Management Department, Post Office Box 4008, Mailstop 628, Chandler, Arizona 85225. If any insurance company refuses to provide the required notice, the Contractor or its insurance broker shall notify the City of any cancellation, suspension, non-renewal of any insurance within seven days of receipt of insurers' notification to that effect.

- A. *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:

1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the Contractor including the City's general supervision of the Contractor; Products and Completed operations of the Contractor; and automobiles owned, leased, hired, or borrowed by the Contractor.
2. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Agreement.

EXHIBIT D BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT ("Agreement") between **The Segal Group, Inc.**, a Delaware corporation, with its principal place of business at 333 West 34th Street, New York, NY 10001-2402, on behalf of itself and its operating subsidiaries and its affiliates¹, (collectively, "Segal"), and **City of Chandler**, with its principal place of business at 175 South Arizona Avenue, Chandler, Arizona 85225, United States ("Client") is made effective as of **January 1, 2025** (the "Effective Date"). Segal and Client will also be referred to herein individually as a "Party" and jointly as the "Parties".

WHEREAS Client is a group health plan, or a plan sponsor of one or more group health plans, which group health plan(s) and constitutes a Covered Entity, as such term is defined in 45 CFR §160.103;

WHEREAS Segal provides consulting services ("Services") to Client in accordance with the underlying services agreement (the "Services Agreement"), which requires Segal to access, use, disclose and maintain Protected Health Information ("PHI"), as such term is defined in 45 CFR §160.103. Accordingly, Segal is a Business Associate, as such term is defined in 45 CFR §160.103, of the Client when it conducts Services; and

WHEREAS the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH") regulates the access, use, disclosure and maintenance of PHI. Segal and Client desire to exchange and treat PHI in compliance with HIPAA and HITECH under the Privacy, Security and Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164 subparts A, C, D and E (the "HIPAA Rules").

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein, Client and Segal hereby agree as follows:

1. **Definitions.** All capitalized terms used and not otherwise defined herein will have the same meaning as in the HIPAA Rules.
2. **Segal's Use and Disclosure of PHI**
 - (a) Segal will not use or disclose PHI other than as permitted or required by this Agreement and agrees to use and disclose the minimum necessary PHI required. Segal will not use or disclose PHI in a manner that would violate the Privacy Rule if done by Client, except for the specific uses and disclosures set forth at subsections d, e and f below.
 - (b) Segal may use or disclose PHI as necessary to provide the Services.
 - (c) Segal may use or disclose PHI as Required by Law.

¹ This agreement governs services provided by the following legal entities: The Segal Company (Eastern States), Inc. (EIN: 13-1835864), a New York corporation; The Segal Company (Southeast), Inc. (EIN: 13-2619259), a Georgia corporation; The Segal Company (Midwest), Inc. (EIN: 13-1975125), an Illinois corporation; The Segal Company (Western States), Inc. (EIN: 94-1503999), a Maryland corporation and The Segal Company, Ltd. (EIN: 13-2776405), a Michigan corporation.

- (d) Segal may use PHI for its proper management and administration or to carry out its legal responsibilities.
- (e) Segal may disclose PHI for its proper management and administration or to carry out its legal responsibilities, provided the disclosures are Required by Law, or Segal obtains reasonable written assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies Segal of any instances of which it is aware in which the confidentiality of the information has been violated;
- (f) Segal may use and disclose PHI for purposes of Data Aggregation relating to the Health Care Operations of Client.
- (g) Segal may De-identify PHI in accordance with the requirements of 45 CFR §164.514(a)-(c), and may use or disclose the information that has been de-identified.

3. Segal's Obligations and Activities Regarding PHI

- (a) Segal will use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by this Agreement. Segal agrees to take reasonable steps, including providing adequate training to its employees to ensure compliance with this Agreement and to ensure that the actions or omissions of its employees or agents do not cause Segal to breach the terms of this Agreement.
- (b) Segal will report to Client any use or disclosure of PHI not provided for by this Agreement of which it becomes aware.
- (c) Segal will take reasonable measures to mitigate, to the extent practicable, any harmful effect that is known to it of a use or disclosure of PHI by Segal or its agents or subcontractors in violation of the requirements of this Agreement.
- (d) Segal will comply with the Security Rule with respect to Electronic Protected Health Information ("ePHI") and agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of any ePHI that it creates, receives, maintains or transmits on behalf of Client. Segal will report to Client any Security Incident of which it becomes aware. Notwithstanding the foregoing, Client acknowledges the ongoing existence of pings, port scans and other routine, unsuccessful attempts at accessing and/or interfering with Segal's information system that do not pose a threat or hazard to the integrity of PHI and about which no further notification from Segal is necessary.
- (e) Segal will report to Client, as soon as practicable, but no later than 30 days after discovery, any Breach of Unsecured PHI as required at 45 CFR §164.410. Such notice will include all required information that is available, including:
 - (i) The identity of each Individual whose Unsecured PHI has been or is reasonably believed by Segal to have been accessed, acquired, used or disclosed during the Breach;

- (ii) A brief description of what happened, including the date of the Breach and the Date of Discovery if known;
- (iii) A description of the type of Unsecured PHI involved in the Breach;
- (iv) Any other available information that a Covered Entity is required to include in Notification to Individuals under §164.404(c) including:
 - a. The steps Individuals should take to protect themselves from potential harm resulting from the Breach;
 - b. A brief description of the steps Segal is taking to investigate, mitigate harm, and protect against further breaches; and
 - c. Contact information for follow-up questions.
- (f) If Segal uses Subcontractors in the provision of the Services, Segal will ensure that Subcontractors who create, receive, maintain, or transmit PHI on its behalf agree to equivalent restrictions, conditions, and requirements as contained herein with respect to such information.
- (g) Segal will make available to Client PHI in a Designated Record Set as necessary to satisfy Client's Individual Access obligations under 45 CFR §164.524.
- (h) Segal will make any Amendment(s) to PHI in a Designated Record Set as directed or agreed to by the Client pursuant to 45 CFR §164.526, or take other reasonable measures as necessary to satisfy Client's obligations under 45 CFR §164.526.
- (i) Segal will maintain and make available to Client the information required to provide an Accounting of Disclosures, as necessary to satisfy Client's obligations under 45 CFR §164.528. In the event that an Individual makes a request for an Accounting directly to Segal, Segal will forward such request to Client within ten (10) business days.
- (j) Segal will only carry out Client's obligations under the Privacy Rule as mutually agreed to by the Parties. In such instances, Segal will comply with the Privacy Rule requirements that apply to Client in the performance of such obligations.
- (k) Subject to any applicable legal privileges or confidentiality agreements, Segal will, upon reasonable notice and during normal business hours, make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules by Segal and/or Client.

4. Client's Obligations and Activities

- (a) Client will notify Segal of any limitation(s) in its Notice of Privacy Practices under 45 CFR §164.520, to the extent that such limitation may affect Segal's use or disclosure of PHI.

- (b) Client will notify Segal of any changes in, restrictions or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect Segal's use or disclosure of PHI.
- (c) Client will notify Segal of any restriction on the use or disclosure of PHI that it has agreed to or is required to abide by under 45 CFR §164.522, to the extent that such restriction may affect Segal's use or disclosure of PHI.
- (d) Client will not request that Segal use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Client, except to the extent that such use or disclosure is for the purposes set forth in Sections 2(d), (e), (f) and (g) of this Agreement.

5. Term and Termination

- (a) The Term of this Agreement will be effective as of the Effective Date and will run concurrently with the Services Agreement, unless this Agreement is terminated earlier due to the violation of a material term as provided for in Section 5(b) below.
- (b) Either Party may terminate this Agreement if the other violates a material term of the Agreement, provided that the non-breaching Party provides the breaching Party with no less than 30 days' notice in which to cure such violation prior to termination becoming effective. However, if the non-breaching Party reasonably and in good faith determines that the violation is not curable, it may terminate this Agreement immediately upon written notice to the breaching Party. Client may report the problem to the Secretary if termination is not feasible.
- (c) Upon termination of this Agreement, the Services Agreement also will terminate to the extent that it requires Segal to access, use, disclose and/or maintain PHI in order to provide the Services.
- (d) Upon termination of this Agreement for any reason, Segal will, to the extent feasible, return or destroy the PHI, which Segal still maintains in any form. If return or destruction of the PHI is not feasible, in Segal's reasonable judgment, Segal will extend the protections of this Agreement to such information for as long as it retains such information and will limit further uses and disclosures to those purposes that make the return or destruction of the information not feasible. The Parties understand that this 5(d) will survive any termination of this Agreement.
- (e) Client understands that Segal's need to maintain portions of the PHI for archival purposes related to memorializing the Services, and to comply with applicable regulations and its then-existing document retention and business continuity programs. Segal will not use or disclose the PHI so retained other than as described in this Section 5(e) and will maintain such PHI in accordance with its obligations under this Agreement until all such PHI is destroyed in accordance with Segal's document retention policy. The Parties understand that this 5(e) will survive any termination of this Agreement.

- 6. Notices.** Any notices or other communications under this Agreement will be in writing and will be given to the Parties by hand, by electronic mail, nationally recognized overnight courier service or by express, registered or certified mail, postage prepaid, return receipt requested, at the addresses set forth below:

If to Client, to:

City of Chandler
175 South Arizona Avenue
Chandler, Arizona 85225
United States
Attention: Fernanda Acurio

fernanda.acurio@chandleraz.gov

If to Segal, to:

The Segal Group
333 West 34th Street
New York, NY 10001
United States
Attention: Privacy Official
c/o General Counsel
Contract_Notice@segalco.com

Copy to:

Rachel Calisi
rcalisi@segalco.com

7. General

- (a) *Regulatory References.* A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- (b) *Interpretation; Entire Agreement;* Any ambiguity in this Agreement will be interpreted to permit compliance with the HIPAA Rules. This Agreement constitutes the entire agreement between the Parties regarding the exchange of PHI. In the event of any inconsistency or conflict between this Agreement, and the Services Agreement or any other written agreement between the Parties, the terms, provisions and conditions of this Agreement will control and govern with respect to PHI.
- (c) *Modification of Agreement.* The Parties agree to take such action as is necessary to modify or amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules, HITECH and any other applicable law. The Parties agree to negotiate in good faith to modify this BA Agreement as reasonably necessary to comply with new regulations and requirements as they become effective but, in the event the Parties are unable to reach agreement in such a modification, either Party will have the right to terminate this BA Agreement upon 30 days' prior written notice to the other party.
- (d) *Severability; Waiver.* If any provision of this Agreement is found to be illegal or otherwise unenforceable, that provision will be severed and the remainder of this Agreement will remain in full force and effect. No consent to or waiver of any default hereunder will be effective unless in writing and no such consent or waiver will be construed as a consent to or waiver of any default in the future or of any other default hereunder.
- (e) *No Third Party Beneficiaries.* This Agreement is made and entered into solely for the benefit and protection of the Parties hereto, their successors and permitted assigns,

and does not confer any rights or privileges upon any third parties, including any participant or beneficiary of Client.

- (f) *Informal Resolution.* If any controversy, dispute, or claim arises between the Parties with respect to this Agreement, the Parties will make good faith efforts to resolve such matters informally.