

## AGREEMENT

THIS AGREEMENT is entered into by and between UNICO Group, Inc. (hereinafter referred to as Athe Contractor@) and the County of Lancaster, Nebraska (hereinafter referred to as Athe County@). Collectively the County and the Contractor may be referred to as “Parties,” and individually each may be referred to as a “Party.”

WHEREAS, the County holds and maintains insurance policies and programs; and

WHEREAS, the County is interested in acquiring professional insurance brokerage services to support and assist the County concerning matters dealing with insurance and Risk Management; and

WHEREAS, the Contractor is qualified to provide the County with the professional insurance brokerage services and wishes to contract with the County for the provision of these services; and

NOW THEREFORE, in consideration of the mutual covenants contained herein, it is agreed between the Parties as follows:

1. Term. This Agreement shall have a term of five (5) consecutive twelve (12) month periods (sixty (60) months total) from September 1, 2018, through August 31, 2023, unless terminated pursuant to Paragraph 11 of this Agreement. Thereafter this Agreement may be renewed for five (5) consecutive twelve (12) month periods by mutual agreement of the Parties.
2. Purpose. The purpose of this Agreement is to provide the County with professional insurance brokerage services to support and assist the County concerning matters dealing with insurance and Risk Management.
3. Responsibilities. The Contractor shall provide the following services and duties:
  - A. Assist in developing underwriting data and specifications for renewal negotiations.
  - B. Provide trended values for property insurance policies.
  - C. With the participation of the County Risk Manager, obtain bids from the insurance industry and negotiate the best terms and coverage for the various exposure areas.
  - D. Evaluate the commitment and financial stability of underwriters.
  - E. Service existing insurance policies by tending losses, reviewing coverage issues, assisting in collection of loss data, reporting values, issuing Certificates of Insurance as needed, processing policy changes in a timely manner.

- F. Schedule quarterly meetings with the County Risk Manager to discuss local control issues, exposure changes, and general administrative matters.
- G. Analyze the County's exposure to loss, adequacy of coverage, and develop an integrated risk program. The program should include retention analysis, recommendation for maintenance deductibles and a combined lines basket aggregate feature. The analysis should be developed as an option on coverage not presently purchased or not presently combined into a single retention level.
- H. Provide service for day to day contact on insurance matters.
- I. Assist the County in developing insurance requirements for various contracts (design, construction, and service) and in reviewing insurance policies, contracts, leases, and bonds as requested by the County.
- J. Prepare an annual report including a schedule of policies in force, coverage provisions, premiums, insurance claims experience for the prior policy year and recommendations for possible adjustments to insurance coverage for the next policy year.
  - 1. The report should provide a summary of broker services for the subsequent year.
- K. Work with the County's Risk Manager to maintain a viable and cost-effective self-insurance program.
- L. Provide other services that are normally and customarily required of a municipal insurance broker.
- M. Hold or maintain any and all necessary certifications and licenses required by any applicable law or regulations that relate to Contractor or the services provided to the County.
- N. Conduct all activities related to the services provided to the County in a lawful manner.

4. Licensing. The Contractor agrees that it, and its employees, representatives, consultants and subcontractors, at all times during the contract, shall be properly licensed and/or certified to provide the services they perform. The Contractor further agrees that should any of its employees, representatives, consultants or subcontractors no longer be properly licensed and/or certified for the services they perform, Contractor shall notify the County immediately. Should any Party performing services on behalf of the Contractor lose their license or be de-certified, the Parties agree that the County may terminate this Agreement immediately.

5. Compensation.

A. The County will pay the Contractor for services in the following amounts for each twelve (12) month period of the sixty (60) month term:

|   |             |
|---|-------------|
| 1. September 1, 2018 through August 31, 2019: | \$37,781.43 |
| 2. September 1, 2019 through August 31, 2020: | \$37,781.43 |
| 3. September 1, 2020 through August 31, 2021: | \$37,781.43 |
| 4. September 1, 2021 through August 31, 2022: | \$38,914.87 |
| 5. September 1, 2022 through August 31, 2023: | \$38,914.87 |

B. The above listed compensation shall include the auto fleet insurance coverage. No additional charges will be added by the Contractor to provide the auto fleet insurance with the exception of the actual premium charge.

C. Any direct bill commissions or other commissions received by Contractor for insurance policies held by the County shall be credited to the County.

D. Additional Services.

1. The above listed compensation excludes any charges for services rendered for special services which were performed pursuant to written authorization by the County.
2. A request to perform additional services not covered in the Agreement, and for which the Contractor may bill the County additional fees, shall be submitted in writing to the County Board of Commissioners (“Board”) prior to performance of the added services. The additional services shall not be performed by the Contractor without written authorization by the Board.
3. In the event that such authorization is received by Contractor it shall submit to County itemized billings for services showing the number of hours of services rendered, together with a description of the work performed and the date or dates that such work was performed.

E. Compensation for services will be paid by the County to the Contractor in equal monthly installments. The first monthly installment shall be due on October 1<sup>st</sup> of the current twelve (12) month period, and the final monthly installment shall be due on August 31<sup>st</sup> of the current twelve (12) month period. The Contractor agrees that it shall not be paid until services have been provided to the County. The Parties agree that compensation is not, nor shall be deemed a retainer.

1. Any direct bill commissions or other commissions received by the Contractor for insurance policies held by the County shall be credited to the County.

F. Reports.

1. All Contractor records pertaining to billings submitted by Contractor to the County pursuant to this Agreement will be immediately available for review and audit by the County upon request.
2. Contractor will provide to the County on a monthly basis, a report itemizing all activities performed by the Contractor=s personnel to or on behalf of the County under this Agreement. Each monthly report will list each of Contractor=s personnel, and the number of hours performed for each activity.
3. Reports will be provided within thirty (30) days following each month. Contractor=s failure to provide such reports in a timely manner shall constitute a breach of this contract. Contractor shall have the right to cure such breach in the manner provided in Paragraph 11.

It is understood and agreed that the amount stated above shall represent total reimbursement for the services provided under the terms of this Agreement. The County shall not be responsible for the direct payment of any wages, insurance or fringe benefits, including but not limited to vacation, overtime, retirement benefits, workers= compensation insurance and unemployment insurance.

6. Independent Contractor. It is the express intent of the Parties that this Agreement shall not create an employer-employee relationship. The Contractor and any employees of the Contractor shall not be deemed to be employees of the County and employees of the County shall not be deemed to be employees of the Contractor. The Contractor and the County shall be responsible to their respective employees for all salary and benefits. Neither the Contractor=s employees nor the County=s employees shall be entitled to any salary or wages from the other Party or to any benefits made to their employees, including but not limited to overtime, vacation, retirement benefits, workers= compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers= compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees= compensation.

7. Assignment. Neither Party shall assign its duties and responsibilities under this Agreement without the prior express written permission of the other Party. Any assignment without the express written permission of the other Party shall be absolutely void.

8. Hold Harmless. Each Party agrees to save and hold harmless, to the fullest extent allowed by law, the other Party and its principals, officers, and employees from and against all claims, demands, suits, actions, payments, liabilities, judgments and expenses (including court-ordered attorneys= fees), arising out of or resulting from the acts or omissions of their principals, officers, or employees in the performance of this Agreement. Liability includes any claims, damages, losses, and expenses arising out of or resulting from performance of this Agreement that results in any claim for damage whatsoever including any bodily injury, civil rights liability, sickness, disease, or damage to or destruction of tangible property, including the loss of use resulting

therefrom. Further, each Party shall maintain a policy or policies of insurance (or a self-insurance program), sufficient in coverage and amount to pay any judgments or related expenses from or in conjunction with any such claims. Nothing in this Agreement shall require either Party to indemnify or hold harmless the other Party from liability for the negligent or wrongful acts or omissions of said other Party or its principals, officers, or employees.

9. Severability. If any portion of this Agreement is held invalid, the remainder hereof shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

10. Equal Employment Opportunity. Contractor agrees that in providing services pursuant to this Agreement, it shall not discriminate against any employee, applicant for employment, client, or any other person on the basis of race, color, religion, sex, disability, national origin, age, marital status, receipt of public assistance, or any other basis prohibited by applicable state or federal law.

11. Termination.

A. This Agreement may be terminated at any time by either Party giving ninety (90) days written notice of termination. Should Contractor breach this Agreement, the County will notify the Contractor of the breach in writing and the Contractor will have fifteen (15) days to cure. If the breach is not cured within fifteen (15) days, the County may, at its discretion, terminate this Agreement immediately upon written notice to the Contractor.

B. In the event this Agreement is terminated prior to the expiration of the original term, Contractor shall be entitled to, and the County shall pay for services rendered prior to the effective date of termination, after which date the County shall have no further obligation to pay further fees pursuant to the Agreement.

C. As of the termination date, Contractor shall have no further obligation to perform any of the insurance brokerage services set forth in this Agreement. Contractor shall return to the County the original of all documents and materials supplied by the County which the County requests to be returned within fifteen (15) calendar days from the date of such request.

D. Notwithstanding anything contained in this Agreement to the contrary, the County shall retain all title, copyright, patent, and other proprietary rights to all of its insurance materials, and all Contractor=s development or owned computer programs, formats, data records forms, modulars, procedures, internal reports, forms, software, products, designs, methodology and analytical processes used in the provision of services provided pursuant to this Agreement.

12. Contractor warrants to the County that the services to be performed under this Agreement shall:

A. Be in accordance with accepted and established practices and procedure

recognized as such in Contractor=s trade in general;

- B. Be in accordance with Federal, State and Local laws; and
- C. Conform to the requirements of this Agreement.

13. **Insurance.** The Contractor shall, prior to beginning work, provide proof of insurance coverage in a form satisfactory to the County, which shall not withhold approval unreasonably. The coverages and minimum levels required by this Agreement are set forth below and shall be in effect for all times that work is being done pursuant to this Contract. No work on the Project or pursuant to this Agreement shall begin until all insurance obligations herein are met to the satisfaction of the County, which shall not unreasonably withhold approval. Self-insurance shall not be permitted unless consent is given by the County prior to execution of the Agreement and may require submission of financial information for analysis. Deductible levels shall be provided in writing from the Contractor's insurer and will be no more than \$25,000.00 per occurrence. Said insurance shall be written on an **OCCURRENCE** basis, and shall be **PRIMARY, with any insurance coverage maintained by the County being secondary or excess.**

a) **Workers' Compensation.** The Contractor shall provide proof of workers' compensation insurance of not less than minimum statutory requirements under the laws of the State of Nebraska and any other applicable State. Employers' Liability coverage with limits of not less than \$1,000,000.00 each accident or injury shall be included. The Contractor shall provide the County with an endorsement for waiver of subrogation. The Contractor shall also be responsible for ensuring that all subcontractors have workers' compensation insurance for their employees before and during the time any work is done pursuant to this Contract.

b) **Commercial General Liability.** The Contractor shall provide proof of Commercial General Liability Insurance with a minimum limit of not less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate. These minimum limits can be met by primary and umbrella liability policies. Coverage shall include: Premises-Operations, Products/Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury. Such coverage shall be endorsed for the general aggregate to be on a **PER PROJECT** basis, and the Contractor shall provide an additional insured endorsement acceptable to the County. The required insurance must include coverage for all projects and operations of Contractor or similar language that meets the approval of the County, which approval shall not be unreasonably withheld.

c) **Automobile Liability.** The Contractor shall provide proof of Automobile Liability coverage, which shall include: Owned, Hired and Non-Owned. Bodily Injury and Property Damage Combined Single Limit shall be at least \$1,000,000 Per Accident.

d) **Additional Insured.** Contractor shall provide an Additional Insured Endorsement form or other proof showing the County as additional insured for commercial general liability, auto liability and such other coverages as may be required by the County.



The form or other proof shall be as is acceptable to the County Attorney.

e) **Certificates.** The Contractor shall provide certificates of insurance and endorsements evidencing compliance with these requirements. The Contractor's insurance shall include an endorsement to provide for at least thirty (30) days' firm written notice in the event of cancellation. Intent to notify is not acceptable. During the term of the Agreement and during the period of any required continuing coverages, the Contractor shall provide, prior to expiration of the policies, certificates and endorsements evidencing renewal insurance coverages. The Parties agree that the failure of County to object to the form of a certificate and/or additional insured endorsement provided shall not constitute a waiver of this requirement.

f) **Minimum Scope of Insurance.** All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted otherwise.

g) **Reservation of Rights.** The County reserves the right to require a higher limit of insurance or additional coverages when the County determines that a higher limit or additional coverage is required to protect the County or the interests of the public. Such changes in limits or coverages shall be eligible for a change order or amendment to the Contract.

h) **Sovereign Immunity.** Nothing contained in this Section or other Sections of this Agreement shall be construed to waive the Sovereign Immunity of the County.

14. In accordance with Neb. Rev. Stat. § 4-108 through § 4-114, Service Provider agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1324a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. Service Provider shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C. § 1324b. Service Provider shall require any subcontractor to comply with the provisions of this section.

15. Contractor and the County agree that all the terms and conditions of this Agreement shall be binding upon themselves, their heirs, administrators, executors, representatives, successors and assigns.

16. This Agreement shall be governed and interpreted by the Laws of the State of Nebraska without reference to the principles of conflicts of law.

EXECUTED this 27<sup>th</sup> day of August, 2018, by Contractor.

UNICO Group, Inc.

By:

Thomas Champion

Title:

President

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by Lancaster County,  
Nebraska.

By:

\_\_\_\_\_  
Todd Wiltgen, Chair  
Lancaster County Board of Commissioners

APPROVED AS TO FORM  
this \_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
for PAT CONDON  
County Attorney