

**SERVICE AGREEMENT
BY AND BETWEEN
THE TEXAS A&M UNIVERSITY SYSTEM OFFICES
AND ARTHUR J. GALLAGHER RISK MANAGEMENT SERVICES, INC.**

This Services Agreement (“Agreement”) is entered into and effective upon final execution of this Agreement (the “Effective Date”), by and between The Texas A&M University System (hereafter referred to as “TAMUS”), an agency of the state of Texas, and Arthur J. Gallagher Risk Management Services, Inc. (hereafter referred to as “PROVIDER”), and Illinois corporation. TAMUS and PROVIDER are sometimes hereafter referred to as “Party” individually or “Parties” collectively).

TAMUS and PROVIDER hereby agree as follows:

1. SCOPE OF WORK

PROVIDER will work with TAMUS to establish a rolling owner controlled insurance program (ROCIP) for construction projects of the A&M System as outlined in RFQ01 RISK-15-018. The services included (but not limited to) in the scope of this Agreement are listed in Exhibit A, attached hereto.

2. TERM OF THE AGREEMENT

The initial term of this Agreement shall begin upon the final execution of the Agreement and will extend for five (5) years. This Agreement can be extended for one (1) additional five (5) year term upon written agreement of both parties. Any extensions shall be at the same terms and conditions plus any approved changes to be determined by TAMUS and negotiated in writing with the PROVIDER.

3. PAYMENT TERMS

- A. The payment rate schedule is attached as Exhibit B and made a part of this Agreement.
- B. PROVIDER shall invoice TAMUS yearly at the beginning of each contract year for the Scope of Work identified in Section 1. Payment will be made to PROVIDER upon approval of such invoice by TAMUS. It is the policy of the state of Texas to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice, in conformance with the Texas Prompt Payment law. Generally, payment will be made on the 30th day unless a discount has been arranged for more immediate payment.
- C. All payments shall be made by electronic direct deposit. PROVIDER is required to complete and submit to TAMUS a Vendor Direct Deposit Authorization form prior to the first payment request. The form can be accessed at;
<http://www2.tamus.edu/offices/budget-acct/acct/general/> .
- D. All invoices must reference the TAMUS purchase order number (which will be provided to PROVIDER within 15 days of the execution of this Agreement) and brief description of services provided to include but not limited to the timeframe of the deliverables, and activities.

4. DEFAULT AND TERMINATION

- A. For Cause: In the event of substantial failure by PROVIDER to perform in accordance with the terms hereof, TAMUS may terminate this Agreement upon ninety (90) days written notice of termination setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior to the end of the fifteen-day period), provided that said failure is through no fault of TAMUS.
- B. For Convenience: TAMUS may terminate this Agreement at any time upon ninety (90) days prior notice to PROVIDER.

5. PUBLIC INFORMATION

- A. PROVIDER acknowledges that TAMUS is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.
- B. Upon TAMUS's written request, PROVIDER will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under chapter 552, Texas Government Code, to TAMUS in a non-proprietary format acceptable to TAMUS. As used in this provision, "public information" has the meaning assigned Section 552.002, *Texas Government Code*, but only includes information to which TAMUS has a right of access.
- C. PROVIDER acknowledges that TAMUS may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.

6. DISPUTE RESOLUTION

The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by TAMUS and PROVIDER to attempt to resolve any claim for breach of contract made by PROVIDER that cannot be resolved in the ordinary course of business. PROVIDER shall submit written notice of a claim of breach of contract under this Chapter to Billy Hamilton, Executive Vice Chancellor and Chief Financial Officer for TAMUS, who shall examine PROVIDER's claim and any counterclaim and negotiate with PROVIDER in an effort to resolve the claim.

7. INSURANCE

This process is described in Exhibit C, attached hereto.

8. RECORD RETENTION

PROVIDER may retain TAMUS information in paper or imaged format and may destroy paper copies if PROVIDER retains digital images of thereof.

9. LIMITATIONS OF LIABILITY

The aggregate liability of PROVIDER, its affiliates and its and their employees to the TAMUS or its affiliates and its and their employees, any Project participant or any third party claiming by or through the TAMUS or any Project participant for expenses, claims, losses and/or damages arising out of or in any way related to PROVIDER's performance or nonperformance of its obligations under this Agreement, whether arising by PROVIDER's negligence, breach of contract or otherwise and regardless of the form in which any legal or equitable action may be brought against PROVIDER, shall not exceed the total compensation paid to PROVIDER as specified in Section 2 above, for services rendered hereunder. In no event shall PROVIDER be liable for any indirect, special, consequential or punitive damages or for any lost profits or other economic loss in connection with or arising out of services provided by PROVIDER or its affiliates. Any action of any kind by the TAMUS against PROVIDER arising as a result of this Agreement must be commenced within one year from the date of which any right, claim, demand or cause of action shall first accrue.

PROVIDER may provide the TAMUS with modeling and/or business analytics services, including hazard loss and catastrophe modeling, loss forecasting and triangles, adverse event simulation, scenario and portfolio risk analysis, decision mapping, risk bearing and risk retention tolerance analysis and insurance program evaluation analysis ("Modeling and Analytics"). Modeling and Analytics services will be based upon a number of assumptions, conditions and factors. If any of them or any information provided to PROVIDER are inaccurate or incomplete or should change, the Modeling and Analytics provided by PROVIDER could be materially affected. These services are subject to inherent uncertainty, and actual results may differ materially from that projected by PROVIDER. They are provided solely for the TAMUS's benefit, and do not constitute, and are not intended to be a substitute for, actuarial, accounting or legal advice. PROVIDER shall have no liability to any third party in connection with these services or to the TAMUS with regard to any services performed or provided by a third party. Except to the TAMUS's insurers in connection with the placement of coverage by PROVIDER, the TAMUS shall not share any of PROVIDER's Modeling and Analytics work product with a third party without PROVIDER's prior written consent.

10. PROPRIETARY MATERIALS

All documents, materials, and computer software used by or developed by or for PROVIDER, shall be deemed proprietary to PROVIDER and remain the sole property of PROVIDER. These include but not limited to:

- Risk information systems including MWrap;
- Financial analyses and models
- Templates of CIP Program/Insurance, claim, and safety manuals;
- CIP related bid documents
- Insurance deduction management plan
- Stewardship/management report templates
- Underwriting specifications

11. CONTROL OF PROGRAM DATA

PROVIDER acknowledges that all data gathered in support of or generated by PROVIDER in connection with the Project is the TAMUS's property. In the event this Agreement is terminated by either party, PROVIDER will make available to the TAMUS any data specifically requested.

To protect PROVIDER's proprietary material and processes, this data may not be in the same format that it was gathered or presented to the TAMUS.

The TAMUS will permit PROVIDER to use data from the Program in PROVIDER's benchmarking analyses. Except as otherwise agreed, the TAMUS's and the Project's identity will be kept confidential in all studies and reports generated by such analyses.

12. MISCELLANEOUS

- A. **Indemnification. PROVIDER agrees to indemnify and hold harmless TAMUS from any claim, damage, liability, expense or loss to the extent arising out of PROVIDER's negligent or willful errors or omissions under this Agreement.**
- B. **Independent Contractor.** PROVIDER is an independent contractor, and neither PROVIDER nor any employee of PROVIDER shall be deemed to be an agent or employee of TAMUS. TAMUS will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. PROVIDER shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to those of TAMUS relative to conduct on its premises.
- C. **Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. The *Texas Family Code* requires the following statement: "Under Section 231.006, *Texas Family Code*, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."
- D. **Payment of Debt or Delinquency to the State.** Pursuant to Section 2252.903, *Texas Government Code*, PROVIDER agrees that any payments owing to PROVIDER under this Agreement may be applied directly toward certain debts or delinquencies that PROVIDER owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.
- E. **Previous Employment.** PROVIDER acknowledges and understands that Section 2252.901, *Texas Government Code*, prohibits TAMUS from using state appropriated funds to enter into any employment contract, consulting contract, or professional services contract with any individual who has been previously employed, as an employee, by the agency within the past twelve (12) months. If PROVIDER is an individual, by signing this Agreement, PROVIDER certifies that Section 2252.901, *Texas Government Code*, does not prohibit the use of state appropriated funds for satisfying the payment obligations herein.
- F. **Franchise Tax Certification.** If PROVIDER is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then PROVIDER certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that PROVIDER is exempt from the payment of franchise (margin) taxes.

- G. **State Auditor's Office.** PROVIDER understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. PROVIDER agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. PROVIDER will include this provision in all contracts with permitted subcontractors.
- H. **Entire Agreement.** This Agreement constitutes the sole agreement of the parties and supersedes any other oral or written understanding or agreement pertaining to the subject matter of this Agreement. This Agreement may not be amended or otherwise altered except upon the written agreement of both parties.
- I. **Severability.** If any provisions of this Agreement are rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted in such manner so as to afford the Party for whose benefit it was intended the fullest benefit commensurate with making this Agreement, as modified, enforceable, and the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.
- J. **Headings.** Headings appear solely for convenience of reference. Such headings are not part of this Agreement and shall not be used to construe it.
- K. **Non-Assignment.** PROVIDER shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of TAMUS.
- L. **HUB Subcontracting Plan.** If a subcontractor will be used to provide any commodity or service as part of the scope on a specific assignment, the PROVIDER will be required to make a good faith effort and complete the state of Texas HSP found at <http://www.tamus.edu/business/facilities-planning-construction/forms-guidelines-wage-rates/>. If there are pre-existing agreements in place with companies who will be hired as subcontractors, the PROVIDER will show those companies as subcontractors on the HSP and provide an explanation as to why solicitations were not done, e.g. contractual requirements. If no pre-existing agreements with companies who will be hired as subcontractors exist, then the PROVIDER will be expected to make a good faith effort according to the HSP instructions.
- In the event that you determine you will be using a subcontractor, please contact Mr. Jeff Zimmermann from the A&M System's HUB Program at (979) 458-6410 or jjzimmermann@tamus.edu for assistance in determining available HUB subcontractors and proper completion of the HSP.
- M. **Force Majeure.** Neither party is required to perform any term, condition, or covenant of this Agreement, if performance is prevented or delayed by a natural occurrence, a fire, an act of God, an act of terrorism, or other similar occurrence, the cause of which is not reasonably within the control of such party and which by due diligence it is unable to prevent or overcome.
- N. **Loss of Funding.** Performance by TAMUS under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, TAMUS will issue written notice to PROVIDER and TAMUS may terminate this

Agreement without further duty or obligation hereunder. PROVIDER acknowledges that appropriation of funds is beyond the control of TAMUS.

- O. **Governing Law.** The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.
- P. **Venue.** Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against TAMUS shall be in the county in which the primary office of the chief executive officer of TAMUS is located, which is Brazos County, Texas.
- Q. **Non-Waiver.** PROVIDER expressly acknowledges that TAMUS is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by TAMUS of its right to claim such exemptions, privileges, and immunities as may be provided by law.
- R. **Limitations.** The Parties are aware that there are constitutional and statutory limitations on the authority of TAMUS (a state agency) to enter into certain terms and conditions of this Agreement, including, but not limited to, those terms and conditions relating to liens on TAMUS' property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitation of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorney's fees; dispute resolution; indemnities; and confidentiality (collectively, the Limitations"), and terms and conditions related to the Limitations will be binding on TAMUS except to the extent that TAMUS is not authorized to agree to the Limitation by Constitution and the laws of the State of Texas. Neither execution of this Agreement by TAMUS nor any other conduct, action or inaction of any representative of TAMUS relating to this Agreement constitutes or is intended to constitute a waiver of TAMUS or the State's sovereign immunity to suit.
- S. **Notices.** Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email or other commercially reasonable means and will be effective when actually received. TAMUS and PROVIDER can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

TAMUS: The Texas A&M University System
301 Tarrow St., Suite 361
College Station, Texas 77840
Attention: Jeff Zimmermann
Phone: (979) 458-6410
Fax: (979) 458-6250
E-mail: jzimmermann@tamus.edu

PROVIDER:

Arthur J. Gallagher Risk Management Services, Inc.
5420 LBJ Freeway, Suite 400
Dallas, TX 75240
Phone: (512) 844-8087
Email: Paul.Pousson@aig.com

IN WITNESS WHEREOF, intending to be bound, the Parties have entered into this Agreement as of the Effective Date.

The Texas A&M University System

By


Billy Hamilton
Executive Vice Chancellor & CFO

Date

4-21-16

Arthur J. Gallaher Risk Management Services, Inc.

By


Daniel M. Tropp
Area President

Date

4-8-16

EXHIBIT A – SCOPE

1. ROCIP Structure and Process Assessment

- a. Develop a ROCIP structure, processes, and procedures, including but not limited to retention levels, insurance services, ROCIP-related contract language, enrollment process, estimation of contractor insurance costs (aka deductions), program savings, loss prevention, loss ratio calculation, and claims management.

2. Design, Marketing and Implementation of Insurance Program

- a. Analyze project hazards, insurance market conditions, and funding options and recommend appropriate level of risk retention and transfer.
- b. Design, for the A&M System's review and approval, a risk financing program which protects the A&M System from loss and optimizes use of available funding. At a minimum, the A&M System expects ROCIP program to include workers compensation, employer's liability, general liability and excess liability.
- c. The A&M System may request other quotes and recommendations regarding additional coverages as needed, for a mutually agreed additional fee.
- d. Identify and actively pursue insurance carriers that will deliver the desired coverage, financial, and operational terms required to implement the program.
- e. Develop the underwriting submission for the insurance carriers. Include analysis of the risk and exposure, experience, and other information in a form acceptable to the underwriters. Provide a draft of the submission to the A&M System in advance of presentation to underwriters.
- f. Present specifications to the marketplace, request quotations for specified programs, respond to insurance carrier's questions, and provide additional data, if requested.
- g. Provide a written analysis of the insurance carriers' quotations in a detailed manner that facilitates effective comparison in coverage and between options, assess whether quotations meet the A&M System's specifications, and provide recommendations for insurance carrier selection.
- h. Create a selection criteria matrix for the evaluation team.
- i. Facilitate the insurance carrier selection and interview process.
- j. Facilitate negotiations and refinements with selected insurance carrier, including but not limited to, use of safety condition/observation database, collateral requirements, policy renewals, premium payment schedules, audit returns and buy-out provisions.
- k. Upon the A&M System's instructions, instruct insurers to bind coverage and maintain insurance policies and coverage without lapses unless the A&M System is advised of coverage lapses in advance.
- l. Review policies to verify conformance with specifications and provide copies of Master policies and all endorsements to the A&M System.
- m. Request all required coverage changes and ensure that all endorsements are issued accurately. Provide copies of all endorsements to Master policies to the A&M System.
- n. Coordinate ongoing insurer services between all parties.
- o. Disclose any/all additional compensation, received by the Administrator, any of its affiliates, or any other intermediary broker during the term of this agreement, including, but not limited to, commissions, fees, contingent commissions, enhanced or supplemental commissions, excess and surplus lines and reinsurance commissions, profit sharing,

volume over-rides, work transfer payments, service income, fiduciary funds income, sales incentives, and gifts.

3. Ongoing Policyholder Services and ROCIP Program Management Provided by the Administrator

- a. Coordinate all data gathering functions and processes between all parties by attending any meetings as required and documenting decisions made.
- b. Gather data and enroll contractors in an efficient and effective manner with effort to maintain positive contractor relations. Available technology that facilitates the enrollment process should be used whenever possible.
- c. Communicate with contractors, insurance carriers and the A&M System to secure ROCIP data required to enroll contractors, maintain policies, and report program status to the A&M System.
- d. Develop a detailed ROCIP Manual (Administrative/ Claims/ Safety) ("ROCIP Manual") and Project Safety Criteria with written procedures for all functions and activities for the A&M System's review and approval. The ROCIP Manual shall explain in plain language the details of coverage provided by ROCIP, as well as the enrollment and claims reporting processes. The Project Safety Criteria will outline the minimum safety requirements for Contractor and Subcontractor. The ROCIP Manual shall furnish enrollment forms, claims forms, an emergency contact sheet, Insurance Carrier poster, medical authorization forms for off-site treatment, a sample of a Return to Work policy. The ROCIP Manual shall reference the current FPC Safety Criteria and provide web-based access for any and all necessary forms, sample letters, policies, etc. for administration of the program by the contractors. Site-specific ROCIP Manuals shall be developed for each project.
- e. Review ROCIP-related provisions of contract documents and provide analysis and recommendations with regard to changes in wording and forms. As requested, review and provide analysis and recommendations for other contract provisions that may have implications for the ROCIP program, such as indemnification language and insurance requirements.
- f. With respect to policies placed by Administrator, issue insurance binders and certificates and deliver policies to all enrolled contractors. Assist Contractor in the review of subcontractor insurance certificates for evidence of required coverages for exempted subcontractors. Monitor exposure changes and amend ROCIP policies as instructed by the A&M System. Ensure that all endorsements are issued accurately. Provide copies of all endorsements to Master policies to the A&M System.
- g. Within one week of the date FPC executes the Notice to Proceed for Construction Phase Services and advises Administrator, Administrator's enrollment representative and safety professional shall schedule and attend the meeting with the Contractor at a designated location to review the safety, claims and ROCIP enrollment requirements for each project. At this meeting, Administrator shall be responsible for the following items:
 - h. Delivery of one each hardcopy of the site specific ROCIP manual to the contractor.
 - i. Provide detailed explanation of the enrollment process, incident notification procedures, contractor payroll collection and submission process and insurance claims management requirements.
 - j. Provide real-time review of ROCIP web-based information and ensure contractor access to same.
 - k. As needed, conduct on-site Enrollment Workshops to assist contractors with the enrollment process.

- l. Secure, review for conformance to specifications, and maintain evidence of auto liability and all other required contractor furnished coverages from enrolled contractors working on ROCIP projects. Assure proper language for waivers and additional insureds is included in Certificate of Insurance.
- m. Work with System Risk Management to coordinate Builders Risk coverage when a project may not be considered under the System Builder's Risk Program. Recommend changes to the policy if warranted. Monitor policy expiration and notify the A&M System (Office of Risk Management) of policy termination.
- n. Request and follow-up for other selected insurance coverage information required by the A&M System for all enrolled contractors, as described in the contract documents provided to Administrator.
- o. Review certificates of insurance on each project for evidence that worker's compensation (WC) is carried by all tiers of subcontractors as required by the Division of Workers' Compensation, Texas Department of Insurance. Follow-up to ensure that all contractors on a project are either enrolled in ROCIP or have been approved for exemption. In the event that the Administrator is aware of a contractor that is neither enrolled in ROCIP nor approved for exemption, Administrator shall immediately notify the A&M System.
- p. Lead and organize program status meetings once per month throughout the duration of the program. Meetings will be held in College Station. Separate meetings for campus-managed projects (rather than the A&M System's Office of Facilities Planning and Construction ("FPC") managed projects) and for certain campuses with large amounts of work shall be held quarterly at campus locations. At this time, the A&M System expects that campus-specific meetings will be required for two campuses.
- q. Document ROCIP meeting minutes and provide draft to the A&M System within one (1) week of meeting.
- r. Provide a status report at monthly and quarterly meetings, which provides detailed analysis and information concerning Administration, Enrollments, Claims, Safety, Program Costs, and Program Savings estimates by project in an electronic format.
- s. Periodically assess insurance market conditions and provide the A&M System with an estimate of contractor insurance costs that would have been incurred had the ROCIP not been in place.
- t. Collect and report payroll data, including payroll associated with change orders, from all enrolled contractors on a monthly, or other mutually agreed, basis. Available technology that facilitates the payroll collection process should be used whenever possible.
- u. When necessary, take actions to manage insurance carrier audits. Provide information regarding ROCIP to the A&M System when requested for audits of the A&M System by other sources.
- v. Conduct ROCIP-related training with appropriate personnel of all enrolled contractors to explain the program.
- w. Verify the accuracy of any bills, audits, and other premium adjustments and maintain total program cost information on a monthly basis.
- x. Be available during regular business hours to answer phone calls and field questions.
- y. Provide presentations and written information to professional trade associations, Contractors, Project Managers, Resident Construction Managers, Construction Inspectors, Physical Plant Directors and other professional groups to disseminate general information about the program.
- z. Allocate all ROCIP associated costs by projects.
- aa. Notify all enrolled contractors when ROCIP coverage no longer exists.

4. Safety Services

Administrator shall furnish at a minimum one, dedicated construction safety professional and other resources as necessary to achieve the following duties:

- a. Within two (2) months of the contract award and as part of the ROCIP Structure and Process Assessment, the Administrator shall conduct an evaluation of the current FPC Safety Specification, policies, procedures, and programs, and prepare a report to suggest detailed specific changes to improve the effectiveness of the safety process and claim management portions of the ROCIP program for the A&M System's review and approval.
- b. Within one (1) month of start of construction activities, Administrator shall attend the Controlling Contractor's site safety orientation and offer any constructive feedback that could improve the delivery or content of the Controlling Contractor's message to workers. Any deviation to this requirement subject to acceptance by System Risk Management.
- c. Administrator shall coordinate with the designated FPC representative the scheduling of job-site safety inspections by dedicated safety professionals for the Administrator and the Insurance Carrier. Scheduling shall assure a minimum of at least ten (10) work days between inspection visits for each project. Inspections shall consist of:
 - i. Review of required pre-plans, training documentation and any other documents relevant to the work under construction.
 - ii. Physical inspection of the active portions of the site with the Controlling Contractor's Project Safety Coordinator (PSC) and/or Project Safety Assistant (PSA) representative and the Owner's Construction Inspector (as available);
 - iii. Preparation of a project safety inspection report entered into safety condition/observation database as selected by the A&M System;
 - iv. Prior to leaving the site, conduct a post-inspection meeting with the Controlling Contractor representative to review any deficiencies, establish responsibilities and target dates for acceptable corrections;
 - v. Any other mutually agreed upon services.
- d. Frequency of Project Safety Inspections:
 - i. For every project with a construction value below \$10 million dollars, one dedicated representative of the Administrator shall conduct a minimum of one (1) inspection per month until directed to cease site visits by the Owner.
 - ii. For every project with a construction value at or above \$10 million dollars, one dedicated safety representative of the Administrator shall conduct a minimum of two (2) inspections per month until directed to cease site visits by the Owner.
 - iii. The frequency of safety inspections is subject to adjustment based on stage of construction, Contractor and/or project safety performance as mutually agreed upon by both TAMUS and PROVIDER.
- e. Administrator shall develop and maintain a database of safety and claim metrics to produce a monthly report of collected data per project. Report shall include detailed analysis of safety metrics (lead and lag, positive and negative) and incidents, as well as an executive summary identifying project and program trends. Administrator shall track all safety deficiencies identified in surveys and follow-up to assure that such safety deficiencies are addressed by contractors. Administrator shall notify System Risk Management of any safety deficiency that is not addressed by contractors within a reasonable time.
- f. At least one (1) Safety Representative of the Administrator shall carry a cellular phone capable of voice and text messages at all times. The phone number shall be published on

- the emergency contact sheet as the main number to call when reporting a job-site incident. Phone calls or text replies shall be returned in a prompt and expedient manner.
- g. Administrator shall provide training on a quarterly basis on topics determined by the Owner. Training may be provided via webinar, in-person or other means as mutually agreed upon between TAMUS and PROVIDER. Presentation material shall be of highest quality and presenters shall be professional and skilled in speaking to large professional audiences. Administrator shall issue certificates of attendance to all participants, maintain attendance records and provide archive of all presentations. In addition, Administrator shall provide training on topics that come from leading safety data gathered from claims, incidents, near misses and safety condition/observation data. This training should be anticipated to be delivered at the project level by professional speakers trained in the topics to be discussed. These project-specific training dates should be anticipated four times per year.
 - h. Administrator shall provide adequate representation to participate in a minimum of one monthly Project Safety Coordinator conference call (more calls per month may be required depending on scope of projects under construction). Administrator representative(s) will provide updates on ROCIP issues associated with contractor enrollment, payroll collection and submission, contractor close-out, insurance claim reporting, and project safety. Administrator will provide conference call service. System Risk Management may provide topics to be discussed at their discretion.
 - i. Administrator shall develop and present a monthly safety report per project of pertinent information for use by System Risk Management at the monthly service meeting.
 - j. Administrator shall reserve a minimum of one (1) extra day per month for its Safety Professional(s) to conduct or facilitate special safety training as directed by System Risk Management.

5. Claims Management

Administrator shall designate a single Claims professional to achieve, with assistance as required, the following duties:

- a. Administrator shall advocate, on the A&M System's behalf, with the insurance carrier with respect to an insurance carrier's selection of Medical Care Clinics near the location of each project. Administrator shall conduct an annual review of each Clinic to evaluate the management of claims by each Clinic. Administrator shall include these findings in their annual report to System Risk Management. Notwithstanding the foregoing, the A&M System acknowledges and agrees that Administrator is not evaluating the adequacy of the treatment provided by such Clinics to patients and is not providing any other services hereunder that can be construed as medical advice.
- b. Administrator shall coordinate claims handling activities and processes between the carrier, the A&M System personnel, and the appropriate contractor's representative(s).
- c. Administrator shall confirm reporting by the contractor of all claim incidents to System Risk Management, Project Manager and to the carrier. Administrator shall also monitor claims activity.
- d. Administrator shall provide monthly claims status report at monthly and or quarterly program service meetings. Administrator shall detail any areas of concern or issues with contractor participation in claims management.
- e. Administrator shall provide recommendations for medical cost containment and other methods for reducing claims costs.

- f. Administrator shall perform analysis of reserves and negotiate claims issues with the carrier.
- g. Administrator shall coordinate quarterly claim review meetings between the A&M System and carrier.
- h. Administrator shall perform an annual audit of a mutually agreed number of claim files and provide a report of findings and recommendations to the A&M System.
- i. Administrator shall make on-line access to carrier loss/claims information available to designated TAMUS representatives.
- j. Administrator shall ensure that case management and medical bill review services are available for all workers compensation claims.

6. Risk Management Information System (RMIS)

- a. Maintain ROCIP program and project data on an automated RMIS. Data to be collected and reported by Administrator consists of contractor's insurance premium rates and total costs, required enrollment data, contractor payroll, safety and claim metrics by contractor and by Controlling Contractor, change order construction values and payrolls, ROCIP insurance premium costs, ROCIP administrative costs, and deductible amounts paid by the A&M System and any other mutually agreed upon data.
- b. Prepare customized reports as reasonably requested by the A&M System, such as a report of number of contracts enrolled versus number of contractors enrolled.

7. Miscellaneous Provisions

- a. Commit that the named principal and other key personnel responsible for the project will not be removed by the Administrator from the account without prior approval of the A&M System unless such key personnel ceases to be employed by Administrator. Replacement of key personnel is subject to review and acceptance by the A&M System.
- b. Prepare Annual Reports and a Final Report regarding safety performance of the construction program and the financial performance of the ROCIP for the A&M System. Reports are to be Executive Reports based upon a September 1 to August 31 fiscal year and are due in the third week of September each year.
- c. All records and data maintained by the Administrator are the property of the A&M System and shall be delivered to the A&M System upon request and/or at completion of the ROCIP or at Contract termination. Data is to be provided in a non-proprietary format (Excel, Word, Access, etc.) such that further or future analysis is possible without reconfiguration or reentry of data.
- d. Stay abreast of the regulatory environment regarding construction insurance and ROCIPs in Texas. Advise the A&M System of potential implications of proposed legislation and provide information regarding implications as requested by the A&M System.
- e. Attend and actively participate in any ROCIP meetings with the A&M System staff and representatives when requested.
- f. Respond to requests (phone, text, and e-mail) from the A&M System in a timely manner.

EXHIBIT B – PRICING

Gallagher Fee		
Construction Values	Rate	Fee
\$927,592,000	\$.215/\$100	\$1,994,323

*Fee will be adjusted using the above rate based on additional construction values include in the program or change in scope.

Payment Terms	
Year 1	\$510,175
Year 2	\$426,692
Year 3	\$426,692
Year 4	\$426,692
Year 5	\$204,072
Total	\$1,994,323

EXHIBIT C – INSURANCE

PROVIDER shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to TAMUS. By requiring such minimum insurance, the Owner shall not be deemed or construed to have assessed the risk that may be applicable to PROVIDER under this Agreement. PROVIDER shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. PROVIDER is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to TAMUS at least ten days before the effective date of the cancellation.

Insurance:

Coverage

Limit

A. Worker's Compensation

Statutory Benefits (Coverage A)
Employers Liability (Coverage B)

Statutory
\$1,000,000 Each Accident
\$1,000,000 Disease/Employee
\$1,000,000 Disease/Policy Limit

Workers' Compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which work is to be performed for TAMUS. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted

B. Automobile Liability

Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Single Limit of liability for any one accident or loss for Bodily Injury and Property Damage;

If a separate Business Auto Liability policy is not available, coverage for hired and non-owned auto liability may be endorsed on the Commercial General Liability policy.

Additional Endorsements

The Commercial General Liability Policy shall name the Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System as additional insured's.))]

C. Commercial General Liability

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to rented Premises	\$300,000
Medical Payments	\$5,000

The required commercial general liability policy will be issued on a form that insures PROVIDER's liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement. Subcontractors' will provide their own insurance coverage which meets the above requirements.

D. Professional Liability (Errors & Omissions) Insurance with limits of not less than \$1,000,000 each wrongful act, \$2,000,000 aggregate. Such insurance will cover all professional services rendered by or on behalf of PROVIDER under this Agreement. Subcontractors' will provide their own insurance coverage which meets the above requirements. Renewal policies written on a claims-made basis will maintain the same retroactive date as in effect at the inception of this Agreement. If coverage is written on a claims-made basis, PROVIDER agrees to purchase an Extended Reporting Period Endorsement, effective for one (1) full year after the expiration or cancellation of the policy. No professional liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least three (2) years after the expiration of cancellation of this Agreement.

E. PROVIDER will deliver to TAMUS:

Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by PROVIDER under this Agreement. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

All insurance policies, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System and The Texas A&M University System as Additional Insureds up to the actual liability limits of the policies maintained by PROVIDER.

All insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System and The Texas A&M University System. No policy will be canceled without unconditional written notice to TAMUS at least ten days before the effective date of the cancellation. All insurance policies will be endorsed to require the insurance carrier providing coverage to send notice to TAMUS ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Section 11.

Any deductible or self-insured retention must be declared to and approved by TAMUS prior to the performance of any services by PROVIDER under this Agreement. PROVIDER is responsible to pay any deductible or self-insured retention for any loss.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed, faxed, or emailed to the following TAMUS contact in Section 12S.

The insurance coverage required by this Agreement will be kept in force until all services have been fully performed and accepted by TAMUS in writing, except as may be noted.