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**FIRST AMENDMENT TO
AGREEMENT FOR PROPERTY AND CASUALTY INSURANCE PROGRAM
THIRD PARTY ADMINISTRATION SERVICES
PURSUANT TO RFP 16-101**

This FIRST AMENDMENT of the AGREEMENT FOR PROPERTY AND CASUALTY INSURANCE PROGRAM THIRD PARTY ADMINISTRATION SERVICES PURSUANT TO RFP 16-101 is made and entered into by and between FORT BEND COUNTY, TEXAS, a body politic, acting herein by and through its Commissioners Court and York Risk Services Group, Inc. (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

RECITALS

WHEREAS, on or about November 22, 2016, the Parties entered into AGREEMENT FOR PROPERTY AND CASUALTY INSURANCE PROGRAM THIRD PARTY ADMINISTRATION SERVICES PURSUANT TO RFP 16-101 attached hereto as Exhibit "One" and incorporated by reference;

WHEREAS, the Parties now desire to amend a certain portion of the Agreement; and

NOW THEREFORE, for and in consideration of the mutual benefits to be derived by the parties hereto, County, and Contractor agree as follows:

I. Amendments

- A. The Agreement is hereby renewed on the same terms and conditions (except as provided in this First Amendment), effective **JANUARY 1, 2018** and shall terminate on **DECEMBER 31, 2018**.
- B. Section Seven, Limit of Appropriation, is amended to provide additional funding for 2017 and funding for 2018. The Parties agree that Section Seven B shall now read:

Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum annual compensation that Contractor may become entitled to unless there is an increase in enrollment, and the total maximum sum that County may become liable to pay to Contractor shall not under any conditions, circumstances, or interpretations thereof exceed a cumulative total of \$390,946.00 for services provided through December 31, 2017. Contractor shall not under any conditions, circumstances, or interpretations thereof exceed \$190,540.00 for services provided from January 1, 2018 through December 31, 2018.

- II. Except as modified herein, any prior executed document remain in full force and effect and has not been modified or amended. In the event of conflict, the contents of this First Amendment shall prevail.

III. Execution

IN TESTIMONY OF WHICH, THIS AMENDMENT shall be effective upon execution of all parties.

“County”
FORT BEND COUNTY

By: _____
Robert E. Hebert, County Judge

ATTEST:

Date: _____

Laura Richard, County Clerk

“Contractor”
YORK RISK SERVICES GROUP, INC.

By: _____

Name: _____

Title: _____

Date: _____

ATTEST:

Name

Date: _____

Attachments:

Exhibit One: AGREEMENT FOR PROPERTY AND CASUALTY INSURANCE PROGRAM THIRD PARTY
ADMINISTRATION SERVICES PURSUANT TO RFP 16-101

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$_____ to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Ed Sturdivant, County Auditor

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EXHIBIT ONE:

**AGREEMENT FOR PROPERTY AND CASUALTY INSURANCE PROGRAM
THIRD PARTY ADMINISTRATION SERVICES
PURSUANT TO RFP 16-101**

AS ATTACHED TO

**FIRST AMENDMENT TO
AGREEMENT FOR PROPERTY AND CASUALTY INSURANCE PROGRAM
THIRD PARTY ADMINISTRATION SERVICES
PURSUANT TO RFP 16-101**

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**AGREEMENT FOR PROPERTY AND CASUALTY INSURANCE PROGRAM
THIRD PARTY ADMINISTRATION SERVICES
PURSUANT TO RFP 16-101**

This Agreement is entered into between Fort Bend County ("County"), a body corporate and politic under the laws of the State of Texas, having offices at 301 Jackson Street, Richmond, Texas 77496 and York Risk Services Group, Inc. ("Contractor"), a New York corporation with its principal place of business at One Upper Pond Road, Building F, Fourth Floor, Parsippany, New Jersey 07054, a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that Contractor provide Third Party Administration Services for County's Property and Casualty Insurance Programs (hereinafter "Programs") pursuant to RFP 16-101; and

WHEREAS, Contractor represents that it is qualified and desires to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

Section One. Definitions

- A. "Claims Administration Services" shall include the administration, adjustment, management, oversight and handling of Claims arising out of County's Programs. Claims Administration Services shall also include, but not limited to, the following services:
1. Providing supervision of the loss adjustment process;
 2. Determining and implementing appropriate claims practices to conclude Claims in accordance with Contractor's established practices;
 3. Adhering to high standards of professional conduct;
 4. Adjusting and managing Claims to assure that County 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. 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 County);
 8. Assisting in the preparation of Claims for suit, hearing, trial, or subrogation as appropriate;
 9. Acting as County's liaison with medical bill reviewers, first notice of loss reporting services and defense counsel;
 10. Reviewing bills of service providers;
 11. Preparing and submitting status and administrative reports in accordance with Contractor's established practices; and
 12. Preserving subrogation rights and overseeing subrogation recovery.
- B. "Claim" or "Claims" shall mean claims, arising under the Programs and which are referred to Contractor for adjusting during the term of this Agreement.
- C. "Loss Adjustment Expense" shall mean, in addition to fees to be paid in accordance with this 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, bill review, utilization review and any other similar cost, fee or expense reasonably chargeable to the investigation, negotiation, settlement or defense of a Claim, loss, subrogation right or recovery. Contractor may, but need not, elect to utilize its own staff or affiliated entities to perform these services.
- D. "Systems" shall mean severally or collectively, Contractor's claims handling system.

Section Two. Services to be Provided by Contractor

- A. Contractor shall provide Claim Administration Services (hereinafter "Services") as set forth in this Agreement, including any Exhibits attached hereto, for the Claims that arise out of County's Programs and that are assigned by County to Contractor.
- B. The Claims Administration Services to be rendered by Contractor shall meet or exceed the requirements of RFP 16-101 (attached as Exhibit A); Contractor's Response to RFP 16-101 (attached as Exhibit B) and Best Practices (attached as Exhibit C), all of which are incorporated by reference herein.
- C. Contractor represents that Exhibit C contains industry best standards, which County has relied on in selecting Contractor. Contractor shall ensure that these policies are updated if law or industry standards mandate stricter requirements. A copy of any updated policies will be provided to County without delay. Contractor shall also ensure

all employees are trained to adhere to the requirements of their current policies and as may be updated during the course of the Agreement.

- D. Contractor's performance of Services shall comply with all applicable rules, orders, and interpretations issued by any applicable regulatory authorities as of the date hereof and as may be amended during the course of this Agreement.
- E. Contractor acknowledges that execution of this Agreement does not mean that Contractor will be assigned any particular number of Claims by County.
- F. Contractor will investigate, evaluate, negotiate, settle, or deny Claims within the standing authority, as has been granted in writing, to Contractor from time to time by the County Director of Risk Management. Contractor may settle Claims in excess of its standing authority limits only with prior written approval of County, which the County shall, in writing, promptly grant or deny upon Contractor's request for authority.
- G. Contractor acknowledges that all of the Claims files in its possession are the property of County and agrees to promptly provide access to or deliver any such file to County, at County's expense, at any time upon County's request. In exchange for County's absolute right to obtain the Claims files, County agrees that it shall not have the right to set off any sums claimed due from Contractor against fees due Contractor under this Agreement.
- H. Contractor expressly agrees to hold all funds and assets of County that come into its control or possession during the term of this Agreement subject to the regulatory limitations of deposits insured by FDIC.
- I. Contractor will make available, through Contractor's proprietary claims system, claim-related data with "web-enabled" access. County will have "view only" access to the system. County will bear its own hardware, software, connection and similar costs for accessing Contractor's electronic claims management system.
- J. During the Term of this Agreement and at all times that there are open Claims being handled by Contractor, Contractor will fully cooperate with County.
- K. Contractor will notify County's insurer of all claims which may affect the insurer's coverage in excess of County's self-insured retention layer in accordance with the instructions of County's insurer as provided to Contractor pursuant to Subsection A, *Duties of County*, Section.
- L. Contractor acknowledges that all attorney services, except for worker's compensation, are provided by the County Attorney's Office unless County specifically requests that Contractor assist County in its selection of other counsel. County's preferred legal counsel is Dean Pappas Law Firm and any references to other preferred counsel are

hereby deleted. Contractor acknowledges that other counsel are only appropriate if County determines that the nature of the representation requires specialized knowledge and experience that outside counsel be secured. Any statements made by Contractor in any attached Exhibit involving representation by outside attorneys only apply when County requests this assistance in writing. In all cases in which the County Attorney represents the County, Contractor shall cooperate with County and the County Attorney fully and assist with case preparation and presentation in the same manner as if Contractor had selected its choice of counsel.

Section Three. Personnel

- A. Contractor represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of Services required under this Agreement and that Contractor shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Services when and as required and without delays.
- B. All employees of Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Contractor who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the project shall, upon request of County, immediately be removed from association with the Adjusters assigned to the Claims shall have an average case load of 150 files for workers compensation and liability case loads, an average of 80 cases for property claims.
- C. Contractor will 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.

Section Four. Warranty of Contractor Capability

Contractor covenants, represents and warrants that it is not prohibited by any loan, contract, financing arrangement, trade covenant, or similar restriction from entering into this Agreement and that Contractor is financially capable of fulfilling all requirements of this Agreement.

Section Five. Corporate Good Standing

Contractor covenants, represents and warrants that Contractor: (a) is a corporation duly incorporated, validly existing, and in good standing; (b) has all requisite corporate power and authority to execute, deliver, and perform its obligations herein; (c) is duly licensed, authorized, or qualified to do business and is in good standing in every jurisdiction in which a license, authorization, or qualification is required for the ownership or leasing of its assets or the transaction of business of the character transacted by it except when the failure to be so

licensed, authorized, or qualified would not have a material adverse effect on Contractor's ability to fulfill its obligations herein.

Section Six. Duties of County

- A. County shall promptly provide Contractor with such information as Contractor may require, including, but not limited to, any copy of documents describing its Program(s), and all amendments thereto, as well as incident reports and information related thereto in County's possession and otherwise cooperate with Contractor in carrying out Contractor's tasks hereunder.
- B. Upon receipt of loss notices, County shall promptly assign the loss to Contractor for adjusting.
- C. County shall promptly make funds available for Claim and Loss Adjustment Expense payments with respect to Claims referred to Contractor and respond to Contractor's requests to issue checks in payment of Claims and such checks shall be distributed in accordance with County's Claims processing procedures. Contractor, as Contractor may elect, shall have the right to suspend or discontinue its services hereunder in the event County does not timely provide such checks. Alternatively, County may direct that Contractor open and maintain an account to pay Claims and Loss Adjustment Expense with Funds provided by County as required for that purpose. All bank charges associated with these accounts shall be borne by County. Any interest earned on funds in such accounts may be used by County to defray administrative expenses. Contractor may (but shall not be required to) withdraw from the account funds to pay undisputed bills from Contractor to County and to pay the undisputed portions of disputed bills from Contractor to County.
- D. County agrees to maintain the confidentiality of the information contained within the Claims files, as required by applicable State and Federal law and regulations.
- E. County shall pay Contractor for Claims Administration Services in accordance with the *Compensation and Payment Section* of this Agreement.

Section Seven. Compensation and Payment

- A. Contractor's fees shall be calculated at the rates set forth in the attached Exhibit D. If there is not a fee listed for a particular service, the Contractor shall not charge County any fee for that Service.
- B. The Maximum Compensation for capitated fees is \$184,990. In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an approved change order.

- C. Services shall be performed as described herein. Any changes to the Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by the County Director of Risk Management
- D. County will pay Contractor based on the following procedures: Upon completion of the Services, Contractor shall submit to County two (2) original copies of invoices showing the amounts due for services performed in a form acceptable to County. County shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory work performed and to withhold payment for any disputed charge.
- E. Travel and mileage expenses incurred in the performance of required Services will be compensated only when approved in advanced by the County Director of Risk Management and provided that expenses comply with the County's Travel Policy, a copy of which is attached as Exhibit E to this Agreement.

Section Eight. Limit of Appropriation

- A. Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of \$184,990, specifically allocated to fully discharge any and all liabilities County may incur to Contractor for capitated fees.
- B. Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to and the total maximum sum that County may become liable to pay to Contractor for capitated fees shall not under any conditions, circumstances, or interpretations thereof exceed \$184,990.

Section Nine. Modifications and Waivers

- A. The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.
- B. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.
- C. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

Section Ten. Term and Termination

- A. The term of this Agreement shall commence on December 1, 2016 and shall continue until and through December 31, 2017 (the "Term"). The Agreement is renewable annually for additional one year terms under the same terms and conditions if mutually agreed upon by the parties in writing. Upon termination of this Agreement for any reason and in accordance with Section Eleven, all hard copy and electronic Claims files will be transferred to County at County's expense.
- B. Termination for Convenience: County may terminate this Agreement at any time upon thirty (30) days written notice issued by County.
- C. Termination for Default
 - 1. County may terminate the whole or any part of this Agreement. If Contractor materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.
 - 2. If, after termination, it is determined by County that for any reason whatsoever that Contractor was not in default, or that the default was excusable, services may continue in accordance with the terms and conditions of this Agreement or the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with this Section.
- D. Upon termination of this Agreement, County shall compensate Contractor in accordance with the *Compensation and Payment Section* above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Contractor's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.
- E. If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Contractor.

Section Eleven. Ownership and Reuse of Documents

All documents, data, reports, research, graphic presentation materials, etc., developed by Contractor as a part of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, at

the time of payment under Section 3 for work performed. Contractor shall promptly furnish all such data and material to County on request.

Section Twelve. Inspection of Books and Records

Contractor will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Contractor for the purpose of verifying the performance the Services. County's right to inspect survives the termination of this Agreement for a period of four years.

Section Thirteen. Insurance

- A. Prior to commencement of the Services, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required. Such insurance shall not be canceled, except on 60 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

1. Workers Compensation insurance with statutory limits, and Employer's Liability Insurance with limits of not less than \$1,000,000:

Employer's Liability – Each Accident \$1,000,000

Employer's Liability – Each Employee \$1,000,000

Employer's Liability – Policy Limit \$1,000,000

Workers' Compensation policy must include on the information page of the Workers' Compensation policy the state in which Work is to be performed for Fort Bend County.

2. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
3. Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

4. Professional Liability (Errors & Omissions) Insurance with limits of not less than \$1,000,000 each occurrence, \$2,000,000 aggregate. Such insurance will cover all Work performed by or on behalf of Contractor and its subcontractors under this Agreement. No Professional Liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least twenty-four (24) months after the expiration or termination of this Agreement for any reason.
- B. County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies written on behalf of contractor shall contain a waiver of subrogation in favor of County and members of Commissioners Court.
- C. If required coverage is written on a claims-made basis, contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the Contract and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time the work under this Contract is completed.
- D. Contractor shall not commence any portion of the work under this Contract until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.
- E. No cancellation of or changes to the certificates, or the policies, may be made without sixty (60) days prior, written notification to Fort Bend County.

Section Fourteen. Indemnity

- A. CONTRACTOR SHALL SAVE HARMLESS COUNTY FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.
- B. Contractor shall timely report all such matters to Fort Bend County and shall, upon the receipt of any such claim, demand, suit, action, proceeding, lien or judgment, not later than the fifteenth day of each month; provide Fort Bend County with a written report on each such matter, setting forth the status of each matter, the schedule or planned proceedings with respect to each matter and the cooperation or assistance, if any, of Fort Bend County required by Contractor in the defense of each matter.
- C. Contractor's duty to defend, indemnify and hold Fort Bend County harmless shall be absolute. It shall not abate or end by reason of the expiration or termination of any contract unless otherwise agreed by Fort Bend County in writing. The provisions of this

section shall survive the termination of the contract and shall remain in full force and effect with respect to all such matters no matter when they arise.

- D. In the event of any dispute between the parties as to whether a claim, demand, suit, action, proceeding, lien or judgment appears to have been caused by or appears to have arisen out of or in connection with acts or omissions of Contractor, Contractor shall never-the-less fully defend such claim, demand, suit, action, proceeding, lien or judgment until and unless there is a determination by a court of competent jurisdiction that the acts and omissions of Contractor are not at issue in the matter.
- E. The provision by Contractor of insurance shall not limit the liability of Contractor under an agreement.
- F. Loss Deduction Clause - Fort Bend County shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of deductibles shall be the sole responsibility of Contractor and/or trade Contractor providing such insurance.

Section Fifteen. Confidential and Proprietary Information

- A. Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.
- B. Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing,

Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will promptly turn over to County all documents, papers, and other matter in Contractor's possession which embody Confidential Information.

- C. Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.
- D. Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.
- E. Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 et seq., as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Consultant shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

Section Sixteen. Systems and Data Processing.

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

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 County and Contractor shall have no right, title, or interest in such data other than such rights necessary to perform Claim Administration Services. Contractor shall use anonymized, aggregated data for auditing, compliance, internal assessments, process improvement and related analytics.

- B. This Agreement grants to County no right to possess or reproduce all or any part of the Systems used, owned or controlled by Contractor performing all or any part of Claims Administration Services and County covenants that it shall not do so.
- C. Contractor warrants any System furnished against malfunctions, errors or loss of data which are due solely to errors on its part. If County notifies Contractor in writing and furnishes adequate documentation of any such malfunction, error or loss of data, then:
 - 1. In the event of a malfunction, error or loss of data, upon notice by County within twenty (20) days of the malfunction, Contractor will without an additional fee re-create the reports designated by County, using data as of the recreation date; and
 - 2. The maximum and only liability of Contractor for such malfunction, error or loss of data shall be its obligation to reprocess reports or regenerate data as described above.

Section Seventeen. Independent Contractor

- A. In the performance of work or services hereunder, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of contractor or, where permitted, of its subcontractors.
- B. Contractor and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

Section Eighteen. Notices

- A. Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

- B. Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County
Attn: County Judge
401 Jackson Street
Richmond, Texas 77469

With a copy to: Attn: Fort Bend County Risk Management
301 Jackson Street, Suite 224
Richmond, Texas 77469

Contractor: York Risk Services Group, Inc.
Attn: Chief Operations Officer
One Upper Pond Road, Building F, Fourth Floor
Parsippany, New Jersey 07054

With copy to: York Risk Services Group, Inc.
Attn: General Counsel
One Upper Pond Road, Building F, Fourth Floor
Parsippany, New Jersey 07054

- C. Notice is effective only if the party giving or making the Notice has complied with the requirements of this Section and if the addressee has received the Notice. A Notice is deemed received as follows:

1. If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.
2. If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

Section Nineteen. Compliance with Laws

Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Contractor shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

Section Twenty. Performance Warranty

- A. Contractor warrants to County that Contractor has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Contractor will apply that skill and knowledge with care and diligence to ensure that the Services provided hereunder will be performed and delivered in accordance with the highest professional standards.
- B. Contractor warrants to County that the Services will be free from material errors and will materially conform to all requirements and specifications contained in the attached Exhibits.

Section Twenty One. Assignment and Delegation

- A. Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights by Contractor are prohibited under this subsection, whether they are voluntarily or involuntarily, without first obtaining written consent from County.
- B. Neither party may delegate any performance under this Agreement.
- C. Any purported assignment of rights or delegation of performance in violation of this Section is void.

Section Twenty Two. Applicable Law

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.

Section Twenty Three. Successors and Assigns

County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

Section Twenty Four. Third Party Beneficiaries

This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

Section Twenty Five. Severability

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

Section Twenty Six. Publicity

Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of County. Under no circumstances whatsoever, shall Contractor release any material or information developed or received in the performance of the Services hereunder without the express written permission of County, except where required to do so by law.

Section Twenty Seven. Captions

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

Section Twenty Eight. Entire Agreement

This Agreement contains the entire Agreement among the parties and supercedes all other negotiations and agreements, whether written or oral. Attached hereto are the following documents: Exhibit A: RFP 16-101; Exhibit B: Contractor Questionnaire Responses to RFP 16-101; Exhibit C: Best Practices; Exhibit D: Pricing and Exhibit E: County Travel Policy.

Section Twenty Nine. Conflict

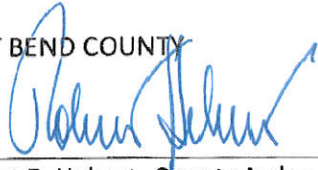
In the event there is a conflict, the following have priority with regard to the conflict: first: this document titled, "AGREEMENT FOR PROPERTY AND CASUALTY INSURANCE PROGRAM THIRD PARTY ADMINISTRATION SERVICES PURSUANT TO RFP 16-101;" second: Exhibit E: "County Travel Policy;" third: Exhibit D: "Pricing;" fourth: Exhibit C: "Best Practices;" and fifth: Exhibit B: "Contractor Questionnaire Responses to RFP 16-101."

REMAINDER LEFT BLANK

EXECUTION PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the 22 day of November, 2016.

FORT BEND COUNTY


Robert E. Hebert, County Judge

YORK RISK SERVICES GROUP, INC.


Jody A. Moses, Senior Vice President

November 21, 2016
Date

ATTEST:


Laura Richard, County Clerk



APPROVED:


Wyatt Scott
Fort Bend County Risk Management Director

Exhibits:

Exhibit A: RFP 16-101
Exhibit B: Contractor Questionnaire Responses to RFP 16-101:
Exhibit C: Best Practices
Exhibit D: Pricing
Exhibit E: County Travel Policy

APPROVED AS TO LEGAL FORM:


Michelle T. Rangel
Fort Bend County Attorney's Office

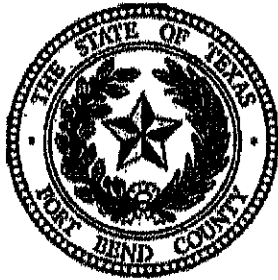
AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 184,990⁰⁰ to accomplish and pay the obligation of Fort Bend County under this contract.


Robert Ed Sturdivant, County Auditor

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Proposal for



***Request for Proposal (RFP) No. 16-101
Property and Casualty Insurance Program Third Party Administration Services
For the Fort Bend County***

Submitted by:

***Patrick O'Toole
Vice President of Sales, Public Entity***



10535 Boyer Blvd, Suite 100
Austin, TX 78758
512.427.2429 office
210.863.7695 cell
Patrick.Otoole@yorkrsg.com

Due: July 28, 2016

Signed by:

A handwritten signature in dark ink, appearing to read "E. Harry Cressay".

E. Harry Cressay, Executive VP and Chief Operating Officer

Date:

7/26/2016

ATTACHMENT 2: PRICING

Please fill in a rate or dollar amount and check mark where applicable in the appropriate column. Please fill in your estimate of claims. Only fill in areas that apply to your proposal. Should you need to explain a fee/charge that was not addressed, use the bottom of the page and you may go into greater detail in your individual proposal. Please attach this page to the section of your proposal that deals with pricing.

	Fee per Claim	Flat Fee	Fee per Hour	Life of file	Life of contract	Per bill	T/E mileage	Your estimate of the number of claims
Workers Compensation								160
Medical only								136
Indemnity								24
AL/GL								106
Property Damage Non litigated								90
Bodily Injury Non litigated								16
Bodily Injury Litigated								18
Law Enforcement Liability Litigated (Civil Rights)								15
Employment Practices Liability Litigated								10
Subrogation for Property Damage		20% plus costs						
Subrogation for Workers' Compensation		20% plus costs						
Subrogation for GL/AL		20% plus costs						
Attending TDI Hearings Other		Incid						
Data Conversion		\$7,500						
On-Line Computer Services		3 users incl.						
RMIS System and Services – Annual Administration Fee		3 users incl.; \$750 ea. Addtl.						
Run-Off Costs		Incid						
Run IN costs		Incid.						
Field Services/Investigation		As vended						
Designated Doctor review								
RME Coordination		\$250/exam						

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

York Risk Services Group, Inc.
Parsippany, NJ United States

Certificate Number:
2017-289230

Date Filed:
11/30/2017

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

RFP# 16-101 (2018)

Property and Casualty Insurance Program; Third Party Administrative Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Mukherjee, Saswata	Parsippany, NJ United States	X	
	Creasey, E. Harry	Parsippany, NJ United States	X	
	Moses, Jody	Orange, CA United States	X	
	Taketa, Richard H.	Parsippany, NJ United States	X	
	Warsop, III, Thomas W.	Parsippany, NJ United States	X	

5 Check only if there is NO Interested Party.

☐

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

ANTHONY A. PALATUCCI
NOTARY PUBLIC OF NEW JERSEY
Comm. # 50059538
My Commission Expires 4/27/2022

Michael Krawitz

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said MICHAEL KRAWITZ, this the 30th day of November, 2017, to certify which, witness my hand and seal of office.

Anthony Palatucci
Signature of officer administering oath

ANTHONY PALATUCCI
Printed name of officer administering oath

NOTARY PUBLIC
Title of officer administering oath