

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made in Johnson County, Kansas, by and between the City of Olathe, Kansas, hereinafter "City," and ARC Physical Therapy+ hereinafter "Consultant" (collectively, the "Parties").

City is in need of certain professional services in the field of onsite physical therapy, ergonomic assessments and job analysis for a particular project, Wellbeing/Employee Safety Job Analysis Project) identified in **Exhibit A (Project Description)**, attached hereto and incorporated herein by reference.

Consultant has expertise in providing injury management tools to improve worksite safety and activities related to the Project as described in **Exhibit B (Scope of Services)** attached hereto and incorporated by reference.

City contracts with Consultant for the performing of Professional Services in connection with the Project, as described herein, in consideration of these premise and of the mutual covenants herein set forth. By executing this Agreement, Consultant represents to City that Consultant is qualified to perform the work on this Project and is licensed to provide worksite job analysis by a certified physical therapist assistant, certified athletic trainer, and/or physical therapist. by all public entities having jurisdiction over Consultant and the Project.

SECTION I - DEFINITIONS

As used in this Agreement, the following terms will have the following meanings unless otherwise stated or reasonably required by the Agreement, and other forms of any defined words will have a meaning parallel thereto.

"Additional Services" means services in addition to those listed in **Exhibit B**.

"City" means the City of Olathe, Kansas, a municipal corporation duly organized under the laws of the State of Kansas, its employees, appointees, and officers.

"Consultant" means the company or individual identified above, herein, and its affiliates, subsidiaries, employees, agents, and assigns.

"Contract Documents" means those documents so identified in this Agreement.

"Consultant Documents" means all documents required or reasonably implied by the nature of the scope of services to be performed by Consultant hereunder, including, but not limited to, plans, specifications, drawings, tracings, designs, calculations, sketches, models and reports.

"Professional Services" means the professional services, labor, materials, supplies, testing, surveying, title work, inspection, if applicable, and all other acts, duties, and services

required of Consultant under this Agreement including any Additional Services.

"Project" is as above described.

"Project Manager" means the person employed and designated by City to act as the City's representative for the Project.

SECTION II - COMPENSATION

A. FEES & EXPENSES

Total Fee: City agrees to pay Consultant an amount not to exceed \$150,000 for Wellness/Employee Safety Job Analysis project number 7-C-003-19; other services above the \$150,000 will be provided by the Consultant as requested by the City pursuant to the discounted rates as outlined in Exhibit A. The fee is based on the performance of the scope of services outlined in this Agreement, including **Exhibit B** attached hereto and incorporated by reference, and will be billed by Consultant using hourly rates and equipment charges as set forth in **Exhibit A** attached hereto and incorporated by reference, plus reimbursable expenses as set forth below. All bills will be submitted to City monthly as provided herein.

B. SERVICES BEYOND THE SCOPE OF SERVICES

1. Change in Scope: For substantial modifications in authorized Project scope, substantial modifications of drawings, or substantial modifications to specifications previously accepted by City, when requested by City and through no fault of Consultant, Consultant will be compensated for time and expense required to incorporate such modifications at Consultant's standard hourly rates per **Exhibit A**; provided, however, that any increase in fee or extension of time for Consultant to complete the services must be approved by City in writing. Consultant will correct or revise any errors or deficiencies in its designs, drawings or specifications without additional compensation when due to Consultant's negligence or other actionable fault.
2. Additional Services: Consultant will provide Additional Services authorized by a supplemental agreement executed in writing by the Parties. Prior to commencing any Additional Services, Consultant must submit a proposal outlining the Additional Services to be provided, estimation of total hours, completion date, and a maximum fee based upon the hourly rate schedule attached hereto as **Exhibit C**. Such Additional Services may include, but are not limited to, making computations and determinations of special assessments, making special trips requested by City other than those required by Section III, preparing changes in plans ordered by City or made necessary by causes beyond the control of Consultant, providing services necessitated in the event the Professional Services are suspended or abandoned, if such suspension or abandonment is not the result of a breach of this Agreement by Consultant, and providing any other special

services not otherwise covered by this Agreement which may be requested by City to complete the Project. Payment to Consultant as compensation for Additional Services will be in accordance with the hourly rate schedule attached as **Exhibit C**.

3. Special Services: Consultant may be called on to serve as a consultant or witness in any litigation, arbitration, legal or administrative proceeding arising out of this Project. If Consultant is requested, in writing, by City, to appear as a witness, it will be paid its hourly fee as reflected on the hourly rate schedule attached hereto as **Exhibit C**. Consultant will not be paid extra by City if Consultant's appearance is to defend its Professional Services.

C. BILLING & PAYMENT

1. Billing: Consultant may bill City monthly for completed Professional Services, including reimbursable expenses. The bill submitted by Consultant must itemize the Professional Services and reimbursable expenses for which payment is requested. City agrees to pay Consultant within thirty (30) days of approval by the Governing Body or other agent of City in accordance with the City's Procurement Policy.
2. City's Right to Withhold Payment: In the event City becomes credibly informed that any representations of Consultant provided in its monthly billing are wholly or partially inaccurate, City may withhold payment of sums then or in the future otherwise due to Consultant until the inaccuracy and the cause thereof is corrected to City's reasonable satisfaction. In the event City questions some element of an invoice, that fact will be made known to Consultant immediately. Consultant will help effect resolution and transmit a revised invoice, if necessary. Amounts not questioned by City will be paid to Consultant in accordance with the contract payment procedures.
3. Progress Reports: A progress report must be submitted with each monthly pay request indicating the percentage of Professional Services completed to date. This report will serve as support for payment to Consultant.

D. SCHEDULE

All services must be completed on or before December 31, 2025.

SECTION III - RESPONSIBILITIES OF CONSULTANT

Consultant will perform the Professional Services required for the execution of the Project as described in **Exhibit B**.

A. GENERAL DUTIES AND RESPONSIBILITIES

1. Personnel: Consultant will assign only qualified personnel to perform any service concerning the Project as identified in Consultant's response to the Request for Proposals. At the time of execution of this Agreement, the Parties anticipate that the following

individual will perform as the principal on this Project: Megan Leupold. As principal on this Project, this person will be the primary contact with the City's Project Manager and will have authority to bind Consultant. So long as the individual named above remains actively employed or retained by Consultant, such individual will perform the function of principal on this Project.

2. Service By and Payment to Others: Any services authorized in writing by City and performed by any party other than Consultant or its subcontractors (a "Third Party") in connection with the proposed Project will be contracted for and paid for by City. In addition to payments for the Third Party's professional services, this may also include necessary permits, licenses, ownership certifications, materials testing, advertising costs, and other special tests or other services required or requested by City or Consultant which are not defined within the scope of services of Consultant as set forth herein. Fees for such extra services will be subject to negotiation between City and the Third Party. Fees will be approved by City in writing prior to the execution of any extra services. Although Consultant may assist City in procuring such services of Third Parties, Consultant will in no way be liable to either City or such Third Parties in any manner whatsoever for such services or for payment thereof.
3. Subcontracting or Assignment of Services: Consultant may not subcontract or assign any of the Professional Services to be performed under this Agreement without first obtaining the written approval of City. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge Consultant from any obligation under this Agreement. Any person or firm proposed for subcontracting Professional Services under this Agreement will maintain throughout the duration of the Agreement, insurance as provided in Section V.D.2. herein, and will additionally maintain Professional Liability insurance in a minimum amount of \$1,000,000 per claim and in the aggregate and provide City with an insurance certificate showing the insurance limits provided by Consultant's subconsultant. Any services completed by a City-approved subcontractor of Consultant pursuant to this Agreement may not be increased more than ten percent (10%) over the actual cost of the services.
4. Endorsement: Consultant must sign and seal all final plans, specifications, estimates and engineering data furnished by Consultant. Any review or approval by City of any documents prepared by Consultant, including but not limited to the plans and specifications, will be solely for determining whether such documents are consistent with the City of Olathe Technical Specifications and Design Criteria for Public Improvements and may not be construed as City assuming responsibility for the accuracy, adequacy, fitness, suitability and coordination of Consultant's services and deliverables. No review of such documents will relieve Consultant of its responsibility for the accuracy, adequacy, fitness, suitability and coordination of its services and deliverables.
5. Inspection of Documents: Consultant must maintain all Project records for inspection by City at reasonable times and places upon written request during the contract period and for three (3) years from the date of final payment.

6. Standard of Care: Consultant will exercise the same degree of care, skill, and diligence in the performance of the Professional Services as is ordinarily possessed and exercised by a professional under similar circumstances. If Consultant fails to meet the foregoing standard, Consultant will perform at its own cost, and without reimbursement from City, the Professional Services necessary to correct errors and omissions which are caused by Consultant's negligence.

SECTION IV - CITY OF OLATHE'S RESPONSIBILITIES

A. COMMUNICATION

City will provide to Consultant information and criteria regarding City's requirements for the Project; examine and timely respond to Consultant's submissions; and give written notice to Consultant, who will respond promptly, whenever City observes or otherwise becomes aware of any defect in the Professional Services.

B. DUTIES

City will perform the various duties and services in all phases of the Project by providing a primary contact for to facilitate the variety of City contacts between the consultant and the City.

C. PROGRAM AND BUDGET

City will provide all relevant information reasonably required for Consultant to perform its obligations herein, including but not limited to City's objectives, schedule, constraints, budget with reasonable contingencies, and other necessary design criteria for the Project.

D. ADMINISTRATIVE SERVICES

City will furnish all City-related legal, accounting, insurance and audit services as may be necessary at any time for completion of the Project. However, in no event will any City-related legal, accounting, insurance and or audit services be provided on behalf of Consultant, nor will Consultant serve any other role than as an independent contractor of City.

E. PROJECT REPRESENTATIVE

City will designate a Project Manager to represent City in coordinating this Project with Consultant. The City's Project Manager will have the authority to transmit instructions and decisions of City.

SECTION V - GENERAL PROVISIONS

A. TERMINATION

1. Notice: City reserves the right to terminate this Agreement for either cause (due to Consultant's failure to substantially perform its obligations hereunder) or for its convenience and without cause or default on the part of Consultant, by providing fifteen (15) days' written notice of such termination to Consultant. Upon receipt of such notice from City, Consultant will, at City's option as contained in the notice: (1) immediately cease all Professional Services; or (2) meet with City and, subject to City's approval, determine what Professional Services will be required of Consultant in order to bring the Project to a reasonable termination in accordance with the request of City. Consultant will also provide to City copies of all drawings and documents completed or partially completed at the date of termination for which Consultant has been fully paid. If City defaults on its obligations under this Agreement, (due to City's failure to substantially perform its obligations under this Agreement), Consultant must notify City by written notice of its intent to terminate and City will have fifteen (15) days from the date of the notice to cure or to submit a plan for cure acceptable to Consultant. In no event may Consultant terminate the contract solely for its convenience without cause.

Address for Notice:

City of Olathe
Attn: Jana Goolsby
100 E. Santa Fe
P.O. Box 768
Olathe, KS 66051-0768

ARC Physical Therapy+
Attn: Megan Leupold
Onsite Services Sales and Marketing
785.741.3208
mleupold@arcpt.com

2. Compensation for Convenience Termination: If City terminates for its convenience as provided herein, City will compensate Consultant for all Professional Services completed and accepted and reimbursable expenses incurred to the date of its receipt of the termination notice and any additional Professional Services and reimbursable expenses requested by City to bring the Project to reasonable termination. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed.
3. Compensation for Cause Termination: If City terminates for cause or default on the part of Consultant, City will compensate Consultant for the reasonable cost of Professional Services and reimbursable expenses completed and accepted to date of its receipt of the termination notice. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed. City also retains all its rights and remedies against Consultant including but not limited to its rights to sue for damages, interest and attorney fees.

4. Incomplete Documents: Neither Consultant nor its subcontractors will be responsible for errors or omissions in documents which are incomplete because of an early termination under this Section, or Consultant having been deprived of the opportunity to complete such documents and prepare them to be ready for construction.
5. Termination for Lack of Funds: If, for whatever reason, adequate funding is not made available to City to support or justify continuation of the level of Professional Services to be provided by Consultant under this Agreement, City may terminate or reduce the amount of Professional Services to be provided by Consultant under this Agreement. In such event, City will notify Consultant in writing at least thirty (30) days in advance of such termination or reduction of Professional Services for lack of funds.

B. DISPUTE RESOLUTION

City and Consultant agree that disputes relative to the Project will first be addressed by negotiations between the Parties. If direct negotiations fail to resolve the dispute, the Party initiating the claim that is the basis for the dispute may take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute, Consultant will proceed with the Professional Services as per this Agreement as if no dispute existed, and City will continue to make payment for Consultant's completed Professional Services; and provided further that no dispute will be submitted to arbitration without both Parties' express written consent.

C. OWNERSHIP OF CONSULTANT DOCUMENTS

Consultant will provide City a copy of all final Consultant Documents, including but not limited to prints, reproductions, reports, plans, specifications and related documents, which will become the property of City, if Consultant's copyrighted instruments will remain in the ownership of Consultant if Consultant, at Consultant's sole discretion, may so identify them by appropriate markings. If Consultant is paid in full for its Professional Services, then City may subsequently reuse these final documents without any additional compensation or agreement of Consultant. However, such reuse without written verification or adaptation by Consultant for the specific purpose intended by City will be at City's sole risk and without liability or legal exposure to Consultant. City does not take any responsibility for the reuse of documents by others.

D. INSURANCE

1. General: Consultant will maintain, throughout the duration of this Agreement, insurance (on an occurrence basis unless otherwise agreed to) of such types and in such amounts as required in **Exhibit D (City of Olathe Insurance Requirements)**. Professional Liability may be written on a "claims made" basis. Consultant will provide certificates of insurance and renewals thereof on forms acceptable to City (**Exhibit E – Certificate of Insurance**). Consultant is required to promptly notify City of a material change or cancellation of any policy listed on the Certificate.

2. Subcontractor's Insurance: If a part of the Professional Services under this Agreement is to be sublet, Consultant will either (a) cover all subcontractors in its insurance policies, or (b) require each subcontractor not so covered to secure insurance which will protect subcontractor against all applicable hazards or risks of loss in the minimum amounts designated herein. If Consultant selects option (b), then Consultant agrees to provide the City's Risk Manager a certificate of insurance acceptable to the Risk Manager at least seven (7) days prior to allowing the subcontractor to perform any services on this Project. Consultant agrees that any subcontractor providing services on said Project without providing a certificate of insurance acceptable to the City's Risk Manager will immediately cease all services on said Project and will assume all financial risk associated with such failure thereto.

E. INDEMNITY

1. Loss: For purposes of indemnification requirements, the term "Loss" means any and all loss, damage, liability or expense, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorney's fees and the cost of defense), in connection with any action, proceeding, demand or claim for injury, including death, to any person or persons or damages to or loss of, or loss of the use of, property of any person, firm or corporation, including the parties hereto, which arise out of or are connected with the performance of this Agreement.
2. Indemnification and Hold Harmless: For purposes of this Agreement, Consultant agrees to indemnify, defend and hold harmless City and its agents from any and all Loss where Loss is caused or incurred as a result of the intentional misconduct, recklessness, negligence, or other actionable fault of Consultant or its subcontractors. Neither acceptance of completed work nor payment therefor nor termination or expiration of this Agreement releases Consultant of its obligations under this paragraph.
3. Comparative Fault & Contributory Negligence: It is a specific element of consideration of this Agreement that the indemnity in Section V.E.2 will apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of City or any Third Party and, further notwithstanding any theory of law including, but not limited to, a characterization of City's or any Third Party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature; provided, however, that Consultant's obligation hereunder will not include amounts attributable to the fault or negligence of City or any Third Party for whom Consultant is not responsible.
4. Damage Limitations: The indemnification obligation contained in this Agreement will not be limited by any limitation on amount or type of damages, compensation or benefits payable by or for Consultant or its subcontractors, by the minimum insurance required by this Agreement, nor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

5. Negligence by the City: Consultant is not required hereunder to defend City or its agents from assertions that they were negligent, nor to indemnify and hold them harmless from liability based on City's negligence.

F. AFFIRMATIVE ACTION/OTHER LAWS

1. Kansas Act Against Discrimination: During the performance of this Agreement, Consultant agrees that:
 - a. Consultant will observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and will not discriminate against any person in the performance of work under the present contract because of race, religion, color, gender, disability, national origin, ancestry, or age;
 - b. in all solicitations or advertisements for employees, Consultant will include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("commission");
 - c. if Consultant fails to comply with the way Consultant reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Consultant will be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by City without penalty;
 - d. if Consultant is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, Consultant will be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and
 - e. Consultant will include the provisions of subsections a. through d. in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
2. Exceptions to Applicability: The provisions of this Section will not apply to a contract entered into by City with Consultant if (a) Consultant employs fewer than four (4) employees during the term of such contract; or (b) Consultant's contract with City totals Ten Thousand Dollars (\$10,000) or less in aggregate.
3. Kansas Age Discrimination in Employment Act: Consultant further agrees and acknowledges that it will abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this Project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.
4. Kansas Fairness in Public Construction Contract Act: The Parties agree and acknowledge

that the services provided under this Agreement are within the scope of the Kansas Fairness in Public Construction Contract Act (K.S.A. 16-1901 et seq.) and that no provision of this Agreement waives, alters, or supersedes any provisions of said Act.

G. ENTIRE AGREEMENT

This Agreement, including all documents and exhibits included by reference herein, constitutes the entire Agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both Parties to this Agreement.

H. APPLICABLE LAW, JURISDICTION, AND VENUE

Interpretation of this Agreement and disputes arising out of or related to this Agreement will be subject to and governed by the laws of the State of Kansas, excluding Kansas' choice-of-law principles. Jurisdiction and venue for any suit arising out of or related to this Agreement will be in the District Court of Johnson County, Kansas.

I. NO THIRD-PARTY BENEFICIARIES

Nothing contained herein will create a contractual relationship with, or any rights in favor of, any Third Party.

J. INDEPENDENT CONTRACTOR

Consultant is an independent contractor and not an agent or employee of City.

K. COVENANT AGAINST CONTINGENT FEES

Consultant represents that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this representation, City may terminate this Agreement without liability or may, in its discretion, deduct from the Total Fee or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

L. NO SOLICITATION TO HIRE CITY EMPLOYEES

1. No Solicitation to Hire: Except as otherwise provided in this section, during the term of this Agreement and for one year after the Agreement's expiration or termination, Consultant must not solicit to hire and then hire, or solicit to contract with and then contract with, any of the City's current employees involved with the oversight or

implementation of this Agreement, including but not limited to the Project Manager.

2. No Restriction on City Employees: The foregoing restrictions shall not prevent City employees from affirmatively seeking employment elsewhere.
3. Liquidated Damages: The Parties agree that in the event of a breach of this provision that damages would be uncertain and difficult to accurately estimate. Therefore, if Consultant breaches this provision, Consultant agrees to pay City liquidated damages to the City equal to the annual salary of the applicable employee hired by or contracting with Consultant.

M. COMPLIANCE WITH LAWS

Consultant will abide by all applicable federal, state and local laws, ordinances and regulations applicable to the performance of Professional Services at the time the Professional Services are performed. Consultant will secure all occupational and professional licenses and permits from public and private sources necessary for the fulfillment of the obligations under this Agreement and will provide City a copy of its certificate of good standing to conduct business in the State of Kansas with this Agreement (**Exhibit F**).

N. FORCE MAJEURE CLAUSE

Neither party will be considered in default under this Contract because of any delays in performance of obligations hereunder due to causes beyond the control and without fault or negligence on the part of the delayed party, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, tornado, epidemic, quarantine restrictions, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the delayed party must notify the other party in writing of the cause of delay and its probable extent within ten (10) days from the beginning of such delay. Such notification will not be the basis for a claim for additional compensation. The delayed party must make all reasonable efforts to remove or eliminate the cause of delay and must, upon cessation of the cause, diligently pursue performance of its obligation under the agreement.

O. TITLES, SUBHEADS AND CAPITALIZATION

Titles and subheadings as used herein are provided only as a matter of convenience and will have no legal bearing on the interpretation of any provision of this Agreement. Some terms are capitalized throughout this Agreement but the use of or failure to use capitals has no legal bearing on the interpretation of such terms.

P. SEVERABILITY CLAUSE

If any provision of this Agreement is determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) will be null and void; provided, however, that the

remaining provisions of this Agreement will be unaffected and will continue to be valid and enforceable.

Q. **AMBIGUITY CLAUSE AND HIERARCHY OF INTERPRETATION**

If any ambiguity, inconsistency or conflict arises in the interpretation of this Agreement, the same will be resolved by reference first to the terms and conditions of this Agreement, and any exhibits attached hereto or incorporated by reference as noted below. In the event of any conflict or inconsistency between this Agreement and its exhibits, the following hierarchy of interpretation will apply:

1. This Agreement;
2. Scope of Services (Exhibit B);
3. City's Request for Proposals/Request for Qualifications (incorporated by reference);
4. Consultant's Response to RFP/RFQ (incorporated by reference).

[The remainder of this page is intentionally left blank.]

R. EXECUTION OF CONTRACT

The parties hereto have caused this Agreement to be executed this _____ day of _____ November _____ 2023.

CITY OF OLATHE, KANSAS

By: _____
John Bacon, Council Member/Mayor

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney or Deputy/Assistant City Attorney

ARC Physical Therapy+

By: Ben Peterson
Ben Peterson, CEO
ARC Physical Therapy+
6400 Glenwood St. Suite 203
Overland Park, Kansas 66202

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EXHIBIT A
Description of Project

Service Agreement
Discounted Rate with Designation as Preferred Therapy Provider

Date: 9/6/2023

Employer: City of Olathe

Address: 100 E. Santa Fe, Olathe, KS 66061

Phone: 913-971-8600

Employer Contact: Jana Goolsby

Employer Contact email: JLGoolsby@OLATHEKS.ORG

Option #1 Discounted Rate

Service	Description	Discounted Rate w/PT & OT referrals
Job Analysis/Test Development	Onsite Analysis Taking Measurements and building testing	\$150 per hour (988 hours of Job analysis and Testing Development). Project Total \$148,200
Post Offer Employment Test	Matches physical abilities with job functions	\$150 per candidate
Fit for Duty	Post Injury or following a leave of absence, or job transfer	\$100 per candidate
Test No Show Fee	24-hour cancellation notice required	\$75 w/out notice of cancellation prior

By signing below, you are accepting the discounted rate, directing therapy to ARC Physical Therapy+ for Workman's Compensation Injuries. The rates for services are accepted and the service rate is valid for 2 years from the date of the proposal. Payment is expected within 30 days of invoice. Either party may terminate services with 90 days written notice.

I agree I have designated in writing ARC Physical Therapy+ as the preferred provider for all skilled physical and occupational therapy services in workman's compensation claims. I have submitted documentation to our insurance provider, TPA, occupational medicine providers, orthopedic providers, and any other parties in our Workman's Compensation group. By doing so, will receive the discounted rates listed above. (If you do not wish to designate ARC Physical Therapy+ as your preferred provider of physical and occupational therapy services then please leave proceed to Service Agreement Option #2).

EXHIBIT B

Scope of Services

Date: 9/6/2023

Employer: City of Olathe

Address: 100 E. Santa Fe, Olathe, KS 66061

Phone: 913-971-8600

Employer Contact: Jana Goolsby

Employer Contact email: JLGoolsby@OLATHEKS.ORG

Injury Management Tools:

ARC Physical Therapy+ has been providing injury management tools and services for 20 years to a variety of employer partners. Cities, Counties, School Districts, Manufacturing, distribution, and construction companies rely on us to help guide them through the maze to implement the best solutions for their unique needs. We offer the full continuum of services allowing us to partner with employers in developing comprehensive programs for their work comp and group health concerns to develop a healthy workforce.

We help teach your employees how to manage their own injury prevention, exercise, and with greater efficiency.

ARC Physical Therapy +

What started as a physical and occupational therapy group specializing in workers' compensation treatment has grown into a new breed of company – a healthy workforce company – the region's foremost injury prevention, rehabilitation and return to work specialists.

In 20 years, ARC Physical Therapy+ has redefined the industry by treating the symptoms – plus the causes of employee health problems. We have grown to be the leader in our community, our market, and our industry.

Nationally, we are recognized for our leadership, cutting edge technology, standard-setting outcomes and strategies that successfully pair prevention with workers' compensation services. We save employers money and get patients back to work quickly. Thanks to ARC Physical Therapy+, employers can now understand the true cost of health care and appreciate the value that a strong medical partner can provide.

ARC works with employers throughout the region to develop healthy workforce initiatives first by developing validated job analysis for each position, and then implementing functional post offer employment testing strategies. After successfully implementing a hiring process that eliminates employment candidates not able to meet the physical demands of the job, employers are looking for strategies to address aging workforce and incumbent workforce concerns to continue to impact their overall workers' comp spending.

Our team of onsite professionals have conducted thousands of job analysis studies, developed, and implemented post offer employment testing for employers nationwide and provided therapy services for our employer partners. We focus on providing long-term strategies to assist in determining the best workforce solutions to match their unique needs.

In addition to providing businesses with excellent care of your injured employees, we are data driven and are able to provide you with outcome reports to help you identify trends in these injuries.

We can help in the development of a **Post Offer Work Simulation and Fit for Duty** testing program. The testing determines the essential functions of the job and provides the framework for developing the tasks of the work simulation test.

Implementing Post Offer Work Simulation Testing decreases workers' comp claim costs, reduces the incidence of workplace injury, and reduces turnover. It provides valuable baseline information for restricted duty work and return-to-work decisions and identifies pre-existing conditions for each employee candidate.

How does the process assist us with ADA and FMLA issues?

- Developing a detailed job analysis (the cornerstone of the testing program) identifies the essential functions of the job and allows you to also identify reasonable accommodations to address any **ADA or FMLA** claims.
 - Post offer testing further identifies functional abilities for any employment candidate with a **qualified disability**.
 - The job analysis and testing process allow you to clearly define what reasonable accommodation is as related to business necessity.
- The testing process includes post offer and fit for duty addresses **FMLA and ADA** claims with objective data to determine accurate abilities and accommodation needs.

POET: Post Offer Employment Testing

ARC Physical Therapy+ offers employers comprehensive injury management programs and considers post offer functional employment testing a critical component of the program. Our approach to test development and program design is based on our understanding of the unique needs and goals of our employer partners. POET's allows employers to determine who is capable of completing the essential functions of the job. Additionally, functional or work simulation employment exams decrease work related injuries, reduce turnover rate, identify pre-existing conditions, and establish baselines of function for all employment candidates.

ARC Physical Therapy+ provides return on investment reports for employers and provides additional frequent consulting to ensure that the testing program is consistent with any changes to the work process.

We understand the hiring environment is competitive and challenging. However, the benefits of testing employee applicants to ensure that candidates are a good match for the physical demands of the job provide a needed mechanism for eliminating poor candidates. The testing process also allows the employer to establish a baseline of physical function for all new hires.

The POET begins with a thorough medical history interview conducted by a licensed medical professional. Medical history identifies prior injuries, surgeries, treatments and/or medical conditions.

ARC Physical Therapy+ professionals will develop an individualized POET for the hiring position. The following is a list of the components of our POET.

1. Musculoskeletal Examination. This portion of the exam looks at all major joints and muscle groups. Muscles are checked for strength as well as atrophy. All major joints are evaluated for stability and function. Range of motion measurements are taken of the neck and back as well as any other joint that has limited motion.
2. Cardiovascular Strength. The job candidate will have his or her blood pressure and heart rate checked. The job candidate will be asked to perform a three-minute step test according to recognized medical standards to assess gross cardiovascular status.
3. Strength Measures. This portion of the test measures baseline strength according to recognized medical standards. The test also measures hand grip, pinch and back strength.
4. Dynamic Lift Strength. The job candidate will be instructed in proper body mechanics for lifting in several different postures. The job candidates will start with light weights and perform a progressive lifting sequence. After each successful lift, the job candidate will be asked if he or she can safely handle more weight.
5. Job Specific Tasks. This portion of the test assesses the job candidate's ability to perform the essential functions for the identified position he or she has been offered by the employer, simulating the tasks as closely as possible in a testing environment, and using actual job equipment when possible.
6. Reporting. When a job candidate completes the process, an employer representative is provided with a report that can assist the employer in making the final evaluation of the candidate's ability to perform the essential functions of the position he or she has been offered with or without reasonable accommodation. A "Capable" or "Not Capable" determination will be provided to the employer as part of the reporting process. All results will be transmitted within 24 hours of the completion of the test.

Return to Work Process

Studies show that keeping an employee actively engaged and on the job at their highest level of functional ability decreases the overall work comp costs and leads to full duty return to work more quickly. ARC Physical Therapy+ provides a state-of-the-art Return to Work Suite of services. Our system allows the treating Physical or Occupational therapist immediate access to the job essential functions data bank.

The essential demands of the job automatically populate into the therapy note to allow our therapists to:

1. Focus treatment goals on the essential functions of the job.
2. Create Ability Assessment criteria as part of the ongoing treatment process. Our therapists can match the functional abilities demonstrated in the clinic with the essential functions of any position analyzed. These assessments can be completed as often as there is a measurable increase in function to provide real time full duty return to work assessments.

Service	Description
Post Offer Employment Tests:	Comprehensive test including medical history interview, musculoskeletal exam, and job specific testing that matches physical abilities with job functions
Fit for Duty:	Post Injury or following a leave of absence or transfer to different position, job specific testing to verify ability to perform essential job demands
Job Analyses:	Includes onsite observation, data collection, and write up and validation of essential job demands

We look forward to the opportunity to get you started off with valuable information and documentation to be ready to test candidates and employees to make sure they have the essential functions to do the work you are hiring them or for returning to work to aid in the prevention of work-related injuries. ARC Physical Therapy+ specializes in the rehabilitation of employees after a work-related injury using functional activity-based treatment methods and continually progressing towards the essential functions of their job demands. We pride ourselves in our 20 plus years of experience in our specialty of helping employers prevent work-related injuries and in the rehabilitation of injured workers!

Please reach out to me with any questions or concerns. I look forward to working with you and your team in the development of a program to limit the risk of work-related injuries.

Respectfully,
Megan Leupold
Onsite Services Sales and Marketing
785.741.3208
mleupold@arcpt.com

EXHIBIT C
Fee & Rate Schedule

Service	Description	Discounted Rate w/PT & OT referrals
Job Analysis/Test Development	Onsite Analysis Taking Measurements and building testing	\$150 per hour (988 hours of Job analysis and Testing Development). Project Total \$148,200
Post Offer Employment Test	Matches physical abilities with job functions	\$150 per candidate
Fit for Duty	Post Injury or following a leave of absence, or job transfer	\$100 per candidate
Test No Show Fee	24-hour cancellation notice required	\$75 w/out notice of cancellation prior

EXHIBIT D
CITY OF OLATHE INSURANCE REQUIREMENTS

A. Insurance. Consultant agrees to secure and maintain throughout the duration of this Agreement insurance of such types and in at least such amounts as set forth below from a Kansas authorized insurance company which carries a Best's Policyholder rating of "A-" or better and carries at least a Class "VII" financial rating or better, unless otherwise agreed to by City:

1. Commercial General Liability: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any commercial general liability policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

Limits: Per Occurrence, including Personal & Advertising Injury and Products/Completed Operations: \$1,000,000; General Aggregate: \$2,000,000.

2. Business Automobile Insurance: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any automobile policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

Limits: Any Auto; OR All Owned Autos; Hired Autos; and Non-Owned Autos: Per occurrence, combined single limit: \$500,000
Notwithstanding the foregoing, if Consultant does not own any automobiles, then Consultant must maintain Hired and Non-Owned Auto insurance.

3. Worker's Compensation and Employer's Liability: Workers compensation insurance must protect Consultant against all claims under applicable state Worker's Compensation laws at the statutory limits, and employer's liability with the following limits.

Limits: \$500,000 Each Accident/\$500,000 Policy Limit/\$500,000 Each Employee

4. Professional Liability: Consultant must maintain throughout the duration of this Agreement and for a period of three (3) years after the termination of this Agreement, Professional Liability Insurance.

Limits: Each Claim: \$1,000,000; General Aggregate: \$1,000,000

5. Cyber Insurance: If Consultant will have access to the City's network or City's data, Consultant must maintain throughout the duration of this Agreement and for a period of three (3) years after the termination of this Agreement. Coverage must

include: Cyber Incident/Breach Response and Remediation Expenses, Digital Data Recovery, Privacy and Network Security Liability, and Notification Expense.

Limits: Per claim, each insuring agreement: \$1,000,000; Aggregate: \$1,000,000

B. Exposure Limits. The above are minimum acceptable coverage limits and do not infer or place a limit on the liability of Consultant nor has City assessed the risk that may be applicable to Consultant. Consultant must assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverage. The Consultant's insurance must be primary, and any insurance or self-insurance maintained by the City will not contribute to, or substitute for, the coverage maintained by Consultant.

C. Costs. The cost of insurance will be included in the Consultant's bid or proposal and must be at Consultant's expense. Any and all deductibles or self-insurance in the above described coverages will be the responsibility and at the sole risk of the Consultant.

D. Verification of Coverage

1. Consultant must provide a certificate of insurance on ISO form or equivalent, listing the City as the certificate holder, and additional insured endorsements for the requested coverages.
2. Any self-insurance must be approved in advance by the City and specified on the certificate of insurance. Additionally, when self-insured, the name, address, and telephone number of the claim's office must be noted on the certificate or attached in a separate document.
3. When any of the insurance coverages are required to remain in force after final payment, additional certificates with appropriate endorsements evidencing continuation of such coverage must be submitted along with the application for final payment.
4. For cyber insurance, the certificate of insurance confirming the required protection must confirm the required coverages in the "Additional Comments" section or provide a copy of the declarations page confirming the details of the cyber insurance policy.

E. Cancellation. No required coverage may be suspended, voided, or canceled, except after Consultant has provided thirty (30) days' advance written notice to the City.

F. Subconsultant's Insurance: If a part of this Agreement is to be sublet, Consultant must either cover all subconsultants under its insurance policies; OR require each subconsultant not so covered to meet the standards stated herein.

EXHIBIT E
Certificate of Insurance

EXHIBIT F
Certificate of Good Standing to Conduct Business in Kansas