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**EXECUTIVE COMMITTEE MEETING
AGENDA**

**Thursday, January 25, 2024
10:00 a.m.**

Zoom

Please contact Katie Sullivan for videoconference information.

All or portions of this meeting will be conducted by teleconferencing in accordance with Government Code Section 54953(b). Teleconference locations are as follows: Sedgwick, 1750 Creekside Oak Drive, Suite 200, Sacramento, CA 95833; Town of Atherton; 91 Ashfield Road, Atherton, CA 94027; City of Burlingame, 501 Primrose Rd, Burlingame, CA 94010; Town of Colma, 1198 El Camino Real, Colma, CA 94014; City of Half Moon Bay, 501 Main Street, Half Moon Bay, CA 94022; Town of Los Gatos, 110 East Main St., Los Gatos, CA 95030; City of Morgan Hill, 17575 Peak Ave, Morgan Hill, CA 95037; City of Pacifica, 170 Santa Maria Avenue, Pacifica, CA 94044; City of San Carlos, 600 Elm St, San Carlos, CA 94070; and Town of Woodside, 2955 Woodside Road, Woodside, CA 94062.

Each location is accessible to the public, and members of the public may address the Executive Committee from any teleconference location.

In compliance with the Americans with Disabilities Act, if you need a disability-related modification or accommodation to participate in this meeting, please contact Katie Sullivan at katie.sullivan@sedgwick.com (916) 244-1164 or (916) 244-1199 (fax). Requests must be made as early as possible, and 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 Pooled Liability Assurance Network Joint Powers Authority (PLAN JPA) Executive Committee less than 72 hours prior to a regular meeting will be available for public inspection at 1750 Creekside Oaks Dr., Suite 200, Sacramento, CA 95833.

- Page**
- 1. CALL TO ORDER**
 - 2. INTRODUCTIONS**
 - 3. APPROVAL OF AGENDA AS POSTED (OR AMENDED)**

* Reference materials enclosed with staff report.

- 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 Executive 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.** **GENERAL MANAGER’S REPORT**
- A. Report by PLAN JPA’s General Manager
 Recommendation: Staff recommends the Executive Committee provide feedback and direction.
- 5** **6.** **ADMINISTRATION MATTERS**
- *A. Consideration of Professional Services Agreement for Request for Proposal Consultation Services
 Recommendation: Staff and Board Counsel recommend the Executive Committee approve the attached contract for RFP consulting services.
- 13** *B. Review of PLAN JPA Strategic Plan for 2024 - 2026
 Recommendation: Staff recommends the Executive Committee recommend approval of the Strategic Plan for 2024-2026 to the Board of Directors.
- 28** **7.** **CLAIMS MATTERS**
- *A. Consideration of Subrogation Counsel
 Recommendation: Staff seeks direction and confirmation of Litigation Management authority to hire subrogation counsel as needed and to be paid not more than PLAN JPA’s maximum panel rate for general liability claims.
- 8.** **CLOSED SESSION**
- A. Pursuant to Government Code Section 54956.95(a), the Committee will hold a closed session to discuss the following claims:
- Etzel Williams v. City of Burlingame
 - Maheash Anand Karoshi v. City of Campbell
 - City of Dublin v. Diane Jean Bonetti
 - Eli De Aquino, et al v. Town of Hillsborough, et al
 - Alok Jain v. City of Milpitas
 - Anai Viviano Perez v. City of Pacifica
- B. Pursuant to Government Code Section 54957.1, the Committee will report in open session any reportable action taken in closed session.

* Reference materials enclosed with staff report.

9. CLOSING COMMENTS

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

- A. Executive Committee
- B. Staff

10. ADJOURNMENT

NOTICES:

- The next PLAN JPA Board of Directors Meeting will be held on March 28, 2024, at 10:00am.
- The next PLAN JPA Executive Committee Meeting will be held on April 25, 2024, at 9:30am.

January 25, 2024

Agenda Item 5.A

GENERAL MANAGER'S REPORT

SUBJECT: Report from PLAN JPA's General Manager

BACKGROUND AND HISTORY:

Governance

Being a "public entity", PLAN is required to follow certain regulations regarding public and open meeting laws. Primarily guided by the "Brown Act", PLAN has indeed followed these guidelines since its inception.

In 2020, like all other public entities, PLAN was forced to pivot because of the COVID-19 pandemic and the ensuing executive directives and legislation issued by the governor and legislature in response.

Recently, AB 2449, was passed and supersedes AB 36. However, some confusion was created when interpreting AB 2449 and 2446. After discussions between staff and PLAN's Board Counsel, it was determined that PLAN can operate in the same fashion it had been prior to the pandemic being declared.

PLAN JPA Officer & Committee Member Update

On January 4, 2024, Pak Lin, PLAN JPA's Treasurer, will be stepping down from her position with PLAN and the Town of Colma. Ms. Lin's last day will be January 26, 2024.

In accordance with PLAN's Bylaws, Officer vacancies shall be filled in the manner prescribed by the Bylaws. Since the Treasurer's duties may be "assigned to the Assistant Treasurer, who shall be the Finance Manager for PLAN JPA," there is not a specific need to hold a special meeting for the filling of the Treasurer's position as it can be addressed during the March 28, 2024, Board of Directors meeting.

The Finance Committee only makes recommendations to the Board of Directors and does not hold decision-making authority. The Finance Manager will recuse himself during any action related items.

STAFF RECOMMENDATION:

Staff recommends the Executive Committee provide feedback and direction.

REFERENCE MATERIALS ATTACHED:

None

January 25, 2024

Agenda Item 6.A

ADMINISTRATION MATTERS

SUBJECT: Consideration of Professional Services Agreement for Request for Proposal Consultation Services

BACKGROUND AND HISTORY:

PLAN JPA contracts with a third-party administrator (TPA) for claims administration purposes. During the 2021-22 and 2022-23 Program Years, many PLAN members experienced questionable service and results. The TPA endured a high employee turnover rate that affected how the claim files were being organized and managed. The TPA account representatives addressed the Board of Directors approximately three separate times, updating the Board regarding internal business challenges and strategies for success.

During a Board of Directors meeting on November 30, 2023, the Board provided direction to the Board's counsel to initiate the request for proposal (RFP) process. In addition, the Board also extended authority to the Executive Committee to enter into a contract with a consultant to lead the process and Marc Zafferano, Board Counsel, contacted Clovis Consultants and Associates. PLAN JPA staff has a distinct relationship with the TPA that causes a conflict of interest for the RFP to be managed by staff.

Mr. Zafferano will be in attendance to present the proposal and provide clarification for any questions or concerns.

STAFF RECOMMENDATION:

Staff and Board Counsel recommend the Executive Committee approve the attached contract for RFP consulting services.

REFERENCE MATERIALS ATTACHED:

- PLAN JPA Proposal - Version 2



January 10, 2024

Marc Zafferano, Senior Counsel
PLAN Joint Powers Authority
Plan Board Counsel
C/O Boucher Law, PC
2081 Center Street
Berkeley, CA 94704
(sent via email)

Subject: Third Party Administrator, RFP Development Proposal

Dear Marc,

Thank you for requesting professional consulting services from Clovis Consultants and Associates (CCA) for assistance with the request for proposal process for third party claim administration for PLAN. I am the sole proprietor of CCA and will not rely on other associates for this project.

Thank you also for taking the time to discuss this project with me via telephone and providing me with the parameters for the services required for this project. The Plan intends to issue a Request for Proposal (RFP) for Claims Administration Services for their program. The scope of service will include all tort, auto and other related claims. The proposal will also include administration of property claims as required, excluding Worker's Compensation. The current TPA Sedgwick, will provide the necessary data required to effectively develop and issue the RFP. This consultant will review the historical satisfaction surveys completed by the members and will also utilize the current Claims Administration Agreement as the basis for the description of services required for this service. I will be available to provide both remote and onsite services as required to both prepare a Request for Proposal Document and participate in the evaluation process and selection process for the selected Claims Administrator.

We consider this engagement an opportunity to work with the PLAN Board of Directors, by identifying key factors in the evaluation of the current TPA Sedgwick and assisting the PLAN in developing an RFP and selection of the designated claims administrator. We look forward to working with you!

Sincerely,

David J. Clovis

David J. Clovis, ARM-P
Chief Consultant

Clovis Consultants and Associates
925-989-3964
Dclovis1954@gmail.com

**PLAN Joint Powers Authority
Development and Management of Request for Proposal Process for Third Party Claims
Administration Services**

Scope of Work

The PLAN Joint Powers Authority is requesting services of a public agency risk management professional to develop and oversee a request for proposal process for Third Party Claims Administration Services. The PLAN utilizes the services of Sedgwick for both PLAN administration and Third Party Services for both Worker's Compensation and Liability claims administration. The current administrator requested assistance from an outside professional services firm to oversee this project to eliminate the appearance of, or any conflict of interest by the current administrator, Sedgwick.

This consultant understands the complexity of this process and has implemented several requests for proposals for public sector risk management services. These service agreements included Claims Administration, both Worker's Compensation and Liability, Broker of Record Services, auditing services, financial planning services, property appraisal services, safety services and RMIS services. As the former General Manager of California Joint Powers Risk Management Authority, I have both the background and knowledge necessary to assist PLAN with this process.

Based upon my discussion with Board Counsel Marc Zafferano, the PLAN intends to participate in a Request For Proposal Process (RFP) for the Liability Claims Administrator for the PLAN. The intent of the process is to identify the potential vendors within the marketplace and to enhance Claims Administration for all members as part of this process.

Identify the current services levels of the Claims Administrator/Staff

A: Current services provided by Sedgwick TPA

This phase would seek to identify the current services provided by Sedgwick in the claims administration process. Gathering the necessary data including claims history, identification of claims volume, claims adjusting staffing, remote adjuster services, claims management system, and other related services being provided. Identify the current staffing provided by Sedgwick and review current core competencies of the assigned staffing. Identify historical claim count and adjuster load for inclusion within the RFP. Identify current RMIS/Claims Management Systems to identify requirements for inclusion in the RFP. Review cost of services for the current agreement and determine anticipated costs moving forward.

B. Identify potential target vendors to provide RFP Services

Provide the Board of Directors with a summary of potential vendors that may bid on the process and identify those vendors that have a strong history of performance in the claims administration of public agency claims and understand the specific requirements under the California statutes.

C. Board satisfaction survey

Review the current claims management satisfaction surveys completed by the Board of Directors in 2020 and 2022. Identify specific trends and areas of both positive and negative performance of the current third party claims administrator. Incorporate the findings of the survey into the scope of services document to improve the efficiency of the claims management process. If necessary, contact key stakeholders to better understand the negative and positive comments provided in the two annual surveys. These stakeholders will be identified with the assistance of the Board of Directors.

The prior surveys may be used as a tool in assisting PLAN in developing performance metrics for the claims management process. In the event the current TPA is the selected provided, the findings may be incorporated into a new agreement to insure effective performance and provide an ability to quantify performance goals by the TPA.

Design and administer a request for proposal for claims management services.

1. Identify the timing for the development and distribution of a request for proposal for claims management services. Included within the timing is establishing a target deadline for completion of the process and the date for awarding a new agreement.
2. Provide the draft document for review by the Board of Directors and Board Counsel prior to distribution. Distribute the RFP document once approved by the key stakeholders to the identified resources or potential candidates.
3. Once responses are received, summarize the submissions for service levels and proposed fees. Evaluate all responses as to their compliance with the RFP Document and requirements of the PLAN.
4. Identify the submissions for the most qualified submissions, and conduct a formal interview process including Board Counsel and selected members of the Board of Directors or the Executive Committee.
5. Once completed, assist the PLAN in the transition to a new TPA, and/or work with the current TPA to implement performance metrics as identified earlier in the process.

Creation of Claims Management Administration Services Agreement

The final deliverables will be the creation of a TPA Service Agreement approved as to form by Board Counsel and approved by the Board of Directors. If required, CCA will assist the PLAN in developing additional Risk Management Metrics for the organization as required. These services could include but not limited to:

1. Provide recommendations for the overall Risk Management Function for members and the TPA's role is assisting PLAN Members.
2. Assess current claims and contracts and work with PLAN and its agencies in developing policies and procedures to minimize exposures to loss arising out of claims.

3. Identify and evaluate organizational opportunities for the risk management operation, including evaluating current PLAN policies and procedures to enhance the overall Risk Management Function.

Fee Schedule

CCA will invoice on an hourly basis at \$175 per hour. The total hours of this project will be based upon the direction of PLAN and its membership. It is anticipated that the initial process of identifying the scope of services for the Claims Administrator and developing a Request for Proposal Document will require no less than 80 hours to complete. Secondly, total hours required to administer the selection process, which will include summarizing the proposals submitted and evaluating submissions for compliance with the RFP requirements. Total hours to be spent on reviewing RFP responses will be based on actual time spent by CCA on the project. The management of the final deliverables of this agreement will require approximately 80 additional hours to complete. Billing will be prepared and submitted monthly, or a different schedule may be arranged by agreement of both parties. If additional hours are required for the performance of this agreement, CCA will seek prior approval by Board Counsel for additional hours as required.

Cost for travel will be based on actual cost of travel including mileage charges or actual costs associated with flights, lodging and travel expenses. The consultant is based in Boulder City, Nevada so all air travel expenses will be from Las Vegas, NV. Travel time will be billed at 50% of the consultant hourly fee for actual travel time portal to portal and will be billed at \$87.50/hour. Travel time will only be incurred if required by PLAN Board of Directors for attendance at meetings required by PLAN Board of Directors. I anticipate that no less than 90% of this project will be performed remotely.

All costs associated with distribution of documents, postage, or other related expenses for meeting sites etc. will be billed at cost by CCA.

PLAN upon execution of the agreement, will remit to the consultant a retainer fee of \$5,000, prior to the performance of any services by CCA. Each billing by CCA will apply up to a 25% credit of the retainer until the entire retainer is earned by CCA. The \$5,000 retainer will be included in the ultimate value of the agreement.

Additional work not included in this proposal will be billed at the hourly rate and will begin only after agreed upon between PLAN Joint Powers and CCA.

CCA prefers invoices to be paid electronically. David Clovis will provide ACH information and will provide any data necessary for completing PLAN forms.

If paying by check, please remit to the address below:

David J. Clovis, ARM-P
617 Mount Antero Way
Boulder City, NV 89005

At all times during this project engagement, CCA will be an independent contractor. Both agencies confirm the specialized services are distinct from tasks customarily performed by the Agency. The services of consultant specifically do not include hiring, firing, or supervising of any Agency personnel. Also, Consultant shall not have contracting or signing authority or act in the position of a Director or represent a management position at commission, Board or Council meetings.

David Clovis Bio

David Clovis retired as the General Manager for the California Joint Powers Risk Management Authority in Livermore, CA December 2018. CJPRMA's members include both cities and JPA's throughout the State of California and the total number of agencies is approximately 100. In his role as General Manager, he worked with the members in all areas of risk management and was responsible for the operations of the organization.

David joined CJPRMA in 2003 at that time served as the agencies first Risk Manager and then was promoted to Assistant General Manager. David developed numerous liability training programs for the members of the pool and led the strategic planning efforts for the organization. He has worked on numerous risk management programs and has been recognized as an expert in Park & Recreation Risk Management.

Mr. Clovis has worked as a Risk Manager in the public sector since 1989. He has worked for Cities, a Sanitation District and a Park and Recreation District. His responsibilities have included all aspects of Risk Management, and he has also performed the labor relations functions in both the private and public sector. Mr. Clovis is a former Fremont Police Officer where he served as a patrol officer and became a traffic officer, major accident investigator and a commercial enforcement specialist.

David served as president for both Public Agency Risk Manager's Association and the California Association of Joint Powers Authority. David also served as a Board of Regent for the NRPA Pacific Risk Management School and served as Conference Chair. David has spoken on issues of liability for the National Recreation and Park Association, PARMA, PRIMA, ASSE, and the California Park and Recreation Society. David has also spoken on issues regarding Contractual Risk Transfer, supervision, police liability, and numerous other Risk Management related issues.

David has also participated in civil litigation involving Joint Powers Authorities serving as subject matter expert on behalf of a JPA.

Since retiring from CJPRMA in late 2018, David has developed a custom practice for public agencies serving as a consultant in the areas of Risk Management, Pool Management, Organizational Development and Strategic Planning.

References

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925-932-3600

January 25, 2024

Agenda Item 6.B

ADMINISTRATION MATTERS

SUBJECT: Review of the PLAN JPA Strategic Plan for 2024-2026

BACKGROUND AND HISTORY:

PLAN JPA held their Strategic Planning Session on November 29, 2023, at the Toll House Hotel in Los Gatos as part of their Annual Workshop. The goal for the three-part Strategic Planning Session was to clearly identify areas of opportunity in which PLAN JPA would like to grow. Staff compiled the information provided by the Board of Directors into a multi-year plan.

STAFF RECOMMENDATION:

Staff recommends the Executive Committee recommend approval of the Strategic Plan for 2024-2026 to the Board of Directors.

REFERENCE MATERIALS ATTACHED:

- 2024-2026 Strategic Plan - Draft

Strategic Plan – Ideas in Motion



D. Eric Dahlen, General Manager
Pooled Liability Assurance Network



Pooled Liability Assurance Network Action Plan 2024-2026

PLAN JPA,

During the last strategic planning session held in November 2023, the board engaged in a robust planning opportunity that allowed for open commentary, small team collaboration, and facilitated discussion regarding the pool's status, outlook, and financial strength. The board spoke with a unified voice and addressed issues such as potential complacency, looming changes that have not been identified, and the concepts of proactive adjustments to current practices.

As a result of hearing from PLAN's key strategic partners (insurance broker, actuarial, financial auditor, third party administrator, and loss control provider) the Board presented active commentary and contributed ideas to develop this multi-year plan that will serve as a guideline of activities to implement and reach the pool's goals. Moving forward, staff will present meeting agendas for committees and the full board that reflect the applicable strategic initiatives to be met for each presented item.

Each year, typically in the late fall, PLAN will hold its annual meeting wherein a complete review of the current strategic plan will be presented, including initiative updates, status of the pool as it relates to the industry and marketplace, and suggestions for plan alterations to meet challenges and/or opportunities that have presented themselves along the way.

It is with great pleasure that this plan has been put together and now presented to the Board of the Pooled Liability Assurance Network.

Sincerely,

D. Eric Dahlen, ARM
General Manager, PLAN



Pooled Liability Assurance Network Action Plan 2024-2026

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Pooled Liability Assurance Network Action Plan 2024-2026

Initiative 1. GOVERNANCE

1.1 Training Programs – Claims Handling

Description: Create programs and how-to-videos that support and educate the membership through initial learning and sustained reference. This can be especially beneficial through periods of high turnover, in addition to revisiting why the pool’s members no longer pursue commercial insurance coverages as a method of financing their risks.

Objective: Develop thorough and detailed information sharing content regarding the claims management process from the time a claim is received by the member to the point of closure. The entire process will include the member’s initial response, early settlement strategies, litigation, and closure.

Recommended Actions:	Responsibility:	Deadlines:	Status:
1. Investigation of all current content	<i>Admin Lit. Mgmt.</i>		
2. Creation of program outline, needed resources, loss run access, etc.	<i>Lit. Mgmt.</i>		
3. Develop process outline for claims handling	<i>Lit. Mgmt. TPA</i>		
4. Determine best persons to deliver training through PLAN’s Town Hall series	<i>Admin</i>		

Governance Impact: Yes No Unknown

Fiscal Impact: Yes No Unknown



Pooled Liability Assurance Network Action Plan 2024-2026

1.2 Training Programs – Lessons Learned and Best Practices

Description: A well-stocked and designed library of information regarding the industry’s best practices pertaining to loss control, access to past training webinars, and trending/emerging trends can serve the membership in a proactive manner.

Objective: Develop a process by which members, staff, and valued partners contribute to the success of the JPA through the writing of “white papers” with lessons learned and best practices.

Recommended Actions:	Responsibility:	Deadlines:	Status:
1. Determine through survey method the most sought-after lessons learned regarding JPA internal practices	<i>Admin Risk Control Lit. Mgmt.</i>		
2. Conduct outreach to claims adjusters, defense attorneys, brokers, and excess insurance underwriters for content and resources	<i>Admin</i>		
3. Develop format, distribution, and library access for members	<i>Admin</i>		
4. Develop feedback method for members	<i>Admin</i>		

Governance Impact: Yes No Unknown

Fiscal Impact: Yes No Unknown



Pooled Liability Assurance Network Action Plan 2024-2026

1.3 Training Programs – Member Orientation

Description: Enhance the programs and delivery methods to educate member representatives, vendor support personnel, and members’ elected officials including other members or the general public of their communities more efficiently.

Objective: Develop Town hall style webinar series that addresses JPA operations, structure, and offerings.

Recommended Actions:	Responsibility:	Deadlines:	Status:
1. Encourage all Board members and other appropriate agency personnel to attend training that identifies their roles and responsibilities pertaining to the JPA	<i>Staff Board</i>		
2. Refine new Board member orientations to be more efficient as well as encouraging the attendance of 1-2 Executive Committee meetings	<i>Staff Board</i>		
3. Meet with Board representative, city/town manager and/or council to outline goals of the programs and what is necessary to mitigate member losses	<i>Staff</i>		

Governance Impact: Yes No Unknown

Fiscal Impact: Yes No Unknown



Pooled Liability Assurance Network Action Plan 2024-2026

Initiative 2. JPA FINANCIAL STABILITY AND SUSTAINABILITY

2.1 Coverages – Primary / Excess Pooling, and Excess Policies

Description: Detailed explanation of the types and amounts of coverages afforded to each member through their association with PLAN; including individual member’s Self-Insured Retentions, and the various excess components of the coverage tower.

Objective: Develop an ongoing member education program on the topic of JPA coverages and offerings.

Recommended Actions:	Responsibility:	Deadlines:	Status:
1. Develop outline of coverage tower as it relates to each member	<i>Admin Broker</i>		
2. In-depth review of PLAN’s memorandum of coverage	<i>Admin Cov. Counsel Lit. Mgmt.</i>		
3. Review of excess MOCs and coverage documents of excess policies	<i>Admin Cov. Counsel Lit. Mgmt.</i>		

Governance Impact: Yes No Unknown

Fiscal Impact: Yes No Unknown



Pooled Liability Assurance Network Action Plan 2024-2026

2.2 Coverages – SIR Setting and Reserving Policy

Description: The JPA’s current financial liquidity and stability are key focus points regarding the strength and sustainability of the pool. As such, individual retentions and claims related reserves reflect the “skin in the game” throughout the claims settling process. In addition, the self-insured retentions are designed to be appropriate for the size entity as well as reflective of the frequency and severity of the losses experienced.

Objective: To develop a sound evaluative, equitable, and sustainable process by which the SIRs for the member reflects the true represented risk.

Recommended Actions:	Responsibility:	Deadlines:	Status:
1. Develop and implement risk assessment strategy for calculating SIR for current and potential members – may include implementation of member level loss ratio rating system	<i>Admin Actuary Finance</i>		
2. Complete a pool wide analysis of SIR determination based on % of payroll vs. % of total population	<i>Admin Actuary Finance</i>		
3. Reserving Policy	Admin Finance Claims?		

Governance Impact: Yes No Unknown

Fiscal Impact: Yes No Unknown



Pooled Liability Assurance Network Action Plan 2024-2026

2.3 Coverages – Funding Methodologies

Description: The funding of the pool demonstrates the overall fiscal well-being of the JPA as well as the annual costs that are equitably shared amongst its members. As with any other endeavor, the pool requires financial resources to conduct business. A portion of those resources should be dedicated to developing unreserved surplus funds to be used for supplemental and other non-recurring costs to the pool.

Objective: Increase the strength of the pool through the development of funding methodologies and strategies to meet the overall objectives of the JPA as well as enhance the attractiveness of the pool to potential new members.

Recommended Actions:	Responsibility:	Deadlines:	Status:
1. Review the top 5 JPA’s, geographically near PLAN, regarding top to bottom funding methodologies, etc.	<i>Finance</i>		
2. Compare current PLAN practice with that of professional organizations such as AGRiP and CAJPA	<i>Finance/Admin</i>		
3. Identify historical reasons for contribution increases (i.e. experience, higher coverage, higher premiums, etc.)	<i>Finance/Admin</i>		
4. Development of a plan to increase confidence level funding to the actuarial and accreditation recommended levels	<i>Finance</i>		
5. New member evaluation/risk assessment			



Pooled Liability Assurance Network Action Plan 2024-2026

Governance Impact: Yes No Unknown

Fiscal Impact: Yes No Unknown



Pooled Liability Assurance Network Action Plan 2024-2026

Initiative 3. MEMBER SERVICES

3.1 Member Outreach

Description: An ongoing opportunity to communicate with each of the members through positively developing the business relationships throughout the JPA.

Objective: To develop an ongoing member education program on the topic of JPA coverages and offerings.

Recommended Actions:	Responsibility:	Deadlines:	Status:
1. Initiate pro-active communications with each member based on staff evaluations of statuses	<i>Admin</i>		
2. Create individualized risk education, assessment, and mitigation plans	<i>Admin Loss Control</i>		
3. Development of a Risk Management Coalition	<i>Admin Loss Control</i>		
4. Explore and develop relationship with colleges/universities with risk management and insurance education programs	<i>Admin Loss Control</i>		

Governance Impact: Yes No Unknown

Fiscal Impact: Yes No Unknown



Pooled Liability Assurance Network Action Plan 2024-2026

3.2 Member Outreach – Training and Educational Programs

Description: Training and educational programs serve as one of the most useful services a JPA can offer its membership.

Objective: Develop resources from either internal or external sources that directly support member safety, risk management and other appropriate topics such as American with Disabilities Act, Law enforcement facility liability, Land use and zoning loss control, Park and recreation safety and liability, public health services liability, Open meeting laws, and Waste management liability.

Recommended Actions:	Responsibility:	Deadlines:	Status:
1. Determine the current library of resources and topics	Admin		
2. Contact Broker, excess liability pool, and excess policy underwriters for their resources	Admin Broker		
3. Develop and publish annual calendar of educational Town Hall webinars including but not limited to: <ul style="list-style-type: none"> a. Gov Claims Handling b. Contracts – Insurance, Indemnity c. Actuarial Process and Data Collection 			

Governance Impact: Yes No Unknown

Fiscal Impact: Yes No Unknown



Pooled Liability Assurance Network Action Plan 2024-2026

3.2 Member Outreach – Comprehensive Operational Review

Description: Staff and/or service providers should serve as the pool’s primary facilitators of the JPA’s comprehensive risk management and transfer opportunities.

Objective: Conduct comprehensive operational reviews of each member to identify loss exposures followed by the creation of risk management recommendations based on thorough evaluation and analysis of identified exposures.

Recommended Actions:	Responsibility:	Deadlines:	Status:
1. Identify non-pool Coverage Needs	<i>Admin Loss Control Broker</i>		
2. Evaluate Special Risks	<i>Loss Control</i>		
3. Evaluate Retained Risks	<i>Loss Control</i>		
4. Identify Risks to Avoid	<i>Loss Control</i>		
5. Identify Member Specific Contractual Risk Transfer Practice/process	<i>Admin Loss Control Consultant</i>		
6. Develop plan to re-allocate all loss control days afforded to members during Q4 of program year	<i>Admin Loss Control</i>		
7. Develop plan for loss control days to be split 70% dedicated to liability loss experience	<i>Admin Loss Control</i>		

Governance Impact: Yes No Unknown
 Fiscal Impact: Yes No Unknown



Pooled Liability Assurance Network Action Plan 2024-2026

Initiative 4. ORGANIZATIONAL DEVELOPMENT AND SUSTAINABILITY

4.1 Strategic Growth

Description: Strategic growth is intentional designed to overcome current and future challenges. Recommend actions below can be key pieces to building a pool for the foreseeable future or beyond.

Objective: Long-term success by continually learning, adapting, and innovating, PLAN JPA can remain relevant and competitive over time and achieve goals set forth in the recommended actions.

Recommended Actions:	Responsibility:	Deadlines:	Status:
1. Explore the geographical diversification of the pool’s outreach for new members	<i>Admin</i>		
2. Identify investment alternatives			
3. Dividend (one of pooling’s benefits) Policy/distribution			
4. Conference Scholarships			
5. Annual review of discount rate			
6. 5- year financial plan			
7. Coverages – Workcomp via SHARP, Employee Benefits			

Governance Impact: Yes No Unknown

Fiscal Impact: Yes No Unknown

January 25, 2024

Agenda Item 7.A

CLAIMS MATTERS

SUBJECT: Consideration of Authority to Hire Subrogation Counsel

BACKGROUND AND HISTORY:

PLAN JPA members have first party claims that may be subrogated to a third party for recovery. PLAN JPA's third-party adjuster team currently handles subrogation tasks on behalf of the member and PLAN JPA, other than litigation. PLAN JPA's memorandum of coverage does include language that allows for the pool to file a legal action to subrogate the claim. The pool does not participate in the Sedgwick Subrogation Unit, nor does it have legal counsel specifically dedicated to handle subrogation litigation. Litigation Management seeks direction regarding its authority to assign subrogation counsel of its choice not on the pool's defense counsel panel list, but subject to PLAN JPA's guidelines and the max rate. Litigation Management can also use panel counsel for subrogation, but would request the ability to also hire counsel not on the panel list who handle subrogation cases more often.

STAFF RECOMMENDATION:

Staff seeks direction and confirmation of Litigation Management authority to hire subrogation counsel as needed and to be paid not more than PLAN JPA's maximum panel rate for general liability claims.

REFERENCE MATERIALS ATTACHED:

- Property Master Plan Document
- Property Memorandum of Coverage
- Third Party Administrator Scope of Work



POOLED LIABILITY ASSURANCE NETWORK JOINT POWERS
AUTHORITY

MASTER PROGRAM DOCUMENT
FOR THE
POOLED PROPERTY PROGRAM

POOLED LIABILITY ASSURANCE NETWORK JOINT POWERS AUTHORITY

MASTER PROGRAM DOCUMENT
FOR THE
POOLED PROPERTY PROGRAM

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POOLED LIABILITY ASSURANCE NETWORK JOINT POWERS AUTHORITY
(PLAN JPA)

MASTER PROGRAM DOCUMENT (MPD)
FOR THE
POOLED PROPERTY PROGRAM (PPP)

ARTICLE I: DEFINITIONS

The following definitions apply to this MPD:

1. **Administrator** shall mean the person responsible for the daily administration, management, and operation of the **Authority's** programs as defined in the Bylaws.
2. **Authority** shall mean the Pooled Liability Assurance Network Joint Powers Authority (PLAN JPA).
3. **Board** shall mean the Board of Directors of the PLAN JPA.
4. **Deductible** shall mean the amount stated on the applicable Declarations or certificate of coverage, which will be paid by the **Participant** before the **Authority** is obligated to make any payment from the pooled funds.
5. **Member Contributions** shall mean that amount to be paid by each **Participant** for each **program year** as determined by the **Board** in accordance with Article III, Section C of this MPD.
6. **Joint Powers Agreement** shall mean the agreement made by and among the public entities listed in Appendix A (**Member Entities**) of the **Joint Powers Agreement**, hereafter referred to as **Agreement**.
7. **Limit of Coverage** shall mean the amount of coverage stated in the Declarations or certificate of coverage, or sublimits as stated therein or in the Memorandum of Coverage (MOC) for each **Participant** or **covered party** per **occurrence**, subject to any lower sublimit stated in the MOC.
8. **Participant** shall mean a **Member Entity**, which shall mean a signatory to the **Agreement** establishing the PLAN JPA, who has elected to participate in the PPP.
9. **Program Year** shall mean that period of time commencing at 12:01 a.m. on July 1 and ending at 12:00 a.m. on the following July 1.
10. **Retained Limit** shall mean the amount stated on the applicable Declarations or certificate of coverage, which will be paid by the **Participant** before the **Authority** is obligated to make any payment from the pooled funds.

11. **Self-Insured Retention (SIR)** shall mean the **Authority's limit of coverage** above **Participant's retained limits** and up to the attachment point for excess coverage.
12. **Third Party Administrator (TPA)** shall mean the claims administrator for the **Authority** for the PPP.

ARTICLE II: GENERAL

A. AUTHORITY

1. The Pooled Property Program (PPP) Master Program Document (MPD) is one of the **Authority's** governing documents. However, any conflict between the PPP MPD, the **Authority's Agreement**, the Bylaws, or the PPP MOC shall be determined in favor of the **Agreement**, the Bylaws, or the MOC, in that order.
2. The PPP MPD is intended to be the primary source of information, contain the rules and regulations, and serve as the operational guide for the conduct of the PPP.
3. The PPP has been organized under authority granted by, and shall be conducted in accordance with, the laws of the State of California.

B. PURPOSE

The primary purpose in establishing a PPP is to create a method for providing coverage for protection against damage to the **Participants** real and personal property, including mobile equipment as provided in the MOC.

C. RESPONSIBILITY

1. The **Board** shall have the responsibility for establishing policies and remaining informed as to the financial strength and viability of the PPP. The **Board** has the authority, within the parameters of the **Agreement** and Bylaws of the **Authority** and this MPD, to act as needed to maintain and develop the financial strength of the PPP. The **Board** shall have the authority to enter into insurance contracts for the insurance coverages within the budgeted costs of such insurance.
2. The Executive Committee shall have the responsibility and authority to affect the general policies established by the **Board**.
3. The **Administrator** shall have the responsibility to manage the daily activities of the PPP and shall be given the authority to implement the policies established by the **Board**. The **Administrator** shall report to the Executive Committee and to the **Board**, as necessary.

ARTICLE III: PROGRAM ELEMENTS

A. PROGRAM YEARS

1. Each **program year** shall be accounted for and the funds maintained separately from any other program of the **Authority**. The income and expenses of each **program year** shall be accounted for separately from any other **program year's** income or expenses.
2. Any excess funds at the end of the **program year** shall be retained by the PPP to pay claims and expenses which may be incurred in the future.

B. LIMITS OF LIABILITY

The **Board** shall annually establish the limit of liability for the PPP which may be amended from time to time for subsequent **program years**. This limit of liability shall apply to each real and/or personal property claim as described in the MOC for this PPP.

C. DEDUCTIBLES

1. The PPP shall provide **deductibles** of \$5,000 for all property, and \$5,000 for all vehicles per occurrence.
2. The amount of each loss, including expenses, which is less than the **deductible**, shall be paid by the **Participant**.

D. MEMBER CONTRIBUTIONS

1. The **Administrator**, in conjunction with an actuary, shall establish rates and **Member Contributions**, subject to **Board** approval, adequate to fund the actuarially determined losses in the pooled layer of the PPP, including the cost of excess coverage, flood premiums and the projected administrative costs of the PPP.
2. The annual **Member Contributions** for each **Participant** shall be calculated by applying the **Participant's** most recent Total Insured Values (TIV) to 1) the funding level as determined by the actuary and recommended by the **Administrator**, 2) the cost of any excess coverage and flood premiums, and 3) a charge for the administrative and claims servicing expenses of the PPP as determined by the **Administrator**.

E. DIVIDEND AND ASSESSMENTS

1. DIVIDENDS

- (a). At the end of each **fiscal year**, a dividend calculation shall be performed for all open **program years**. Each year thereafter there shall be an additional dividend calculation made until such time as the **program year** is closed. Any dividends available to be declared and returned to the **Participants**,

who are in good standing under the PLAN JPA and in compliance with their obligations under the PPP, will be at the discretion of the **Board** provided that the total dividend to be distributed from all qualifying **program years** shall not reduce the total equity for all **program years** below a discounted 90% confidence level.

(b). Calculation

- i. Dividends may not be declared from a **program year** until five years after the end of that **program year**.
- ii. Dividends may be declared only at such time as the PPP has equity, with liabilities actuarially stated discounted at a 90% confidence level. The calculated amount shall represent the maximum dividend available to be declared.
- iii. The dividend shall be reduced if any of the five succeeding years (after the five years eligible for dividend calculation) have negative equity, with liabilities actuarially stated at a discounted 90% confidence level.
- iv. Dividends may only be declared if the equity at the expected confidence level is five times the Self-Insured Retention.

2. ASSESSMENTS

- (a). Assessments may be levied on the **Participants** for the risk sharing layer of any **program year(s)**, as approved by the **Board**, at such time as an actuary finds that the assets of the PPP, as a whole, do not meet the expected discounted losses of the PPP. Each **Participant's** share of the assessment shall be allocated based upon the **Member Contributions** collected for the self-insured layer of each respective **program year** being assessed. If such assessment is not sufficient to relieve the pool of its actuarially determined deficit in the year of the assessment, such assessment shall be levied each subsequent year until the actuarially determined deficit is relieved. The timing of payment shall be determined by the **Board** at the time of assessment.
- (b). Equity from the risk sharing layer may be exchanged between eligible **program years** if sufficient funds are available. The transfer of equity will be performed so that the individual **Participant's** share of equity is separately applied so as to maintain the integrity of each **Participant's** balance.

F. EXCESS COVERAGE

1. The **Board** shall ensure that each **program year** is provided with excess property coverage for the **Participants**. It is the intent and purpose of the **Authority** to continue to provide such coverage to the **Participants**, provided that such coverage can be obtained and is not unreasonably priced. This coverage may be obtained from an insurance company, by participating in another pool established under the Government Code as a joint powers authority or offered through another PPP pooling procedure. If the coverage is purchased from an insurance company, such insurance company shall have an A.M. Best Rating Classification of A or better and an A.M. Best Financial Rating of VII or better or their equivalents.
2. Premiums for such coverage shall be paid by the PPP from the proceeds received as **Member Contributions** from the **Participants**.
3. Deductibles for Specific Excess Coverages:
 - a. Deductibles for various perils covered under the excess policy are determined by the excess property program the **Authority** has elected to participate in.
 - b. When a claim is filed for a qualifying loss, the **Participant** will be responsible for their corresponding retention as defined in the Memorandum of Coverage for the Pooled Property Program for the **Authority**.
 - c. The **Authority** shall authorize payment of the difference between the **Participant's** retained limit and the **Authority's** Self-Insured Retention for the corresponding covered loss within the excess program. The **Authority's** obligation to the excess program shall remain despite the total dollar amount of the difference in retained limit amounts.
4. The **Board** may, from time to time, alter excess coverage based on insurance market conditions, available alternatives, costs, and other factors. The **Board** shall place excess coverage with the two competing objectives of security and minimizing costs to the PPP as a whole.

ARTICLE IV: ADMINISTRATION

A. BOARD

1. Discussion of developments and performance of the PPP may occur as part of any scheduled **Board** meeting.
2. The **Board** shall have the responsibility and authority to carry out and perform all functions and make all decisions affecting the PPP, consistent with the powers of the **Authority** and not in conflict with the **Agreement**, the Bylaws, or the MOC.

B. EXECUTIVE COMMITTEE

1. The Executive Committee shall have the responsibility and authority to carry out and perform all other functions and make all other decisions affecting the PPP, provided that such functions and decision are consistent with the powers of the **Authority** and are not in conflict with the **Agreement**, the Bylaws, or the MOC.
2. The Executive Committee shall meet at least twice a year to review the developments and performance of this PPP. The Executive Committee shall review, study, advise, make recommendations to the **Board**, or take any action which the Committee believes to be in the best interests of the PPP and its **Participants**, provided that such action is not prohibited by law or is not an action reserved unto the **Board**.

C. ADMINISTRATOR

The **Administrator** shall be responsible for:

1. The overall operation of the PPP;
2. Monitoring the status of the PPP and its operations, the development of losses, the program's administrative and operational costs, service companies' performance, and brokers' performance;
3. Assisting the **Board** in selecting brokers, actuaries, auditors, and other service companies;
4. Promoting the programs to prospective new participants;
5. Preparing, distributing, and maintaining all records of the PPP, including its MPD and MOC as these may be amended from time to time; and
6. Preparing Certificates of Coverage as may be required by the **Participants** in the PPP.

ARTICLE V: CLAIMS ADMINISTRATION

A. DISPUTES REGARDING MANAGEMENT OF A CLAIM

1. Any matter in dispute between a **Participant** and the **Third Party Administrator** shall be called to the attention of the **Administrator** and heard by the Executive Committee whose decision may be appealed to the **Board** within thirty (30) days of the Committee's decision. If no appeal is filed, the decision of the Executive Committee shall be final.
2. When an appeal has been filed, the **Board** shall meet within forty-five (45) days to hear the appeal. The decision of the **Board** will be final.

ARTICLE VI: PARTICIPATION

A. ELIGIBILITY AND APPLICATION

1. ELIGIBILITY

- (a). A new applicant must commit to at least three full **program years** of participation in this PPP.
- (b). Any **Member Entity** may apply to participate in the PPP by providing an adopted resolution of its governing body and such other information/materials as may be required. The applicant's resolution shall commit the applicant to three full **program years** of participation in the PPP, if accepted, and consent to be governed for property coverage in accordance with the MPD, the MOC and other documents and policies adopted by the **Board**.
- (c). The application for participation shall be submitted at least thirty (30) days prior to the date of the last **Board** meeting of the **program year** to ensure the **Board** has adequate time to review and evaluate the acceptability of the applicant. It is recommended that an applicant only enter the PPP at the commencement of a new **program year**. If an applicant chooses to enter the PPP at any other time, the **Member Contributions** for the remainder of the **program year** will be pro-rated. The new **Participant** will begin coverage on the date that is mutually acceptable to the new **Participant** and the **Board**; however, the new **Participant** will be required to share losses with the other **Participants** of the PPP for the entire **program year**.

2. APPROVAL OF APPLICATION

The **Board** shall, after reviewing the resolution and other underwriting criteria, determine the acceptability of the exposures presented by the applicant and shall advise the applicant in writing of its decision to accept or reject the request within ten (10) days after the decision has been made.

B. PARTICIPANTS' DUTIES

1. The **Participants** shall be responsible for providing the data required by the **Authority** to determine the values of covered properties. The data shall be factual and provided in a timely manner in conformance with the policies adopted by the **Board**.
2. The **Participants** shall disclose activities not usual and customary in their operation.
3. The **Participants** shall at all times cooperate with the **Authority's Administrator**,

Litigation Manager, **Third Party Administrator**, with regard to claims handling and underwriting activities of the **Authority**.

4. Each year the **Authority** shall bill **Participants** for a **Member Contributions** for the next **program year**. The billings shall be due and payable in accordance with the Bylaws.
5. Billings may be made to **Participants** for a **program year** found to be actuarially unsound. All billings for payments to bring a **program year** into an actuarially sound condition are due and payable upon receipt.
6. Former **Participants** in the PPP shall be required to pay all applicable billings for the **program years** in which they participated. Delinquent billings, together with penalties and interest, shall be charged and collected from the **Participant** in accordance with the Bylaws.
7. Penalties and interest shall be charged against any amounts delinquent in accordance with the Bylaws.

C. TERMINATION

1. VOLUNTARY TERMINATION

(a). A **Participant** shall not be permitted to withdraw from the PPP prior to the end of its commitment period of three full **program years**, and shall be obligated for payment of Member Contributions for these three years.

(b). A **Participant** which has maintained its participation in the PPP for three full **program years** may terminate its participation if, at least six months before the next **program year**, a written request to terminate participation is received from the **Participant**.

(c). Any **Participant** seeking to terminate its participation without proper and timely notice shall be responsible for the full cost of the next **program year's** premium. The notice will be deemed effective for the **program year** following the year in which the additional premium is paid.

2. INVOLUNTARY TERMINATION

(a) The **Board** may initiate termination of a **Participant** from the PPP for the following reasons:

(i) Termination as a **Member Entity** of the **Authority**;

(ii) Declination to cover the **Participant** by the entity providing excess coverage;

- (iii) Nonpayment of Member Contributions, premiums, assessments, or other charges;
- (iv) Frequent late payment of Member Contributions, premiums, assessments, and/or other charges, subject to interest and penalty charges;
- (v) Failure to timely provide requested underwriting information;
- (vi) Consistent poor loss history relative to the pool;
- (vii) Substantial change in exposures which are not acceptable in this PPP; and/or
- (viii) Financial impairment that is likely to jeopardize this PPP's ability to collect amounts due in the future.

The Board's determination of the existence of any of these conditions shall be final.

- (b) The **Board** shall have the authority, upon a two-thirds approval, to authorize a termination notice be sent to a **Participant**. Such notice shall be sent at least 60 days prior to the effective date of termination.

3. CONTINUED LIABILITY UPON TERMINATION

Termination of participation, whether voluntary or involuntary, in future **program years** does not relieve the terminated **Participant** of any benefits or obligations of those **program years** in which it participated. These obligations include payment of assessments, retrospective adjustments, or any other amounts due and payable.

ARTICLE VII: TERMINATION AND DISSOLUTION OF THE PPP

The PPP may be terminated and dissolved any time by a vote of two-thirds of the **Participants**. However, the PPP shall continue to exist for the purpose of disposing of all claims, distributing assets, and all other functions necessary to conclude the affairs of the PPP.

Upon termination of the PPP, all assets of the PPP shall be distributed only among the **Participants**, including any of those which previously withdrew pursuant to Article VI, in accordance with and proportionate to their **Member Contributions** and assessments paid during the term of participation. The **Board** shall determine such distribution within six months after the last pending claim or loss covered by the PPP has been finally resolved and there is a reasonable expectation that no new claims will be filed.

ARTICLE VIII: AMENDMENTS

This MPD may be amended by a two-thirds (2/3rds) vote of the **Participants** present and voting at the meeting, provided prior written notice, as provided within the **Agreement**, has been given to the **Board**.

Appendix A

City of American Canyon	Town of Los Gatos
Town of Atherton	City of Millbrae
City of Benicia	City of Milpitas
City of Burlingame	City of Morgan Hill
City of Campbell	City of Newark
Town of Colma	City of Pacifica
City of Cupertino	Town of Portola Valley
City of Dublin	Town of Ross
City of East Palo Alto	City of San Bruno
City of Foster City	City of San Carlos
City of Half Moon Bay	City of Saratoga
Town of Hillsborough	City of South San Francisco
Town of Los Altos Hills	City of Suisun City
Town of Tiburon	Town of Woodside

**POOLED LIABILITY ASSURANCE NETWORK
JOINT POWERS AUTHORITY**

**MEMORANDUM OF COVERAGE
FOR THE
POOLED PROPERTY PROGRAM**

In consideration of the premiums paid and the covenants in this Memorandum, the Pooled Liability Assurance Network Joint Powers Authority (PLAN JPA) agree as follows:

I. Excess Insurance

PLAN JPA shall purchase a policy or policies of property insurance including endorsements naming each Member Entity participating in the Property Program as a Named Insured (collectively, the "Excess Policy").

II. Pooled Coverage

PLAN JPA shall pay to the Member Entity and to any person insured under the Excess Policy for any loss arising out of any one occurrence (which, but for the amount of the loss, would be covered under the Excess Policy) the portion of such loss which exceeds the Retained Limit up to the point at which such loss is covered under the Excess Policy. The coverage period and property covered are the same as the Excess Policy.

III. Pooled Coverage Limits

PLAN JPA shall pay all losses and damages within the Pooled Coverage described in § II which exceeds the individual retained limits of the Member Entities set forth below:

Vehicle loss or damage	-	\$5,000 per occurrence
All other	-	\$5,000 per occurrence

PLAN JPA's liability under this Section and Section II shall not exceed the self-insured retention under the Excess Policy or the limit(s) under the aggregate stop loss or deductible endorsement portion of the Excess Policy.

IV. Procedures

For all losses within the Pooled Coverage, PLAN JPA shall have all the rights and obligations of the "insurer," the "company" and cognate terms as set forth in the Excess Policy. For all losses exceeding the Pooled Coverage, PLAN JPA shall be responsible for coordinating claims adjusting, loss payments, subrogation and other processes, procedures, and the rights and obligations of PLAN JPA and the issuer(s) of the Excess Policy with respect to PLAN JPA and the issuer(s) of the Excess Policy. Each Member Entity shall have the rights and obligations of the "insured" and cognate terms as set forth in the Excess Policy.

V. Definitions

All capitalized terms shall have the meanings ascribed to them in the Excess Policy.



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

JEFF/SUSAN —

PLEASE RETURN CONTRACT FOR
OUR RECORDING & FILES .

FRANCES —

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, AGAG 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.

**AMENDMENT ONE TO THE
AGREEMENT FOR CLAIMS ADMINISTRATION SERVICES**

This Amendment One to that certain Agreement for Claims Administration Services dated as August 1, 2014, (the "Agreement") by and between ABAG PLAN CORPORATION ("Principal") and YORK RISK SERVICES GROUP, INC. ("York").

WITNESSETH

WHEREAS, the parties wish to revise the title of their Agreement;

WHEREAS, the parties wish to extend the term of their Agreement;

WHEREAS, the parties wish to update their respective address information; and

WHEREAS, the parties wish to amend the fee schedule of the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The title of the Agreement shall be revised to read the following:

"Agreement for General Liability / Automotive Liability / Property Program / Crime Program Claims Administration Services."

2. Section II of the Agreement entitled "TERM OF AGREEMENT" shall be revised to include the following contract period:

"The term of this Agreement has been extended to include the period from August 1, 2017, through July 31, 2020. After July 31, 2020, the term may be extended for two additional one year periods by mutual agreement of the parties."

3. The introductory paragraph of the Agreement shall be revised to reflect the address for ABAG PLAN Corporation as the following:

"375 Beale Street, Suite 700, San Francisco, California 94105."

4. The introductory paragraph of the Agreement shall be revised to reflect the address for York Risk Services Group, Inc. as the following:

"One Upper Pond Road, Building F, Fourth Floor, Parsippany, New Jersey 07054."

5. Section XIII.C. shall be revised so that any notice to York shall be sufficient if sent via certified or express mail (with capacity to demonstrate a receipt) and addressed to:

"York Risk Services Group, Inc., Attention: Jody A. Moses, Senior Vice President, 333 City Blvd. West, Suite 1500, Orange, California 92868. With a copy to: York

Risk Services Group, Inc., Attention: Michael Krawitz, General Counsel, One Upper Pond Road, Building F, Fourth Floor, Parsippany, New Jersey 07054."

6. Section XIII.C. shall be revised so that any notice to Principal shall be sufficient if sent via certified or express mail (with capacity to demonstrate a receipt) and addressed to:

"ABAG – Risk Management Officer, 375 Beale Street, Suite 700, San Francisco, California."

7. Effective August 1, 2017, the provisions set forth in Section VII. A. (i) of the Agreement entitled "COMPENSATION" shall no longer apply. From and after such date, the provisions set forth in the attached Exhibit A shall apply instead.
8. All other terms of the Agreement shall remain in force and unchanged. Any conflicts between this Amendment and the original Agreement, including prior executed amendments, shall be superseded by the terms provided herein.

In witness whereof, the parties have executed this amendment to be effective as of August 1, 2017.

ABAG PLAN CORPORATION

YORK RISK SERVICES GROUP, INC.

By: JMS

By: Jody A. Moses

Name: JIM SPILLMAN

Jody A. Moses

Title: ACTING RISK MANAGER & SECRETARY

Senior Vice President

EXHIBIT A

Claims Services

York will provide claims handling at the following rates:

ANNUAL FEE	
LINE OF BUSINESS	ANNUAL FEE
General Liability	
Aug 1, 2017 – July 31, 2018	\$ 645,839
Aug 1, 2018 – July 31, 2019	\$ 665,214
Aug 1, 2019 – July 31, 2020	\$ 685,170
Option Yr. 1 Aug 1, 2020– July 31, 2021	\$ 705,725
Option Yr. 2 Aug 1, 2021– July 31, 2022	\$ 726,897

Definitions:

Annual Fee: York's Annual Fee quotation is a guaranteed flat annual fee and applies to claims administration services provided during the applicable 12 month period listed above. Any additional administration beyond the periods listed above will be subject to an additional negotiated flat annual fee or other mutually agreed upon rate structure. If there is a significant increase in claims volume, York may propose additional charges. If client agrees to such additional charges, the fees will be adjusted accordingly. If client does not agree to such charges, York will have the right to terminate services on 60 days' notice.

Services of the Account Manager 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: \$8.75 per claim
- Billing: York will issue an electronic invoice monthly, via e-mail. 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.
- ABAG may request that the services York performs be rendered in a particular or different way or additional services be provided, and York will make all reasonable efforts to comply. If such request

increases York's cost of providing the services, York shall be entitled to an equitable adjustment in its compensation.

- Subrogation: York's pricing includes placing parties that it deems responsible on notice and taking reasonable action to recover. Should referral to a specialist be required beyond this point if performed outside of the dedicated unit can be performed at 20% of recovery, plus costs, such as locate searches, skip traces, collection counsel fees and expenses, etc. No referrals will be made without ABAG approval.

Allocated Loss Adjustment Expenses

York 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 ABAG. York's fees do not cover ALAE, and York is under no obligation to pay ALAE with its 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
- Services performed outside York's 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 York 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.

York may, but need not, elect to utilize its own staff or affiliated entities to perform any of these services. Associated fees and costs will be charged as ALAE.

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

By 
Title PLAN JPA President

Date August 20, 2021

Sedgwick Claims Management Services, Inc.

By Michael Shook
Title Senior Vice President

Date September 7, 2021

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. Any additional administration beyond the initial 12-month contract term will be subject to an additional negotiated flat annual fee or other mutually agreed upon rate structure. If there is a significant increase in claims volume, we may propose additional charges. If client agrees to such additional charges, the fees will be adjusted accordingly. If client does not agree to such charges, we will have the right to terminate services on 60 days' notice.

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 its compensation.

- 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.
- These proposed fees will remain in effect for 90 days from the date of this proposal.
- This proposal contemplates that we will be entering into a direct contract with PLAN JPA. Should we be required to contract with any other party, different terms may apply.

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 its own staff or affiliated entities to perform any of these services. Associated 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)	Ten (10) Licenses Included
Additional RMIS Claims Storage	Closed claim data, greater than 10 years old will be stored <i>at the client’s request</i> 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.