

York Risk Services Group, Inc.

THIRD AMENDMENT TO AGREEMENT FOR SERVICES #3360

THIS THIRD AMENDMENT to that Agreement for Services #3360 made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Sedgwick Claims Management Services, Inc., an Illinois corporation, ("Sedgwick") as assignee of York Risk Services Group, Inc. ("York"), a New York corporation duly qualified to conduct business in the State of California, whose principal place of business is One Upper Pond Road, Building F, Fourth Floor, Parsippany, New Jersey 07054 and whose mailing address is 8125 Sedgwick Way, Memphis, Tennessee 38125 (hereinafter Sedgwick and York are collectively referred to as "Consultant");

RECITALS

WHEREAS, Consultant has been engaged by County to provide workers' compensation claims third-party administration services including administration, investigation, adjustment, utilization review, bill review, and case management for tail claims for the Human Resources, Risk Management Division pursuant to Agreement for Services #3360, dated November 1, 2018, First Amendment to Agreement for Services #3360, dated February 11, 2020, and Second Amendment to Agreement for Services #3360, dated October 20, 2020, incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement");

WHEREAS, ARTICLE VII, Assignment and Delegation, of the Agreement prohibits York, from subcontracting, delegating, or assigning services to be provided, in whole or in part, to any other person or entity without prior written consent of County;

WHEREAS, Sedgwick acquired York on or around September 4, 2019; and

WHEREAS, York hereby assigns, transfers, grants, and conveys all its rights, title, interest, powers, privileges, and benefits under the Agreement to Sedgwick; and

WHEREAS, Sedgwick as assignee hereby assumes the liabilities under the Agreement and perform such assumed liabilities as they come due, in each case in the manner and to the extent set forth in the Agreement; and

WHEREAS, the parties hereto desire to amend the Agreement to decrease the not-to-exceed compensation amount of the Agreement to \$122,033.04, and to update the monthly payment to \$10,169.42 based on the decrease, and to include a new annual fee, amending **ARTICLE III, Compensation for Services**, and adding **Addendum III to Exhibit B**;

WHEREAS, the parties hereto desire to update the notice recipients and addresses, amending **ARTICLE XII, Notice to Parties**;

WHEREAS, the parties hereto desire to amend the Agreement to update County's Contract Administrator, amending **ARTICLE XXIII, Administrator**;

WHEREAS, the parties hereto desire to fully-replace or add specific Articles to update County's contract provisions;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and Consultant mutually agree to amend the terms of the Agreement in this Third Amendment to Agreement on the following terms and conditions:

I. **ARTICLE III, Compensation for Services**, the first and fourth paragraphs of the Article are amended in their entirety to read as follows:

For the period of November 1, 2020 through October 31, 2021, County agrees to pay Consultant \$11,688.67 per month, in advance. For the period of November 1, 2021 through October 31, 2022, County agrees to pay Consultant \$10,169.42 per month, in advance. Monthly cost after year one (1) to be determined in accordance with good faith negotiations described herein below.

Total amount of this Agreement, as amended, for each one (1) year term, inclusive of optional services, shall not exceed \$122,033.04.

II. **ARTICLE XII, Notice to Parties**, is amended in its entirety to read as follows:

ARTICLE XII

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be addressed as follows:

To County

County of El Dorado
Risk Management
330 Fair Lane
Placerville, California 95667

Attn.: Joseph Carruesco
Director of Human Resources

With a copy to:

County of El Dorado
Chief Administrative Office
330 Fair Lane
Placerville, California 95667

Attn.: Michele Weimer
Procurement and Contracts
Manager

or to such other location as the County directs.

Notices to Consultant shall be addressed as follows:

Sedgwick Claims Management Services, Inc.
c/o York Risk Services Group, Inc.
8125 Sedgwick Way
Memphis, Tennessee 38125

Attn.: General Counsel - Americas

III. ARTICLE XXIII, Administrator, is amended in its entirety to read as follows:

ARTICLE XXIII

Administrator: The County Officer or employee with responsibility for administering this Agreement is Joseph Carruesco, Human Resources Director, or successor.

IV. The following articles are either added to the Agreement or fully-replace the corresponding articles in their entirety as follows:

ARTICLE IV

Taxes: Consultant certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Consultant to County. Consultant agrees that it shall not default on any obligations to County during the term of this Agreement.

ARTICLE VI

Consultant to County: It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further understood that this Agreement does not create an exclusive relationship between County and Consultant, and Consultant may perform similar work or services for others. However, Consultant shall not enter into any agreement with any other party, or provide any information in any manner to any other party, that would conflict with Consultant's responsibilities or hinder Consultant's performance of services hereunder, unless County's Contract Administrator, in writing, authorizes that agreement or sharing of information.

ARTICLE VIII

Independent Contractor: The parties intend that an independent contractor relationship will be created by this contract. Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, agents, affiliates, and subcontractors, if any are authorized herein, as they relate to the services or work to be performed under this Agreement during the course and scope of their employment by Consultant. Those persons will be entirely and exclusively under the direction, supervision, and control of Consultant.

County may designate the tasks to be performed and the results to be accomplished under this Agreement, provide information concerning the work or services, approve or disapprove the final work product and/or services provided, and set deadlines for the completion of the work or services, but County will not control or direct the manner, means, methods, or sequence in which Consultant performs the work or services for accomplishing the results. Consultant understands and agrees that Consultant lacks the authority to bind County or incur any obligations on behalf of County.

Consultant, including any subcontractor or employees of Consultant, shall not receive, nor be eligible for, any benefits County provides for its employees, including, but not limited to, vacation pay, paid holidays, life insurance, health insurance, social security, disability insurance, pension, or 457 plans. Consultant shall not receive, nor be eligible for, workers' compensation, including medical and indemnity payments. County is not responsible for withholding, and shall not withhold, Federal Income Contribution Act amounts or taxes of any kind from any payments which it owes Consultant. Consultant shall not be subject to the work schedules or vacation periods that apply to County employees.

Consultant shall be solely responsible for paying its employees, and for withholding Federal Income Contribution Act amounts and other taxes, workers' compensation, unemployment compensation, medical insurance, life insurance, or any other benefit that Consultant provides for its employees.

Consultant acknowledges that it has no authority to bind the County or incur any obligations on behalf of the County with regard to any matter, and shall not make any agreements or representations on the County's behalf.

ARTICLE XI

Default, Termination, and Cancellation:

- A. Termination by Default: If either party becomes aware of an event of default, that party shall give written notice of said default to the party in default that shall state the following:
1. The alleged default and the applicable Agreement provision.
 2. That the party in default has ten (10) days upon receiving the notice to cure the default (Time to Cure).

If the party in default does not cure the default within ten (10) days of the Time to Cure, then such party shall be in default and the party giving notice may terminate the Agreement by issuing a Notice of Termination. The party giving notice may extend the Time to Cure at their discretion. Any extension of Time to Cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

If County terminates this Agreement, in whole or in part, for default:

1. County reserves the right to procure the goods or services, or both, similar to those terminated, from other sources and Consultant shall be liable to County for any excess costs for those goods or services. County may deduct from any payment due, or that may thereafter become due to Consultant, the excess costs to procure from an alternate source.
2. County shall pay Consultant the sum due to Consultant under this Agreement prior to termination, unless the cost of completion to County exceeds the funds remaining in the Agreement. In which case the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.
3. County may require Consultant to transfer title and deliver to County any completed work under the Agreement.

The following shall be events of default under this Agreement:

1. Failure by either party to perform in a timely and satisfactory manner any or all of its obligations under this Agreement.
 2. A representation or warranty made by Consultant in this Agreement proves to have been false or misleading in any material respect.
 3. Consultant fails to materially observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement, unless County agrees, in writing, to an extension of the time to perform before that time period expires.
 4. A violation of ARTICLE XVIII, Conflict of Interest.
- B. Bankruptcy: County may terminate this Agreement immediately in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. Ceasing Performance: County may terminate this Agreement immediately in the event Consultant ceases to operate as a business or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement or any Work Order issued pursuant to this Agreement, in whole or in part, for convenience upon thirty (30) calendar days' written Notice of Termination. If such termination is effected, County will pay for satisfactory services rendered before the effective date of termination, as set forth in the Notice of Termination provided to Consultant, and for any other services that County agrees, in writing, to be necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the Agreement. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of

termination set forth in such Notice of Termination, unless the Notice directs otherwise.

ARTICLE XIV

Indemnity: To the fullest extent permitted by law, Consultant shall defend at its own expense, indemnify, and hold the County harmless, its officers, employees, agents, and volunteers, against and from any and all liability, claims, suits, losses, damages, or expenses of every name, kind and description, including reasonable attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of the negligent acts or omissions of Consultant or its officers, agents, or employees in rendering the services, operations, or performance hereunder, except for liability, claims, suits, losses, damages or expenses arising from the negligence or willful acts of the County, its officers and employees, or as expressly prescribed by statute. This duty of Consultant to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

ARTICLE XXIX

Force Majeure: Neither party will be liable for any delay, failure to perform, or omission under this Agreement that is due to any cause that it is beyond its control, not due to its own negligence, and cannot be overcome by the exercise of due diligence. In that event, the affected party will:

1. Promptly give written notice to the other of the fact that it is unable to so perform and the cause(s) that is beyond its control.
2. Once the cause(s) has ceased, provide written notice to the other party and immediately resume its performance under this Agreement.

For purposes of this Article, "cause that is beyond its control" includes labor disturbances, riots, fires, earthquakes, floods, storms, lightning, epidemics, war, disorders, hostilities, expropriation or confiscation of properties, failure of and delays by carriers, interference by civil or military authorities, whether legal or de facto, and whether purporting to act under some constitution, decree, or law, or otherwise, or acts of God.

ARTICLE XXX

Waiver: No failure on the part of the parties to exercise any rights under this Agreement, and no course of dealing with respect to any right hereunder, shall operate as a waiver of that right, nor shall any single or partial exercise of any right preclude the exercise of any other right. The remedies herein provided are cumulative and are not exclusive of any other remedies provided by law.

ARTICLE XVIII

Conflict of Interest: The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and the Political Reform Act of 1974 (Section 87100 et seq.), relating to conflict of interest of public officers and employees. Individuals who are working for Consultant and performing work for County and who are considered to be consultant within the meaning of Title 2, California Code of Regulations, Section 18700.3, as it now reads or may thereafter be amended, are required to file a statement of economic interest in accordance with County's Conflict of Interest Code. County's Contract Administrator shall at the time this Agreement is executed make an initial determination whether or not the individuals who will provide services or perform work pursuant to this Agreement are consultants within the meaning of the Political Reform Act and County's Conflict of Interest Code. Statements of economic interests are public records subject to disclosure under the California Public Records Act.

Consultant covenants that during the term of this Agreement neither it, or any officer or employee of Consultant, has or shall acquire any interest, directly or indirectly, in any of the following:

1. Any other contract connected with, or directly affected by, the services to be performed by this Agreement.
2. Any other entities connected with, or directly affected by, the services to be performed by this Agreement.
3. Any officer or employee of County that are involved in this Agreement.

If Consultant becomes aware of a conflict of interest related to this Agreement, Consultant shall promptly notify County of the existence of that conflict, and County may, in its sole discretion, immediately terminate this Agreement by giving written notice of termination specified in ARTICLE XI, Default, Termination, or Cancellation.

ARTICLE XXI

County Payee Data Record Form: All independent contractors or corporations providing services to County who do not have a Department of the Treasury Internal Revenue Service Form W-9 (Form W-9) on file with County must file a County Payee Data Record Form with County.

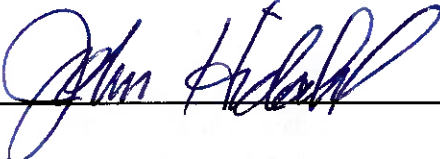
ARTICLE XXII

Business License: County's Business License Ordinance provides that it is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Ordinance Code Section 5.08.070. Consultant warrants and represents that it shall comply with all of the requirements of County's Business License Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

Except as herein amended, all other parts and sections of Agreement for Services #3360, as amended, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to Agreement for Services #3360 on the dates indicated below.

-- COUNTY OF EL DORADO --

By: 

Dated: 10-26-21

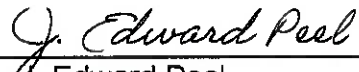
Board of Supervisors
"County"

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By: 
Deputy Clerk

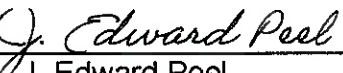
Dated: 10-26-21

-- YORK RISK SERVICES GROUP, INC. --

By: 
J. Edward Peel
Vice President
"Consultant"

Dated: October 7, 2021

-- SEDGWICK CLAIMS MANAGEMENT SERVICES, INC. --

By: 
J. Edward Peel
Vice President
"Consultant"

Dated: October 7, 2021

Addendum III to Exhibit B

Renewal Fee Proposal for County of El Dorado

08/12/2021

Contract Term: 11/01/2021 – 10/31/2022

Summary of first year fees

All fees apply to the State of California.

Annual flat fee pricing

Sedgwick's annual flat fee pricing is based on the annual estimated claim volumes and the estimated required staffing to service those claims. If acquisitions, divestitures, changes in program requirements, or an increase in claim volume impacts the staffing requirements of the unit, Sedgwick reserves the right to modify the annual flat fee.

Coverage line	Year 1
Annual Flat Fee	\$122,033.04

Items included in the quoted fees include:

- Services of client service director
- Telephonic claim reviews (semi-annual)
- Claim Reporting
- RMIS access: for up to four users, which provides a platform-independent, web-based tool for viewing and analyzing claims data. Access provides secure, near real-time information from Sedgwick's proprietary claims information systems.

Sedgwick managed care

All claim administration fees and services contemplate the deployment of Sedgwick's managed care services for all medical bill review and clinical case management services.

Service	Rate
Medical bill review	
State fee scheduling/usual, customary and reasonable; state reporting	\$9.00 per bill
Provider networks	
Enhanced savings	25% of savings

Addendum III to Exhibit B

Service	Rate
Preferred provider organization (PPO) networks/out of network services	25% of savings
Telephonic Clinical Services	
Telephonic case management: <ul style="list-style-type: none"> - Telephonic Nurse Case Manager, - Surgery Nurse Case Manager, - Behavioral Health Specialist 	\$99 per hour
Customized Nurse Services	\$105 per hour ⁽¹⁾
Utilization Review & Peer Review	
Utilization review	\$145 per review
Physician advisor/peer review	\$250 per review
Physician review of records	\$275 per hour
Physician advisor appeal	\$350 per review
Complex pharmacy management	Pharmacy nurse management/pain coaching: \$115 per hour Physician and PharmD management (as needed): \$275 per hour
Field Case Management	
Medical field case management: Full field	\$99 per hour, plus direct expenses ⁽¹⁾ Urgent/Catastrophic case management: \$165 per hour ⁽¹⁾
Crisis Care RN	\$165 per hour ⁽¹⁾
Field Case Management Tasks:	
One visit clinical assessment	\$720 flat fee
Limited Assignment Task	\$105 per hour ⁽¹⁾
Specialty task services: Life Care Plan, Expert testimony, customized services	\$165 per hour
Clinical Consultation Services	
Clinical consultation	\$110 per incident

Addendum III to Exhibit B

Service	Rate
Sedgwick managed care administrative services	
Lien resolution	28% of the below fee schedule savings subject to minimum fee of \$125 and cap of \$7,500 per lien Expert witness testimony or hearing representation charged at \$125 per hour plus direct expenses
Sedgwick standard medical card	No charge; customization starts at \$3,500
Standard provider panel postings	Included in Sedgwick bill review program fees
PPO Network Panels (Non-Required States)	\$9.00 per panel
(1) CAT @ \$185 per hour	

Definitions, terms and conditions

Definitions

Life of contract: Sedgwick will administer all claims received during the contract for the quoted fee. Claims open at contract termination will either be transferred to the new administrator or handled by Sedgwick for an additional annual fee.

Allocated expenses: The claim fees agreed to shall include all costs incurred by Sedgwick in handling claims submitted, except those costs normally referred to as "allocated expenses." These expenses will be billed to the individual claim file when incurred.

In some cases, Sedgwick engages subcontractors to assist us in providing services. In order to hold down the cost to our clients, Sedgwick may have arrangements with these subcontractors to cover expense for certain activities, including but not limited to, development of integrated data systems, account management, quality oversight and ongoing projects that improve penetration and efficiency for our examiners. These cooperative service agreements are not transactional-based and are not dependent on any activity generated by County of El Dorado. In fact, the flat cooperative service fees remain the same regardless of whether County of El Dorado uses these vendors on their program or not.

Allocated expenses include but are not limited to:

- Attorney fees and costs
- Hearing representation in lieu of attorney fees including preparation, travel expenses, attendance and system notations
- Court costs and appeal bonds
- Cost of providing rehabilitation services
- Cost of surveillance activities and other outside investigations
- Cost of expert witnesses, accident reconstruction specialists, or any other specialist necessary for the investigation and/or defense of a claim

Addendum III to Exhibit B

- Cost incurred to obtain statements, photographs, records, transcripts, depositions, digital call recording, etc.
- Cost of inspections, appraisals, repair management, rental/replacement, etc.
- Cost of independent medical exam
- Cost of medical bill review, PPO, managed care and other similar programs
- Cost of medical experts, peer review, utilization review, case management, pre-certifications and medical necessity evaluations
- Cost of translation services
- Medicare reporting and compliance services fees and costs
- Index filings
- Cost of vocational evaluations, vocational services, training or other vocational activities
- Cost of outside assistance necessary to prepare or protect a client's subrogation right or Special Disability Trust Fund claim
- Expenses for travel to depositions, mediations, arbitrations, hearings or other legal proceedings at the client's request or as required by law or rule of a federal, state or local agency

Terms and conditions

Quotation expiration: All pricing quoted is valid for a period of 90 days from submission unless a written extension is requested.

Payment terms: Claim service and information technology fees are billed on actuals on a monthly basis in arrears. Administrative fees are billed on an annual basis in advance based on annual estimates. The estimates are subject to audit 30 days after the conclusion of each contract year.

