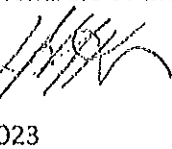


TOWN OF HARRISON
COMPTROLLER'S OFFICE

TO: Richard Dionisio, Supervisor and Members of the Town Board

FROM: Maureen MacKenzie, Comptroller 

RE: Town Board Meeting of July 12, 2023

DATE: July 6, 2023

Approval is requested for the renewal of the contract with TRIADGROUP, L.L.C., as our Third Party Administrator (TPA) for our self-insured Workers Compensation claims.

The previous contract ran from April 1, 2020 through March 31, 2023, with the following annual administration fees. Year 1 \$56,500, Year 2, \$56,500 and Year 3 \$58,000.

The fees for the term of this contract are as follows: Year 1, \$58,000 Year 2, \$60,000 and Year 3, \$60,000.

This is a budgeted item, and funds for this contract are available in budget line 001-1900-100-4407, Town Fund, Special Items, Special Services.

In addition, upon approval of the contract, kindly authorize the Supervisor to execute said contract after review by the Law Department.

Respectfully submitted.

E-14

This Agreement executed on the 1st Day of April 2023, is made between Town/Village of Harrison with its principal office located at 1 Heineman Place Harrison, NY 10528 (hereinafter "Harrison") and TRIAD GROUP, L.L.C, having its office at 400 Jordan Road, Troy NY 12180 (hereinafter "Triad").

Article 1. Term and Termination

- 1.1. The initial term of this agreement shall be 12:00 a.m. April 1, 2023 through 11:59 p.m. March 31, 2026.
- 1.2. Harrison shall notify Triad no less than 30 days prior to the end of the initial term and any successive term of its intent to not renew this contract.
- 1.3. Following the initial term, either party may terminate this agreement for its convenience with no less than ninety (90) days-notice to the other party of its intent to terminate.
- 1.4. Following ten (10) days' notice to the other party and an opportunity to cure within those ten days either party may terminate this agreement at any time for a material breach of this agreement.
- 1.5. Harrison may immediately terminate this agreement:
 - 1.5.1. Upon the insolvency of Triad including commencement of involuntary bankruptcy proceedings against Triad;
 - 1.5.2. Failure of Triad to maintain any required license in good standing;
 - 1.5.3. Any incident of employee theft or dishonesty (as those terms are defined by standard NY issued bonds to cover such acts) by any employee of Triad if the Harrison is not made whole by Triad or its insurance carrier;
 - 1.5.4. Any audit finding that identifies material inconsistencies in Triad recordkeeping;
 - 1.5.5. Failure to maintain any of the insurance or bonds as required by this agreement; or
 - 1.5.6. Upon Harrison ceasing the operation of its self-insured program for New York State Workers' Compensation; and

- 1.5.7. Harrison reserves the right to terminate this agreement for material breach. Triad shall have 30 days to remedy any material breach.
- 1.6. Upon any termination of this agreement, for any reason, all files shall be returned to Harrison or its agent/designee at its specific instance and request. Any electronic data conversion shall be at the sole expense of Harrison, other than Triad's expense for providing any such electronic data in a standard computer readable format (TIF, Excel or CSV) format.
- 1.7. At the conclusion of this Agreement, all files shall be returned to Harrison or its agent/designee at its specific instance and request. Any electronic data conversion shall be at the sole expense of Harrison, other than Triad's expense for providing any such electronic data in a standard computer readable format.
- 1.8. The rights and obligations imposed upon Triad by this Agreement shall thereupon cease, other than its obligations to submit to an audit at Harrison's time and expense. Such right of audit shall continue for a period of one year following the termination of this agreement.
- 1.9. Prior to the turnover of any paper files and required electronic records Triad will submit a final accounting of services rendered and the delineation of any fees due and owing.

Article 2. Definitions

As used in this Service Agreement, the following terms shall have the following meanings:

- 2.1. "Adjust" or "Adjustment": Process of investigation, evaluation and disposition of claims alleging work-related injury, damage, disease or loss.
- 2.2. "Allocated Loss Expense": Fees for services payable by the Client to third parties including, but not limited to:
- 2.2.1. Service of process;
- 2.2.2. Fees to attorneys for the institution or prosecution of any subrogation recovery or contribution action;
- 2.2.3. Fees to attorneys and licensed representatives for services in connection with any Workers' Compensation proceedings or Workers' Compensation Appeal Board actions or as awarded by the Workers' Compensation Board;

- 2.2.4. Fees to physicians and surgeons, laboratories, clinics and hospitals for examination or treatment of employees;
 - 2.2.5. The cost of surveillance;
 - 2.2.6. The cost of employing experts for the purpose of appraisals, survey, map preparation, diagrams, chemical or physical analysis or the solicitation of expert advice or opinions in involved chemical, physical or legal questions;
 - 2.2.7. The cost of copies of transcripts or proceedings;
 - 2.2.8. The cost of depositions and court reporter or recorded statements and other similar costs and expenses;
 - 2.2.9. The cost of copying of hospital and medical records;
 - 2.2.10. The cost of Medicare Set Asides;
 - 2.2.11. Banking fees and costs, e.g. direct deposit;
 - 2.2.12. The cost of running ISO searches and review of same.
- 2.3. "Claim": Any incident that could, in Triad's judgment, result in Harrison's legal obligation to pay benefits pursuant to the applicable statutory scheme of benefits and for which Triad has received a report from the client. Claim shall also include any fee paid at the direction of Harrison that, in Triad's judgment, Harrison is not legally obligated to pay.
- 2.4. "Client Adjustment File": Documentation of claim adjustment process from any single incident involving one or more claimants and containing all relevant activity records including notices, investigations, evaluation and payments.
- 2.5. "Reserve": The monetary evaluation (including an evaluation of zero dollars) as established by Triad of Harrison's total financial exposure on any claim or incident. The subcategories of Reserve shall be at least: Indemnity, Medical and Expense.
- 2.6. "Third Party" shall mean any person, partnership, corporation or other legal entity except Triad, attorneys under contract with Harrison and Harrison's employees.

Article 3. Services Provided

Subject to all other terms and conditions of this service agreement, Triad shall use its best efforts, consistent with the level of professionalism and skill from other similarly situated professional organizations or individuals providing such services to provide the following services:

- 3.1. Claim Adjustment: As set forth in this Service Agreement, Triad shall review claims against Harrison, conduct appropriate investigations of such claims, secure necessary claims-related services on behalf of Harrison, recommend, negotiate and adjust settlement of claims within the settlement authority limits established by Harrison.
- 3.2. Claim Fund: The payment of claims and expenses (other than Triad's administrative fees) which, shall be invoiced separately. Unless otherwise directed by Harrison, this payment procedure includes settlement of claims. Whenever the schedule of services provides for "payment," such payment shall be made on behalf of Harrison with Harrison funds.
- 3.3. Standard Reporting: Triad shall collect, receive and store in Harrison's claim exposure and other necessary data and will organize such data in reports to provide risk management information. The types and distribution of such reports shall be as agreed between Harrison and Triad.
- 3.4. Triad will administer claims in accordance with agreed upon Client Service Instructions between Harrison and Triad.

Article 4. Risk Data Reporting

The risk data obtained and received by Triad will be processed into risk data management reports in accordance with the terms as provided in this Article.

- 4.1. Ownership of Materials: All materials and data collected and created by Triad in performance of its duties and obligations under this Service Agreement shall belong to and remain as property of Harrison.
- 4.2. Client Accessibility to Data: Upon execution by Harrison of requisite Information and Security Policy, Triad shall make available to Harrison at their request, online access to its claim data through its standard online access interface. All data shall be available and reviewable in Triad's standard format at all times, other than during periods of routine maintenance of Triad's system, notice of which Harrison shall receive at least twenty-four (24) hours in advance. Harrison shall be

responsible for any necessary hardware and bandwidth necessary to access said system.

4.3. Protection of Data: Triad shall make all reasonable efforts to insure the availability of the risk data and associated images via its then current system.

4.3.1. Triad shall, at all times, follow its 'disaster recovery protocols'.

4.3.2. If Triad believes that an unplanned failure of systems shall last more than twenty- four (24) hours, it shall promptly notify Harrison by reasonable means of communication the nature of the outage cause and its best estimate for restoration of the system.

4.3.3. Triad shall be responsible for any fines or penalties imposed by any federal, state or local government or agency, that are directly caused by its inability to administer claims due to system failure.

4.4. Privacy of Data: Triad will take reasonable efforts to ensure the confidentiality of data used in the performance of this Service Agreement. Triad will not disclose Harrison data or records to any third party without the written consent of the Harrison, unless such disclosure is required by a lawful court subpoena or other legal requirements.

Article 5. Independent Contractor Status and No Conflict of Interest

5.1. Triad is not an employee of Harrison.

5.1.1. The parties to this agreement expressly intend NOT to create an employee/employer relationship but an independent contractor relationship. No agency relationship exists between the parties, except as expressly provided for herein shall exist either as a result of the execution of this Service Agreement or performance hereunder.

5.1.2. Triad will ensure that Triad and/or each of the Triad's employees will not hold, himself or herself out as, or claim to be, an officer or employee of Harrison by reason of this agreement, and that no employee of Triad will make any claim, demand or application for any right or privilege applicable to an officer or employee of Harrison, including, but not limited to worker's

compensation coverage, unemployment insurance benefits, social security coverage, or retirement system membership or credit.

- 5.2. Triad represents that no officer or employee of Harrison who exercises any functions or responsibilities in connection with Harrison funded contracts, projects or programs has any direct or indirect personal financial interest in this contract.

Article 6. Compensation

- 6.1. Except as otherwise provided in this Service Agreement, Harrison shall compensate Triad in accordance with the terms of this Article.

- 6.2. For the initial period and any subsequent renewal period, as authorized by this agreement for the initial period and any subsequent period.

- 6.2.1.1. An annual administrative fee of Additional Fees:

Annual Fee
Year 1 \$58,000
Year 2 \$60,000
Year 3 \$60,000

Each year is subject to a maximum of 80 new claims per year, and any claims that exceed this per year limit will be billed at \$600 per claim (for medical and lost time claims only).

Other Fees

- Telephonic Nurse Case Management \$150/month/claim
- PAR responses \$125 each
- PPO 28% of savings
- Medical Bill Review to NYS Fee Schedule 15% of savings

Optional 207c Administration

\$275/claim for the first month
\$175/claim/month thereafter

Article 7. Conditions and Limitations

7.1. Audit and Inspection: Harrison has the right to inspect and audit claim adjustment files or any matter covered by this service agreement with at least 5 business days' advance notice to Triad.

7.1.1. Only an employee of Harrison, a Certified Public Accounting Firm, Counsel or a Consultant of Harrison's choosing or an Excess Loss/Liability Insurance company shall conduct any such inspection or audit.

7.1.2. Harrison will pay the costs of any such inspection or audit, but shall not be charged for system access time for its auditor. The right to audit shall survive the termination of this agreement for two years.

7.2. Neither this Service Agreement nor any rights hereunder shall be assigned by either party without first obtaining the prior written consent of the other party.

7.3. The laws of the State of New York (without regard to choice of law principles) shall govern the terms of this Service Agreement. Any dispute between the parties shall be brought in a court of competent jurisdiction and shall be venued in the County of Rensselaer. Any adjudication by any court of competent jurisdiction that invalidates any part of this Service Agreement shall not act to invalidate any other part thereof.

7.4. Triad shall hold harmless and indemnify Harrison from and against all claims, suits, actions or liabilities that may arise out of or in connection with malfeasance, omission of duty, negligence or wrongful act on the part of Triad or any employees or agents of Triad.

7.4.1. If for any reason Harrison refuses to release funds to Triad, including insolvency or bankruptcy of Harrison, Triad is under no obligation to indemnify or hold harmless any claimant or provider for non-payment of services or benefits.

7.5. Harrison agrees to furnish to Triad a copy of the in force Declarations and Information page plus all endorsements of any Excess Workers' Compensation/Employer's Liability policy on an annual basis but no later than 90 days after the effective date of any such policy.

7.6. This Service Agreement constitutes the entire understanding and agreement between the parties hereto and supersedes all prior and contemporaneous agreements or understandings, written or oral, of the parties hereto. This Service

Agreement may be amended only by a writing executed by both parties. No waiver of one or more provisions of this Service Agreement shall constitute a waiver of any other provision hereof.

7.7. This Service Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legatees, representatives, successors and assigns. This Service Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

7.8. The imposition of a penalty by the Workers' Compensation Board shall not automatically make Triad responsible for indemnification.

7.8.1. Triad shall not be liable for any Workers' Compensation Board imposed late payment penalty for any procedural requirements mandated by Harrison.

7.8.2. Triad shall be liable for any late payment penalty or fine caused by Triad's own negligence.

7.9. All notices to be given pursuant to this Service Agreement shall be in writing, and shall be deemed to have been duly given when personally delivered or when mailed by United States certified first-class mail, postage prepaid to the following addresses:

Client:	Town/Village of Harrison 1 Helneman Place Harrison, NY 10528
----------------	--

Triad:	Triad Group, LLC 400 Jordan Road, Troy, New York 12180 Attn: Victoria Manes
---------------	--

7.10. Any delay in, or failure to comply with, the stated performance of a contract by Triad shall not constitute default or give rise to claims for damages if such delay or failure is caused by events beyond our control. These events shall include, but not be limited to:

7.10.1. Acts of God or the public enemy,

7.10.2. Expropriation or confiscation of facilities,

- 7.10.3. Compliance with any governmental authority,
- 7.10.4. Acts of war, rebellion or sabotage,
- 7.10.5. Embargoes or other export restrictions,
- 7.10.6. Fire, flood, explosions, accidents, breakdowns, riots or strikes and other concerted acts, direct or indirect, of workmen, or
- 7.10.7. Any other causes not within the direct control of Triad and which, by the exercise of reasonable diligence, Triad is unable to prevent or mitigate.

Article 8. Insurance

- 8.1. Triad shall maintain during the term of this contract insurance protecting against liability for injury to persons or property in the following amounts: Comprehensive General Liability, including bodily injury and property damages coverage of \$1,000,000 per occurrence, \$3,000,000 aggregate.
- 8.2. Triad agrees that all of its employees shall be fully covered by worker's compensation, and New York State disability insurance coverage.
- 8.3. Triad shall maintain for the term of this contract Errors and Omissions Coverage with a limit of not less than \$1,000,000.00 per claim.
- 8.4. Triad shall maintain for the term of this contract an employee theft and dishonesty bond, with a face amount of not less than \$1,000,000 per incident.
- 8.5. All insurance and bonds required by this agreement shall be at Triad's expense.

Article 9. Banking and Payment Procedures

- 9.1. Triad shall establish a separate bank account(s) in Harrison's name for the sole purpose of paying valid claims and claim expenses, including Allocated Expenses.
 - 9.1.1. Triad shall be responsible for both the proper and timely payment of all claims and claims-related expenses.
 - 9.1.2. Triad will be financially responsible for any misuse or misappropriation of funds drawn on this account by its personnel.

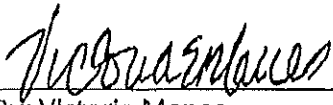
- 9.1.3. All payments made by Triad on Harrison's behalf shall be made from the account(s) using funds deposited in the account(s) by Harrison in amounts equal to the claim and expense payments made.
- 9.2. Upon notice from Triad, as may be required, Harrison or its designee shall promptly place additional funds in the aforementioned bank account(s) in an amount sufficient to replenish the total funds required by Triad in order to fulfill the timely and accurate payment function required of it.
- 9.3. Triad shall control disbursement of monies from the accounts exclusively for the purpose of paying claims and related expenses.
 - 9.3.1. Triad shall issue checks on check stock held by Triad or its subcontractor.
 - 9.3.2. Harrison and Triad hereby covenant that the layout format of said checks is agreeable to both parties.
- 9.4. Triad shall be responsible for reconciliation of the bank account and any banking charges related to the proper management of this account.

Article 10. Modification and Severability

- 10.1. This agreement constitutes the entire agreement between the parties. No parol evidence shall be admissible to consider the intent of the parties.
- 10.2. This agreement shall only be modified in writing signed by both parties with the same formalities as the original agreement.
 - 10.2.1. Any written authorization or approval required by provided by this contract may be conveyed by the electronic media of email or fax.
 - 10.2.2. Any notice required by this agreement shall be provided in writing. The notifying party may, but is not required to, send a courtesy copy via fax message in addition to a mailed copy of the required notice. For purposes of this subsection "mail" means the United States Postal Service or other common carrier that provides tracked delivery services to both parties' official addresses.

Whereunto, the parties have affixed their signatures to signify their agreement.

Triad Group, LLC

A handwritten signature in black ink, appearing to read "Victoria Manes", written over a horizontal line.

By: Victoria Manes

President

Date: May 25, 2023

Town/Village of Harrison

Date: