



 Association of Bay Area Governments

## **REQUEST FOR PROPOSAL**

**ABAG Plan Corporation  
(ABAG PLAN)**

**Pool Administration Services**

**RFP No.: 2016-01**

**Issue Date:  
December 21, 2016**

### **RETURN PROPOSALS TO:**

**Kim Chase  
ABAG PLAN Corporation  
375 Beale Street, Suite 700  
San Francisco, CA 94105-2066**

### **DEADLINE FOR FILING:**

**\*January 31, 2016\***

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## **I. GENERAL INFORMATION**

### **A. PURPOSE OF REQUEST FOR PROPOSAL**

ABAG Plan Corporation (ABAG PLAN or more simply the PLAN), a pooled liability Assurance Network is seeking proposals from qualified firms to provide general administrative services to the organization.

### **B. DESCRIPTION OF ABAG PLAN**

ABAG Plan Corporation began providing Risk Management & Insurance Services in 1986 with the formation of ABAG Plan Corporation. ABAG PLAN is a non-profit corporation whose purpose is to benefit the citizens of each member community by establishing a stable, cost-effective self-insurance, risk sharing and risk management program for each member. PLAN is currently administered by the Association of Bay Area Government (ABAG) staff under the direction of a board of directors comprised of its member agencies. There are currently 28 member agencies participating in the PLAN.

Additional information about ABAG PLAN, its member agencies and program structure can be found at: <http://plan.abag.ca.gov/>

### **C. SCOPE OF SERVICES**

The ABAG PLAN Program Manager will serve as the administrator of the ABAG PLAN and will also serve as the “key contact” for delivering PLAN programs and services to its members. ABAG PLAN manages numerous service providers to the organization, and thereby effectively provides all administrative services necessary for the professional operation of the PLAN for its members. The Program Manager reports and is accountable to the PLAN Board of Directors. Prospective bidders should take note that during Fiscal Year 2015-2016, in addition to numerous member site visits, the ABAG PLAN made arrangements, produced agenda packets, attended and took minutes for approximately 12 board/committee meetings, some of which were conducted via conference call.

Program Administration services are as specifically outlined in the DRAFT AGREEMENT in **APPENDIX B**. of this RFP.

### **D. RFP SCHEDULE AND TIMELINE**

1. Release of Request for Proposal: 12/21/2016
2. Last Day to Submit Questions: 01/09/2017
3. Proposal Due Date: 01/31/2017
4. Evaluation of Proposals: 02/06/2017
6. Reference Verifications: 02/20/2017
5. Interview Period: 03/06/2017
6. Notice of Intent to Award: 04/01/2017
7. Contract Commencement Date: 07/01/2017

Dates up to and including “Proposal Due Date” date may be adjusted upon prior written notice. Dates subsequent to receipt of proposal responses are subject to change.

## **E. QUESTIONS**

Any questions, interpretations or clarifications, either administrative or technical about this RFP must be requested in writing. All written questions will be answered in writing and conveyed to all proposers. Oral statements concerning the meaning or intent of the contents of this RFP by any person is unauthorized and invalid. All questions either technical or commercial shall be emailed to:

**Jill Stallman**  
**Claims Manager**  
**ABAG PLAN Corporation**  
**375 Beale Street, Suite 700**  
**San Francisco, CA 94105-2066**

Responses to questions will be posted on the Plan website, or otherwise distributed to questioners.

## **F. SUBMISSION OF AND PROPOSAL DELIVERY**

Proposals shall be delivered to:

**Kim Chase**  
**ABAG PLAN Corporation**  
**375 Beale Street, Suite 700**  
**San Francisco, CA 94105-2066**

Proposals must be received no later than the time indicated in this RFP. Proposer is responsible for the means of delivering the proposal to the appropriate office on time. Delays due to the instrumentalities used to transmit the proposal, including delay occasioned by their internal mailing systems, will be the responsibility of the proposer. **Any and all delays shall be the responsibility of the proposer with no exceptions.** The proposal must be completed and delivered in sufficient time to avoid disqualification for lateness due to difficulties in delivery. **LATE OR FAXED PROPOSALS WILL NOT BE ACCEPTED.**

The proposer must provide one (1) original (marked as such) and one (1) additional hardcopy of the proposal as well as one (1) electronic copy of the proposal on a flash drive or CD. It is acceptable to use double-sided pages.

## **II. Qualifications & Other Conditions of the RFP**

### **A. MINIMUM QUALIFICATIONS**

In addition to meeting all other requirements of this RFP, all proposers shall furnish verifiable evidence that their firm and personnel, at a minimum, meet the qualifications below.

- The proposer must demonstrate through data, example or verifiable evidence a minimum of 10 years' experience providing administrative or management responsibilities to one or more Joint Powers Authorities (or other governmental risk pooling organizations or entities) with a membership of at least ten (10) members.
- The proposed Director must demonstrate through data, example or verifiable resume a minimum of five (5) years' experience in providing Director level services to one or more Joint Powers Authorities (or other governmental risk pooling organizations or entities).
- Service Team Members must demonstrate through data, example or verifiable resumes a minimum of five (5) years' experience in providing support level services to one or more Joint Powers Authorities (or other governmental risk pooling organizations or entities).

### **B. REFERENCE / BACKGROUND CHECK**

Proposer shall furnish at least three (3) references of customers for whom the proposer has provided similar services in the past five (5) years. Also provide an additional two (2) references of customers whose contract for such services has ceased within the past five (5) years. References shall include the date, description of services, name of business and current address, contact person, title, email address, business address and telephone number.

References must not be from a person, company or organization with any interest, financial or otherwise, in the proposer's organization.

ABAG PLAN may, at its sole discretion, directly contact other known clients of the proposer for references. ABAG PLAN may eliminate from further consideration in the RFP process any proposer who, in the opinion of ABAG PLAN, receives an overall unfavorable report from client references.

ABAG PLAN reserves the right to conduct background checks on key personnel.

### **C. TERM OF AGREEMENT**

The term of this contract shall be from July 1, 2017 through June 30, 2020 with ABAG PLAN's option to extend the term for an additional three (3) year period based upon acceptable Contractor performance and rates as indicated in the Proposer's response, and subject to the same terms and conditions of the initial Agreement.

### **D. ERRORS AND OMISSIONS IN RFP**

If prior to the date fixed for submission of proposals, a proposer discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP or any of its exhibits/appendices, he/she shall immediately notify the ABAG PLAN of such error in writing and request modification or clarification of the document. Modifications will be made by addenda. Clarifications will be given by written notice to all parties who have been furnished or who have requested an RFP for proposal purposes, without divulging the source of the request.

If a proposer fails to notify ABAG PLAN prior to the date fixed for submission of proposals of an error in the RFP known to him/her, or an error that reasonably should have been known to him/her, he/she shall submit proposal at his/her own risk, and if he/she is awarded the contract, he/she shall not be entitled to additional compensation or time by reason of the error or its later correction.

#### **E. ADDENDA**

ABAG PLAN may modify this RFP, any of its key action dates, or any of its attachments, prior to the date fixed for submission of proposals by issuance of an addendum to all parties who have been furnished the RFP for proposal purposes. Addenda will be numbered consecutively as a suffix to the RFP Reference Number.

#### **F. COMPLETION OF PROPOSALS**

Proposals shall be completed in all respects as required by this RFP. A proposal may be rejected if conditional or incomplete, or if it contains any alterations or other irregularities of any kind, and will be rejected if any such defect or irregularity could have materially affected the quality of the proposal.

Proposals which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the proposer, may be rejected. Statements made by a proposer shall also be without ambiguity, and with adequate elaboration, where necessary, for clear understanding.

#### **G. PROPOSER'S COSTS AND ALTERNATIVE PROPOSALS**

Costs for developing proposals are entirely the responsibility of the proposer and shall not be chargeable to ABAG PLAN. Only one proposal is to be submitted by each proposer. Multiple proposals will result in rejection of all proposals submitted by the proposer.

#### **H. WITHDRAWAL OF PROPOSALS**

A proposal may be withdrawn after its submission by written or facsimile request signed by the proposer or authorized representative, prior to the time and date specified for proposal submission. Proposals may be withdrawn and resubmitted if done before the proposal submission deadline. Withdrawal or modification offered in any other manner will not be considered.

#### **I. ERRORS IN PROPOSAL**

If errors are found in a proposal response, ABAG PLAN may reject the proposal; however, ABAG PLAN may, at its sole option, correct arithmetic or transposition errors or both on the basis that the

lowest level of detail will prevail in any discrepancy. The total cost of unit cost items will be the product of the unit cost and the quantity of the item. In case of discrepancy in the quantity listed in the cost data, the quantity cited in the narrative shall govern, and extensions and summarizations shall be recomputed accordingly. If these corrections result in significant changes in the amount of money to be paid to the proposer (if awarded the contract), the proposer will be informed of the errors and corrections thereof and will be given the option to abide by the corrected amount or withdraw his/her/its proposal.

If an item is described in the narrative and omitted from the cost data, the proposal will be interpreted to mean that the item will be provided by the proposer at no cost. If this is a significant item, the proposer will be notified and given the option to abide by the proposal as so interpreted or to withdraw the proposal.

If a minor item is not mentioned at all in the proposal and is essential to satisfactory performance, the proposal will be interpreted to mean that the item will be provided at no cost. If a major item is so omitted, and the omission is recognized prior to contract award, the proposal will be considered non-responsive and rejected. If the omission is not discovered until after the contract is awarded, the proposer will be required to supply the item at no cost.

If there is an obvious misstatement of cost at the lowest level of detail, that cost will not be changed. Instead, the stated cost will be used to re-compute any extensions and the summary, if necessary. If it is a major item, the proposer will be notified and given the option to abide by the proposal as re-extended or to withdraw his proposal.

## **J. REJECTION OF PROPOSALS**

ABAG PLAN may reject any or all proposals and may waive any immaterial deviation in a proposal. ABAG PLAN's waiver of an immaterial defect shall in no way modify the RFP documents or excuse the proposer from full compliance with the specifications if he/she/it is awarded the contract. Proposals, which include terms and conditions other than ABAG PLAN's terms and conditions, may be rejected as being non-responsive.

ABAG PLAN may make investigations as deemed necessary to determine the ability of the proposer to perform the services, and the proposer shall furnish to ABAG PLAN, all information and data for this purpose as requested. ABAG PLAN reserves the right to reject any proposal if the evidence submitted by, or investigation of, such proposer fails to satisfy ABAG PLAN's determination that such proposer is properly qualified to carry out the obligations of the contract and to complete the services specified.

## **K. CANCELLATION OF SOLICITATION**

This solicitation does not obligate ABAG PLAN to enter into a contract. The ABAG PLAN retains the right to cancel this RFP at any time, should the project be canceled or it is deemed in the best interest of ABAG PLAN. No obligation either expressed or implied, exists on the part of the ABAG PLAN to make an award or to pay any cost incurred in the preparation or submission of a proposal.

## **L. PROPOSALS BECOME THE PROPERTY OF THE ABAG PLAN**



Proposals become the property of ABAG PLAN and information contained therein shall become public documents subject to disclosure laws after Notice of Intent to Award. The ABAG PLAN reserves the right to make use of any information or ideas contained in the proposal.

#### **M. CONFIDENTIAL MATERIAL**

Proposer shall notify ABAG PLAN in advance of any proprietary or confidential materials contained in the proposal. All proposals shall remain confidential until the award of contract. Proposals shall no longer be confidential after award of contract, except that materials marked confidential or proprietary may be withheld. However, such information that is required to be disclosed by law or judicial process shall be disclosed. ABAG PLAN shall provide the non-disclosing party notice of subpoena or request for information so that the non-disclosing party can seek a protective order, or other appropriate injunctive relief. ABAG PLAN shall have no liability for damages related to disclosure as provided herein.

#### **N. DISPUTES/PROTESTS**

ABAG PLAN encourages potential respondents to resolve issues regarding the requirements or the procurement process through written correspondence and discussions. ABAG PLAN wishes to foster cooperative relationships and to reach a fair agreement in a timely manner.

Proposer's filing protest must be received within five (5) business days of the date of the notice of intent to award. The protesting proposer shall submit a full and complete written statement detailing the facts in support of the protest. Protest must be sent by certified or registered mail, or delivered in person to ABAG PLAN, Risk Management Officer at the address noted on the cover page of the RFP. Within a reasonable time after receipt of the written statement of protest, ABAG PLAN will provide a decision on the matter. The decision will be in writing and sent by certified or registered mail, facsimile, or delivered in person to the protesting respondent. The decision of ABAG PLAN is final.

#### **O. AWARD OF CONTRACT**

ABAG PLAN reserves the right to reject any and all proposals and to award one or more contracts. The award, if any, will be to the proposer with the highest total score whose proposal best complies with all of the requirements of the RFP documents and any addenda.

Written notification will be made to unsuccessful proposers by "Notice of Intent to Award". Proposals become public documents subject to disclosure laws after Notice of Intent to Award. Evaluation methodology and basis for award are described in Section 5, Evaluation Criteria.

#### **P. EXECUTION OF THE CONTRACT**

The contract shall be signed by the Contractor and returned, along with the required attachments and insurance certificate(s) to ABAG PLAN within seven (7) calendar days from receipt of contract. The period for execution may be changed by mutual agreement of the parties. Contracts are not effective until approved by the appropriate ABAG PLAN officials. Any services performed prior to receipt of a fully executed contract shall be at Contractor's own risk.

## **Q. FAILURE TO EXECUTE THE CONTRACT**

Failure to execute the contract within the time frame identified above shall be sufficient cause for voiding the award. Failure to comply with other requirements within the set time shall constitute failure to execute the contract. If the successful proposer refuses or fails to execute the contract, the ABAG PLAN may award the contract to the next qualified proposer.

## **R. NON-ENDORSEMENT**

If a proposal is accepted, the Contractor shall not issue any news releases or other statements pertaining to the award or servicing of the contract which state or imply ABAG PLAN's endorsement of Contractor's services.

## **S. EVALUATION METHOD**

All proposals will be reviewed to verify that proposer has met the minimum qualifications and proposal submission requirements. Proposals that have not followed the format, do not meet minimum content and quality standards, or take unacceptable exceptions to the Model Agreement (Appendix A) , shall be eliminated from further consideration.

In addition to meeting all other requirements of this RFP, all responding vendors must demonstrate that the organization has the corporate and personnel resources to be able to supply the appropriate skill-level of staffing resources needed for the entire duration of this project.

Proposal responses will be reviewed and evaluated by an evaluation committee comprised of ABAG PLAN personnel and members of the ABAG PLAN Executive Committee who will assign points according to the schedule below. As a part of this review and evaluation, ABAG PLAN may require proposing firms to clarify the information submitted. This clarification process may be conducted through written or electronic correspondence or during the interview process with the ABAG Evaluation Team.

After the scoring process is complete, interviews will be scheduled with a small number (2-4) of the highest-scoring finalists. Should the evaluation indicate that one (1) Proposer scored substantially higher than the rest of the submissions, the ABAG PLAN reserves the right to only interview the highest scoring Proposer.

The purpose of the interview is to give finalists an opportunity to demonstrate their ability to perform the scope of services defined in this RFP and/or clarify outstanding issues. It is in the proposing firm's best interests to submit a thorough and complete proposal and not depend on the presentation process to provide additional information. Should the Proposer interview process fail to demonstrate proposer's capacity and capability to provide the anticipated services, ABAG PLAN reserves the right to disqualify the interviewed Proposers.

The firm will provide the resumes of the program director and service team members that will be assigned to this project. The ABAG PLAN reserves the right to refuse any particular director. In the event a director is accepted, and the ABAG PLAN deems the services product inadequate, the firm agrees to replace the director within a reasonable timeframe (not to exceed four (4) weeks).

**T. POINT SCORING SCHEDULE**

Proposals will be reviewed, evaluated, and scored in accordance with the following point schedule for each evaluation criteria listed.

Maximum Score Possible	
a. Qualifications	30 points
b. Ability to Perform Scope of Services	30 points
c. Cost	20 points
d. Oral Interview	<u>20 points</u>
TOTAL POINTS	100 points

The proposer receiving the highest total score and successfully passing both the reference and background check (key employees) will be awarded a contract.

## **RESPONSE REQUIREMENTS**

To be considered responsive to this RFP, proposers must submit proposals in the format identified in this section. All requirements and questions in the RFP must be addressed and all requested data must be supplied. ABAG PLAN reserves the right to request additional information which in ABAG PLAN's opinion is necessary to assure that the proposer's competence, number of qualified employees, business organization and financial resources are adequate to perform according to contract.

### **A. PROPOSAL FORMAT**

Proposals shall adhere to the following format for organization and content. Proposal must be divided into the individual sections listed below.

#### **1. Cover Letter**

The cover letter shall include a brief statement of intent to perform the services, affirmation that minimum qualifications are met, and signature of an authorized officer of the organization who has the authority to make a binding commitment upon the proposer. Unsigned proposals will be rejected.

In addition, proposer's cover letter shall expressly state that, should the proposer's proposal be accepted, the proposer agrees to enter into a contract under the terms and conditions as prescribed by ABAG PLAN in accordance with the Model Agreement included in this RFP. Any suggested changes to the Model Agreement must be identified in the Cover Letter as being fully described in the body of your response.

#### **2. Table of Contents**

The table of contents shall identify the contents of the proposal in a format consistent with the proposal requirements and format set forth herein.

#### **3. Exceptions**

Any and all exceptions to the RFP must be listed on an item-by-item basis and cross-referenced with the RFP document. If there are no exceptions, proposer must expressly state that no exceptions are taken.

### **B. FIRM QUESTIONNAIRE**

#### **1. About the Firm**

- Give a brief history of your firm since inception. Include:
  - A list of principals;
  - An organization chart;
  - Size and location(s) of your firm, including number of employees at each California location; and

- A description of the types of services provided by your firm and the number of years provided.
- Discuss any major changes in your firm's structure or ownership over the past three (3) years. Discuss anticipated changes in your firm's structure or ownership in the next three (3) years.
- Discuss your firm's relationship or affiliation, if any, with a parent firm.
- Discuss your firm's affiliation with:
  - General Counsel or Defense attorneys;
  - Third Party Claim Administrators
  - Insurers
  - Insurance Brokers

## **2. Project Team Resumes**

Provide resumes for your proposed team. (These may be provided in an Appendix to your response).

## **3. Program Administration**

- a. Provide the name, title, and location of the individual who would have overall responsibility for the services. Describe this person's service experience.
- b. Provide the names and roles of all personnel who will provide service in the development, implementation and administration of the Program. If any of these are subcontractors, please so note.
- c. Provide a Team Chart for the proposed service team depicting reporting relationships.
- d. Does your firm agree to perform the Scope of Services and any Performance Standards described in this RFP?

## **4. Scope of Services**

Demonstrate your understanding of the requirements of the scope of services and how your organization will complete the scope required.

This section must clearly show that the proposer has a firm understanding of the services to be performed. Provide an overview of the firm's organizational capability. Disclose any plans to reorganize or merge with another firm. Adequately describe how the firm would provide the services and demonstrate that the Proposer has the understanding, willingness and capacity to provide such services.

## **5. Audited Financial Statements**

Provide copies of your firm's most recent audited financial statements.

## **6. List of Similar Projects**

Provide in tabular form, a list of the programs for which your firm has served in similar capacity as stated herein. Provide identifying information so that the client and scope of the assignment is easily ascertained.

## **7. Conflict of Interest**

Disclose any relationships that would result in a conflict of interest if you were to be selected as ABAG PLAN Program Director. If awarded a contract, the successful proposer may be required to file a Statement of Economic Interests as required under Govt. Code Section 82019.

### **III. COST OF SERVICES**

Proposer shall provide a total cost to provide the scope of services to ABAG PLAN. The cost can be broken down by service type if desired. The proposer's cost should be based on the following ABAG PLAN information:

The current Program Administrator contract is on an annual flat fee arrangement. Proposers may include alternative fee arrangement but it is preferable that all proposers bid, at a minimum, a flat fee contract option. The proposer shall include how that fee is determined, i.e. approximate number of hours, skill level or position of the hours proposed and the per hour rate for each skill level. The current cost of the scope of services is: \$1,669,971

ABAG PLAN received \$6,897,965 (loss funding and insurance premium contributions) in member deposits to the pool for all programs for the current fiscal year.

Proposers should note that no claims administration, actuary or insurance brokerage services are required within the scope of services. The aforementioned services are provided for separately by independent third parties currently under contract.

All travel expenses are to be included in the contract bid amount. No additional travel expenses will be allowed without prior authorization by ABAG PLAN.

## **IV. APPENDICES AND EXHIBITS**

Proposers shall complete or provide the following Appendices items as applicable:

- **Appendix A – Proposed Service Agreement**
- **Exhibit A – Scope of Services (Work)**
- **Exhibit B - Compensation**
- **Proof of Insurance** - See requirements in the Proposed Service Agreement



## APPENDIX A. – Proposed Service Agreement

### ABAG PLAN CORPORATION AGREEMENT WITH xxxxxxxxx FOR PROGRAM ADMINISTRATION SERVICES

This AGREEMENT is entered into on xxxxxxxxx by and between the PARTIES identified herein.

#### I. PARTIES

The PARTIES to this AGREEMENT are the ABAG PLAN Corporation (PLAN) and xxxxxxxx (POOL ADMINISTRATOR).

#### II. DEFINITIONS

When used herein, when capitalized, whether in the singular or in the plural, the following terms shall have the following meanings:

- a. POOL ADMINISTRATOR - xxxxxxxxx
- b. PLAN - ABAG PLAN Corporation
- c. AGREEMENT - This PROGRAM ADMINISTRATION SERVICES Agreement, including any written changes thereto, which, were agreed upon by the PARTIES.
- d. COMPENSATION
  - i. FEE - Remuneration paid by PLAN to POOL ADMINISTRATOR for PROGRAM ADMINISTRATION SERVICES.
- e. COMPANIES – The business entities other than the POOL ADMINISTRATOR which make necessary services available to implement the program.
- f. PARTY - PLAN or POOL ADMINISTRATOR.
- g. PROGRAM ADMINISTRATION SERVICES – The scope of services set forth in Part I of **Exhibit A**.
- h. SERVICES - Any and all obligations of POOL ADMINISTRATOR to be performed pursuant to the AGREEMENT.
- i. PROGRAM YEAR – July 1<sup>st</sup> to June 30<sup>th</sup>.

#### III. SCOPE OF SERVICE

The POOL ADMINISTRATOR shall provide the PLAN with PROGRAM ADMINISTRATION SERVICES as set forth in **Exhibit A**, Scope of Services.

#### IV. COMPENSATION

Program Administration: PLAN will compensate the POOL ADMINISTRATOR for PROGRAM ADMINISTRATION SERVICES in accordance with the payment schedule set forth in **Exhibit B**.

**V. DISCLOSURES – If any**

**VI. PERSONNEL**

- a. The POOL ADMINISTRATOR has designated \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ to serve as the POOL ADMINISTRATOR's account team.
- b. The account team will have direct responsibility for interacting with the POOL ADMINISTRATOR's staff and delivering the Scope of Services set forth in **Exhibit A**.
- c. In the event that any designated account team member becomes unavailable to perform SERVICES for PLAN, the POOL ADMINISTRATOR agrees to replace, as soon as practical, that designated team member with a person of comparable skills and experience as determined by PLAN's evaluation and subject to PLAN's right of refusal for any reason.

**VII. TERM**

- a. The term of the AGREEMENT shall commence on \_\_\_\_\_ and terminate on June 30, \_\_\_\_\_, unless cancelled pursuant to Section X.
- b. This AGREEMENT supersedes and replaces all previous Agreements or Contracts.
- c. The AGREEMENT shall have an anniversary date each July 1<sup>st</sup>, for the purpose of reviewing compensation and optional extensions.
- d. PLAN, at its sole discretion, may exercise up to five, one year extensions to this AGREEMENT by notifying POOL ADMINISTRATOR of such extension prior to the anniversary date. The terms and conditions of the extension(s) will be mutually agreed upon at the time of approval.

**VIII. NON-ASSIGNABLE**

POOL ADMINISTRATOR shall not assign, sublet or transfer any right, privilege or interest in this AGREEMENT without prior written consent of PLAN.

**IX. TERMINATION**

The AGREEMENT may be cancelled by either PARTY any time upon 90 days advance written notice delivered or mailed to the other PARTY in accordance with the notice provisions set forth herein. In the event of termination or expiration of this AGREEMENT, POOL ADMINISTRATOR will provide PLAN with reasonable assistance in arranging a smooth transition to another program administrator/broker. Except for this transition assistance, POOL ADMINISTRATOR's obligation to provide SERVICES to PLAN will cease at 12:01 a.m. upon the effective date of termination or expiration.

- a. In the event of early termination of this AGREEMENT by PLAN, other than as a result of a breach of this AGREEMENT by the POOL ADMINISTRATOR, they will be deemed to have earned its annual FEE, in accordance with the following schedule:

- i. If this AGREEMENT is terminated or canceled mid-year, and within the first three hundred (300) days of the PROGRAM YEAR, then the FEE shall be prorated with a minimum of fifty percent (50%) deemed earned.
- ii. The FEE shall be deemed fully earned if termination occurs on or after three hundred one (301) days of the PROGRAM YEAR. In the event of a mid-term termination of this AGREEMENT by either PARTY, all COMPENSATION due either PARTY will be paid within sixty (60) days of the date of termination.
- iii. AGREEMENT expiration or termination shall release the POOL ADMINISTRATOR from all account responsibilities including, but not limited to, the reporting of claims to carriers. POOL ADMINISTRATOR and PLAN may agree to hourly rates for services for handling the “run on/run off” claims and other ongoing services.

**X. ENTIRE AGREEMENT MODIFICATION**

This AGREEMENT contains the entire agreement between POOL ADMINISTRATOR and PLAN. It can be amended only by written agreement signed by both parties. If one part of this AGREEMENT is determined to be unenforceable, the rest of the provisions of the AGREEMENT will remain valid and enforceable. This AGREEMENT shall be governed by the laws of the State of California without regard to any conflict of law provisions.

**XI. SEVERABILITY**

If any term, covenant, condition or provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

**XII. APPLICABLE LAW**

This AGREEMENT has been executed and delivered in the State of California, and the validity, enforceability and interpretation of any of the clauses of this AGREEMENT shall be determined and governed by the laws of the State of California.

**XIII. HOLD HARMLESS AND INDEMNITY**

The POOL ADMINISTRATOR agrees to indemnify, hold harmless, reimburse and defend PLAN at all times against any claim, costs, expense, liability, obligation, loss or damage (including reasonable legal fees) of any nature, incurred by or imposed upon PLAN and based upon the work or operations performed by, or any errors or omissions of, POOL ADMINISTRATOR, its agents or employees, with respect to the services provided by POOL ADMINISTRATOR under this AGREEMENT; except to the extent the error or omission arises from POOL ADMINISTRATOR’s reliance on information provided by PLAN or from POOL ADMINISTRATOR’s following instructions from PLAN. In the event that PLAN tenders its defense in any such claim, etc., to POOL ADMINISTRATOR, and POOL ADMINISTRATOR

accepts such tender, the defense of PLAN shall be conducted by counsel selected and paid by POOL ADMINISTRATOR and approved by PLAN, whose approval shall not be unreasonably withheld.

#### **XIV. INSURANCE REQUIREMENTS**

As part of the consideration of this AGREEMENT, POOL ADMINISTRATOR agrees to purchase and maintain at its sole cost and expense during the life of this AGREEMENT insurance coverage against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by POOL ADMINISTRATOR, its agents, representatives, or employees.

##### **a. MINIMUM SCOPE AND LIMIT OF INSURANCE**

*Coverage shall be at least as broad as:*

*i. **Commercial General Liability (CGL):*** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations with limits of no less than Two Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If a general aggregate limit applies, either the aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit.

*ii. **Automobile Liability:*** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), or if POOL ADMINISTRATOR has no owned autos, Code 8 (hired) and Code 9 (non-owned), with limits of no less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.

*iii. **Workers' Compensation:*** In accordance with the provisions of the California Labor Code, POOL ADMINISTRATOR is required to be insured against liability for Workers' Compensation or to undertake self-insurance. Statutory Workers' Compensation and Employers' Liability of at least \$1,000,000 shall cover all POOL ADMINISTRATOR's staff while performing any work incidental to the performance of this agreement.

*iv. **Professional Liability:*** Professional Liability (Errors and Omission) Insurance appropriate to POOL ADMINISTRATOR's profession, with limit no less than One Million Dollars (\$1,000,000) per occurrence or claim and Two Million Dollars (\$2,000,000) aggregate to cover all services rendered by POOL ADMINISTRATOR pursuant to this AGREEMENT.

If POOL ADMINISTRATOR maintains higher coverage limits than the amounts shown above, then the PLAN requires and shall be entitled to coverage for the higher coverage limits maintained by POOL ADMINISTRATOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to PLAN.

##### **b. OTHER INSURANCE PROVISIONS**

*Each insurance policy shall contain, or be endorsed to contain, the following five (5) provisions:*

***Additional Insured Status***

PLAN, its officers, employees, and agents, shall be covered as additional insured's on the Commercial General Liability and the Automobile Liability policy with respect to liability arising out of work or operations performed by or on behalf of the POOL ADMINISTRATOR including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of POOL ADMINISTRATOR. Additional Insured coverage shall be provided in the form of an endorsement to POOL ADMINISTRATOR's insurance (at least as broad as Insurance Services Office Form CG 20 10 11 85). A copy of the endorsement evidencing that PLAN has been added as an additional insured on the policy, must be attached to the certificate of insurance.

***Subcontractors*** - POOL ADMINISTRATOR all the requirements stated herein, and POOL ADMINISTRATOR shall require and verify that all subcontractors maintain insurance meeting ensure that PLAN is an additional insured on insurance required from subcontractors. For Commercial General Liability coverage subcontractors shall provide coverage with a format at least as broad as Insurance Services Office form CG 20 38 04 13.

***Notice of Cancellation*** - A provision that coverage will not be cancelled or subject to reduction without written notice given to PLAN addressed to the current President of the PLAN Board of Directors.

***Primary Coverage*** - For any claims related to this contract, POOL ADMINISTRATOR's insurance coverage shall be primary insurance as respects PLAN, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by PLAN shall be excess of the POOL ADMINISTRATOR's insurance and shall not contribute with it.

***Waiver of Subrogation*** - POOL ADMINISTRATOR hereby agrees to waive rights of subrogation which any insurer of POOL ADMINISTRATOR may acquire from POOL ADMINISTRATOR by virtue of the payment of any loss. POOL ADMINISTRATOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. POOL ADMINISTRATOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not PLAN has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of PLAN for all work performed by POOL ADMINISTRATOR, its employees, agents and subcontractors.

**c. ACCEPTABILITY of INSURERS**

All insurance coverage shall be placed with insurers that have a current rating from AM Best of no less than A: VII; and are admitted insurance companies in the State of California. All other insurers require prior approval of PLAN.

**d. CLAIMS MADE POLICIES**

If the required Professional Liability (Errors and Omissions) policy provides coverage on a claims-made basis:

- i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the POOL ADMINISTRATOR must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

**e. COVERAGE LIMITS SPECIFICATIONS**

Approval of the insurance by PLAN or acceptance of the certificate of insurance by PLAN shall not relieve or decrease the extent to which POOL ADMINISTRATOR may be held responsible for payment of damages resulting from POOL ADMINISTRATOR's services or operation pursuant to this AGREEMENT, nor shall it be deemed a waiver of PLAN's rights to insurance coverage hereunder.

If, for any reason, POOL ADMINISTRATOR fails to maintain insurance coverage which is required pursuant to this AGREEMENT, the same shall be deemed a material breach of contract. PLAN, at its sole option, may terminate this AGREEMENT and obtain damages from POOL ADMINISTRATOR resulting from said breach. Alternately, PLAN may purchase such required insurance coverage, and without further notice to POOL ADMINISTRATOR, PLAN may deduct from sums due to POOL ADMINISTRATOR any premium costs advanced by PLAN for such insurance.

**f. DEDUCTIBLES and SELF-INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by PLAN. At the option of PLAN, either: POOL ADMINISTRATOR shall cause the insurer to reduce or eliminate such deductibles or self-insured retentions as respects PLAN, its officers, officials, employees, and volunteers; or POOL ADMINISTRATOR shall provide a financial guarantee satisfactory to PLAN guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

**g. EVIDENCE of COVERAGE**

POOL ADMINISTRATOR must provide evidence that it has secured the required insurance coverage before execution of this agreement. A Certificate of Insurance supplied by PLAN or the appropriate ACORD and Insurance Services Office forms evidencing the above shall be completed by POOL ADMINISTRATOR's insurer or its agent and submitted to PLAN prior to execution of this Agreement by PLAN.

POOL ADMINISTRATOR shall furnish PLAN with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by PLAN before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the POOL ADMINISTRATOR's obligation to provide them. PLAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**XV. OBLIGATIONS OF PLAN**

PLAN will cooperate with POOL ADMINISTRATOR in the performance of POOL ADMINISTRATOR duties by providing reasonably complete and accurate information as to PLAN'S loss experience, risk exposures, and any other pertinent information that POOL ADMINISTRATOR requests. PLAN shall promptly review coverage documents concerning the PROGRAMS delivered by POOL ADMINISTRATOR for consistency with PLAN'S specifications. In addition, PLAN shall have the responsibility to keep record of and promptly report significant changes in exposures, loss-related data, and/or any other material changes to POOL ADMINISTRATOR. This reporting must be memorialized in writing and delivered to POOL ADMINISTRATOR in accordance with the NOTICE provision.

PLAN shall designate one or more officers or committees of PLAN to receive and provide significant intervening substantive review, and independently evaluate any and all recommendations or proposals made to PLAN by POOL ADMINISTRATOR, which are significant, substantive in nature and under which any benefit shall accrue to POOL ADMINISTRATOR or POOL ADMINISTRATOR's affiliates a material financial impact, under the terms of this AGREEMENT. Such officer(s) or committee(s) shall then provide their own recommendations concerning such matters to the officer or Board of PLAN having ultimate decision-making authority on such matters.

**XVI. DISPUTE RESOLUTION**

Any dispute arising under the terms of this AGREEMENT which is not resolved within a reasonable period of time by authorized representatives of POOL ADMINISTRATOR and PLAN shall be brought to the attention of the Chief Executive Officer (or designated representative) of POOL ADMINISTRATOR and the Chair (or designee) of PLAN for joint resolution. At the request of either party, PLAN shall provide a forum for discussion of the disputed item(s). If resolution of the dispute through these means is pursued without success, such dispute may be submitted to final and binding arbitration, upon agreement of both parties,

or either party may elect to and pursue any rights and remedies by legal action. In any dispute arising out of or under the terms of this AGREEMENT, the prevailing party shall be entitled to recover its legal fees and costs from the other party. The venue for any such arbitration or legal action shall be California unless the parties mutually agree in writing to another location.

Despite an unresolved dispute, POOL ADMINISTRATOR and PLAN shall continue without delay to perform their responsibilities under this AGREEMENT. POOL ADMINISTRATOR shall keep accurate records of its SERVICES in order to document the extent of its SERVICES under this AGREEMENT.

## **XVII. COPYRIGHT**

Any reports, documents or other materials produced in whole or in part under this AGREEMENT shall be the property of PLAN and none shall be subject to an application for copyright by or on behalf of POOL ADMINISTRATOR.

## **XVIII. CONFIDENTIALITY**

- a. Client Information. POOL ADMINISTRATOR will not disclose to any third party any of PLAN'S confidential information, protected tangible or intangible property rights, intellectual property, or trade secrets ("CLIENT INFORMATION") that are obtained in the course of providing SERVICES to PLAN and that are marked or stamped by PLAN as "confidential." Nothing in this AGREEMENT is intended to preclude POOL ADMINISTRATOR from disclosing client information in the furtherance of insurance brokerage, risk management, risk transfer, employee benefits or other insurance related SERVICES or products provided by POOL ADMINISTRATOR confidential nature of such information. This information may include information relevant to the underwriting and/or evaluation of the PLAN's risks and the processing of claims.
- b. Confidential Information. The services and work product exchanged by the PARTIES under this AGREEMENT are to be used exclusively to carry out the terms, conditions, and purposes set forth herein. The PARTIES acknowledge that during the term of this AGREEMENT, they may each exchange information considered confidential, proprietary and/or trade secret including, without limitation, data, recommendations, proposals, reports and similar information, CLIENT INFORMATION (as defined above), and work product (collectively, "CONFIDENTIAL INFORMATION"). For purposes of this AGREEMENT, the party disclosing CONFIDENTIAL INFORMATION shall be called the DISCLOSING PARTY and the party receiving CONFIDENTIAL INFORMATION shall be called the RECIPIENT PARTY.
- c. Ownership. Except as otherwise provided in this AGREEMENT, CONFIDENTIAL INFORMATION is and remains the absolute and exclusive property of the DISCLOSING PARTY and/or its affiliates, and is its unique and variable asset. Unless otherwise authorized by this AGREEMENT, no copies of CONFIDENTIAL INFORMATION shall be made without proper notification from the DISCLOSING PARTY. The PARTIES agree that, except as otherwise



provided herein, they will not directly or indirectly communicate, divulge, or otherwise disclose any of the other's CONFIDENTIAL INFORMATION to any unauthorized person, firm, or corporation, and shall prevent, to the best of their ability, the unauthorized disclosure of such CONFIDENTIAL INFORMATION to others.

- d. Exclusions. The following types of information shall not be considered confidential:
- i. Information in the public domain or that becomes a part of the public domain, other than as a result of a breach of the confidentiality provisions of this AGREEMENT;
  - ii. Information that is independently developed by either PARTY as demonstrated by the PARTY's records;
  - iii. Information that is disclosed by a third party whom the RECIPIENT PARTY has no reason to believe has any confidentiality or fiduciary obligation to the owner of such information; or
  - iv. Information that is required to be disclosed by law or judicial process, provided the disclosing party gives the non-disclosing party prior notice of subpoena or request for information so that the non-disclosing party can seek a protective order, or other appropriate injunctive relief.

## **XIX. ETHICS AND CONFLICT OF INTEREST STATEMENT**

The POOL ADMINISTRATOR shall conduct its business so as to fulfil all legal and ethical requirements, and standards of the industry and the applicable state(s) in which SERVICES are rendered, and shall place the best interests of PLAN ahead of any other concerns in the placement of insurance services and products. To this end, POOL ADMINISTRATOR:

- a. Will adhere to its ethical obligations to PLAN to deliver honest, competitive, and meaningful service and advice on the placement of any insurance products, services, or coverages, and to provide access to an open, fair, and competitive insurance market place;
- b. Will exercise due diligence in making a full and complete disclosure of all quotes and declinations from all markets contacted for each specific line of coverage, including the date and time of contact and the name, address, phone number and, to the extent available, email address of the individual contact for each market;
- c. Will make every good faith attempt to avoid even the appearance of a conflict of interest between POOL ADMINISTRATOR, the PLAN and any provider of any insurance product or service, and will promptly notify PLAN of any real or potential conflict of interest;
- d. Agrees to provide to PLAN a copy of POOL ADMINISTRATOR's own Ethics Statement or Code, or POOL ADMINISTRATOR's Compliance Statement, or to make such statements available on POOL ADMINISTRATOR's website; and
- e. Will request that all insurance carriers show any commission rates on their insurance policies and will otherwise ensure those rates are known to PLAN.

**XX. DISASTER RECOVERY; CONTINUITY.**

The POOL ADMINISTRATOR agrees that it has a disaster recovery plan in place that is intended to secure, and if necessary, restore information adversely affected by a security breach, force majeure or natural disaster. In addition, POOL ADMINISTRATOR will make commercially reasonable efforts to ensure that, at all times, it has a sufficient number of trained personnel on hand to meet its obligations under this AGREEMENT including in the event of a force majeure, natural disaster, or pandemic.

**XXI. MATERIAL CHANGE.**

In the event that PLAN operations change substantially by expansion or other material change (such as a change in the risk profile, e.g., participation of additional Members), thus changing the scope and nature of exposures, losses, and/or insurance program(s), the PARTIES will negotiate in good faith to revise this AGREEMENT's compensation arrangement as appropriate.

**XXII. RELATIONSHIP OF THE PARTIES.**

At all times and for all purposes, the relationship between the PARTIES is intended to be that of independent contractors and there is no intent to create a joint venture relationship, and any person representing POOL ADMINISTRATOR, shall be an independent contractor to PLAN, and the AGREEMENT shall not in any way be construed as a contract of employment between PLAN and POOL ADMINISTRATOR's employees or agents. In addition, the PARTIES agree that, except as otherwise provided herein, PLAN shall not be obligated for any expense incurred by POOL ADMINISTRATOR in rendering SERVICES, or by engaging in any other transaction or conduct arising out of this AGREEMENT.

**XXIII. OWNERSHIP OF BOOKS AND RECORDS.**

The POOL ADMINISTRATOR shall each maintain normal business records related to all business generated under this AGREEMENT. Upon reasonable request, and subject to the confidentiality provisions set forth herein, the PARTIES may each obtain from the other copies of all documents that are used and developed by POOL ADMINISTRATOR for program administration, including but not limited to policies, binders, certificates, endorsements, underwriting submissions/applications, and loss data in the other's possession, custody, or control with respect to all business generated under this AGREEMENT.

**XXIV. WAIVER.**

No provision of this AGREEMENT shall be considered waived, unless such waiver is in writing and signed by the PARTY that benefits from the enforcement of such provision. No waiver of any provision in this AGREEMENT, however, shall be deemed a waiver of a subsequent breach of such provision or a waiver of a similar provision. In addition, a waiver of any breach or a failure to enforce any term or condition of this AGREEMENT shall not in any

way affect, limit, or waive a PARTY's right under this AGREEMENT at any time to enforce strict compliance thereafter with every term and condition of this AGREEMENT.

**XXV. HEADINGS AND CONSTRUCTION.**

The PARTIES agree that the headings and sections of this AGREEMENT are used for convenience only and shall not be used to interpret the provisions herein. The PARTIES also agree that the terms of this AGREEMENT were jointly negotiated and each has had an opportunity to review and discuss each provision with legal counsel, to the extent desired. Therefore, the normal rule of construction that construes any ambiguities against the drafting party shall not be employed in the interpretation of this AGREEMENT.

**XXVI. NOTICE**

All notices, requests, and other communications given under this AGREEMENT, shall be in writing and deemed duly given: (a) when delivered personally to the recipient; (b) one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid); (c) five (5) business days after being sent by U.S. certified mail (charges prepaid); or (d) one (1) business day after being sent to the recipient by fax or email transmission. Except as otherwise provided herein, all notices, requests or communications under this AGREEMENT shall be addressed to the intended recipient as set forth below:

<b>To PLAN:</b>	<b>TBD</b>
<b>To POOL ADMINISTRATOR:</b>	<b>TBD</b>

**XXVII. PERFORMANCE MEASURES**

POOL ADMINISTRATOR agrees to be evaluated by the standards set forth and outlined in the SCOPE OF SERVICES – Exhibit A.

**IN WITNESS WHEREOF**, PLAN and POOL ADMINISTRATOR have hereby executed this AGREEMENT on this \_\_\_\_, day of \_\_\_\_\_, 2019.

**ABAG Pooled Liability Assurance Network**

By: \_\_\_\_\_

President

By: \_\_\_\_\_

Pool Administrator

**Exhibit A**  
**SCOPE OF SERVICES (WORK)**

POOL ADMINISTRATOR will provide PLAN with the services set forth below:

**I. PROGRAM ADMINISTRATION SERVICES**

**A. MEETING ADMINISTRATION AND SUPPORT**

1. Prepare and distribute to PLAN in June of each year an annual meeting calendar that identifies all key activities expected to occur at each Board of Directors meeting (e.g., March meeting: review draft actuarial report, receive semi-annual financial advisor report, review investment policy, etc.);
2. Coordinate a minimum of two annual Board of Directors meetings which includes, but is not limited to, the following tasks:
  - a) Securing meeting venue and hotel accommodations;
  - b) Preparing meeting agenda and materials, emailing no later than one week prior to Board meeting date;
  - c) Noticing meeting and distributing meeting agenda and materials in compliance with the Brown Act; and
  - d) Arranging for presentations (e.g., auditor, actuary, financial advisor, etc.);
3. Coordinate meetings for Executive Committee, Claims Committee, Risk Management Committee, and Ad Hoc Committees as requested which includes, but is not limited to, the following tasks:
  - a) Securing meeting venue;
  - b) Preparing meeting agenda and materials;
  - c) Noticing meeting and distributing meeting agenda and materials in compliance with the Brown Act; and
  - d) Arranging for presentations;
4. Distribute all meeting minutes within 10 business days of meeting date;
5. Process travel reimbursements within 30 days of receipt; and
6. Attend all Board of Directors and Committee meetings and provide professional support and advice as requested.

**B. GENERAL ADMINISTRATION**

1. Hire, when directed by PLAN, and serve as liaison for all PLAN approved consultants (e.g., auditors, actuaries, financial advisors, coverage counsels, insurance carriers, loss control/safety, etc.);
2. Serve as PLAN's liaison to insurance brokers or other providers of risk management enterprise services. Disseminate pertinent information from same to PLAN members;

3. Serve as central clearinghouse for disseminating information to PLAN members;
4. Develop, maintain, and present to PLAN detailed job responsibilities for all account team members;
5. Assist PLAN with developing and updating policies and procedures that facilitate efficient and effective business practices;
6. Respond to PLAN member questions and requests for assistance in a timely and capable manner; attend meetings at PLAN member's request;
7. Coordinate and prepare materials for safety/loss control programs as requested by PLAN;
8. Maintain and keep current a PLAN website that, at a minimum:
  - a) Provides basic information on the PLAN's purpose and services offered; including meeting agenda, minutes, notices and
  - b) Provides PLAN members with electronic access to all key PLAN documentation (e.g., Memorandum of Coverage, Joint Powers Agreement, Bylaws, past and current insurance policies, policies and procedures, best practices, audit reports, financial statements, etc.) and information/articles of mutual interest;
9. Serve as custodian of PLAN's official records and manage records in accordance with PLAN's records retention policy and
10. Carry out special projects as requested by PLAN.

### **C. FINANCIAL SUPPORT**

1. Provide general accounting and financial management services in accordance with generally accepted accounting principles, industry best practices, and PLAN's financial policies and procedures. Key duties include:
  - a) Processing all daily financial transactions (e.g., paying bills, recording and depositing revenue, etc.) in a timely manner;
  - b) Reconciling all financial transactions on a quarterly basis;
  - c) Preparing the annual budget, tracking status on a quarterly basis, and promptly reporting anomalies to PLAN's Treasurer and Finance Committee;
  - d) Reviewing monthly investment reports from Financial Advisor, and promptly reporting anomalies to PLAN's Treasurer and Finance Committee;
  - e) Assisting the PLAN and its Treasurer and Finance Committee with their financial oversight responsibilities;
  - f) Calculating Retrospective Plan balances for each PLAN member; monitoring balances and distributing refunds to PLAN members in accordance with PLAN policies and procedures;
  - g) Preparing a report package quarterly, for each Board of Directors meeting, that covers all financial/investment transactions that have occurred since the last meeting and:

- (1) A listing of all checks issued (for ratification by Board of Directors);
  - (2) Report on Investments from PLAN's Financial Advisor;
  - (3) Financial Report;
  - (4) Member Account Summary Report; and
  - (5) Projected Cash Flow Obligations.
- h) Working cooperatively with the auditing firm that prepares PLAN's annual financial statements to ensure the firm receives all necessary information in a timely and organized manner;
  - i) Calculating PLAN member program administration charges, pool layer contributions, and excess insurance costs; invoicing and collecting total amount due from PLAN member;
  - j) Filing documentation necessary to maintain PLAN's CAJPA accreditation; and
  - k) Filing the annual report to the State Controller.

**D. INVESTMENT SUPPORT**

1. Assist PLAN and its Treasurer and Finance Committee with ensuring the PLAN's Financial Advisor is managing the PLAN's financial assets in accordance with PLAN's Investment Policy;
2. Carry out fund transfers as recommended by Financial Advisor and in accordance with PLAN's Investment Policy;
3. Arrange for semi-annual presentations from Financial Advisor to PLAN;
4. Arrange for annual review of Investment Policy, update Policy as directed by PLAN, and promptly advise Financial Advisor of changes.

**E. CLAIMS ADMINISTRATION SUPPORT**

1. Assist PLAN and its Claims Committee with ensuring the PLAN's Claims Administrator is competently fulfilling the scope of work contained in the Claims Administrator contract;
2. Work cooperatively with the PLAN and PLAN's Claims Administrator to identify and budget for losses with the potential to impact PLAN's pool layer and above;
3. Ensure that PLAN members are reimbursed within "x" business days for PLAN's share of PLAN approved settlements after Claims Administrator and Claims Committee Chair have approved payment;
4. Assist PLAN members and Claims Administrator, as necessary, with resolving settlement issues arising with insurance carriers.
5. Coordinate with the PLAN's Claims Auditor to ensure annual audits of all PLAN members are carried out in a timely manner and in accordance with the Auditor's contract; and
6. Arrange for an annual presentation from the Claims Auditor to review audit findings.

7. Draft and maintain Closed Session meeting minutes. The minutes will identify claim under discussion, describe action taken, and record vote (i.e. maker of motion and second, and members who voted in favor, who opposed, or abstained from vote). They will be secured separately to be maintained Privileged and Confidential.

## **F. RISK MANAGEMENT AND UNDERWRITING SUPPORT**

1. Assist PLAN, its Board Members and Risk Management Committee with:
  - a) Maintaining contemporary and responsible underwriting standards and insurance requirements;
  - b) Evaluating exposures, interpreting PLAN's Memorandum of Coverage (MOC), and revising MOC language as necessary; and
  - c) Evaluating alternative risk financing methods;
2. Collect and analyze underwriting data in accordance with PLAN's underwriting standards for cities interested in becoming a PLAN member city; prepare report summarizing findings;
3. Collect, vet, and transmit in a timely and organized manner PLAN loss data to actuarial firm for annual actuarial report; and
4. Arrange for an annual presentation from the PLAN's actuarial firm to review the actuarial report; assist PLAN with evaluating report and determining confidence levels, long-term investment yields, and PLAN member deposit levels.

## **G. STRATEGIC PLANNING SUPPORT**

1. Annually Schedule an Executive Committee Meeting:
  - a) To work with PLAN's Executive Committee to develop and facilitate an annual planning discussion with the Board of Directors that focuses on keeping PLAN an innovative, vital and well-managed operation that:
    - (1) Proactively addresses emerging coverage issues;
    - (2) Strategically seeks out creative risk financing tools and business models to improve PLAN's performance;
    - (3) Proactively positions itself to weather economic and insurance market fluctuations;
    - (4) Strategically markets itself to cities that meet its underwriting standards; and
    - (5) Regularly reviews its administrative practices, key foundational documents, policies, and procedures to ensure they remain current, relevant, and represent best practices.
  - b) Assist the Executive Committee with extracting the key themes/ideas from the planning session and preparing an annual work plan that is distributed to PLAN members and Committee Chairs for execution; assist President with monitoring Committee efforts to implement work plan.

2. Regular Board of Directors Meeting:

a) Provide PLAN with an overview of the coming LIABILITY and PROPERTY insurance renewal process, including but not limited to:

- (1) The state of the insurance market;
- (2) Anticipated renewal terms;
- (3) Options for strengthening coverage; and
- (4) Strategies ADMINISTRATOR will employ to ensure PLAN receives the highest quality coverage at the best price;

b) Incorporate feedback from PLAN at the board meeting into the upcoming renewal process.



## **Exhibit B**

### **COMPENSATION**

POOL ADMINISTRATOR will be compensated for SERVICES rendered pursuant to this AGREEMENT as set forth below:

#### **I. PROGRAM ADMINISTRATION SERVICES.**

A. POOL ADMINISTRATOR will be compensated by PLAN for PROGRAM ADMINISTRATION SERVICES in accordance with the payment schedule below:

1. FY 2017/18: \$
2. FY 2018/19: \$
3. FY 2019/20: \$
4. FY 2020/21: \$
5. FY 2021/22: \$
6. FY 2022/23: \$

B. POOL ADMINISTRATOR shall invoice each PLAN member for its share of the PROGRAM ADMINISTRATION SERVICE FEE in July of each year. PLAN members agree to promptly pay the invoiced fee.

C. Any change to PLAN's membership or material change to SERVICES during the term of this Agreement, may require PLAN and POOL ADMINISTRATOR to renegotiate the PROGRAM ADMINISTRATION SERVICE FEES and amend the AGREEMENT accordingly.

D. All POOL ADMINISTRATOR travel expenses incurred in connection with providing PROGRAM ADMINISTRATION SERVICES are included within the FEE compensation structure described herein.

#### **II. OTHER SERVICES:**

IF ANY TBD