



1750 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833
(800) 541-4591 Fax (916) 244-1199
<https://www.planjpa.org/>

CLAIMS COMMITTEE MEETING AGENDA

**Thursday, November 18, 2021
1:30 p.m.**

Zoom

Please Contact Katie Sullivan for Videoconference Information

All portions of this meeting will be conducted via teleconference in accordance with Government Code Section 54953.

Members of the public may observe and listen to the meeting via teleconference. No physical location will be available from which members of the public may observe the meeting and offer public comment. Public comments may be submitted in advance of the meeting by emailing Katie Sullivan at katie.sullivan@sedgwick.com. Emails can also be sent to Ms. Sullivan during the meeting and, if timely received, Ms. Sullivan will read or summarize the email to the Committee members. Members of the public may also speak when public comment is requested at the beginning of the meeting.

In compliance with the Americans with Disabilities Act, if you need a disability-related modification or accommodation to participate in this meeting, please contact Ms. Sullivan. Requests must be made as early as possible, and preferably at least one full business day before the start of the meeting. Documents and materials relating to an open session agenda item that are provided to the Committee will be available for public inspection.

Documents and materials relating to an open session agenda item that are provided to the Committee less than 72 hours prior to a regular meeting will be available for public inspection.

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|--------------------|---|
| <u>Page</u> | 1. CALL TO ORDER |
| | 2. INTRODUCTIONS |
| | 3. APPROVAL OF AGENDA AS POSTED (OR AMENDED) |

- Page** **4. PUBLIC COMMENTS** - The Public may submit any questions in advance of the meeting by contacting Katie Sullivan at: katie.sullivan@sedgwick.com. This time is reserved for members of the public to address the Committee relative to matters of the Claims Committee not on the agenda. No action may be taken on non-agenda items unless authorized by law. Comments will be limited to five minutes per person and twenty minutes in total.
- 4** **5. AB361 Update**
 A. Update on AB361 and Virtual Committee Meetings
 Recommendation: Staff recommends the Claims Committee reaffirm Resolution 2021-03 that, as a result of the COVID-19 emergency, meeting in person would present imminent risks to the health or safety of attendees, and the meeting should be held by teleconference as authorized by subdivision (e)(1)(C) of section 54943 of the Government Code.
- 6. CONSENT CALENDAR**
 If a Committee member would like to discuss any item listed, it may be pulled from the Consent Calendar.
- 6** *A. Minutes from the October 28, 2021, Claims Committee Meeting
 Recommendation: Staff recommends the Committee approve the Consent Calendar
- 7. CLAIMS MATTERS**
- 10** *A. Consideration of Proposed Changes to the Sedgwick (TPA) Claims Handling Guidelines and Best Practices
 Recommendation: Staff recommends the Claims Committee approve the Sedgwick (TPA) PLAN Program Claims Handling Guidelines and Best Practices, as revised.
- 28** *B. Review of the Claims Audit Report from Farley Consulting
 Recommendation: None
- 41** *C. Update Regarding Sedgwick Third Party Administrator Management of Restitution and Small Claims Court Representation
 Recommendation: Staff recommends Claims Committee provide direction to help define the scope of Third Party Administrator services with respect to restitution, and suggests we continue the service.
- 8. CLOSED SESSION**
 A. Pursuant to Government Code Section 54956.95(a), the Committee will hold a closed session to discuss the following claims:
- Hanhong Chen and Yan Tang v. City of Milpitas
- B. Pursuant to Government Code Section 54957.1, the Committee will report in open session any reportable action taken in closed session.

9. CLOSING COMMENTS

This time is reserved for comments by Claims Committee members and/or staff and to identify matters for future Claims Committee business.

- A. Claims Committee
- B. Staff

10. ADJOURNMENT

NOTICES:

- The next Claims Committee meeting will occur on Thursday, January 27, 2021, at 1:30pm via videoconference.

**PLAN JPA
CLAIMS COMMITTEE MEETING**

November 18, 2021

Agenda Items 5.A.

AB361 UPDATE

SUBJECT: Update on AB361 and Virtual Committee Meetings

BACKGROUND AND HISTORY:

PLAN JPA staff consulted with Board Counsel regarding recently passed legislation, AB361, pertaining to teleconference and virtual meetings. Under AB361, local agency boards may conduct meetings by teleconference subject to modified rules during a State-proclaimed state of emergency when either (1) social distancing measures are required or recommended by state or local officials, or (2) the governing board determines meeting in person would present imminent risks to the health or safety of attendees.

To continue to meet virtually, and because the Board does not meet monthly and its next meeting is in December, we are recommending PLAN JPA's Executive Committee, Claims Committee, and Board of Directors adopt a resolution to continue remote meetings based on the findings made in the resolution attached. To continue with remote meetings, reauthorization must occur at each meeting or at least once a month.

STAFF RECOMMENDATION:

Staff recommends the Claims Committee reaffirm Resolution 2021-03 that, as a result of the COVID-19 emergency, meeting in person would present imminent risks to the health or safety of attendees, and the meeting should be held by teleconference as authorized by subdivision ©(1)© of section 54943 of the Government Code.

REFERENCE MATERIALS ATTACHED:

None

November 18, 2021

Agenda Items 6.A

CONSENT CALENDAR

SUBJECT: Consent Calendar

BACKGROUND AND HISTORY:

The Consent Calendar consists of items that require approval or acceptance but are self-explanatory and require no discussion. If a Committee member would like to discuss any item listed, it may be pulled from the Consent Calendar.

STAFF RECOMMENDATION:

Staff recommends the Committee approve the Consent Calendar.

REFERENCE MATERIALS ATTACHED:

A. Minutes from the October 28, 2021, Claims Committee Meeting

**POOLED LIABILITY ASSURANCE NETWORK JOINT
POWERS AUTHORITY
(PLAN JPA)**

**MINUTES OF THE CLAIMS COMMITTEE
MEETING OF OCTOBER 28, 2021**

A regular meeting of the Claims Committee was held on October 28, 2021, via videoconference.

MEMBERS PRESENT: Donald Larkin, Chair, Morgan Hill
Ann Ritzma, Hillsborough
Michael Guina, Burlingame
Marc Zafferano, San Bruno

MEMBERS ABSENT: Rebecca Mendenhall, San Carlos
Robert Schultz, Los Gatos

OTHERS PRESENT: Katie Sullivan, PLAN JPA Assistant General Manager
Susan DeNardo, PLAN JPA Litigation Manager
Greg Rubens, Board Counsel

1. CALL TO ORDER:

The Regular Meeting of the PLAN JPA Claims Committee meeting was called to order at 1:32 p.m.

2. INTRODUCTIONS:

A roll call was taken and it was determined there was a quorum present.

3. APPROVAL OF THE AGENDA AS POSTED (OR AMENDED):

Michael Guina moved to approve the agenda as posted. Ann Ritzma seconded the motion. A roll call vote was taken and the motion passed unanimously by Donald Larkin, Ann Ritzma, Michael Guina, and Marc Zafferano.

4. PUBLIC COMMENTS:

None.

5. CONSENT CALENDAR:

Michael Guina moved to approve the following items: A) Minutes from the September 30, 2021, Claims Committee Meeting. Ann Ritzma seconded the motion. A roll call vote was taken and the motion passed unanimously by Donald Larkin, Ann Ritzma, Michael Guina, and Marc Zafferano.

6. AB361 UPDATE

A. Update on AB361 and Virtual Committee Meetings

PLAN JPA staff consulted with Board Counsel regarding recently passed legislation, AB361, pertaining to teleconference and virtual meetings. Under AB361, local agency boards may conduct meetings by teleconference subject to modified rules during a State-proclaimed state of emergency when either 1) social distancing measures are required or recommended by state or local officials, or 2) the governing board determines meeting in person would present imminent risks to the health or safety of attendees.

Since the Board of Directors does not meet until December 2021, staff recommended PLAN JPA's Executive Committee, Claims Committee, and Board of Directors adopt a resolution to continue remote meetings based on the findings made in the resolution. Reauthorization of the AB361 resolution must occur at each meeting or at least once a month.

Ann Ritzma moved to approve Resolution No. 2021-03: AB361. Michael Guina seconded the motion. A roll call vote was taken and the motion passed unanimously by Donald Larkin, Ann Ritzma, Michael Guina, and Marc Zafferano.

7. CLAIMS MATTERS:

A. Consideration of Defense Counsel Panel

Susan DeNardo, Litigation Manager, reminded the Committee PLAN JPA added attorneys to its panel generally with respect to the practice area of dangerous conditions and appellate cases in October 2020. She noted litigation management had found an increase in police liability claims being filed and the need for additional counsel with similar expertise in that area given the retirement of panel counsel. As such, the Litigation Management team requested applications from law firms with lawyers known to have expertise in defending police cases.

Ms. DeNardo review the applications for Aimee Hamoy, Partner with KDV Law, and various attorneys from the Rivera, Hewitt, Paul LLP firm.

Ann Ritzma moved to approve the attorney applications presented and the attorneys to PLAN JPA's Defense Counsel Panel. Donald Larking seconded the motion. A roll call vote was taken and the motion passed unanimously by Donald Larkin, Ann Ritzma, Michael Guina, and Marc Zafferano.

B. Consideration of Increase to Panel Rate

Ms. DeNardo reminded the Committee PLAN JPA has not increased its max defense panel rate in several years and currently sits on the lower end of attorney hourly rates paid by similar pools and public agencies. The Litigation Management team found a need to increase PLAN JPA's panel rate to compete for talented attorneys, as well as retain attorneys who continue to resolve claims in an effective and efficient manner.

Donald Larkin moved to approve the proposed max rate for general liability and police cases. Marc Zafferano seconded the motion. A roll call vote was taken and the motion passed unanimously by Donald Larkin, Ann Ritzma, Michael Guina, and Marc Zafferano.

8. CLOSED SESSION:

A. The Committee convened to closed session, pursuant to Government Code section 54956.95(a) at 1:46 p.m. to discuss the following claims:

- Anza Pump Station
- San Pedro Outfall
- Rodoni v. Town of Atherton
- Awash & Khalif v. Town of Tiburon
- Beam, Nathan v. Town of Los Gatos

B. Pursuant to Government Code Section 54957.1, the Committee reconvened to open session at 2:21 p.m. The following actions were taken under closed session:

No reportable action was taken during closed session.

9. CLOSING COMMENTS:

A. Claims Committee

None

B. Staff

Katie Sullivan, Assistant General Manager, reminded the Committee the next scheduled Claims Committee meeting fell on Thanksgiving Day. The Committee agreed to hold the November meeting on November 18th instead. Additionally, the Committee agreed to cancel the December Claims Committee meeting due to the holidays.

10. ADJOURNMENT

The Regular Meeting of the PLAN JPA Claims Committee was adjourned at 2:24 p.m.

A handwritten signature in cursive script, reading "Katie Sullivan", written over a horizontal line.

Katie Sullivan, Assistant General Manager

November 18, 2021

Agenda Items 7.A.

CLAIMS MATTERS

SUBJECT: Consideration of Proposed Changes to the Sedgwick (TPA) Claims Handling Guidelines and Best Practices

BACKGROUND AND HISTORY:

On June 11, 2020, the Board adopted the Sedgwick (TPA) PLAN Program Claim Handling Guidelines and Best Practices. These guidelines clearly define reporting requirements and how the Third-Party Administrator (TPA) should be procedurally handling claims and interacting with the members. The Claims Committee updated the policy on March 25, 2021 and the Board approved the changes on the consent calendar on June 18, 2021. The Sedgwick (TPA) PLAN Program Claims Handling Guidelines and Best Practices needs to be reviewed and updated if TPA personnel change or if PLAN JPA's excess/reinsurance changes.

Updates have been made and are included in the reference material attached both in redline and a clean version. The updates include the new team lead, current insurers' names and policy numbers, and further definition for reporting claims to Litigation Management.

STAFF RECOMMENDATION:

Staff recommends the Claims Committee approve the Sedgwick (TPA) PLAN Program Claims Handling Guidelines and Best Practices, as revised.

REFERENCE MATERIALS ATTACHED:

- Sedgwick (TPA) PLAN Program Claim Handling Guidelines and Best Practices_11.18.2021 (redline)
- Sedgwick (TPA) PLAN Program Claim Handling Guidelines and Best Practices_11.18.21(clean)



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SEDGWICK (TPA) PLAN PROGRAM CLAIM HANDLING GUIDELINES AND BEST PRACTICES

A. LOSS REPORTING

All new PLAN member losses (including claim incident reporting) will be reported to Sedgwick TPA by email to US-YORK-ABAGclaims@Sedgwick.com.

Claims Manager **Jaeran Ahn Cynthia Gordon** will assign the claims for Adjuster handling.

Claims will be set up and entered into Claims Connect (York Claims Expert- Version B) within 24 hours of receipt of the notice of loss. PLAN and Members will have 24/7 accessibility to online claim info via York Expert Claims System- Version B.

The following steps will occur upon submission of a claim:

1. Sedgwick TPA will acknowledge the assignment within 48 hours of the submission of the claim.
2. A preliminary report will be generated by the Sedgwick Adjuster to the Member Liaison **within seven days**, incorporating the Adjuster's initial assessment of the following:
 - a. Material Facts;
 - b. Coverage;
 - c. Liability;
 - d. Damages;
 - e. Reserves;
 - f. Plan of Action; and
 - g. Next Diary Date.

Within 30 days of assignment, the Adjuster will issue a full Captioned Report or Claims Management Report (depending on the Member's preference) summarizing the Adjuster's investigation up to that time. The next report date will be reflected in that report with the Adjuster considering the type and extent of investigation pending. Sedgwick's Adjusters will report by email to the designated Member representative in all cases.

Those losses that meet the Excess reporting criteria based upon the nature of injury and/or those where reserves are posted into PLAN's layer will also be reported to PLAN along with a copy of the captioned reports. Reporting will be directed to both US-YORK-ABAGclaims@Sedgwick.com, and to the appointed PLAN Litigation Manager as follows:

William Portello
Litigation Manager
1750 Creekside Oaks Drive, Suite 200
Sacramento, California
Direct: (916) 244-1199
William.Portello@sedgwick.com

Cases meeting the following criteria must be reported to the PLAN Litigation Manager, with an indication of the reason for excess reporting, consistent with the requirements of the applicable excess carrier as soon as reasonably practicable:

- a) A serious case, (also including multiple claims or suits arising out of one Occurrence), in which the exposure may exceed fifty (50%) percent of the PLAN Member's retained limit based on your or the defense counsel's judgment (adding indemnity and legal reserve together);
- b) A demand or demands totaling fifty (50%) percent of the PLAN Member's remaining retained limit or more;
- c) Title 42 USC 1983 matters alleging a violation of civil rights;
- d) Non-Employment Sexual Abuse conduct;
- e) Any claim or case in which a complaint has been filed and served on the PLAN Member;
- f) Death;
- g) Paralysis, paraplegia, quadriplegia;
- h) Loss of eye(s) or limb(s) of use of sensory organ;
- i) Amputation;
- j) Spinal cord or brain injury;
- k) Third degree burns involving ten percent or more of the body
- l) Sensory organ or Nerve injury and/or neurological deficit;
- m) Serious burns;
- n) Loss of use of any body function,
- o) Substantial disability or disfigurement; or
- p) Loss of work time of six months or more.

The PLAN's General Liability Program limits are \$15 million. ~~CARMA (first excess coverage) policy number Peleus Insurance Company (First Excess Coverage) policy number is #2902087-03 CARMA 2021-GL~~ provides \$95 Million in excess above \$51 Million PLAN JPA coverage. The ~~s~~Second Excess Coverage layer is ~~Safety National (Reinsurance Excess Coverage) QBE Specialty Insurance Company~~ policy number ~~FCA10062231-2021 QSX01002-00~~ provides \$5 Million in excess of \$15 Million PLAN JPA Coverage and \$95 Million ~~CARMA Peleus~~ Excess Policy. The Third layer of Excess Coverage is ~~Everest Gemini Insurance Company (Reinsurance Excess Coverage)~~ policy number ~~FC10062231-2021 PEM-0000152-00~~ provides \$5 Million excess of \$51 Million PLAN JPA Coverage, \$95 Million ~~Peleus Excess CARMA Excess~~ Policy and \$5 Million ~~QBE Excess Policy Safety National~~. The Fourth excess coverage is Hallmark Specialty Insurance Company, policy number ~~77PEF210150 77PEF20000EC~~ provides \$5 Million Excess \$15 Million PLAN JPA Coverage, \$95 Million ~~Peleus CARMA~~ Excess Policy, \$5 Million ~~QBE Excess Company Safety National~~ and \$5 Million ~~Everest Gemini Excess~~ Policy. The Fifth excess coverage is ~~Allied World National Assurance Company (AWAC) Arch Insurance~~ policy number ~~UXP1038841-000 0312-9632~~ provides \$5 Million excess \$15 Million PLAN JPA Coverage, \$59 Million ~~CARMA Peleus~~ excess policy, \$5 Million ~~QBE excess Safety Nationale company policy~~, \$5 Million ~~Everest Gemini Excess~~ policy and \$5 Million Hallmark excess policy.

Reports to the excess carrier are to be sent to Alliant Insurance Services as follows:

Alliant Insurance Services-Claims Advocate Group

Robert Frey or Elaine Tizon
100 Pine Street, 11th Floor,
San Francisco, CA 94111
Main Phone: 415-403-1400
Fax: 415-403-1466
RFrey@Alliant.com/ETizon@Alliant.com

The servicing contacts at Alliant Insurance Service are as follows:

Seth Cole, ARM
Senior Vice President
Direct: 415.403.1419
scole@alliant.com

Stacey Weeks, CRIS
Vice President
Direct: 415.403.1448
sweeks@alliant.com

Thomas Joyce
Technical Assistant
Direct: 415.403.1417
TJoyce@alliant.com

B. FILE ADMINISTRATION

Claim files are maintained electronically and managed in York Claims Expert Version- B (Claims Connect). Claim files will be set up so that contents are orderly and contain consistent documentation with the following information:

1. Substantiation of initial reserve analysis;
2. Documentation of investigation and liability analysis;
3. Timely supervisory reviews and diary; and
4. An Action Plan with target dates for completion.

The Claim Management Review Report and/or captioned reports in Word will be utilized for summary purposes at 30 days post assignment. The subsequent Diary Date should follow at intervals no greater than 30 days on files where an investigation is pending and at intervals no greater than 90 days in litigated matters. Routine status reports need not address all captions. When investigation and/or discovery results in significant changes to the file's evaluation, a new full-captioned report or CMR should be completed.

C. ADJUSTER CONTACTS

Two-point contact, preferably voice-to-voice, should be made with the claimant (or attorney) within 48 hours of receipt of the claim. The Adjuster will verify the facts of the loss, request documentation of damages (if any), and identify witnesses. Depending on the severity of loss, the Adjuster may take photos and/or arrange for a recorded statement.

The Adjuster will make at least two phone call attempts to the claimant within 48 hours, and if the Adjuster is unable to make contact during this timeframe, they will follow-up by mail with either a contact card or letter of acknowledgement. The Adjuster will also contact the Member within 48 hours of receipt of notice of a claim to discuss and initiate the investigation process. Member contact and dialog should be clearly documented in the file.

D. INVESTIGATION

Investigation involves issues of liability, with consideration to comparative negligence, risk transfer assessment (contractual) and subrogation/recovery potential. Investigation involves evaluating the causal relationship between the occurrence and the stated injury or property damage. The Adjuster will immediately initiate investigation of any issues that may be material to potential litigation and, where appropriate, arrange for immediate on-site investigation. Opportunities for early resolution should be recognized and acted upon. Investigation should be completed within 30 days of assignment. Investigations not completed within 30 days will be subject to an action plan, outlining specified time frames and responsibilities.

Investigation includes, but is not limited to:

1. Obtaining the following information, as applicable:
 - a. Police reports, Traffic Collision Reports, and/or IA reports;
 - b. Documentation of alleged special damages;
 - c. Claimant's medical records;
 - d. Central Index Bureau's report for prior injury data; and
 - e. Photos/diagram of the occurrence scene and any other supporting documentation.

Additionally, recorded statements, where applicable, should be taken to preserve testimony and oral evidence.

For claims involving serious physical injuries, total loss of vehicle or extensive property damage, the Adjuster may conduct field investigations as appropriate including accident/incident reconstruction. Sedgwick TPA, along with the Member and the PLAN Litigation Manager, will be actively involved in selecting appropriate and qualified vendors to conduct such investigations.

Documented and current action plans will be maintained in the file, based on investigative findings and developments. Action plans will include resolution goals and the specific interim steps needed to move the claim toward resolution. Action plans are reviewed as a part of each diary review. Periodic

evaluation of the file should be conducted to determine whether fraud triggers are present. If fraud triggers are identified, Adjusters will make appropriate internal referrals and notifications.

E. RESERVING

Sedgwick's Adjuster should establish and document initial reserves within seven days of receipt of the claim. Reserves should be established appropriately to reflect the exposure of the claim based on current facts of the claim and the ultimate probable cost of each claim.

One example of how reserves may be calculated is as follows:

1. Where there is a 75% or greater chance for favorable outcome, reserve for favorable outcome plus 25% of probable adverse outcome.
2. Where there is 51% to 75% chance for favorable outcome, reserve for favorable outcome plus 50% of probable adverse outcome.
3. Where there is a 25% to 50% chance for favorable outcome, reserve for favorable outcome plus 75% of probable adverse outcome.
4. Where there is less than a 25% chance for favorable outcome, reserve for 100% of the probable adverse outcome.

Establishing reserves is also subjective in nature, and reserves may change or vary based on the Adjuster's and/or Defense counsel's initial or subsequent case evaluation, any changes in fact patterns, and/or any changes in the legal expense budget. Precedent jury verdicts and recent jury awards on similar court cases may also influence reserve valuation.

Reserving practice will be overseen by Sedgwick Claim Manager and closely observed by the PLAN Litigation Manager. Member questions regarding reserving practices should be discussed with **Cynthia Gordon Jaeran Ahn**.

F. GOVERNMENT TORT CLAIMS ASSESSMENT

Upon receipt of claim, Sedgwick's Adjuster will make Government Code Timeliness, Sufficiency, and Liability assessments and will forward recommendations for response to the Member. Notices will be sent by the Member.

Sedgwick TPA is positioned to assist with ~~mailingsending~~ notices of untimeliness and insufficiency, if requested **and also authorized to do so** by Member.

G. RECOVERY MANAGEMENT

Sedgwick's Adjusters will identify claims in which there is potential opportunity for recovery from a third party and in these cases, complete sufficient investigation before referral to PLAN for handling.

H. LITIGATION MANAGEMENT

Sedgwick Adjusters shall become familiar with PLAN Litigation Management Guidelines, which are incorporated into these standards by reference. The PLAN Program requires an initial case evaluation and budget, from defense counsel within 30 days of assignment of counsel. The Adjuster, PLAN Litigation Manager, and defense counsel will review the evaluation and agree on a plan of action, be it dispositive motions or discovery. The Adjuster, PLAN Litigation Manager, and counsel will repeat this process throughout the pendency of the matter, keeping the best interest of the Member and PLAN in mind.

The Adjuster should be proactive and aggressive in identifying cases for early attention and resolution. For example, in cases where liability is adverse to the Member and settlement is desired, steps should be taken which include non-rejection of the claim in order to avoid litigation. In adverse liability matters, whenever possible, limited discovery should be performed with that discovery geared toward evaluation and resolution. However, any such limitations should not prejudice the defense of the case and all necessary discovery and law-and-motion may be utilized if it reasonably appears that a case is not resolving.

On the other hand, there will be cases that must be aggressively defended and prepared for trial.

The Sedgwick Adjuster shall monitor Defense counsel to be certain that the agreed-upon action plan and billing guidelines are followed. Defense counsel's billings shall be reviewed for compliance with the Litigation Management Guidelines and established hourly rates. Billings not in compliance should be returned to defense counsel for necessary adjustments. Any billing dispute should be referred to the PLAN Litigation Manager for resolution.

I. CLAIM DISPOSITION & SETTLEMENT RESOLUTION

Sedgwick will clearly document a written disposition strategy and plan of action with specific time frames for completion in the file. All requests for authority will be clearly documented in the claim file.

Authority requests within the Member's SIR will be directed to the Member Liaison. Authority requests within the PLAN Program layer (above the Member's SIR, and up to \$15 million) are to be directed to the PLAN Litigation Manager, with a copy to the Member for potential Claim Committee consideration.

Once authority has been extended, aggressive and prompt settlement negotiations will be conducted by the Sedgwick Adjuster, or by counsel with Member and PLAN's approval. The Adjuster will consider all possible settlement options, such as Alternative Dispute Resolutions, mediation, arbitration and structured settlements. The claimant's Medicare eligibility will be determined and Medicare's interest resolved with any settlement.

J. SUPERVISORY CASE REVIEW

The role of the Supervisor is to guide the process from claim receipt through resolution, to ensure uniform claim management processes are implemented, and to act as a "second set of eyes" on Adjuster actions and decisions. Claims Manager Jaeran Ahn ~~Cynthia Gordon~~ will document all supervisory activity, including suggestions for future claim handling. The Supervisor will approve all reserve recommendations and payment requests. The Supervisor may decide, at any point during the life of the file, that active supervision is no longer necessary, leaving further file activity to the Adjuster.

Documented supervisory review shall occur at least every 90 days upon any claim reaching an incurred value greater than \$25,000 and on all new litigated claims.

K. COMMUNICATION/ADHERENCE TO SPECIAL INSTRUCTIONS

Sedgwick Adjusters should maintain adequate communication with the Member and PLAN through methods such as monthly loss runs, status reports, captioned reports, reserve and settlement authorizations, conducting claim reviews and returning phone calls and email inquiries from the Member or PLAN within one business day.

Sedgwick TPA shall provide periodic (monthly, quarterly and annual) cumulative monthly loss runs, as well as Deductible Billing reports to PLAN and Members.

Monthly loss run reports should be provided each month to the Member and PLAN. A report of all claims closed in the preceding fiscal year shall be provided at the end of each fiscal year. A claim status report shall accompany any request for reserve, payment, or settlement over \$25,000. Status reports shall include a synopsis of the loss, the current status of the loss, a proposed action plan, and current financial totals.

PLAN and Sedgwick TPA shall also meet quarterly to discuss the status of all open litigated claims within the PLAN layer or that have a probability of piercing PLAN's layer to develop a plan to complete any additional investigation required to evaluate liability or damages.

Sedgwick TPA should adhere to PLAN's specific instructions with regard to issues such as Location and Department coding, Reserving, Status Reports, Surveillance, Subrogation/contribution recoveries, assignment of defense counsel, and settlement authority.

L. MEDICARE DATA REPORTING

Sedgwick TPA must become familiar with the PLAN Data Reporting Specifications Document, which is incorporated into these standards by reference. PLAN's RRE is 34614 and its office code is A783-00002. The Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA) requires a Responsible Reporting Entity (RRE) to identify and report bodily injury claims involving a potential Medicare recipient. To do so requires collecting specific claimant data, including:

1. Legal name
2. Date of birth
3. Social security number
4. Gender

M. COVERAGE

Sedgwick TPA will recognize potential coverage issues and immediately coordinate with PLAN for review with PLAN coverage counsel. Sedgwick TPA will issue Reservation of Rights letters following PLAN Coverage counsel's advice. Declination of coverage letters will be generated by PLAN Coverage counsel.

The PLAN appeals process is articulated in PLAN Claims Policy 3.3 - Coverage Determination and PLAN Revised Risk Coverage Agreement (7.1.1992) - Appendix II Liability Program Procedures. Sedgwick Adjusters may be called upon to present claim findings and disposition during the appeal process starting with Claims Committee review, to Executive Committee, to the full Board of Directors, and finally, if necessary, to Mediation.



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SEDGWICK (TPA) PLAN PROGRAM CLAIM HANDLING GUIDELINES AND BEST PRACTICES

A. LOSS REPORTING

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 - e. Reserves;
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Those losses that meet the Excess reporting criteria based upon the nature of injury and/ or those where reserves are posted into PLAN's layer will also be reported to PLAN along with a copy of the captioned reports.

Reporting will be directed to both US-YORK-ABAGclaims@Sedgwick.com and the appointed PLAN Litigation Manager as follows:

William Portello
Litigation Manager
1750 Creekside Oaks Drive, Suite 200
Sacramento, California
Direct: (916) 244-1199
William.Portello@sedgwick.com

Cases meeting the following criteria must be reported to the PLAN Litigation Manager, with an indication of the reason for excess reporting, consistent with the requirements of the applicable excess carrier as soon as reasonably practicable:

- a) A serious case (including multiple claims or suits arising out of one *Occurrence*), in which the exposure may exceed fifty (50%) percent of the PLAN Member's retained limit based on your or the defense counsel's judgment (adding indemnity and legal reserve together);
- b) A demand or demands totaling fifty (50%) percent of the PLAN Member's remaining retained limit or more;
- c) Title 42 USC 1983 matters alleging a violation of civil rights;
- d) Non-Employment Sexual Abuse conduct;
- e) Any claim or case in which a complaint has been filed and served on the PLAN Member;
- f) Death;
- g) Paralysis, paraplegia, quadriplegia;
- h) Loss of use of any sensory organ;
- i) Amputation;
- j) Spinal cord or brain injury;
- k) Third degree burns involving ten percent or more of the body;
- l) Nerve injury and/or neurological deficit;
- m) Loss of use of any body function,
- n) Substantial disability or disfigurement; or
- o) Loss of work time of six months or more.

The PLAN's General Liability Program limits are \$15 million. CARMA (first excess coverage) policy number CARMA 2021-GL provides \$9 Million in excess above \$1 Million PLAN JPA coverage.

The second coverage layer is Safety National (Reinsurance Excess Coverage) policy number FCA10062231-2021 provides \$5 Million in excess of \$1 Million PLAN JPA Coverage and \$9 Million CARMA Excess Policy.

The Third layer of Excess Coverage is Everest (Reinsurance Excess Coverage) policy number FC10062231-2021 provides \$5 Million excess of \$1 Million PLAN JPA Coverage, \$9 Million CARMA Excess Policy, and \$5 Million Safety National.

The Fourth excess coverage is Hallmark Specialty Insurance Company, policy number 77PEF210150 provides \$5 Million Excess \$1 Million PLAN JPA Coverage, \$9 Million CARMA Excess Policy, \$5 Million Safety National, and \$5 Million Everest Policy.

The Fifth excess coverage is Allied World National Assurance Company (AWAC) policy number 0312-9632 provides \$5 Million excess \$1 Million PLAN JPA Coverage, \$9 Million CARMA excess policy, \$5 Million Safety National policy, \$5 Million Everest policy, and \$5 Million Hallmark excess policy.

Reports to the excess carrier are to be sent to Alliant Insurance Services as follows:

Alliant Insurance Services-Claims Advocate Group
Robert Frey or Elaine Tizon
100 Pine Street, 11th Floor,
San Francisco, CA 94111
Main Phone: 415-403-1400
Fax: 415-403-1466
RFrey@Alliant.com/ETizon@Alliant.com

The servicing contacts at Alliant Insurance Service are as follows:

Seth Cole, ARM
Senior Vice President
Direct: 415.403.1419
scole@alliant.com

Stacey Weeks, CRIS
Vice President
Direct: 415.403.1448
sweeks@alliant.com

Thomas Joyce
Technical Assistant
Direct: 415.403.1417
TJoyce@alliant.com

B. FILE ADMINISTRATION

Claim files are maintained electronically and managed in York Claims Expert Version- B (Claims Connect). Claim files will be set up so that contents are orderly and contain consistent documentation with the following information:

1. Substantiation of initial reserve analysis;
2. Documentation of investigation and liability analysis;
3. Timely supervisory reviews and diary; and
4. An Action Plan with target dates for completion.

The Claim Management Review Report and/or captioned reports in Word will be utilized for summary purposes at 30 days post assignment. The subsequent Diary Date should follow at intervals no greater than 30 days on files where an investigation is pending and at intervals no greater than 90 days in litigated matters. Routine status reports need not address all captions. When investigation and/or discovery results in significant changes to the file's evaluation, a new full-captioned report or CMR should be completed.

C. ADJUSTER CONTACTS

Two-point contact, preferably voice-to-voice, should be made with the claimant (or attorney) within 48 hours of receipt of the claim. The Adjuster will verify the facts of the loss, request documentation of damages (if any), and identify witnesses. Depending on the severity of loss, the Adjuster may take photos and/or arrange for a recorded statement.

The Adjuster will make at least two phone call attempts to the claimant within 48 hours, and if the Adjuster is unable to make contact during this timeframe, they will follow-up by mail with either a contact card or letter of acknowledgement. The Adjuster will also contact the Member within 48 hours of receipt of notice of a claim to discuss and initiate the investigation process. Member contact and dialog should be clearly documented in the file.

D. INVESTIGATION

Investigation involves issues of liability, with consideration to comparative negligence, risk transfer assessment (contractual) and subrogation/recovery potential. Investigation involves evaluating the causal relationship between the occurrence and the stated injury or property damage. The Adjuster will immediately initiate investigation of any issues that may be material to potential litigation and, where appropriate, arrange for immediate on-site investigation. Opportunities for early resolution should be recognized and acted upon. Investigation should be completed within 30 days of assignment. Investigations not completed within 30 days will be subject to an action plan, outlining specified time frames and responsibilities.

Investigation includes, but is not limited to:

Obtaining the following information, as applicable:

- a. Police reports, Traffic Collision Reports, and/or IA reports;
- b. Documentation of alleged special damages;
- c. Claimant's medical records;
- d. Central Index Bureau's report for prior injury data; and
- e. Photos/diagram of the occurrence scene and any other supporting documentation.

Additionally, recorded statements, where applicable, should be taken to preserve testimony and oral evidence.

For claims involving serious physical injuries, total loss of vehicle or extensive property damage, the Adjuster may conduct field investigations as appropriate including accident/incident reconstruction. Sedgwick TPA, along with the Member and the PLAN Litigation Manager, will be actively involved in selecting appropriate and qualified vendors to conduct such investigations.

Documented and current action plans will be maintained in the file, based on investigative findings and developments. Action plans will include resolution goals and the specific interim steps needed to move the claim toward resolution. Action plans are reviewed as a part of each diary review. Periodic evaluation of the file should be conducted to determine whether fraud triggers are present. If fraud triggers are identified, Adjusters will make appropriate internal referrals and notifications.

E. RESERVING

Sedgwick's Adjuster should establish and document initial reserves within seven days of receipt of the claim. Reserves should be established appropriately to reflect the exposure of the claim based on current facts of the claim and the ultimate probable cost of each claim.

One example of how reserves may be calculated is as follows:

1. Where there is a 75% or greater chance for favorable outcome, reserve for favorable outcome plus 25% of probable adverse outcome.
2. Where there is 51% to 75% chance for favorable outcome, reserve for favorable outcome plus 50% of probable adverse outcome.
5. Where there is a 25% to 50% chance for favorable outcome, reserve for favorable outcome plus 75% of probable adverse outcome.
6. Where there is less than a 25% chance for favorable outcome, reserve for 100% of the probable adverse outcome.

Establishing reserves is also subjective in nature, and reserves may change or vary based on the Adjuster's and/or Defense counsel's initial or subsequent case evaluation, any changes in fact patterns, and/or any changes in the legal expense budget. Precedent jury verdicts and recent jury awards on similar court cases may also influence reserve valuation.

Reserving practice will be overseen by Sedgwick Claim Manager and closely observed by the PLAN Litigation Manager. Member questions regarding reserving practices should be discussed with Jaeran Ahn.

F. GOVERNMENT TORT CLAIMS ASSESSMENT

Upon receipt of claim, Sedgwick's Adjuster will make Government Code Timeliness, Sufficiency, and Liability assessments and will forward recommendations for response to the Member. Notices will be sent by the Member.

Sedgwick TPA is positioned to assist with mailing notices of untimeliness and insufficiency, if requested by Member.

G. RECOVERY MANAGEMENT

Sedgwick's Adjusters will identify claims in which there is potential opportunity for recovery from a third party and in these cases, complete sufficient investigation before referral to PLAN for handling.

H. LITIGATION MANAGEMENT

Sedgwick Adjusters shall become familiar with PLAN Litigation Management Guidelines, which are incorporated into these standards by reference. The PLAN Program requires an initial case evaluation and budget, from defense counsel within 30 days of assignment of counsel. The Adjuster, PLAN Litigation Manager, and defense counsel will review the evaluation and agree on a plan of action, be it dispositive motions or discovery. The Adjuster, PLAN Litigation Manager, and counsel will repeat this process throughout the pendency of the matter, keeping the best interest of the Member and PLAN in mind.

The Adjuster should be proactive and aggressive in identifying cases for early attention and resolution. For example, in cases where liability is adverse to the Member and settlement is desired, steps should be taken which include non-rejection of the claim in order to avoid litigation. In adverse liability matters, whenever possible, limited discovery should be performed with that discovery geared toward evaluation and resolution. However, any such limitations should not prejudice the defense of the case and all necessary discovery and law-and-motion may be utilized if it reasonably appears that a case is not resolving.

On the other hand, there will be cases that must be aggressively defended and prepared for trial.

The Sedgwick Adjuster shall monitor Defense counsel to be certain that the agreed-upon action plan and billing guidelines are followed. Defense counsel's billings shall be reviewed for compliance with the Litigation Management Guidelines and established hourly rates. Billings not in compliance should be returned to defense counsel for necessary adjustments. Any billing dispute should be referred to the PLAN Litigation Manager for resolution.

I. CLAIM DISPOSITION & SETTLEMENT RESOLUTION

Sedgwick will clearly document a written disposition strategy and plan of action with specific time frames for completion in the file. All requests for authority will be clearly documented in the claim file.

Authority requests within the Member's SIR will be directed to the Member Liaison. Authority requests within the PLAN Program layer (above the Member's SIR, and up to \$1 million) are to be directed to the PLAN Litigation Manager, with a copy to the Member for potential Claim Committee consideration.

Once authority has been extended, aggressive and prompt settlement negotiations will be conducted by the Sedgwick Adjuster, or by counsel with Member and PLAN's approval. The Adjuster will consider all possible settlement options, such as Alternative Dispute Resolutions, mediation, arbitration, and structured settlements. The claimant's Medicare eligibility will be determined, and Medicare's interest resolved with any settlement.

J. SUPERVISORY CASE REVIEW

The role of the Supervisor is to guide the process from claim receipt through resolution, to ensure uniform claim management processes are implemented, and to act as a "second set of eyes" on Adjuster actions and decisions. Claims Manager Jaeran Ahn will document all supervisory activity, including suggestions

for future claim handling. The Supervisor will approve all reserve recommendations and payment requests. The Supervisor may decide, at any point during the life of the file, that active supervision is no longer necessary, leaving further file activity to the Adjuster.

Documented supervisory review shall occur at least every 90 days upon any claim reaching an incurred value greater than \$25,000 and on all new litigated claims.

K. COMMUNICATION/ADHERENCE TO SPECIAL INSTRUCTIONS

Sedgwick Adjusters should maintain adequate communication with the Member and PLAN through methods such as monthly loss runs, status reports, captioned reports, reserve, and settlement authorizations, conducting claim reviews and returning phone calls and email inquiries from the Member or PLAN within one business day.

Sedgwick TPA shall provide periodic (monthly, quarterly, and annual) cumulative monthly loss runs, as well as Deductible Billing reports to PLAN and Members.

Monthly loss run reports should be provided each month to the Member and PLAN. A report of all claims closed in the preceding fiscal year shall be provided at the end of each fiscal year. A claim status report shall accompany any request for reserve, payment, or settlement over \$25,000. Status reports shall include a synopsis of the loss, the current status of the loss, a proposed action plan, and current financial totals.

PLAN and Sedgwick TPA shall also meet quarterly to discuss the status of all open litigated claims within the PLAN layer or that have a probability of piercing PLAN's layer to develop a plan to complete any additional investigation required to evaluate liability or damages.

Sedgwick TPA should adhere to PLAN's specific instructions with regard to issues such as Location and Department coding, Reserving, Status Reports, Surveillance, Subrogation/contribution recoveries, assignment of defense counsel, and settlement authority.

L. MEDICARE DATA REPORTING

Sedgwick TPA must become familiar with the PLAN Data Reporting Specifications Document, which is incorporated into these standards by reference. PLAN's RRE is 34614 and its office code is A783-00002. The Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) requires a Responsible Reporting Entity (RRE) to identify and report bodily injury claims involving a potential Medicare recipient. To do so requires collecting specific claimant data, including:

1. Legal name
2. Date of birth
3. Social security number
4. Gender

M. COVERAGE

Sedgwick TPA will recognize potential coverage issues and immediately coordinate with PLAN for review with PLAN coverage counsel. Sedgwick TPA will issue Reservation of Rights letters following PLAN Coverage counsel's advice. Declination of coverage letters will be generated by PLAN Coverage counsel.

The PLAN appeals process is articulated in PLAN Claims Policy 3.3 - Coverage Determination and PLAN Revised Risk Coverage Agreement (7.1.1992) - Appendix II Liability Program Procedures. Sedgwick Adjusters may be called upon to present claim findings and disposition during the appeal process starting with Claims Committee review, to Executive Committee, to the full Board of Directors, and finally, if necessary, to Mediation.

November 18, 2021

Agenda Item 7.B.

CLAIMS MATTERS

SUBJECT: Review of the Claims Audit Report from Farley Consulting

BACKGROUND AND HISTORY:

Tim Farley, Farley Consulting Services, conducted an audit of PLAN's general liability and property claims in August 25-29, 2021. A total of 50 liability files were audited including 34 litigated files. Sedgwick adjusters are currently handling the files. The audit was conducted in compliance with PLAN JPA policy and to assure PLAN that its claims are effectively adjusted according to industry standards; to identify general deficiencies in fiscal and technical procedures and provide recommended remedies where possible; and to provide PLAN with a document fulfilling compliance with claims auditing requirements of the CAJPA accreditation guidelines.

The following are audit highlight summaries:

- Sedgwick is adequately staffed to handle PLAN claims. All five examiners currently have caseloads below the recommended maximum of 150.
- Sedgwick is conducting thorough investigation on PLAN claims.
- Five files raised questions about reserving levels. Sedgwick's TPA Supervisor explained reserve methodology to auditor.
- Audit questions member reporting claims to Sedgwick in a timely manner.
- Claims handling staff are invoking unique claims defenses and immunities where possible.
- Pursuit of subrogation is done and appropriate in all instances reviewed.
- Communication to excess insurers is timely.
- Housekeeping in the majority of the files was good.
- Status updates from defense counsel are consistently timely.
- No litigation management deficiencies are identified.

RECOMMENDATION:

None.

REFERENCE MATERIALS ATTACHED:

- 2021 Claims Audit for PLAN JPA, dated September 14, 2021



September 14, 2021

Ms. Katie Sullivan
Pooled Liability Assurance Network JPA (PLAN)
% Sedgwick
1750 Creekside Oaks Drive, Suite 200
Sacramento, CA 95833

by email: katie.sullivan@sedgwick.com

**Pooled Liability Assurance Network JPA (PLAN)
2021 Liability/Property Claims Audit**

Dear Ms. Sullivan:

Enclosed is the report of the recent audit of liability claims for the Pooled Liability Assurance Network JPA (Plan).

PLAN instructed Farley Consulting Services (FCS) to conduct an independent audit of its property and liability claims. This report provides the results of that audit.

Thank you for the opportunity to complete this important project for PLAN.

Sincerely,

A handwritten signature in black ink that reads "Tim Farley". The signature is fluid and cursive.

Timothy P. Farley, CPCU
President

Encl.

Liability Claims Audit - 2021

for

POOLED LIABILITY ASSURANCE NETWORK JPA (PLAN)



September 14, 2021



F A R L E Y
CONSULTING SERVICES, LLC

14041 N. Running Brook Lane ~ Marana, AZ 85658-4503
Mobile: 760.533.3439 ~ farleyconsulting2000@gmail.com

**An Independent Claims Management
Consulting Firm**



Ms. Katie Sullivan
Pooled Liability Assurance Network JPA (PLAN)
% Sedgwick
1750 Creekside Oaks Drive, Suite 200
Sacramento, CA 95833

Pooled Liability Assurance Network (PLAN) 2021 Liability/Property Claims Audit

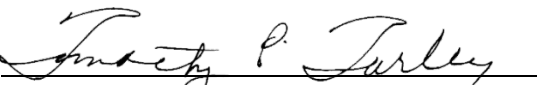
This report summarizes the results of an audit of liability claims handling for the Pooled Liability Assurance Network JPA (PLAN). FCS reviewed 50 claims via on-line access to the claims management information system of Sedgwick. The claims reviewed were chosen from PLAN's open loss inventory. The audit includes:

1. Interviews and discussions with Ms. Dori Zumwalt and Ms. Jill Petrarca of Sedgwick during the review process.
2. Presentation of audit findings to Ms. Zumwalt, Ms. Petrarca, and Ms. Susan Denardo at the conclusion of the audit. This discussion also permitted FCS to clarify its understanding of specific questions that arose during the audit.
3. Receipt and consideration of responses to audit findings submitted by Sedgwick when preparing this report.

FCS appreciates the opportunity to complete this important project for PLAN.

Respectfully submitted,

FARLEY CONSULTING SERVICES

by 
Timothy P. Farley, CPCU
President

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Appendix

Audit Claim List

I. Executive Summary

The audit of 50 liability/property claims for PLAN reveals that Sedgwick is providing competent claims administration. Notable deficiencies are identified in the key claims administration area of case reserve accuracy.

Specific observations and recommendations are:

1. Sedgwick is adequately staffed to handle PLAN claims. All 5 examiners currently have caseloads below the recommended maximum of 150.

Exhibit 1 on page 3 displays the unit assigned to handle PLAN claims. Individual caseloads are also indicated.
2. Sedgwick is not consistently establishing and maintaining accurate reserves. Exhibit 2 on page 5 provides a list of 5 claims that may require adjustment
3. Sedgwick is conducting thorough investigation on PLAN claims. No investigation deficiencies are identified, but several claims seem to have been reported to Sedgwick late. Claims received by any member should be reported to Sedgwick within 2 working days. The claims in question were reported later than that – some significantly later.

Claims handling staff are invoking unique claims investigation techniques (e.g., application of available defenses and immunities) whenever possible.

Five of the claims reviewed involved subrogation pursuit. Sedgwick identified the responsible party and pursued that party in all instances.
4. Thirty-four of the claims reviewed involve some element of litigation. Status updates from defense counsel are consistently timely. No litigation management deficiencies are identified.
5. Sedgwick is establishing and maintaining timely diary. Still, 2 claims exhibit deficiencies. Those claims are listed and discussed in Exhibit 3 on page 7.
6. All material observed to conduct this audit was obtained via access to Sedgwick's claims management information system. That system is efficient. No documentation clarity or organization issues were identified.
7. Fifteen of the claims reviewed generated the need to notify PLAN of potential excess exposure. All qualifying claims have been reported timely.

These and other elements of this review are discussed in more detail in the remainder of this report.

II. Audit Results

A. Background

The primary objectives for this audit are:

- To assure PLAN that its claims are effectively adjusted according to industry standards.
- To identify general deficiencies in fiscal and technical procedures and provide recommended remedies where possible.
- To provide PLAN with a document fulfilling compliance with claims auditing requirements of the CAJPA accreditation guidelines.

PLAN member claims are handled by Sedgwick from its Roseville, California office. All claims handling activity was observed via access to Sedgwick's information system.

The claims reviewed were chosen from PLAN's open inventory. A list of the claims reviewed is in the Appendix.

The audit was conducted 8/25/2021-8/29/2021.

Audit findings were presented to Sedgwick on 8/31/21. Sedgwick provided its reply on 9/1/21.

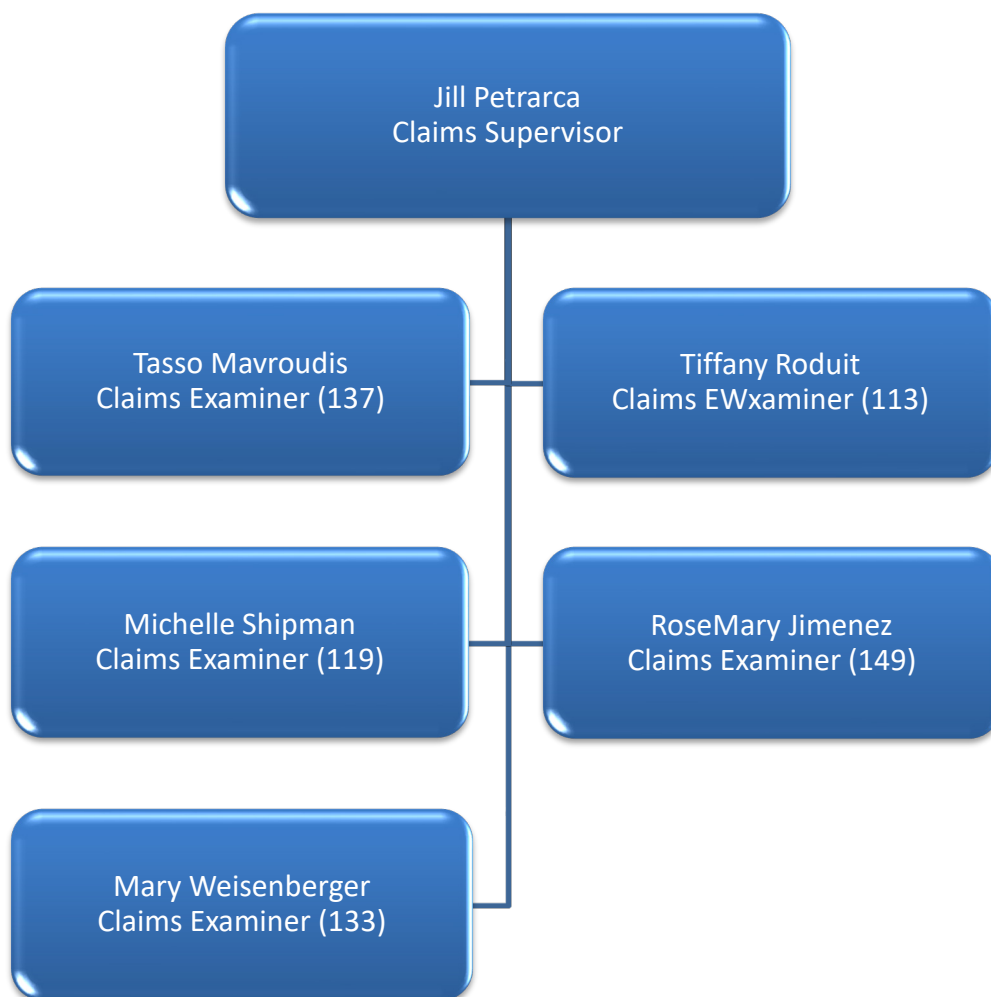
B. Current Staffing and Caseloads

Exhibit 1 displays the organizational make-up of Sedgwick personnel involved with PLAN claims administration.

The recommended maximum caseload for an individual handling liability claims, including litigated cases similar to those incurred by PLAN members, is 150. All 5 examiners are in compliance with this standard.

Sedgwick is adequately staffed to handle PLAN's current claims volume.

Exhibit 1 - Claims Handling Organizational Chart



C. Claims Handling Analysis

1. Reserves

PLAN liability case reserves are based primarily on:

- Anticipated extent of damages/injuries sustained.
- Degree of liability attributable to the PLAN member.
- The existence of additional tortfeasors (responsible parties who may share in the application of liability).
- The application of statutory defenses or immunities available to PLAN and its members.
- History of settlement trends of the involved venue.

Sedgwick is not consistently taking these and other factors into consideration when establishing and amending reserves on PLAN claims. Five claims may require reserve adjustment. Exhibit 2 on page 5 lists and discusses those claims.

2. Investigation

Thorough investigation of PLAN liability claims includes:

- Making prompt contact with the injured parties or their representative.
- Verifying the extent of the PLAN member's liability.
- Accounting for injury history to determine any pre-existing condition or concurrent causation.
- Canvassing for possible witnesses to the incident.
- Obtaining recorded or written statements regarding the incident from the claimant and witnesses when possible.
- Following up with medical providers and attorneys to gain a clear understanding of the severity of the injury.
- Obtaining police accident reports, if applicable, when the damage or injury was the result of a traffic accident.
- Aggressive pursuit of additional responsible parties to offset the member's contribution to damage/injury awards.
- Obtaining signed releases, including court approved releases when minors are involved, prior to final claim resolution.

PLAN claims exhibit thorough investigation, including:

- A consistently well documented knowledge of applicable tort statutes and available immunities. Periodic status reports accurately cited applicable California tort law and available immunities.
- A reasonable utilization of expert investigation/testimony when necessary.

The audit identified several claims that were submitted to Sedgwick weeks after the member received notice of the claim. FCS encourages each member to ensure that claims are sent to Sedgwick within 2 working days of receipt.

Exhibit 2 – PLAN JPA Case Reserve Analysis

Claim No.	Current Reserve	Recommended Reserve	Comments
ABGV 27513	\$1 (loss)	\$15,000 loss)	The claimant tripped and fell. She is represented by counsel who claims a “brain injury.” The severity of the injury is in question, but a precautionary reserve increase is warranted until more is known.
ABGV 27543	\$1 (loss)	\$15,000 (loss)	The claimant tripped and fell. She is represented by counsel. The recommended reserve is precautionary.
ABGV 27595	\$500 (expense)	\$5,000 (expense)	Claim activity notes indicate defense counsel has been retained.
ABGV 27675	\$0 (expense)	\$5,000 (expense)	Notes indicated the defense of the member has been accepted subject to a reservation of rights letter issued previously.
ABGV 27688	\$1 (loss)	\$10,000 (loss)	The claimant was injured when her car was struck during a police pursuit. Her car was not the subject of the pursuit. Notes indicate she suffered multiple fractures.

Reserve recommendations are based on FCS’s review of claims for similar pooling entities in California.

3. Litigation Management

The control of litigation activity and accompanying expenses is vital to the fiscal performance of any public entity.

Thirty-four of the claims reviewed involve some degree of litigation. The audit focused primarily on high-valued claims, which are routinely litigated.

Sedgwick is effectively managing litigation activity on PLAN claims. Many of the claims reviewed contain extensive litigation.

No litigation management deficiencies are identified.

4. Diary/Claim Closure

Industry standards require that some adjusting activity be conducted and documented every 30 to 45 days on open active cases. Claims that have been formally rejected can maintain a 6-month diary based on the statutory government claim response period. The failure to adhere to an aggressive, timely diary routinely results in the failure to respond to settlement/resolution opportunities and the failure to close claims timely.

Sedgwick is maintaining timely diary activity on all, but 2 of the claims reviewed. Those claims are discussed in Exhibit 3 on page 7.

5. Risk Management Information System (RMIS)/Documentation Clarity

All data observed to conduct this audit was provided via access to Sedgwick's claims management information system. This category of analysis seeks to confirm that the information contained on that system clearly documents all claims handling activity.

No RMIS deficiencies are identified. The system is efficiently capturing all necessary activity and data. FCS was able to access all this information.

6. Supervision

Supervisory instructional and review notes are consistent on the claims reviewed. The notes are instructive and proactive.

No supervisory deficiencies are identified.

7. Excess Reporting

Fifteen of the claims reviewed required reporting to PLAN. A timely initial notification was issued to PLAN on all 15 claims. Follow-up status reports are also timely.

No excess reporting deficiencies are identified.

Exhibit 3 – PLAN JPA Diary Analysis

Claim Number	Discussion
ABGV 25171	This claim arises out of a land subsidence allegation. Documentation for this claim is made up almost entirely of legal bills. There is no claim management review in more than 3 years. This seems to be one of many claims surrounding this incident, and it is possible another claim is serving as a “master” claim. Still, any periodic status updates should appear in all related claims.
ABGV 27543	Sedgwick received notice of this claim on 5/5/21. As of the day of this review (8/27/21), no claim management review or initial review had been documented.

Appendix

Audit Claim List

November 18, 2021

Agenda Item 7.C.

CLAIMS MATTERS

**SUBJECT: Update Regarding Sedgwick Third Party Administrator Management of
Restitution and Small Claims Court Representation**

BACKGROUND AND HISTORY:

Sedgwick's Third Party Administrator (TPA) has contracted to provide claims administration services for PLAN JPA. Claims administration includes the adjustment, management and oversight of claims arising out of PLAN JPA's self-insured general liability, automobile, and property programs. The required tasks are identified in Exhibit A to the Agreement for General Liability/Automotive Liability/Property Liability Claims Administration Services and included in an flat annual rate for the services. These tasks include, but are not limited to, "[p]reserving subrogation rights and overseeing subrogation recovery as required".

Sedgwick TPA is seeking to further define the scope of their work with respect to members seeking restitution. Litigation Management will provide an idea of number of claim, success, and members currently utilizing this service during the meeting.

STAFF RECOMMENDATION:

Staff recommends Claims Committee provide direction to help define the scope of Third Party Administrator services with respect to restitution, and suggests we continue the service.

REFERENCE MATERIALS ATTACHED:

- Agreement for General Liability/Automotive Liability/Property Liability Claims Administration Services
- Addendum to Extend the Agreement for An Additional Period



333 City Boulevard West, Suite 1500
Orange, CA 92868
www.yorkrsg.com

July 16, 2014

Jim Hill
ABAG PLAN Corporation
101 8th Street
Oakland, CA 94607

RECEIVED
JUL 17 2014

RE: Cover Letter for Signed Contract

ABAG PLANCORP.

Dear Mr. Hill,

Thank you so much for entrusting us with your claims administration program. We appreciate and are excited about the opportunity to partner with you. Please find enclosed two signed originals of the contract. Please return one signed original to us in the self-addressed envelope we have included with this package.

If any questions should arise, please contact Jon Lord at Jon.Lord@yorkrsg.com or via telephone at (949) 463-8502.

Sincerely,

Jody Gray
President, York Public Entity
E: Jody.Gray@yorkrsg.com
P: (714) 620-1336

7.17.2014

JEORR / SUSAN —

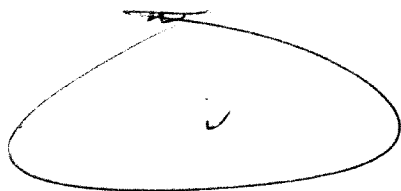
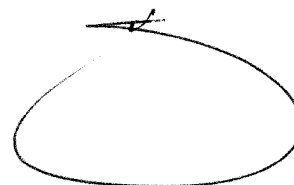
PLEASE RETURN CONTRACT FOR
OUR RECORDING & FILES.

THANCS —

7-17-2014

Jon —

SIGNED CONTRACT ATTACHED.



**AGREEMENT FOR GENERAL LIABILITY/ AUTOMOTIVE LIABILITY/
PROPERTY LIABILITY CLAIMS ADMINISTRATION SERVICES**

This Agreement (the "Agreement") is effective as of the 1st day of August 2014 (the "Effective Date") between the **ABAG PLAN Corporation**, a nonprofit corporation, ("PRINCIPAL"), having offices at 101 8TH St. Oakland, CA 94607, and **YORK RISK SERVICES GROUP, INC.**, ("YORK"), a Corporation organized under the laws of the State of New York with its principal place of business at 99 Cherry Hill Road, Parsippany, New Jersey 07054.

WHEREAS, PRINCIPAL desires to retain YORK pursuant to the terms and provisions of this Agreement to provide Claims Administration Services on claims arising out of PRINCIPAL'S municipal self-insured GENERAL LIABILITY/ AUTOMOBILE LIABILITY/ PROPERTY pooling program (the "Plan Program") during the term of this Agreement; and

WHEREAS, PRINCIPAL names the ASSOCIATION OF BAY AREA GOVERNMENT (ABAG) its managing agent to oversee this agreement, and

WHEREAS, YORK desires to be retained by PRINCIPAL pursuant to the terms and provisions of this Agreement to provide Claims Administration Services on claims arising out of the Program during the term of this Agreement; and

WHEREAS, YORK, by entering into this Agreement, shall be obligated to provide Claims Administration Services to PRINCIPAL on the terms and conditions set forth herein;

NOW THEREFORE, for and in consideration of the promises set forth hereinabove, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, YORK and PRINCIPAL agree as follows:

I. DEFINITIONS

- A. "PRINCIPAL" shall mean ABAG PLAN Corporation.
- B. "ABAG" shall mean the Association of Bay Area Governments as agent of the Principal and administrator of the PLAN Program and of this Agreement for claims administrative services.
- C. "CLAIMS ADMINISTRATION SERVICES" shall include the administration, adjustment, management, and oversight of claims arising out of PRINCIPAL'S self-insured GENERAL LIABILITY, AUTOMOBILE and PROPERTY programs.
- D. CLAIMS ADMINISTRATION SERVICES shall also include, but not limited to, the services contained in the Scope of Work provided in Exhibit A.

E. "CLAIMS" shall mean claims, arising under the PLAN Program and which are referred to YORK for adjusting during the term of this Agreement.

F. "INFORMATION" or "CONFIDENTIAL INFORMATION" shall mean documentation, data or information relevant to PRINCIPAL or claimant that is created by YORK or that comes into its possession as a result of the rendering of services by YORK to PRINCIPAL, pursuant to the Agreement.

G. "CONFIDENTIAL INFORMATION" is information not publicly available and includes, without limitation, the work product, investigation materials, trial preparation materials including but not limited to opinions and mental impressions of YORK personnel, communications with defense and coverage counsel and non-public personal information of insureds.

H. "LOSS ADJUSTMENT EXPENSE" shall mean, in addition to fees to be paid in accordance with items listed or inferred herein Agreement, all reasonable expenses necessary to the adjustment of a claim in accordance with this Agreement, including but not limited to, legal fees, court costs and fees for court reporters, expert witnesses, investigation, photocopies, subpoenas, photographs, maps, accounting, chemical or physical analysis, independent medical exams or other evaluations, depositions, appraisal fees and expenses, bill review, utilization review and any other similar cost, fee or expense reasonably chargeable to the investigation, negotiation, settlement or defense of a claim or loss or subrogation actions. YORK may, but need not, elect to utilize its own staff to perform these services.

I. "SYSTEMS" shall mean severally or collectively, YORK's proprietary claims handling system.

J. "MEMBER" shall mean a municipal entity participating in the PLAN Program.

K. "PLAN Program" shall mean the self-funded municipal self-insurance pool created by PRINCIPAL, ABAG, and the participating cities and towns in the pool.

II. TERM OF AGREEMENT

The term of this Agreement shall commence on August 1, 2014 and shall continue until and through July 30, 2017 (the "Term"). This Agreement will be deemed extended to cover each additional claim that PRINCIPAL refers to YORK after the end of the aforesaid period (subject to the extensions as aforesaid) and which YORK accepts for handling.

III. CLAIMS ADMINISTRATION SERVICES (the "Services")

PRINCIPAL hereby retains YORK to provide Claims Administration Services, as set forth in this Agreement, including any Exhibit A attached hereto, for the Claims that arise out of the PLAN PROGRAM that are assigned via ABAG to YORK.

A. The Services to be rendered by YORK shall be in conformance with the requirements and provisions of this Agreement together with all applicable rules, orders, and interpretations issued by the applicable regulatory authorities as of the date hereof.

B. YORK acknowledges its obligation to comply with all applicable statutes and any rules or regulations of the applicable regulatory authorities.

C. YORK shall perform Claims Administration Services for each Claim assigned to it hereunder during the life of the claim.

D. YORK acknowledges that execution of this Agreement does not guarantee that YORK will be assigned any particular number of Claims.

IV. DUTIES OF YORK

A. YORK shall maintain sufficient staff with the necessary experience and management oversight. Adjusters assigned to Claims shall have a case load that allows proper attention to the work.

B. To the extent required by law, YORK shall utilize only licensed adjusters and licensed private investigators, where applicable and such adjusters and investigators shall in the rendering of their services conform to the provisions of all applicable laws, rules, orders, or written interpretations issued by the applicable regulatory authorities.

C. YORK shall investigate, evaluate, negotiate, settle, or deny Claims within the standing authority granted to YORK from time to time by ABAG. YORK may settle Claims in excess of its standing authority limits only with prior written approval of ABAG, which ABAG shall, in writing, promptly grant or deny upon York's request for authority.

D. Upon termination of the Agreement, all hard copy and electronic files will be transferred at PRINCIPAL'S expense.

E. YORK acknowledges that all of the Claims files in its possession are the property of PRINCIPAL and agrees to promptly provide access to or deliver any such file to PRINCIPAL, at PRINCIPAL'S reasonable expense, at any time upon PRINCIPAL'S request. In exchange for PRINCIPAL'S absolute right to obtain the Claims files, PRINCIPAL

agrees that it shall not have the right to set off any sums claimed due from YORK against fees due YORK under this Agreement.

F. YORK expressly agrees to hold all funds and assets of PRINCIPAL that come into its control or possession during the term of this Agreement as a fiduciary of PRINCIPAL in conjunction with direction from ABAG.

G. YORK shall make available, through YORK'S proprietary claims system, claim-related data with "web-enabled" access. PRINCIPAL, ABAG and MEMBERS will have "view only" access to the system. PRINCIPAL, ABAG and MEMBERS will bear their own hardware, software, connection and similar costs for accessing YORK'S electronic claims management system.

H. During the Term of this Agreement and at all times that there are open Claims being handled by YORK, YORK shall fully cooperate with PRINCIPAL, ABAG and Members, with ABAG retaining ultimate authority.

I. During the Term of this Agreement and thereafter until all Claims assigned hereunder are closed, YORK agrees to:

(1) Maintain in force a fidelity bond or equivalent insurance, such as Third Party Crime insurance, for the protection of PRINCIPAL, at a limit not less than one million dollars (\$1,000,000), to cover the risk of loss due to the wrongful conversion of any funds and assets of PRINCIPAL by YORK or its employees or independent contractors during the term of this Agreement. YORK shall maintain said bond or insurance for a period of two (2) years after the expiration of this Agreement;

(2) Maintain in force an errors and omissions policy, at a limit not less than five million dollars (\$5,000,000) per occurrence and to maintain coverage for a period of at least two (2) years after the expiration of the last contract with PRINCIPAL, or if the errors and omissions coverage is claims-made, YORK agrees that, for said two (2) year period, the "retro" date will not be later than the inception date of this Agreement;

(3) Maintain in force a general liability policy, which names PRINCIPAL as an Additional Insured and which provides limits not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) aggregate and two million dollars (\$2,000,000) products/completed operations aggregate;

(4) Maintain in force a workers' compensation and employers liability policy, which provides coverage to employees of YORK at limits not less than one million dollars (\$1,000,000);

(5) Maintain in force an automobile liability policy, which names PRINCIPAL as an additional insured and which provides a limit of no less than one million dollars (\$1,000,000);

(6) Provide that the aforementioned policies are recognized as "primary and non-contributory" and contain a waiver of subrogation in favor of PRINCIPAL.

J. YORK shall notify PRINCIPAL's insurer of all claims which may affect the program insurance coverage in excess of PRINCIPAL's Self-Insured Retention layer in accordance with the instructions of PRINCIPAL's insurer as provided to YORK pursuant to Section V.(A) of this Agreement. York shall also notify PRINCIPAL on any claim which exceeds a Member's Self Insured Limits.

K. Notwithstanding anything to the contrary contained herein, and to the extent applicable, YORK agrees to comply with all obligations imposed upon it by law.

V. DUTIES OF ABAG

A. ABAG shall promptly provide YORK with such information as YORK may require, including, but not limited to, any copy of documents describing its self-insured GENERAL LIABILITY/ AUTOMOBILE LIABILITY/ PROPERTY program, and all amendments thereto including but not limited to documents submitted to any governmental tribunals for approval of the Program, as well as incident reports and information related thereto in PRINCIPAL'S possession and otherwise cooperate with YORK in carrying out YORK'S tasks hereunder.

B. Upon receipt of loss notices, primarily MEMBER through ABAG or, in special circumstances ABAG directly, shall promptly assign the loss to YORK.

C. ABAG shall promptly make funds available for Claim and Loss Adjustment Expense payments with respect to claims referred to YORK and respond to YORK's requests to issue checks in payment of Claims and such checks shall be distributed in accordance with ABAG's Claims processing procedures. Alternatively, ABAG may direct that YORK open and maintain an escrow account to pay Claims and Loss Adjustment Expenses with Funds provided by ABAG as required for that purpose. All bank charges associated with these accounts shall be borne by ABAG.

D. ABAG shall provide YORK with training material, along with initial and subsequent training on ABAG'S forms and other documents affecting ABAG'S obligations which are provided to YORK and any written

interpretation thereof issued by ABAG or any applicable regulatory body. During the term of this Agreement and at all times that there are open Claims being handled by York, PRINCIPAL, ABAG and MEMBER shall fully cooperate with YORK.

- E. PRINCIPAL covenants and agrees that PRINCIPAL, its employees, agents, including but not limited to ABAG, MEMBERS or independent contractors, will not misuse the information contained within the Claims files. PRINCIPAL further covenants and agrees to maintain the confidentiality of the information contained within the Claims files, as required by applicable State and Federal law and regulations.

VI. SYSTEMS AND DATA PROCESSING

A. Although YORK authorizes PRINCIPAL, ABAG and MEMBERS to use or have access to its Systems in performance of Claims Administration Services enumerated in this Agreement, this does not license YORK's system to PRINCIPAL, ABAG or MEMBERS nor shall PRINCIPAL, ABAG or MEMBERS have, or assert, any property interest whatsoever in the Systems or any improvements or additions YORK makes to its Systems during and/or in the course of YORK's performance under this Agreement, whether or not such improvements or additions were made at the suggestions, request or direction of PRINCIPAL, ABAG or MEMBERS. Notwithstanding the foregoing, the data entered or maintained thereon pursuant to this Agreement is the property of PRINCIPAL.

B. This Agreement grants to PRINCIPAL, ABAG nor MEMBERS no right to possess or reproduce all or any part of the Systems used, owned or controlled by YORK performing all or any part of Claims Administration Services and PRINCIPAL, covenants that it, ABAG and MEMBERS shall not do so.

C. YORK expressly agrees that claim-related data generated and/or maintained in connection with this Agreement or any Exhibit hereto shall be and remain the sole property of PRINCIPAL and YORK shall have no right, title, or interest in such data other than such rights necessary to perform Claim Administration Services upon termination.

VII. COMPENSATION

A. YORK shall be entitled to receive and PRINCIPAL shall be obligated to pay only such fees, allowances, costs, reimbursements, or other compensation as are specified as follows:

PRINCIPAL shall pay YORK the following compensation:

- (i) PRINCIPAL agrees to pay YORK an Administration Fee of \$591,034.00 for the first year fee; \$608,765.00 for the second year fee; and \$627,028.00 for the third year fee; and

(ii) A one-time data conversion fee of \$5,000.00 will be due upon execution;

B. PRINCIPAL shall pay YORK the fees due under VII. A of this Agreement no later than thirty (30) days after PRINCIPAL'S receipt of York's invoice for the conversion fee after execution of the contract and York's quarterly invoices in equal installments for the administration fee. Timely payment is an express condition of York's obligations hereunder.

VIII. AUDIT

A. YORK shall maintain books, records, reports and other documents, in electronic or other format reasonably acceptable to PRINCIPAL relating to its Claims Administration Services performed under this Agreement. All such records and documents pertaining to Claims and the services rendered by York shall be the property of PRINCIPAL and be open for inspection, audit and copying, at PRINCIPAL'S expense, by PRINCIPAL and its agents or their representatives during all regular business hours with reasonable prior notice to YORK. YORK shall cooperate fully with all such agents or other representatives of PRINCIPAL during audits or examinations conducted by PRINCIPAL or its agents.

B. At any time during the Term of this Agreement, or thereafter, provided PRINCIPAL is not in default under this Agreement, PRINCIPAL may conduct, or cause to have conducted, an audit of YORK's operations to determine whether YORK has performed its obligations hereunder in compliance with this Agreement.

C. Audits pursuant to this Section VIII shall be conducted in a manner that does not interfere with YORK'S daily operations. If third party is hired for the audit, a non-disclosure/confidentiality agreement will be signed by third party prior to access. YORK will review audit remarks and be allowed the opportunity to furnish remarks regarding the audit at the time the audit is submitted to PRINCIPAL.

IX. CONFIDENTIALITY

A. Both parties hereto acknowledge and agree that PRINCIPAL'S, ABAG's and Member's information, data and documentation, including but not limited to, non-public and personal information subject to the provisions of the Gramm-Leach-Bliley Act, 15 U.S.C. Subchapter 1, Sections 6801-6809 et. seq., personal health information under the Health Insurance Portability and Accountability Act, 42 U.S.C. 1301, et. seq., and further including, without limitation, all information, data and documentation related to manuals, lists, policyholder information, operating and other systems, business practices and procedures, any information regarding insureds insurance policies, claimants, and Claims, any business, governmental or regulatory matters of

PRINCIPAL, and other information furnished to or obtained by YORK, pursuant to or in connection with this Agreement or in connection with the Services to be rendered, may be confidential ("Confidential Information"). YORK shall not divulge, disclose or use the Confidential Information except for purposes of this Agreement, or as may be expressly agreed in writing by the parties, or as may otherwise be required or directed by applicable law or judicial process. This Section IX shall survive the termination of this Agreement, regardless of the reason for termination.

B. During the Term of this Agreement, and after its termination for any reason, PRINCIPAL shall have the right to request in writing and receive from York either: (i) the immediate return or (ii) confirmation of the immediate destruction of any tangible records, documents, e-mails, computer files, CDs, disks, and any other tangible item that contains, represents, or otherwise includes any Confidential Information of PRINCIPAL. In addition, PRINCIPAL shall have the right, during the Term of this Agreement and after its termination, to request that YORK permanently delete and destroy any Confidential Information contained in any computers, hard drives, servers or other data storage systems of YORK. YORK agrees that PRINCIPAL may seek an injunction by a court of competent jurisdiction enjoining YORK from violating any terms of this Agreement or the confidentiality and non-use provisions of this Section IX. Injunctive relief shall be in addition to any other remedies that PRINCIPAL may have under the law. Notwithstanding the foregoing, YORK may retain a record copy of Claims files and the data therein, for accounting, insurance and similar purposes. YORK shall secure said record copy against improper use or disclosure.

C. YORK acknowledges and agrees that any Confidential Information disclosed to, or acquired by it is disclosed and/or acquired solely for the purposes of facilitating the provision of the services to be rendered by the YORK for and on behalf of PRINCIPAL. YORK shall be solely responsible for informing its employers, officers, and directors of the provisions of the Section and for any acts of its employees, officers or directors that violate the provisions of the Section.

D. Notwithstanding the foregoing, PRINCIPAL agrees that information used for adjusting claims is not subject to statutory or regulatory restrictions against disclosure for that purpose.

X. INDEMNIFICATION

A. YORK agrees to indemnify, defend and hold harmless PRINCIPAL and PRINCIPAL directors, officers, employees, and agents, from and against any and all causes of action, claims, damage, loss, costs and expenses (including, without limitation, fines, damages, liabilities, liens, losses, costs and expenses, including reasonable attorney's fees and litigation expenses) incurred by PRINCIPAL or any of PRINCIPAL directors, officers, attorneys, employees and agents by reason and to the extent of any material breach of this Agreement by YORK, or by reason and to the extent of any negligent, or otherwise wrongful act or omission of YORK or of its officers directors, attorneys, employees or agents.

B. PRINCIPAL agrees to indemnify, defend and hold harmless YORK and its directors, officers, employees and agents from and against any and all causes of action, claim, damage, loss, costs and expenses (including, without limitation, fines, damages, liabilities, liens, losses, costs and expenses, including reasonable attorneys fees and litigation expenses) incurred by YORK and its directors, officers, employees and agents, to the extent such cause of action, claim, damage, loss, cost or expense is not attributable to the negligent or otherwise wrongful act or omission of York.

C. The above defense, indemnification and hold harmless undertakings shall survive the termination of this Agreement.

D. PRINCIPAL acknowledges that YORK has been engaged to provide professional services and that it is not the intent of the parties that YORK assumes any insurance risk. The parties agree that the foregoing defense, indemnification and hold harmless undertakings represent a reasonable allocation of commercial risk between the parties.

XI. BREACH AND TERMINATION

A. If a material breach by either party of this Agreement occurs, the non-breaching party shall identify the breach by delivery of written notice thereof to the breaching party.

B. Upon delivery of written notification of breach, the breaching party shall have a period of fifteen (15) business days or an agreed upon date made within the fifteen (15) business days within which time the breaching party shall cure the breach. Should the breaching party fail to fully cure the breach within the designated time frame, the non-breaching party may terminate this Agreement by delivery of thirty (30) days written notice of termination to the breaching party. Any notice of breach or termination shall be delivered pursuant to Section XIII C hereto.

C. This Agreement may be terminated by a party without the necessity of any notice or right to cure, upon the occurrence of any of the following events:

(1) The expiration of the Term set forth in Section II or any renewal thereof;

(2) The commencement of bankruptcy, insolvency or conservatorship proceedings by the other party, or, if such proceedings are brought against the other party, the other party's failure to have such proceedings dismissed within 45 days.

D. Either party may, without reason, terminate this Agreement with at least sixty (60) days prior written notice to the other party.

XII. EQUITABLE ADJUSTMENT

A. PRINCIPAL shall have the right to direct YORK to perform additional services or to perform services in a specific or different way.

B. This Agreement contemplates that the standards applicable to this Agreement are those in effect on the date of this Agreement, whether such standards are set forth in statutes, regulations, rules, orders, case law or otherwise.

C. In the event of a directive from PRINCIPAL as set forth in Section XII. A or a change in a standard as set forth in Section XII B., YORK shall be entitled to an equitable adjustment in its compensation if such directive or change increases YORK's cost of providing the services YORK renders under this Agreement.

XIII. GENERAL

A. YORK shall not be liable or deemed to be in default for any delay or failure in performance under this Agreement or any Exhibit of this Agreement, or any interruption of Claims Administration Services resulting, directly or indirectly, from acts of God, civil or military authority, or any similar cause beyond the reasonable control of YORK for as long as such condition exists. YORK shall give immediate notice to PRINCIPAL of any delay or failure in performance or of any interruption of Claims Administration Services that has or may occur as soon as YORK becomes aware of such events.

B. If any dispute or claim arises hereunder that the parties are not able to resolve amicably, the parties agree and stipulate that such litigation shall be resolved in the Superior Court in the State of California.

C. All notices which are required to be given or submitted pursuant of this Agreement shall be in writing and shall be transmitted or delivered by certified mail, return receipt requested or by a commercial overnight delivery service to the parties at the addresses set forth below, or to such other addresses as a party may, by notice, specify:

Notices to YORK shall be delivered to:

York Risk Services Group, Inc.
333 City Boulevard West, Suite 1500
Orange, CA 92868

York Risk Services Group, Inc.
99 Cherry Hill Road
Parsippany, New Jersey 07054

Attention: Jody A. Gray, Sr. VP

Attn: Peter Lind, General Counsel, SR.VP

Notices to PRINCIPAL shall be delivered to:

ABAG - Risk Management Officer
101 8TH St.
Oakland, CA 94607
Attention: James Hill, Risk Manager

D. This Agreement and any Exhibit or Schedule made a part hereof constitute the entire Agreement between the parties and supersedes and merges any and all prior discussions, representations, negotiations, correspondence, writing, and other agreements and together states the entire understanding and agreement between PRINCIPAL and YORK with respect to Claims Administration Services to be provided hereunder. Except for unilateral changes made by the PRINCIPAL pursuant to Section XII, for which YORK shall, be entitled to an equitable adjustment in its compensation, this Agreement may be amended or modified only in writing if agreed to and signed by PRINCIPAL and YORK and enforced in all respects, in accordance with the laws of the State of California.

E. No party hereto shall be deemed to have waived any rights or remedies accruing to it hereunder unless such waiver is in writing and signed by such party. No delay or omission by either party hereto in exercising any right shall operate as a waiver of said right on any future occasion. All rights and remedies hereunder shall be cumulative and may be exercised singularly or concurrently.

F. The descriptive headings of this Agreement are intended for reference only and shall not affect the construction or interpretation of this Agreement.

G. Wherever the singular of any term is used herein it shall be deemed to include the plural wherever the plural thereof may be applicable.

H. No party may assign its rights or obligations under this Agreement; provided, however, that YORK may subcontract all or part of the Services required hereunder with PRINCIPAL'S written consent, (which consent shall not be unreasonably delayed or withheld) and may at its discretion delegate to a subsidiary such of its duties as it deems appropriate, provided that such subcontracting or delegation shall not relieve YORK of any of its obligations hereunder.

I. It is expressly understood and agreed that the relationship of YORK to PRINCIPAL shall be that of an independent contractor at all times, and nothing herein shall constitute either the YORK or PRINCIPAL as the partner, agent, or legal representative of the other, for any purpose whatsoever, except to the extent that YORK is the agent of PRINCIPAL for the purpose of adjusting claims. YORK shall have no right or authority to bind or obligate PRINCIPAL with respect to any matter that

is not specifically provided for in this Agreement without the prior approval of PRINCIPAL. All employees or agents of YORK performing duties hereunder for YORK shall be solely and exclusively under the direction and control of YORK and shall not be deemed employees of PRINCIPAL.

J. Nothing in this Agreement is intended to require YORK to engage in the practice of law.

K. PRINCIPAL shall not utilize YORK's trade names, logos, trademarks, service marks or other identification in any press release, advertisement, marketing materials, promotional literature, article, presentation or other type of communication without the prior written consent of YORK, which consent may be withheld or denied in YORK's sole discretion. This provision does not apply to internal communication of PRINCIPAL, ABAG or MEMBER or to communication among any of them regarding York's services under this agreement.

L. PRINCIPAL shall not hire any employee of YORK or induce any employee of YORK to terminate his or her employment (or encourage, and aid or abet any third party to do the same) at any time during which this Agreement or any extension or renewal thereof is in effect and for a period of twelve (12) months thereafter. PRINCIPAL agrees and acknowledges that YORK has invested time and resources in training its personnel and familiarizing them with PRINCIPAL's account and that YORK will suffer harm, the extent of which is difficult to quantify, should PRINCIPAL directly or indirectly cause YORK's employee to terminate their employment with YORK. Therefore, in the event that PRINCIPAL violates this provision, PRINCIPAL shall be liable to YORK for liquidated damages in a sum equal to the employee's salary for two (2) years based on the employee's salary over the two (2) months prior to the termination of that employee's employment with YORK. Notwithstanding the foregoing for purposes of this paragraph "YORK's employee" shall mean an employee of YORK who has adjusted claims of PRINCIPAL pursuant to YORK's work for PRINCIPAL under the Agreement.

IN WITNESS WHEREOF, the parties hereto have read and signed this Agreement as dated below and the Agreement is effective as of August 1, 2014.

YORK RISK SERVICES GROUP, INC. ABAG PLAN Corporation

By: 

Jody A. Gray

Senior Vice President

By: 

James Hill

Risk Manager

Execution Date: July 14, 2014

Execution Date: July 17, 2014

EXHIBIT A. Scope of Work

CLAIMS ADMINISTRATION SERVICES shall also include, but no be limited to, the following services:

1. Providing supervision of the loss adjustment process;
2. Determining and implementing appropriate claims practices to adjust assigned claims in accordance with YORK'S established practices and existing ABAG PLAN claim policy directives, including claim manual, whichever standard is higher, is agreed upon and becomes routinely performed;
3. Adhering to high standards of professional conduct;
4. Adjusting and managing assigned claims to assure that PRINCIPAL and claimants receive high quality service;
5. Establishing, monitoring and timely revisions of case reserves;
6. Settling claims within the applicable coverage terms and conditions;
7. Coordination of Reservation of Rights letters and coverage denials through ABAG.
8. Maintaining current knowledge of applicable adjustment practices and procedures, local practices, applicable insurance coverage, court decisions, current guidelines in the claims function, and Program changes and modifications (as advised by PRINCIPAL);
9. Assisting in the preparation of claims for suit, hearing, trial, or subrogation as appropriate;
10. Acting as MEMBER'S liaison with medical personnel, first notice of loss reporting services and defense counsel;
11. Reviewing bills of service providers;
12. Preparing and submitting status and administrative reports in accordance with YORK'S established practices and existing ABAG PLAN claim policy directives, including claim manual, whichever standard is higher, is agreed upon and becomes routinely performed;
13. Preserving subrogation rights and overseeing subrogation recovery as required.
14. Serve as reporting agent for Medicare/Medicaid and Index Bureau compliance.
15. Attend PLAN Claims Committee meetings and City Council meetings as required
16. Provide periodic (monthly, quarterly and annual) claim reports to ABAG PLAN and member agencies, including deductible billing reports.
17. Provide ABAG PLAN actuary with claim data for actuarial analysis.

Open Claims

Claimant	Claim No.
1. Aguilar, Tracey Thompson	ABGV24148B1
2. Alaniz, Charles and Bernice	ABGV27694A2
3. Bahr, Steven	ABGV27676A2
4. Beam, Nathan	ABGV27595A1
5. Bigbee, Beatriz	ABGV27707A2
6. Brown, Roxanne	ABGV27335A1
7. Calles, Bryan	ABGV26509A1
8. City of American Canyon	ABGV27299A9
9. City of Foster City	ABGV27220A9
10. City of Foster City	ABGV27706A9
11. City of Pacifica	ABGV26061A9
12. City of South San Francisco	ABGV27232A9
13. City of Suisun City	ABGV27222A9
14. Crestview Apartments, LLC c/o Berding & Weil LLP	ABGV27626A2
15. Eric Rojas c/o AllAccess Law Group	ABGV27194A1
16. Estate of Santosh Jain, Alok Jain, As Successor	ABGV25674A1
17. Evans, Wallace and Shalisha	ABGV27556A1
18. Frisk, Marie	ABGV27513A1
19. Garrett, Rohini	ABGV27559A1
20. George Keith Ford, Jr. c/o Law Offices of Eslamb	ABGV27670A1
21. Giddens, Richard	ABGV19886A1
22. Gillis, Lucia	ABGV27675A1
23. Guadagnini, Giovanni	ABGV27428A1
24. Han S. Lee, Esq., Stacey Taeyoung Kim c/o	ABGV27565A1
25. Hedman, Cary	ABGV25171A2
26. Henneberry, John	ABGV20437A1

Claimant	Claim No.
27. Jahanfard, Nader	ABGV27241A1
28. Juarez, Lori	ABGV27339A1
29. Julie Amado c/o Steven Clawson, Wells Call	ABGV27543A1
30. Law Office, PC, Jason Burkleo c/o Helm	ABGV27640A1
31. Lu Liu, Yakuan Yao and	ABGV27700A2
32. Macias, Robert	ABGV27682A2
33. Mangion, Florence	ABGV27688A1
34. Martinez, Johnny	ABGV25896A1
35. Martuscello, Michael	ABGV27393A1
36. Mendiola Hernandez, Jose Guillermo	ABGV27176A1
37. Nguyen, Thuy	ABGV27365A1
38. O'neil, Shawn Hooker	ABGV24729A1
39. Osborne, Lance & Gabriele	ABGV27622A2
40. Paola Garcia Lopez c/o Sunset West Legal Group	ABGV27280A1
41. Parkins, Erika	ABGV27275A1
42. Pratt, Michael S.	ABGV27244A1
43. Robbins, Margaret	ABGV25678A1
44. Salah, Lina	ABGV27183A1
45. Sheks Construction Company/ Luen Shee Shek	ABGV25631A1
46. Slosberg, Sandra	ABGV27373A1
47. Thomas Alder c/o Karin M. Sweigart	ABGV27658A1
48. Town of Los Gatos	ABGV26401A9
49. Wu, Chiaho	ABGV25733A1
50. Wu, Raymond	ABGV27208A1

ADDENDUM TO EXTEND THE AGREEMENT FOR AN ADDITIONAL PERIOD

This Addendum to Extend the Agreement for an Additional Period (“Addendum”) shall be attached to and made a part of the Agreement for General Liability/Automotive Liability/Property Liability Claims Administration Services (the “Agreement”), effective as of August 1, 2014, between Pooled Liability Assurance Network Joint Powers Authority (“PLAN JPA”), as assignee of ABAG Plan Corporation, and Sedgwick Claims Management Services, Inc. (“Sedgwick”).

In consideration of the Agreement recitals and the mutual covenant and conditions contained herein, the Parties acknowledge that the Agreement is hereby amended as follows:

1. The Agreement shall be extended for an additional period commencing August 1, 2021 and ending July 31, 2026.
2. Effective August 1, 2021, the provisions set forth in Exhibit A of Amendment One shall no longer apply. From and after such date, the provisions set forth in the attached Exhibit A shall apply instead.
3. All terms and conditions of the Agreement shall otherwise remain the same, except those terms and conditions which have been added, deleted, or modified by the parties in writing.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed on the dates shown below.

Pooled Liability Assurance Network
Joint Powers Authority

Sedgwick Claims Management Services, Inc.

By_____

By_____

Title_____

Title_____

Date_____

Date_____

EXHIBIT A

Claims Services

We will provide claims handling at the following rates:

Annual Fee

Line of Business	08/01/2021 through 07/31/2022	08/01/2022 through 07/31/2023	08/01/2023 through 07/31/2024	08/01/2024 through 07/31/2025	08/01/2025 through 07/31/2026
General Liability	\$726,897.00	\$748,704.00	\$771,165.00	\$794,300.00	\$818,129.00

Annual Fee: Our Annual Fee quotation is a guaranteed flat annual fee and applies to claims administration services provided during the 12-month contract term. If there is a significant increase in claims volume, we may propose additional charges. The request shall include appropriate supporting documentation for the requested amounts as applicable for the contract based on increased claims volume, a projection the duration of such increase in volume, and whether the increase in volume will extend to any remaining years of the Contract. If client agrees to such additional charges, the fees will be adjusted accordingly. If client does not agree to such charges, the parties shall use good faith efforts to adjust the charges to an agreed amount.

Services of the Account Executive, along with phone claim reviews, are provided at no additional charge.

General Fees, Services, Terms and Conditions

- Outside Activity/Field Investigations will be billed at time and expense.
- MMSEA Reporting: \$9.50 per claim.
- During the term of a multi-year contract, except for items for which pricing for each year is explicitly listed above, pricing for each year after the first full year will increase by the greater of 3% or the percentage increase as reported by the U.S. Department of Labor - Bureau of Labor Statistics (<http://www.bls.gov/cpi/home.htm>) for the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average, All Items, covering the prior twelve-month period, valued as of the month ending two months prior (to allow time for reports to be published) to the anniversary date of the contract. For all contracts, pricing at the end of the contract term and each year thereafter will increase by such amount, provided that (i) both parties agree and enter into a renewal contract, or (ii) the parties continue with the existing contract on a month-to-month basis.
- Billing: we will issue an electronic invoice monthly, via email. Payments shall be due and payable no later than thirty days from the invoice date.
- Pricing has been developed based on provided loss data. In the event that the loss data is erroneous or otherwise incorrect both parties agree to discuss an equitable adjustment of service fees.
- PLAN JPA may request that the services we perform be rendered in a particular or different way or additional services be provided, and we will make all reasonable efforts to comply. If such request

increases our cost of providing the services, we shall be entitled to an equitable adjustment in compensation commensurate with the increase in cost.

- Subrogation: Our fee per feature pricing includes placing parties that it deems responsible on notice. Pursuit of subrogation beyond this point can be performed at 25% of recovery (exclusive of attorney fees and expenses related to litigation as well as expenses, such as locate searches, skip traces, cost and origin reports, copy service, etc. or any agreed upon contingency fees).
- Claims and Allocated Loss Adjustment Expenses (ALAE) may be handled in two ways:
 - PLAN JPA may elect to fund an account established and maintained by us. In this case, PLAN JPA will maintain and provide timely replenishment of funds to pay all Claims and ALAE and to avoid penalties and late payments. We will electronically provide a monthly recap of all deposits as well as Claims and ALAE payments. PLAN JPA will be responsible for bank fees with respect to the account.
 - PLAN JPA may elect to maintain and fund a client-owned account from which we will issue all Claim and ALAE payments. In this case, PLAN JPA will provide us with the facsimile signature of an officer, director, partner or employee of PLAN JPA to print digitally on the checks. PLAN JPA will be responsible for bank fees with respect to the account.

Allocated Loss Adjustment Expenses

We will arrange for various services and other costs as agent for our client. These costs are referred to as Allocated Loss Adjustment Expenses (ALAE). A list of these expenses follows. Payment of ALAE is the responsibility of PLAN JPA. Our fees do not cover ALAE, and we are under no obligation to pay ALAE with our own funds.

- Fees of outside counsel for claims in suit, coverage opinions and litigation and for representation at hearings or pretrial conferences
- Fees of court reporters
- All court costs, court fees and court expenses
- Fees for service of process
- Costs of undercover operatives and detectives
- Costs for employing experts for the preparation of maps, professional photographs, accounting, chemical or physical analysis, diagrams
- Costs for employing experts for the advice, opinions or testimony concerning claims under investigation or in litigation or for which a declaratory judgment is sought
- Costs for independent medical examination or evaluation for rehabilitation
- Costs of legal transcripts of testimony taken at coroner's inquests, criminal or civil proceeding
- Costs for copies of any public records or medical records
- Costs of depositions and court reported or recorded statements
- Costs and expenses of subrogation
- Costs of engineers, handwriting experts or any other type of expert used in the preparation of litigation or used on a one-time basis to resolve disputes
- Witness fees and travel expenses
- Costs of photographers and photocopy services
- Costs of appraisal fees and expenses (not included in flat fee or performed by others)
- Costs of indexing claimants
- FROI/SROI Submission

- Services performed outside of our normal geographical regions
- Costs of outside investigation, signed or recorded statements
- Out of the ordinary expenses incurred in connection with an individual claim or requiring meeting with Customer
- Any other extraordinary services performed by us at Customer's request
- Investigation of possible fraud including SIU services and related expenses
- Any other similar cost, fee or expense reasonably chargeable to the investigation, negotiation, settlement or defense of a claim or loss or to the protection or perfection of the subrogation rights of Customer.

We may, but need not, elect to utilize affiliated entities to perform any of these services. Such fees and costs will be charged as ALAE.

IT/RMIS Fees:

(Services outlined below are only billed if utilized)

Service	Description	Fee
RMIS	RMIS Licensing (Includes loading of 10 years of closed claims history, if requested, and all open claims, regardless of age)	<i>Ten (10) Licenses Included</i>
Additional RMIS Claims Storage	Closed claim data, greater than 10 years old will be stored <u>at the client's request</u> and subject to additional fee as noted.	\$0.15 per Claim per Year
Custom Software Development	Any software development, including, but not limited to: creating system features; creating data extracts; creating interfaces	\$185 per Hour
Data Onboarding	Loading data from a claim system into our claim system	\$10,000 per Engagement (Additional T&E hours may be applied for especially complex onboard. Cost to be determined at time of analysis.)
Data Services	Any technical services including, but not limited to: data updates; data analysis; one-time data feeds	\$185 per Hour
Manual Data Manipulation	Updating data that cannot be accomplished programmatically (See Data Services). Examples include: Updating coding such as NCCI and ISO; Retrospective updates to a custom field	\$50 per Hour
Annual Maintenance of Data Feed	Maintaining data feed	\$5,000 per Year
Standard Data Feeds to Third Parties	Our Data feed in our Standard format	\$1,500 per feed

Note: In the event the outgoing TPA presents charges for the preparation and transmission of their data to us, those costs will be categorized as a pass through to the client.