

THREE VILLAGE CENTRAL SCHOOL DISTRICT
STONY BROOK, NEW YORK

BOARD OF EDUCATION AGENDA MATERIALS

DATE OF BOARD MEETING: July 7, 2021

DATE SUBMITTED: July 1, 2021

OFFICE OF ORIGIN: Business Services

CATEGORY OF ITEM: Organizational
Meeting

<u>TITLE:</u> APPOINTMENT OF CLAIMS ADMINISTRATOR FOR WORKERS' COMPENSATION SELF-INSURED PROGRAM

Staff Recommendation:

Upon recommendation of the Superintendent of Schools, be it resolved that Wright Risk Management Company, LLC be appointed as claims administrator for the district's self-insured workers' compensation program at a cost of \$28,997.04 for the 2021-2022 school year, as per the attached agreement.

Background-Rationale:

NOT AN OFFICIAL RECORD; SUBJECT TO CHANGE



ADDENDUM TO MANAGEMENT AGREEMENT (this "Addendum"), dated July 1, 2019 ("Effective Date"), between the Three Villages Central School District (the "District") and Wright Risk Management Company, LLC (the "Plan Manager").

RECITALS

WHEREAS, the District and the Plan Manager desire to enter into a management agreement ("Agreement"), dated July 1, 2019, for the Plan Manager to provide workers' compensation administration services, on the terms and conditions provided in that Agreement, as modified by this Addendum;

NOW, THEREFORE, the parties hereby agree to add and/or amend the following provisions to the Agreement, as if the incorporated therein;

- 1. The payment procedure referenced in Section II.H of the Agreement shall be as follows:**

The Plan Manager will prepare payment documentation for expenses to be paid for the Plan Manager. The Plan Manager shall be responsible for printing, signing, and distributing checks in accordance with the payment documentation. The cost of materials and postage for printing and distributing checks shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

- 2. The District shall pay a management Fee to Plan Manager for services as follows:**

- a. For the period from July 1, 2019 to June 30, 2020, the District shall pay a management fee of \$28,008.34 payable in twelve (12) monthly installments due on the first of each month.**
- b. For the period from July 1, 2020 to June 30, 2021, the District shall pay a management fee of \$28,428.47 payable in twelve (12) monthly installments due on the first of each month.**

- c. For the period from July 1, 2021 to June 30, 2022, the District shall pay a management fee of \$28,997.04 payable in twelve (12) monthly installments due on the first of each month.

IN WITNESS WHEREOF, the parties have caused this Addendum to be executed by their duly authorized representatives as of the Effective Date.

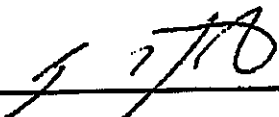
THREE VILLAGES CENTRAL SCHOOL DISTRICT

By: 

Name: Jeffrey Carlson

Title: Assistant Superintendent For Business Services

WRIGHT RISK MANAGEMENT COMPANY, LLC

By: 

Name: Eric Hartcorn

Title: Executive Vice President, Workers' Compensation



MANAGEMENT AGREEMENT (this "Agreement"), dated July 1, 2019 ("Effective Date"), between Three Villages Central School District, a New York State public school district with its primary address at 100 Suffolk Avenue Stony Brook, NY 11790 (the "District") and Wright Risk Management Company, LLC, a Delaware limited liability company with its principal place of business at 900 Stewart Avenue Garden City, NY 11530 (the "Plan Manager").

RECITALS

WHEREAS, the District desires that the Plan Manager provide workers' compensation administration services for the District's self-insured workers' compensation plan (the "Self-Insured Plan"), on the terms and conditions provided in this Agreement; and

WHEREAS, the Plan Manager desires to render such services to the District as provided in this Agreement;

NOW, THEREFORE, the District hereby engages the services of the Plan Manager and, in consideration of the mutual promises herein contained, the parties agree as follows:

I. TERM.

This Agreement shall be effective commencing on the Effective Date and shall continue in effect through June 30, 2022 unless terminated prior to that date pursuant to Section VII of this Agreement.

II. SERVICES.

The Plan Manager will provide administrative and claims management services necessary to operate the Self-Insured Plan, which will use funds established by the District to finance the Self-Insured Plan (the "Self-Insured Fund"). Said services will consist of the following:

A. In cooperation with District personnel, the Plan Manager will design and implement, the internal claims reporting system. Once designed, selected District personnel will be trained to ensure the effectiveness of this reporting system.

B. Once a claim is reported, the Plan Manager will review the claim to determine if investigation is needed to determine the compensability and extent of the injury claimed. If investigation is necessary, the Plan Manager will perform such investigation immediately and thoroughly. If any third-party investigation services are necessary, such as surveillance, review of accident locations, or taking signed statements, the Plan Manager will arrange for such services. The fees and expenses for such services shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

C. If it is determined that the claim is compensable, the Plan Manager will file all forms required by the Workers' Compensation Board ("WCB") and direct the District to make payments in accordance with statutory requirements and mandated fee schedules. The District is responsible for providing any information necessary to complete all forms.

D. If it is determined that the claim is not compensable, or if the injury is not of the nature or extent claimed by the employee, the claim will be controverted and the file prepared for argument before WCB. The Plan Manager will provide for appearance by an experienced workers' compensation attorney on all cases in which hearings are held before WCB. Attorney fees, the cost of appeals, and other litigation expenses, if any, shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

E. The Plan Manager shall pursue subrogation whenever it is reasonably anticipated that the District may be reimbursed for payments made. The costs of retaining third-party services to assist in pursuing subrogation, where necessary and appropriate, shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

F. The Plan Manager will provide complete supervisory services for claims covered during the term of this Agreement. These supervisory services will include claims adjustment services, general monitoring of medical treatment in order to ensure appropriate treatment and minimize medical costs, and coordinating audit of all medical bills received for legitimate workers' compensation claims to confirm causal relationship and that the amount approved for payment conforms to the prescribed New York State Workers' Compensation Fee Schedules. These supervisory services will not include telephonic or field case management, or other managed care services, which will be arranged and coordinated, as necessary, by the Plan Manager. The costs of telephonic or field case management, or other managed care services shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

G. As appropriate, the Plan Manager will obtain independent medical opinions, using a WCB-registered referral service, to advise the District as to the appropriateness of medical treatment being received by, and the degree of disability of, the injured employee. The Plan Manager will consult with treating physicians, medical consultants, and other medical professionals to assist in instituting rehabilitative efforts to achieve an injured employee's return to work at the earliest possible time. The referral service and medical consultants' fees shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

H. The Plan Manager will implement a payment procedure for lost time benefits, medical bills, and expense payments. This procedure will be developed with District personnel to ensure timely and appropriate payment.

I. The Plan Manager will review any reported employers' liability claims that arise, and advise regarding coverage, defense, and indemnification of such claims. As necessary, the Plan Manager will arrange for the retention of counsel to represent the District on employers' liability claims. Attorney fees, the cost of appeals, and other litigation expenses, if any, shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

J. The Plan Manager will track medical services subject to the Department of Health ("DOH") surcharges mandated by Public Health Law Section 2807, direct payment of applicable surcharges, and file all necessary forms with the DOH on a monthly or as needed basis. In the first year of handling claims for the District, the Plan Manager shall have no responsibility under this Section unless the District provides medical reports, hospital bills, access to the DOH website, and other information relating to the claims necessary to perform the Plan Manager's services under this Section.

K. The Plan Manager shall prepare 1099's at the end of the calendar year for distribution to the appropriate vendors. Prior to forwarding 1099 forms to the District for distribution, the Plan Manager will review all vendor information for payments made in the current calendar year to ensure that the 1099 forms match the Internal Revenue Service records for name and tax identification number. Where vendors bill under an individual name rather than a corporate name, the Plan Manager will request the completion of W-9 forms from the appropriate vendors. The Plan Manager will also prepare the necessary Internal Revenue Service transmittal form on behalf of the District. In the first year of handling claims for the District, the Plan Manager shall have no responsibility under this Section unless the District provides a report containing the prior vendor information necessary to perform the Plan Manager's services under this Section.

L. The Plan Manager will review all Assessment Billing Notices for accuracy. If the District becomes overpaid for a WCB fiscal year due to variations in lost time experience from year to year, the Plan Manager will verify that all future credits issued to the District by WCB are properly issued and applied. In the first year of handling claims for the District, the Plan Manager shall have no responsibility under this Section unless the District provides a two-year check registry (including payment amounts, payees, and dates of service) and other information relating to the claims necessary to perform the Plan Manager's services under this Section.

M. The Plan Manager will assist the District in developing a loss prevention program, the nucleus of which will be the safety committee. The goal of the safety committee will be to minimize the number of workers' compensation injuries by reviewing the nature and type of incidents arising in the District, so that potential problem areas can be identified and addressed.

N. The Plan Manager will provide the District with updates on any changes in the Workers' Compensation Law as such changes apply to the workers' compensation program.

O. The Plan Manager will provide a cumulative cost summary report on a quarterly basis encompassing all individual claim costs and all other operational costs of the Self-Insured Plan. These reports will include the following information:

- 1. Summary of Costs/Claim Payments by Type and Status – Claim payments organized into indemnity, medical, and expense categories by fiscal year.**
- 2. Number of Claims by Type and Status – Listing of open and closed claims, by fiscal year.**
- 3. Paid Plan Charges – All Plan administrative costs, including insurance premiums, management fees, actuarial fees, financial auditor fees, and bank charges, by fiscal year.**
- 4. Paid Employer Charges – WCB assessments and DOH surcharges by fiscal year.**

P. The Plan Manager will provide cumulative quarterly loss runs encompassing all reported claims. These loss runs will include the following information:

1. File number.
2. Date of Accident.
3. Name of injured employee/claimant.
4. Occupation.
5. Description of accident.
6. Type of injury/part of body.
7. Status of claim/class.
8. Total medical, indemnity and expenses paid to date.

Q. The Plan Manager will handle all pending workers' compensation cases that have arisen since the inception of the Self-Insured Plan.

R. Annually, the Plan Manager will provide an overall review of the Self-Insured Plan, including information from quarterly reports.

S. The Plan Manager will ensure that the District's open files are properly maintained and available for review and/or audit, and will arrange for the storage or return of the District's closed/inactive files. The Plan Manager may maintain and store files electronically in lieu of a physical file. Physical storage costs, if any, are an expense that will be charged against the Self-Insured Fund. The foregoing is subject to Section VIII of this Agreement.

III. FEE.

The Plan Manager shall invoice the District for a management fee for services under this Agreement at the rate set forth in the Addendum. The District shall pay the management fee within thirty (30) days of receipt of the invoice.

IV. SPECIAL REPORTS AND ADDITIONAL SERVICES.

Upon the written agreement of the parties, the Plan Manager shall provide special reports or additional services not included in this Agreement, at an additional fee to be agreed upon.

V. SERVICE COMMITMENT.

The Plan Manager shall devote such time to the performance of its duties under this Agreement as is reasonably necessary for the satisfactory performance of its duties under this Agreement.

VI. INDEMNIFICATION.

A. The Plan Manager shall hold harmless and indemnify the District against any loss, liability, damage, or expense, including reasonable attorneys' fees, to the extent caused by the willful misconduct, gross negligence, or negligence on the part of the Plan Manager or any of its employees or agents, which result from, or arise out of, a breach of any obligation in this Agreement.

B. The District shall hold harmless and indemnify the Plan Manager against any loss, liability, damage, or expense, including reasonable attorneys' fees, to the extent caused by the

willful misconduct, gross negligence, or negligence on the part of the District or any of its employees or agents, which result from, or arise out of, a breach of any obligation in this Agreement.

VII. TERMINATION.

A. Either party may terminate this Agreement for the following reasons upon sixty (60) days written notice to the other party:

1. Fraud or criminal acts on the part of the other party or pattern of conduct of such other party which constitutes willful misconduct or gross negligence with respect to the performance of such other party's duties hereunder;
2. Substantial and continuing breach of this Agreement by the other party, provided, however, that the party seeking to terminate shall notify the other party of such breach, identifying such breach in full particulars, and the other party shall have thirty (30) days from receipt of such notice to cure the breach and, if such breach be cured within such period, such breach shall not be cause for termination; or
3. The New York State Superintendent of Financial Services shall issue a final order to terminate this Agreement, and the time for appealing such order shall have expired.

B. This Agreement shall terminate immediately without notice upon:

1. commencement by either party of any case, proceeding or other action: (a) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts; or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for it or for all or any substantial part of its assets, or either party shall make a general assignment for the benefit of its creditors;
2. commencement against either party of any case, proceeding or other action of a nature referred to in Section VII.B.1 above which: (a) results in the entry of an order for relief or any such adjudication or appointment; or (b) remains undismissed, undischarged or unbonded for a period of sixty (60) days;
3. commencement against either party of any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which shall not have been vacated, discharged, stayed or bonded pending appeal within sixty (60) days from the entry thereof;
4. consent, approval, acquiescence, or any action by either party in furtherance of any of the acts set forth in Sections VII.B.1, 2, or 3 above; or
5. an inability by either party to pay its debts as they become due.

C. Upon the effective date of termination of this Agreement, the District shall pay the fee due and owing the Plan Manager to be prorated based on the period of time the Agreement was in force and effect.

D. Upon termination of this Agreement, the Plan Manager shall have no responsibility for run-off of claims. Any agreement regarding run-off of claims will be dealt with in a separate written agreement signed by both parties.

E. Upon termination of this Agreement, the Plan Manager shall return the District's Property, as defined in Section VIII.A. The cost for returning the District's Property shall be borne solely by the District.

VIII. PROPERTY RIGHTS, CONFIDENTIALITY, AND RECORDKEEPING.

A. The District's Property.

All portions of the claim file, including WCB documents, claim reports, investigation reports, correspondence, and claim data of the District acquired and used by the Plan Manager in the performance of its duties hereunder ("District Property") shall belong to and remain the sole property of the District. Upon termination of this Agreement, the Plan Manager shall promptly return the District Property to the District or its designee, unless the District purchases run-off claims services pursuant to Section VII.D of this Agreement. The Plan Manager will transfer such files in an electronic form that can be produced by the Plan Manager's system without special modification and that will be readable by the District. The Plan Manager shall keep all District Property confidential, and shall not use, publish, discuss, disclose, or communicate District Property to third parties, except as necessary to perform its obligations under this Agreement, and in accordance with this Agreement. This provision shall survive termination of this Agreement.

B. The Plan Manager's Property.

All Systems created by the Plan Manager in the performance of its duties and activities under this Agreement shall belong to and remain the property of the Plan Manager. "Systems" as used herein shall include data processing, databases, computer programs, computer equipment, formats, management protocols and operation documentation and internal reports of the Plan Manager pertaining to the Self-Insured Plan. This includes Systems for the administration, accounting, underwriting, risk management, cost containment and safety programs and services, and management systems developed by the Plan Manager for the Self-Insured Plan or in connection with the performance of its services hereunder. This provision shall survive termination of this Agreement.

IX. MISCELLANEOUS.

A. Independent Contractor.

The Plan Manager shall be an independent contractor and not an employee, agent, or servant of the District. The Plan Manager's employees shall be considered the Plan Manager's employees for all purposes and Plan Manager alone shall be responsible for their work, personal conduct, direction, and compensation. The District shall not be responsible for withholding taxes

with respect to the Plan Manager's compensation and the Plan Manager shall be solely responsible to pay all applicable taxes from such compensation, including any compensation owed to its employees.

B. Entire Agreement.

This Agreement supersedes any and all other agreements either oral or in writing between the parties hereto.

C. Assignment.

Neither this Agreement nor any duties or obligation hereunder shall be assignable by the Plan Manager without the prior written consent of the District. In the event of an assignment by the Plan Manager to which the District has consented, the assignee or his legal representative shall agree in writing with the District to personally assume, perform, and be bound by the covenants, obligations and agreements contained herein.

D. Governing Law.

The laws of the State of New York shall govern the validity of this Agreement, any of its terms or provisions, and the rights and duties of the parties hereunder.

E. Amendment.

This Agreement may be amended by the mutual written agreement of the parties to be attached to and incorporated into this Agreement.

F. Legal Construction.

This Agreement was negotiated by sophisticated parties at arm's length and shall be construed as if drafted jointly by the parties. No presumption or burden of proof shall arise favoring or disfavoring any party by virtue of authorship of any of its provisions. Any waiver of any other term, condition, or provision of this Agreement will not constitute a waiver of any other term, condition, or provision, nor will a waiver of any breach of a term, condition, or provision constitute a waiver of any subsequent or succeeding breach.

G. Effect of Invalidity.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision has never been contained herein.

H. Notices.

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given, if mailed by certified or registered mail, or by nationally recognized overnight carrier, return receipt requested, to the respective party at the addresses set forth below, on the date received or rejected:

If to the District:

Three Villages Central School District
100 Suffolk Avenue
Stony Brook, NY 11790

Attention: Assistant Superintendent for Business

If to the Plan Manager:

Wright Risk Management Company
900 Stewart Avenue, Suite 600
Garden City, NY 11530-4869
Attention: Eric Hartcorn, Executive Vice President, Workers' Compensation

or to such other person and address as either party may designate by notice to the other.

I. Headings.


The headings to the various sections of this Agreement have been inserted for convenience of reference only and shall not modify, define, limit, or expand the expressed provisions of this Agreement.

J. Counterparts; Facsimiles.

This Agreement may be executed in any number of counterparts, each of which shall be an original, and each such counterpart shall together constitute but one and the same Agreement. Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" ("pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

THREE VILLAGES CENTRAL SCHOOL DISTRICT

By: 
Name: Jeffrey Carlson
Title: Assistant Superintendent For Business Services

WRIGHT RISK MANAGEMENT COMPANY, LLC

By: 
Name: Eric Hartcorn
Title: Executive Vice President, Workers' Compensation



ADDENDUM TO MANAGEMENT AGREEMENT (this **"Addendum"**), dated July 1, 2019 (**"Effective Date"**), between the Three Villages Central School District (the **"District"**) and Wright Risk Management Company, LLC (the **"Plan Manager"**).

RECITALS

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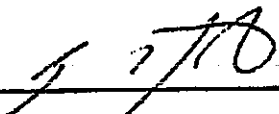
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