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(800) 541-4591 Fax (916) 244-1199
<https://www.planjpa.org/>

**SPECIAL BOARD OF DIRECTORS MEETING
AGENDA**

**Friday, September 20, 2024
2:00 p.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; City of American Canyon, 4381 Broadway St, Ste 201, American Canyon, CA 94503; Town of Atherton, 91 Ashfield Rd, Atherton, CA 94027; City of Benicia, 250 East L St, Benicia, CA 94510; City of Burlingame, 501 Primrose Rd, Burlingame, CA 94010; City of Campbell, 70 North First St, Campbell, CA 95008; Town of Colma, 1198 El Camino Real, Colma, CA 94014; City of Cupertino, 10300 Torre Ave, Cupertino, CA 95014; City of Dublin, 100 Civic Plaza, Dublin, CA 94568; City of East Palo Alto, 2415 University Ave, East Palo Alto, CA 94303; City of Foster City, 610 Foster City Blvd, Foster City, CA 94404; City of Half Moon Bay, 501 Main St, Half Moon Bay, CA 94022; Town of Hillsborough, 1600 Floribunda Ave, Hillsborough, CA 94010; Town of Los Altos Hills, 26379 Fremont Rd, Los Altos Hills, CA 94022; Town of Los Gatos, 110 East Main St, Los Gatos, CA 95030; City of Millbrae, 621 Magnolia Ave, Millbrae, CA 94030; City of Milpitas, 455 East Calaveras Blvd, Milpitas, CA 95035; City of Morgan Hill, 17575 Peak Ave, Morgan Hill, CA 95037; City of Newark, 37101 Newark Blvd, Newark, CA 94560; City of Pacifica, 170 Santa Maria Ave, Pacifica, CA 94044; Town of Portola Valley, 765 Portola Rd, Portola Valley, CA 94028; Town of Ross, 31 Sir Frances Drake Blvd, Ross, CA 94957; City of San Bruno, 567 El Camino Real, San Bruno, CA 94066; City of San Carlos, 600 Elm St, San Carlos, CA 94070; City of Saratoga, 13777 Fruitvale Ave, Saratoga, CA 95070; City of South San Francisco, 400 Grand Ave, South San Francisco, CA 94080; City of Suisun City, 701 Civic Center Blvd, Suisun City, CA 94585; Town of Tiburon, 1505 Tiburon Blvd, Tiburon, CA 94920; and Town of Woodside, 2955 Woodside Rd, Woodside, CA 94062.

Each location is accessible to the public, and members of the public may address the Board of Directors 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.

* Reference materials enclosed with staff report.

Documents and materials relating to an open session agenda item that are provided to the Pooled Liability Assurance Network Joint Powers Authority (PLAN JPA) Board of Directors 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/ROLL CALL**
 - 3. APPROVAL OF AGENDA AS POSTED (OR AMENDED)**
 - 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 Board relative to matters of the Board of Directors 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.
 - 3 5. CONTRACTS**
 - *A. Review and Consideration of the Third-Party Administration Request for Proposal Results**

Recommendation: Staff makes no recommendation on this item as there is a financial interest in the outcome.
 - 6. CLOSING COMMENTS**

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

 - A. Board of Directors
 - B. Staff
 - 7. ADJOURNMENT**

NOTICES:

- The next Executive Committee meeting will be held on October 30, 2024, at 10:00am, via Zoom Videoconference.
- The next Annual Workshop will be held December 4-5, 2024, at the Toll House Hotel, Los Gatos, CA.

Agenda Item 5.A.

CONTRACTS

SUBJECT: Review and Consideration of the Third-Party Administration Request for Proposal Results

BACKGROUND AND HISTORY:

In November 2023, the Board held a discussion regarding the performance of its service providers. At the conclusion of its discussion, the Board provided authority to the Executive Committee to oversee the entire Request for Proposal (RFP) process for Third-Party Administration (TPA) and directed staff to work with Marc Zafferano, Board Counsel.

During its January 25, 2024, meeting, the Executive Committee approved a proposal with Clovis Consultants and Associates for management of the RFP and the contract was executed on February 9, 2024. In a Special Executive Committee meeting held on March 6, 2024, the Committee discussed several concerns regarding the use of a consultant for this process and ultimately terminated the contract with the consultant. The Committee informed staff they wished to establish an Ad-Hoc Committee of members of the PLAN Board of Directors.

The Ad-Hoc Committee consisted of five (5) members including:

- Rebecca Mendenhall, PLAN JPA President, City of San Carlos
- Darcy Smith, San Bruno
- Christa Johnson, Ross
- Christina Penland, Suisun City
- Jason Wong, South San Francisco

Mr. Zafferano was instrumental in leading the Committee regarding order of process for all next steps moving forward through the selection and start of a potential new contract for TPA services.

The RFP was released, and three responsible companies submitted proposals. The Ad-Hoc Committee evaluated the proposals, interviewed respondents, and ultimately select a provider to meet the needs of the pool. Each of the Committee members involved in the provider interviews provided comments and written feedback regarding their respective selections. Below is a summary of the comments received:

Carl Warren –

- The team that would be assigned to service PLAN JPA was present for the interview.
- Boutique JPA that can customize services to client.
- Entire team lives in the Bay Area and would be available for investigations, mediations and meetings.
- Perform regular audits on outstanding claims and review reserves every 60 days.
- Contact claimant before rejection letter is sent out so there are no surprises.
- 60-90 days for transition and data conversion from previous TPA.

**PLAN JPA
SPECIAL BOARD OF DIRECTORS MEETING**

March 28, 2024

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George Hills –

- Works with approximately 25 JPAs.
- Not owned by corporate entity (single person ownership).
- Shortage of public agency claims adjusters/professionals, mentioned that it would not be easy to staff this account.
- The agency or member would send out statutory notices to claimants Member and city preference whether or not George Hills sends detailed notices.
- Claim reviews would be flexible on timing, frequency, and who attends, but would charge for each one.

Sedgwick –

- Has dedicated public entity business unit.
- Subrogation at no cost.
- No cost for claim reviews.
- Would partner with agency to provide letter of explanation to be sent with agency’s letter of rejection, when appropriate.
- Senior leadership in west coast fairly new.

The Committee utilized a forced ranking system to determine the leading company as the interviews progressed.

The Committee informed staff of their selection of Carl Warren and instructed staff to begin contract discussions with the representative(s) with Carl Warren & Co. Inc. The negotiated contract is attached for consideration.

FISCAL IMPACT:

The contract between PLAN JPA and Carl Warren has a price structure that would save PLAN JPA approximately \$30,000 per year for the first 3 years of the contract. Should PLAN extend the contract by the two (2) optional years, the JPA will save approximately \$136,000 per program year. Total savings to PLAN JPA is approximately \$292,000 over five (5) program years.

Program Year	Sedgwick	Carl Warren
2024-2025	\$794,300	\$733,194
2025-2026	\$818,129	\$753,981
2026-2027	\$842,672	\$775,506
2027-2028	\$867,952*	\$666,284**
2028-2029	\$893,990*	\$674,341**

*Assuming a 3% increase when entering a new contract with provider.

**The initial “takeover claims” fee was spread out over the first three (3) years of the contract and the cost falls off during optional years 4 and 5.

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RECOMMENDATION:

Staff makes no recommendation on this item as there is a financial interest in the outcome.

REFERENCE MATERIALS ATTACHED:

- Professional Services Agreement – Carl Warren & Company

PROFESSIONAL SERVICES AGREEMENT

By and Between

PLAN JPA

and

CARL WARREN & COMPANY

for

General Liability/Property Claims Administration Services

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January 01, 2025

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PROFESSIONAL SERVICES AGREEMENT

By and Between POOLED LIABILITY ASSURANCE NETWORK

and CARL WARREN & COMPANY

For THIRD PARTY ADMINISTRATOR

THIS AGREEMENT (this “Agreement”) is made and entered into as of the 1st day of January 2024, by and between Pooled Liability Assurance Network (herein called “PLAN.”), a Joint Powers Authority, and Carl Warren & Company (herein called “CONSULTANT”).

RECITALS

WHEREAS, PLAN requires certain work services as described in “[Appendix A](#)” of this Contract; and

WHEREAS, the services required for the Project cannot be performed satisfactorily by the officers of PLAN; and

WHEREAS, the parties hereto now wish to enter into this Agreement pursuant to which CONSULTANT will render professional services in connection with the Project as hereinafter provided.

NOW, THEREFORE, the parties hereto agree as follows:

1. SCOPE OF SERVICES

CONSULTANT’s services are generally described in “[Appendix A, Scope of Work](#)”, attached hereto and incorporated herein by this reference. CONSULTANT agrees to provide claims management services for the tasks identified as directed by the General Manager.

2. PERIOD OF PERFORMANCE

CONSULTANT’s services hereunder shall commence upon issuance of a written Notice to Proceed (NTP) issued by PLAN’s Assistant General Manager, but no member engagement shall occur prior to January 1, 2025 and shall continue until the project is completed but in no way past January 1, 2028 or until otherwise terminated or extended as hereinafter provided by written amendment, except that all indemnity and defense obligations

hereunder shall survive termination of this Contract. CONSULTANT shall not be compensated for any Work performed or costs incurred prior to the approval of the Board of Directors or if authority has been granted to the Executive Committee.

PLAN, at its sole discretion, may extend the original term of the Contract through the issuance of a Board approved amendment.

3. COMPENSATION AND METHOD OF PAYMENT

A. Compensation. CONSULTANT shall be compensated for services and PLAN shall be obligated to pay only such fees, allowances, costs, reimbursements, or other compensation as are specified below based on the defined Administration Fee for each of the program years of service plus any period less than a full program year, which shall be prorated at the current established rate set forth in Attachment A, attached hereto and incorporated herein by this reference, which include all applicable surcharges such as taxes, insurance, and fringe benefits as well as indirect costs, overhead and profit allowance, materials, and supplies.

B. Expenses. PLAN will reimburse CONSULTANT for all expenses deemed reasonable and necessary that are defined in the proposal incurred by CONSULTANT in the performance of this Agreement.

C. Method of Payment. CONSULTANT shall submit invoices for services rendered on a monthly basis, identifying the work for which payment is requested; the hours worked or the deliverable completed; any authorized expenses, together with receipts for such expenses, if requested; the total amount requested; and the cumulative amount billed and paid under this Agreement. Payment shall be made by PLAN within thirty (30) days of receipt of an acceptable invoice, approved by a designated representative. All invoices shall be made in writing and delivered or mailed to PLAN as follows:

“Attention: PLAN”

4. AMENDMENTS

PLAN reserves the right to request changes in the services to be performed by CONSULTANT. All such changes shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the Executive Director or a designated representative and CONSULTANT and specifically identified as amendments to the Agreement. Any services added to the scope of the Agreement by an amendment shall be subject to all applicable conditions of the Agreement. No claim for additional compensation or extension of time shall be recognized unless contained in a duly executed amendment.

5. TERMINATION

PLAN may terminate this Agreement, in whole or in part, at any time by written notice to CONSULTANT. Upon receipt of notice of termination, CONSULTANT shall stop work under this Agreement immediately, to the extent provided in the notice of termination, and shall promptly submit a final invoice for services to PLAN. CONSULTANT shall be reimbursed for hours performed, plus expenses, up to the time of termination, not to exceed the maximum amount payable under the Agreement or, for deliverables-based payment, not to exceed the maximum payable for the deliverable.

6. INSURANCE REQUIREMENTS

A. Minimum Coverages. CONSULTANT shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement, placed with insurers with a Best's rating of A-VIII or better.

- i. Workers' Compensation Insurance in the amount required by the applicable laws, and Employer's Liability insurance with a limit of not less than \$1,000,000 per accident for bodily injury or disease, and any and all other

coverage of CONSULTANT's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation endorsement in favor of PLAN.

- ii. Commercial General Liability Insurance for Bodily Injury and Property Damage liability, covering the operations of CONSULTANT and CONSULTANT's officers, agents, and employees and with limits of liability which shall not be less than \$2,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$4,000,000, and Personal & Advertising Injury liability with a limit of not less than \$2,000,000. Expense for Indemnitee's defense costs shall be outside of policy limits and such policy shall be issued on a Duty to Defend Primary Occurrence Form.

PLAN and its board members, officers, representatives, agents, and employees are to be named as additional insureds. Such insurance as afforded by this endorsement shall be primary as respects any claims, losses or liability arising directly or indirectly from CONSULTANT's operations.

- iii. Automobile Insurance for all automobiles owned, used, or maintained by CONSULTANT and CONSULTANT's officers, agents, and employees, including but not limited to owned, leased, non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence.
- iv. Professional Liability Insurance (if applicable) in an amount no less than \$5,000,000 per occurrence/\$5,000,000 aggregate. If such policy is written on a "Claims-Made" (rather than an "occurrence") basis, CONSULTANT agrees to maintain continuous coverage in effect from the date of the commencement of services to at least three (3) years beyond the termination or completion of services or until expiration of any applicable statute of limitations, whichever is longer. The policy shall provide coverage for all work performed by the CONSULTANT.

- v. Property Insurance. Property Insurance covering CONSULTANT’S own business personal property and equipment to be used in performance of this Agreement. Coverage shall be written on a “Special Form” (“All Risk”) that includes theft, but may exclude earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of PLAN. If such insurance coverage has a deductible, CONSULTANT shall also be liable for the deductible.

- vi. Non-Limitation of Insurance Requirements. The insurance coverage provided, and limits required under this Contract are minimum requirements and are not intended to limit the CONSULTANT’S indemnification obligations under the Contract, nor do the indemnity obligations limit the rights of the Indemnified Parties to the coverage afforded by their insured status. To the extent required by Law in connection with Work to be performed, the CONSULTANT shall obtain and maintain, or cause to be obtained and maintained, in addition to the insurance coverage expressly required under this Contract, such other insurance policies for such amounts, for such periods of time and subject to such terms as required by Law and any other agreements with which the CONSULTANT is required to comply, including any Third-Party Agreements. Liability insurance coverage will not be limited to the specific location designated as the Site, except that if the CONSULTANT arranges project-specific general liability, excess liability, or workers’ compensation coverage, limitations of coverage to the Site will be permitted subject to PLAN approval and use of the broadest available site-specific endorsements. No liability policy will contain any provision or definition that would serve to eliminate so-called “third-party-over action” claims, including any exclusion for bodily injury to an employee of the insured or of any Subcontractor. The CONSULTANT acknowledges and will at all times comply with the provisions of Labor Code Section 3700 which require every employer in the State to be insured against liability for

workers' compensation or to undertake self-insurance in accordance with the provisions of that code.

- b. Deductibles and Retentions. CONSULTANT shall be responsible for payment of any deductible or retention on CONSULTANT's policies without right of contribution from PLAN. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that PLAN seeks coverage as an additional insured under any CONSULTANT insurance policy that contains a deductible or self-insured retention, CONSULTANT shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of CONSULTANT, subconsultant, subcontractor, or any of their employees, officers or directors, even if CONSULTANT or subconsultant is not a named defendant in the lawsuit.

- c. Notice of Termination. All CONSULTANT policies shall provide that the insurance carrier shall give written notice to PLAN at least 30 days prior to cancellation of the policy or policies (unless canceled for non-payment, then 10 days prior written notice will be given) and shall provide notice of such cancellation to PLAN and any other additional insured.

- d. Additional Provisions. Each policy or policies of insurance described in Commercial General Liability Insurance, above, shall contain the following provisions:

- Inclusion of PLAN, its successor entity, and their respective commissioners, officers, representatives, agents and employees, as additional insureds with respect to work or operations in connection with this Agreement.
- Endorsement providing that such insurance is primary insurance, and no insurance of PLAN will be called on to contribute to a loss.

- e. Certificates of Insurance. Prior to commencement of any work hereunder, CONSULTANT shall deliver to PLAN Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof. CONSULTANT agrees, upon written request by PLAN, to furnish copies of such policies or endorsements, certified by an authorized representative of the insurer.
- f. Disclaimer. The foregoing requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant hereto.

7. STATUS OF CONSULTANT

CONSULTANT is an independent contractor retained through this Agreement to provide legal services in specific areas of law and not to participate in or advise PLAN on general ongoing decisions. CONSULTANT is not an employee of PLAN and has no authority to contract or enter into any other agreement in the name of PLAN. CONSULTANT has, and hereby retains, full control over the employment, direction, compensation, and discharge of all persons employed by CONSULTANT who are assisting in the performance of services under this Agreement. CONSULTANT shall be fully responsible for all matters relating to the payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. CONSULTANT shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.

CONSULTANT shall conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendations, or counsel independent of the control and direction of PLAN or any PLAN official, other than normal contract monitoring, and shall possess no authority with respect to any PLAN decision beyond rendition of information, advice, recommendations, or counsel. The authority of CONSULTANT to make representations or statements on behalf of PLAN shall be limited to representations

or statements that reflect or convey agency decisions of PLAN and which are of a type that outside counsel normally make in the context of representation of a client.

8. WORK PRODUCTS CONFIDENTIAL

Work products prepared or assembled by CONSULTANT, obtained from others by CONSULTANT or made available to CONSULTANT by PLAN in connection with the services under this Agreement shall be treated as confidential by CONSULTANT and subject to the Attorney Work Product Doctrine and the attorney-client privilege, and CONSULTANT agrees that they shall not be made available to any individual or organization without prior approval of PLAN.

9. SUBCONTRACTS

CONSULTANT shall not subcontract all or any portion of its services under this Agreement without the prior written approval of PLAN or a designated representative, and any attempt to do so shall be void and unenforceable. In the event that CONSULTANT enters into one or more subcontracts pursuant to this Article, it is understood and agreed that the participating subcontractors shall be solely and directly responsible to CONSULTANT, and PLAN shall have no obligation to them.

10. ASSIGNMENT OF AGREEMENT

CONSULTANT shall not assign this Agreement, or any part hereof without prior express written consent of PLAN or a designated representative, and any attempt thereat shall be void and unenforceable.

11. RECORDS

CONSULTANT shall maintain full and adequate books, records, and accounts in accordance with generally accepted accounting practices. All such books, records, accounts, and any and all work products, materials, and other data relevant to its performance under this Agreement shall be retained by CONSULTANT for a minimum of five (5) years after closing of file unless return requested by member; three (3) years from age 18 or seven (7) years – whichever is longer from closure.

12. AUDITS

CONSULTANT shall permit PLAN and its authorized representatives to have access to CONSULTANT's books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement, for the purpose of making an audit, examination, excerpt and transcription during the term of this Agreement, and for the period specified in Article 11. CONSULTANT shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials, and data for that period of time.

13. NOTICES

Except for invoices submitted by CONSULTANT pursuant to Article 3, all notices, or other communications to either party by the other shall be deemed given when made in writing and delivered, mailed, emailed, or faxed to such party at their respective addresses as follows:

To PLAN:

Attention:

Eric Dahlen, General Manager

PLAN

1750 Creekside Oaks, Suite 200

Sacramento, CA 95833-3648

Email: eric.dahlen@sedgwick.com

Tel: (916) 946-4459

To CONSULTANT:

Attention:

Angelique King, Executive Vice President

Email: aking@carlwarren.com

Tel: (951) 565-3005

Fax: (866) 254-4423

14. PROHIBITED INTEREST

No member, officer, employee, or agent of PLAN, during his/her tenure shall have any prohibited interest as defined by California Government Code Sections 1090, *et seq.* and 87100 *et seq.*, direct or indirect, in the Agreement or the proceeds thereof. Prohibited interests include interests of immediate family members, domestic partners, and their employers or prospective employers. CONSULTANT further covenants that it has made a complete disclosure to PLAN of all facts of which it is aware upon due inquiry bearing upon any possible interest, direct or indirect, which it believes any member, officer, agent or employee of PLAN (or an immediate family member, domestic partner or employer or prospective employer of such member, officer, agent or employee) presently has, or will have in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute grounds for cancellation and termination hereof by PLAN.

15. SOLICITATION OF CONTRACT

CONSULTANT warrants that it has not employed or retained any company or persons, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person other than bona fide employees working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of the Agreement. For breach or violation of this warranty, PLAN shall have the right to terminate the Agreement without liability or, at its discretion, the right to deduct from CONSULTANT's maximum payment the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent consideration.

16. INTEREST OF THE CONSULTANT

CONSULTANT covenants that it has a duty to disclose any potential conflicts of interest and has disclosed any potential conflicts of interest existing at the time of execution of the Agreement. CONSULTANT will otherwise act in accordance with its ethical obligations in performing its work for PLAN. PLAN acknowledges that CONSULTANT may represent individual members of PLAN, and hereby acknowledges and waives any

potential conflict of interest. In the event of an actual conflict, CONSULTANT will be required to recuse itself from matters giving rise to the conflict.

To the extent that an actual or potential conflict of interest is identified in the course of this engagement, CONSULTANT will seek the informed written consent of both PLAN and the other client where appropriate, in accordance with the State Bar of California Rules of Professional Conduct.

17. LAWS AND REGULATIONS

CONSULTANT shall comply with any and all laws, statutes, ordinances, rules, regulations, and procedural requirements of any national, state, or local government, and of any agency of such government, including but not limited to PLAN, that relate to or in any manner affect the performance of the Agreement. Those laws, statutes, ordinances, rules, regulations, and procedural requirements which are imposed on PLAN as a recipient of federal or state funds are hereby in turn imposed on CONSULTANT.

18. REMEDIES FOR BREACH

The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by PLAN or CONSULTANT shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

19. CHOICE OF LAW

All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of California applicable to agreements made and to be performed within the State.

20. MEDIATION

Prior to the initiation of any legal proceedings, the parties of this Agreement agree to submit all claims, disputes or controversies arising out of or in relation to the interpretation, application, or enforcement of this Agreement to non-binding mediation.

Such mediation shall be conducted under the auspices of the American Arbitration Association or such other mediation service or mediator upon which the parties agree. The Party seeking to initiate mediation shall do so by submitting a formal, written request to the other party to this Agreement. This section shall survive completion or termination of this Agreement, but under no circumstances shall either party call for mediation of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceeding to litigate such claim or dispute under the laws of the State of California.

21. ENTIRE AGREEMENT

The Agreement is the entire agreement of the parties. CONSULTANT represents that in entering into the Agreement it has not relied on any previous representations, inducements, or understandings of any kind or nature.

22. PARTIAL INVALIDITY

If any term or condition of the Agreement is found to be illegal or unenforceable, such term or condition shall be deemed stricken and the remaining terms and conditions shall remain valid and in full force and effect.

23. BENEFIT OF AGREEMENT

The Agreement shall bind and benefit the parties hereto and their heirs, successors, and permitted assigns.

Agreement for Liability and Property Third Party Claims Adjusting Services
January 01, 2025

IN WITNESS WHEREOF, the Agreement has been executed by the parties hereto as of the day and year first written above.

PLAN:

CONSULTANT:

Rebecca Mendenhall,
President of the Board of Directors
Pooled Liability Assurance Network JPA

Angelique King,
Executive Vice President
Carl Warren & Company, LLC

APPENDIX A – Scope of Work

The PLAN JPA is very interested in maintaining a high level of communication between the CONSULTANT and the members, the Litigation Manager and defense counsel.

The responsibilities of the CONSULTANT is divided into three categories: claims administration, support of the Litigation Manager, and reporting of claims activities. PLAN JPA has adopted the following best practices to promote effective claims administration, litigation management, and reporting of claims activities.

A. Claims Administration

The CONSULTANT shall provide PLAN JPA with sufficient qualified personnel, including at least one senior claims adjuster, to meet the responsibilities efficiently and effectively as defined below and any other duties incidental, or in addition, to those responsibilities. The CONSULTANT shall conform to the procedures outlined in the PLAN JPA Claim Handling Guidelines, Best Practices Litigation Management Guidelines, and the Client Services Instructions (as developed). The senior claims adjuster shall have a minimum of three years' experience in adjusting liability claims for public entities. The CONSULTANT shall also provide a supervisor/account manager who shall oversee the servicing of the PLAN JPA's claims and act as a liaison to the PLAN JPA Litigation Manager, who is proposed to be retained. The supervisor/account manager shall have at least six years' experience in adjusting liability claims, five of which involved adjusting liability claims for public entities. No adjuster or supervisor/account manager shall service the PLAN JPA's account without prior written approval by the PLAN JPA.

The responsibilities of the CONSULTANT shall include, but are not limited to, the following:

1. Establish and maintain a file for each claim reported, to include a diary review system by both the examiner and supervisor; statistical data for each claim should be stored electronically and shall include all data required to comply with federal and state requirements **including Medicare secondary payer laws and regulations**. E-mail communications with the members and PLAN JPA are preferred.
2. Provide comprehensive investigative services;
3. Periodically, determine potential liability and establish, review, and update reserves for each reported accident and advise the member and PLAN JPA of any changes as they occur;

4. Notify the PLAN JPA Litigation Manager of any claim as required by the Memorandum of Coverage (MOC) and coordinate with the members and PLAN JPA Litigation Manager in the defense, settlement, and payment of claims;
5. Provide the members with a recommendation to accept or reject a claim within the statutory period in the California Government Code;
6. Provide immediate notification to the members, and if appropriate the PLAN JPA Litigation Manager of offers to settle;
7. Obtain releases and other necessary forms from all appropriate parties upon settlement of a claim;
8. Upon the members' requests, assist with its preparation for appearances in small claims court;
9. Prepare and issue checks (from the approved PLAN JPA trust account), drafts, or other documents in the payment of all claims activities, including litigation costs, miscellaneous investigative costs, and claim clean up costs, with copies sent to the members;
10. Obtain approval for issuance of checks for claims, claim expenses, litigation expenses, and settlements, drafts, or other documents in the payment of claims, where needed;
11. Maintain complete records of payments from an approved trust account, established by the Administrator on behalf of the PLAN JPA for the purpose of paying all claims related costs.
12. Determine any potential to tender a claim to third parties and the feasibility of subrogation, and take appropriate steps to subrogate, where such action is appropriate;
13. Promptly close each claim as soon as possible;
14. Make available time, files, and necessary staff for meetings with the members and PLAN JPA and attendance at applicable meetings (City Council, PLAN JPA Executive Committee, or PLAN JPA Board of Directors) for settlement authority, claim resolution strategy, and periodic claim audits; and

B. Support of the Litigation Manager

The CONSULTANT shall assist in the implementation and conform to the procedures outlined in the Litigation Management Guidelines formally approved by Resolution of the PLAN JPA. The duties of the CONSULTANT shall be to assist the PLAN JPA Litigation Manager and include, but are not limited to:

1. Monitoring defense counsel and assisting in the implementation of the PLAN JPA Litigation Management Guidelines;
2. With input from the members and the Litigation Manager, assigning the defense of litigated cases to the defense firm selected (PLAN JPA maintains a defense panel of approved firms);
3. Assisting defense counsel, at the direction of the members and the PLAN JPA Litigation Manager, in obtaining facts or circumstances of a claim, including assistance in answering interrogatories;
4. Supplying and collecting the case analysis and performance evaluation forms from the defense firms;
5. Reviewing legal bills for accuracy, for compliance with the Litigation Management Guidelines, and use of cost-effective processes; and
6. Maintaining, in coordination with the members and the Litigation Manager, an evaluation file on each defense firm with respect to each defense assignment.

C. Reporting of Claims Activity

Provide a monthly statistical report for each line of coverage which shows all claims having activity, including claimant name, nature/type/cause of injury/loss, date of loss, status, loss/expense paid and reserved amounts, with monthly and year-to-date totals. Report should include a brief narrative of the actions to date and future recommended actions. A guide to any and all abbreviations used in any of the reports shall be provided to the members and the PLAN JPA. Reports shall include all claims meeting the members' and the PLAN JPA's reporting criteria.

In addition to the monthly statistical report, the CONSULTANT will provide a monthly payment register showing all payments issued, payee, voucher number, voucher date, and claimant name, if applicable.

Upon the request of the member or the PLAN JPA, the CONSULTANT shall also provide special reports on claims, in detail or summary, sorted or queried by any,

or any combination, of the fields at no additional cost. All reports shall be provided in a Microsoft Excel format or PDF as requested by the member.

Upon the request of the member or the PLAN JPA, the CONSULTANT shall also provide credentials to access the Risk Management Information System for real time reporting and inquiry access on their claims.

The CONSULTANT shall also cooperate and assist with information services “mapping” to coordinate the dissemination of information into any data management system implemented by PLAN JPA.

APPENDIX B - Cost

With respect to section [3. COMPENSATION AND METHOD OF PAYMENT](#), the following cost for services shall apply:

	Year 1	Year 2	Year 3	Option Year 1	Option Year 2
Annual Claims Handling Fee (not to exceed 550 claims)	\$586,194	*\$606,701.79	*\$627,936.67	*\$649,914.45	*\$672,661.46
Annual Admin Fee	\$15,500	*\$15,780	*\$16,070	*\$16,370	*\$16,680
Start-up Costs Takeover Claims	**\$131,500	**\$131,500	**\$131,500	N/A	N/A
Claim Review Fee	Included	Included	Included	Included	Included
Subrogation	21% of net recovery	21% of net recovery	21% of net recovery	21% of net recovery	21% of net recovery
Claims Management System Fee ***	Included	Included	Included	Included	Included
Client/Carrier Standard Reports and Customized Reports taking less than 2 hours to create; Client Dashboards; RMIS set-up; Training/Technical Support	Included	Included	Included	Included	Included
Customized Reports	\$250 per hour	\$250 per hour	\$250 per hour	\$250 per hour	\$250 per hour
Data Conversion Fee	\$30,000	N/A	N/A	N/A	N/A
Medicare Set-up Fee	No Charge	No Charge	No Charge	No Charge	No Charge
Other Medicare File Costs****	\$25 per bodily injury feature	\$25 per bodily injury feature	\$25 per bodily injury feature	\$25 per bodily injury feature	\$25 per bodily injury feature
Trust Account Set-up; Monthly Account Management; Monthly Reconciliations; Check Issuance; 1099 Reporting, including IRS File	Retain Earned Interest	Retain Earned Interest	Retain Earned Interest	Retain Earned Interest	Retain Earned Interest

*Includes 3.5% annual escalator

**Total number of claims at time of takeover estimated to be 526 @ \$750 each; spread over the initial 3 years of the agreement

*** (28 members x 2 access rights each; + 3 PLAN staff members)

**** (one time charge includes ISO/OFAC)