

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: _____

Meeting Type: Regular

Meeting Date: Aug 14, 2014

Action Requested By: Human Resources

Agenda Type: Resolution

Subject Matter:

Renewal agreement between the City of Huntsville and Brentwood Services Administrators, Inc. for worker's compensation claims administration and loss control services.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into a renewal agreement between the City of Huntsville and Brentwood Services Administrators, Inc. for workers' compensation claims administration and loss control services.

Note: If amendment, Please state title and number of the original

Item to be considered for: Action

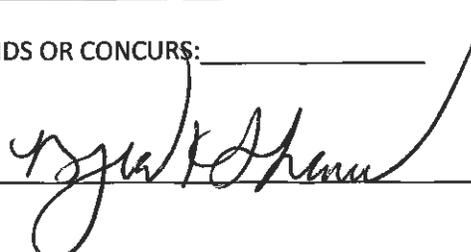
Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: _____

Budgeted Item: _____

MAYOR RECOMMENDS OR CONCURS: _____

Department Head: 

Date: 8/7/14

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Human Resources

Council Meeting Date: 8/14/2014

Department Contact: Byron Thomas

Phone # 427-5240

Contract or Agreement: Agreement

Document Name: Brentwood Services Administrators, Inc.

City Obligation Amount:

\$84,000 ✓

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

<u>Select...</u>	<u>Select...</u>
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Grant-Funded Agreements

<u>Select...</u>	Grant Name:
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Department	Signature	Date
1) Originating	<i>Byron Thomas</i>	8/17/14
2) Legal	<i>Mary Gates</i>	8/17/14
3) Finance <i>CC</i>	<i>[Signature]</i>	8/18
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

RESOLUTION NO. 14-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into an Agreement with Brentwood Services Administrators, Inc., for Worker's Compensation Administration and Loss Control Services, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as Agreement to Provide Specified Third Party Administrator Services, consisting of eighteen (18) pages and the date of August 14, 2014, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 14th day of August, 2014.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 14th day of August, 2014.

Mayor of the City of
Huntsville, Alabama

**AGREEMENT TO PROVIDE SPECIFIED
THIRD PARTY ADMINISTRATOR SERVICES**

THIS AGREEMENT effective the 1st day of October, 2014, by and between Brentwood Services Administrators, Inc. [hereinafter BRENTWOOD], and the City of Huntsville, Alabama [hereinafter the EMPLOYER].

WITNESSETH:

WHEREAS, the EMPLOYER is an Alabama municipal corporation, with principal offices located at 308 Fountain Circle, Huntsville, Alabama, which is qualified as a workers' compensation self-insured employer, as provided for in Ala. Code § 25-5-8 and Ala. Admin. Code rr. 480-5-2-.01 through 480-5-2-.02, and as such is authorized to self-insure its workers' compensation risk in the State of Alabama; and,

WHEREAS, BRENTWOOD is a Tennessee corporation with principal offices located at 104 Continental Place, Suite 200, Brentwood, Tennessee, and is duly authorized to act as a third party administrator/service company in the State of Alabama; and,

WHEREAS, the EMPLOYER desires to contract with BRENTWOOD to provide certain third party administrator/service company services, as set forth herein; and,

WHEREAS, BRENTWOOD wishes to provide such services;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do covenant and agree as follows:

Section I – Agreement to Provide Services

The EMPLOYER hereby contracts with BRENTWOOD to perform, on behalf of the EMPLOYER, the services specified in this agreement and any exhibits attached hereto, and BRENTWOOD hereby agrees to perform such services, on the terms and conditions of, and for and limited to the duration of, this agreement.

Section II – Duties and Responsibilities of BRENTWOOD

- A. Services.** BRENTWOOD shall, during the term of this agreement, provide the services specified herein, consisting of:

1. providing claims services as set forth in Exhibit A, attached to this agreement and incorporated herein by reference;
2. providing loss control services for one (1) working day every quarter, as set forth in Exhibit B, attached to this agreement and incorporated herein by reference.

All such services shall be provided by BRENTWOOD in an honest manner and in conformance with the industry standard of performance.

B. General Administration. BRENTWOOD agrees to provide such clerical, secretarial and administrative support, including necessary equipment and supplies, as may be necessary for the day to day compliance of the contractually agreed upon duties of BRENTWOOD in accordance with this agreement.

C. Insurance and Indemnification Requirements

BRENTWOOD shall carry insurance of the following kinds and amounts in addition to any other forms of insurance or bonds required under the terms of the contract specifications. BRENTWOOD shall procure and maintain for the duration of the agreement until final acceptance by the EMPLOYER, or as later indicated, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the services hereunder by BRENTWOOD, its agents, representatives, employees or subcontractors.

1. MINIMUM SCOPE OF INSURANCE:

- a. **General Liability:** Insurance will be written on an occurrence basis. Claims-made coverage will be accepted only on an exception basis after the EMPLOYER's approval.

Commercial General Liability

Products and Completed Operations
Contractual
Personal Injury

- b. **Professional Liability:** Insurance may be written on a "claims-made" basis, providing coverage for negligent acts, errors or omissions in the performance of professional services. Coverage will be maintained for three (3) years after completion of the professional services and Certificates of Insurance will be submitted to the EMPLOYER within reasonable economic terms. Such coverage shall be carried on a continuous basis including

prior acts coverage to cover the subject project. The professional liability insurance shall contain contractual liability coverage.

- c. **Automobile Liability:** Business Automobile Liability providing coverage for all owned, hired and non-owned autos. Coverage for loading and unloading shall be provided under either automobile liability or general liability policy forms.
- d. **Workers' Compensation Insurance:** Statutory protection against bodily injury, sickness or disease or death sustained by employee in the scope of employment. Protection shall be provided by a commercial insurance company or a recognized self-insurance fund authorized before the State of Alabama Industrial Board of Relations.
- e. **Employers Liability Insurance:** Covering common law claims of injured employees made in lieu of or in addition to a worker's compensation claim.

2. MINIMUM LIMITS OF INSURANCE:

- a. **General Liability:** Commercial General Liability on an "occurrence form" for bodily injury and property damage:

\$ 1,000,000 General Aggregate Limit
\$ 500,000 Products - Completed Operations Aggregate
\$ 500,000 Personal & Advertising Injury
\$ 500,000 Each Occurrence

- b. **Professional Liability:**

Insurance may be made on a "claims-made" basis:
\$1,000,000 Per Claim - Other Professionals

- c. **Automobile Liability:**

\$500,000 Combined Single Limit per accident for bodily injury and property damage.

- d. **Workers' Compensation:**

As Required by the State of Alabama Workers' Compensation Statute

- e. **Employers Liability:**

\$100,000 Bodily Injury by Accident or Disease
\$500,000 Policy Limit by Disease

C. OTHER INSURANCE PROVISIONS: The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverage's Only:

- a. The EMPLOYER, its elected and appointed officials, employees, agents and specified volunteers are to be covered as Additional Insureds, as their interests may appear, as respects: liability arising out of activities performed by or on behalf of BRENTWOOD for products used by and completed operations of BRENTWOOD; or automobiles owned, leased, hired or borrowed by BRENTWOOD. Additional insured status shall be through ISO Additional Endorsement CG 20 10 11 85 or equivalent that is sufficient to provide the coverage required by this Agreement.
- b. BRENTWOOD's insurance coverage shall be primary insurance as respects the EMPLOYER, its officers, employees, agents and specified volunteers, as their interests may appear. Any insurance or self-insurance maintained by the EMPLOYER, its officers, officials, employees, agents or specified volunteers shall be excess of BRENTWOOD's insurance and shall not contribute to it.
- c. BRENTWOOD's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. All Coverages:

- a. BRENTWOOD is responsible to pay all deductibles. BRENTWOOD shall furnish the EMPLOYER with Certificates of Insurance for each insurance policy required by this clause to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the EMPLOYER. Cancellation of coverage for non-payment of premium will require ten (10) days written notice to the EMPLOYER.
- b. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, employees, agents or specified volunteers.

- D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers with an A. M. Best's rating of no less than A-V.
- E. **VERIFICATION OF COVERAGE:** The EMPLOYER shall be indicated as a Certificate Holder and BRENTWOOD shall furnish the EMPLOYER with Certificates of Insurance reflecting the coverage required by this document. The A.M. Best Rating and deductibles, if applicable, shall be indicated on the Certificate of Insurance for each insurance policy. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the EMPLOYER before services are performed. The EMPLOYER reserves the right to require complete, certified copies of all required insurance policies at any time.
- F. **CONSULTANTS AND/OR SUBCONTRACTORS WORKING FOR BRENTWOOD:** BRENTWOOD shall include all subcontractors and/or consultants as insureds under its policies or shall furnish separate certificates and/or endorsements for each subcontractor and/or consultant.

Section III – Duties and Responsibilities of the EMPLOYER

- A. **Fees.** The EMPLOYER agrees to pay to BRENTWOOD fees as set forth in Exhibit C, attached to this agreement and incorporated herein by reference.
- B. **Other Expenses.** The EMPLOYER agrees to be responsible for all other expenses relative to self-insuring its workers' compensation risk, except for expenses directly relating to the performance by BRENTWOOD of its obligations under this agreement. Expenses for which BRENTWOOD shall not be responsible include, but are not limited to: (1) reinsurance and/or excess insurance premium, (2) premium taxes, (3) any assessments, (4) claim and/or loss payments, (5) allocated loss expense, as defined in Exhibit D, attached to this agreement and incorporated herein by reference, and (6) any other expense associated with the servicing of the EMPLOYER's workers' compensation risk which is not specifically delegated to BRENTWOOD by virtue of this agreement.
- C. **Bank Accounts.** The EMPLOYER agrees to maintain a claims fund account, and make adequate funds available from which BRENTWOOD may draw from at any time for claims, loss and/or allocated loss expense payments.
- D. **Duties, Responsibilities and Obligations Remaining.** Nothing in this agreement shall be construed as relieving the EMPLOYER of any duty, responsibility or obligation it has to comply with any law obligatory upon it. The EMPLOYER remains responsible for performing all functions necessary to remain compliant with applicable law; however, BRENTWOOD shall agree to provide any and all information necessary to EMPLOYER for the completion of Alabama Self-Insured Reporting Requirements required by the State of Alabama Department of Industrial Relations.

- E. Access to Electronic Information Maintained by BRENTWOOD.** The EMPLOYER will be granted access to certain information in electronic format relative to its workers' compensation self-insured program that is maintained by BRENTWOOD. As a condition for such access, the EMPLOYER shall have responsibilities relative to the confidentiality and protection of such information as more fully delineated in Exhibit E, attached hereto and incorporated herein by reference.
- F. Transmission of Excess Insurance Policy.** If BRENTWOOD or an affiliate of BRENTWOOD does not produce the EMPLOYER's excess insurance policy, then the EMPLOYER shall transmit a copy of said excess insurance policy to BRENTWOOD within thirty (30) days of its procurement so as to enable BRENTWOOD to provide claims information to the excess insurance carrier in conformance with such excess insurance policy.

Section IV – Ownership of Books and Records

BRENTWOOD shall maintain and retain custody of the books, records, files and other information as required to perform the services specified herein during the time mutually agreed to by BRENTWOOD and the EMPLOYER. Such books, records, files and other information shall remain the exclusive property of the EMPLOYER and shall be available for review by the EMPLOYER during business hours, with reasonable notice, at the premises of BRENTWOOD. It is further agreed that software programs, computer programs, source codes and other computer software items that are utilized by BRENTWOOD are not the property of the EMPLOYER, and remain the exclusive property of BRENTWOOD. The EMPLOYER understands and agrees that BRENTWOOD may, in its exclusive discretion, retain a copy of all such books, records, files and other information upon termination of this agreement.

Section V – Term of Agreement and Termination

- A. Term of Agreement.** This agreement is effective on the date above written at 12:01 a.m., United States Central Time, and shall remain in full force and effect until the 1st day of October, 2017, at 12:01 a.m., United States Central Time.
- B. Just Cause Termination.** Notwithstanding the forgoing subsection, either party to this agreement may terminate the same with proper notice for just cause. A party to this agreement shall have just cause to terminate this agreement upon:
1. the filing of a bankruptcy petition by the other party to this agreement, or the placement into bankruptcy or a declaration of insolvency by a court of competent jurisdiction of either party to this agreement, or the dissolution of either party;

2. the failure of either party to maintain any license, regulatory approval or other type of regulatory authorization to perform its obligations under this agreement;
3. a material breach of the terms of this agreement by the other party; or the commission of fraud by the other party in the making and/or entering into of this agreement or of the performance of this agreement; or,
4. such action(s) which would negatively reflect on the integrity of the non-acting party or hinder its ability to perform services required under applicable law.

If this agreement is being terminated for just cause, written notice must be provided by the party terminating the agreement for just cause to the other party; such written notice must clearly state the alleged cause for the termination. The noticed party shall have thirty (30) days to correct the cause allegedly giving rise to the termination of the agreement. If such noticed party shall fail to correct a legitimate violation within such thirty (30) day correction period, the party giving notice of the violation may then immediately terminate the agreement.

Notwithstanding the foregoing paragraph, in the event that the EMPLOYER fails to timely pay any fees in accordance with this agreement, then BRENTWOOD may terminate this agreement merely by giving thirty (30) days prior written notice. BRENTWOOD must state in its termination letter that it is terminating the agreement for non-payment of fees.

- C. **Renewal and Termination Not for Cause.** During the term of this agreement, either party may terminate this agreement by providing sixty (60) days prior written notice of termination to the other party. This agreement shall be automatically renewed for consecutive one (1) month terms at the ending date of this agreement unless written notice of termination is provided by one party to the other party thirty (30) days prior to the ending date of the agreement or any one (1) month extension thereof, or a new agreement is entered into between the parties.
- D. **Options of the EMPLOYER Upon Termination.** Upon termination of this agreement, the EMPLOYER shall have one of the following options:
 1. Require BRENTWOOD to return all books, records, files and other information which are described herein as being the property of the EMPLOYER in not more than sixty (60) days to the EMPLOYER, to the extent BRENTWOOD is in possession of such files. The EMPLOYER shall pay the reasonable costs for the transfer of such books, records, files, and other information; or,

2. Require BRENTWOOD to handle to their conclusion all claims and other obligations reported during the contract period. Should the EMPLOYER choose this option, BRENTWOOD shall be compensated on a per claim basis at BRENTWOOD's then prevailing per claim rate; this compensation shall be in addition to any compensation delineated in this agreement. Should the EMPLOYER choose this option, BRENTWOOD shall, on a quarterly basis, return all books, records, files and other information relative to closed files to the EMPLOYER; the EMPLOYER shall pay the reasonable costs for the transfer of such closed books, records, files, and other information.

E. Duties Limited to Duration of Agreement. It is understood and agreed by the EMPLOYER that the services described herein to be performed by BRENTWOOD are limited to the duration of this agreement and shall cease upon its termination, and BRENTWOOD shall have no further liability or service obligation to the EMPLOYER subsequent to the termination date of this agreement, except to the extent required by § V, ¶ D.2, supra, and § VI, ¶ C, infra.

F. Billing Upon Termination. Upon termination of this agreement, if monies are owed from one party to the other, BRENTWOOD will furnish to the EMPLOYER its final billing for services rendered under the terms of this agreement as soon as practicable. If such billing results in monies due BRENTWOOD, the EMPLOYER agrees to tender payment within thirty (30) days. If such billing results in monies due the EMPLOYER, BRENTWOOD agrees to tender payment within thirty (30) days.

Section VI – Indemnification

A. Indemnification by the EMPLOYER. The EMPLOYER agrees to indemnify, defend and hold harmless BRENTWOOD with respect to any and all claims by entities and/or persons not a party to this agreement for any and all claims asserted as a result of any alleged error, omission, tort, violation of law or negligence on the part of the EMPLOYER and/or its directors, officers, independent contractors, employees, agents and/or servants, unless, and only to the extent that, such actions were taken at the direction of, or contributed to by BRENTWOOD. The EMPLOYER also agrees to indemnify BRENTWOOD for any and all claims for workers' compensation benefits by persons covered or eligible to be covered by the EMPLOYER. Notwithstanding anything contained herein, the EMPLOYER's obligation to indemnify BRENTWOOD, defend BRENTWOOD, and hold BRENTWOOD harmless shall be limited by applicable Alabama law, including but not limited to Ala. Code § 11-47-190.

B. Indemnification by BRENTWOOD. BRENTWOOD agrees to indemnify, defend and hold harmless the EMPLOYER with respect to any and all claims by entities and/or persons not a party to the agreement for any and all claims asserted

as a result of any alleged error, omission, tort, violation of law or negligence on the part of BRENTWOOD and/or its directors, officers, independent contractors, employees, agents and/or servants, unless, and only to the extent that, such actions were taken at the direction of, or contributed to by the EMPLOYER.

- C. **Survival of Indemnification Section.** This Section VI shall survive termination of this agreement.

Section VII – Miscellaneous

- A. **BRENTWOOD an Independent Contractor.** It is expressly agreed and acknowledged by the parties to this agreement that this agreement is intended to create and shall create between the EMPLOYER and BRENTWOOD the relationship of Independent Contractor.
- B. **Entire Agreement.** This agreement contains all the terms agreed upon between the parties with respect to the subject matter hereof, and supersedes any and all prior oral and written communications between BRENTWOOD and the EMPLOYER, including, if applicable, any prior written agreements in conflict herewith. No modification or amendment of this agreement shall be valid unless made in writing and fully executed by the parties.
- C. **Notices.** All notices required herein shall be in writing and shall be sent postage prepaid, via certified mail, return receipt requested, to the parties at the following addresses:
- If to the EMPLOYER: City of Huntsville, State of Alabama
 Office of Human Resources
 308 Fountain Circle
 Huntsville, Alabama 35801
- If to BRENTWOOD: Brentwood Services Administrators, Inc.
 Attn: General Counsel
 104 Continental Place, Suite 200
 Brentwood, Tennessee 37027
- D. **Assignment.** Neither party shall be entitled to assign its rights or obligations under this agreement without the prior written consent of the other party.
- E. **Applicable Law.** This agreement shall be construed and enforced in accordance with the laws of the State of Alabama. Venue for any action brought to enforce any part of this Agreement shall be in the Circuit Court of Madison County, Alabama or the United States District Court for the Northern District of Alabama, Northeastern Division.

- F. **Failure to Enforce.** The failure or delay of either BRENTWOOD or the EMPLOYER to take action with respect to any failure of the other party to observe or perform any of the terms or provisions of this agreement, or with respect to any default hereunder by such other party, shall not be construed as a waiver or operate as a waiver of any rights or remedies of either BRENTWOOD or the EMPLOYER of its right to institute and maintain any action or proceeding which it may deem necessary to protect, assert or enforce any such rights or remedies.
- G. **Headings.** All headings in this agreement are for convenience of reference only and shall be disregarded.
- H. **No Third-Party Beneficiaries.** Nothing in this agreement is intended or shall be construed to give anyone other than the parties hereto, any legal or equitable right, remedy or claim under this agreement.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed on the dates below the parties' signatures, the agreement to be effective on the date above written.

City of Huntsville, State of Alabama

Brentwood Services Administrators, Inc.

By: _____

By: Lisa Kelley

Title: Mayor

Title: Vice President

Date: _____

Date: 7/28/14

EXHIBIT A

Claims Services

In accordance with Section II of the agreement, this exhibit is attached to and shall be incorporated within the agreement between Brentwood Services Administrators, Inc. [hereinafter BRENTWOOD] and the City of Huntsville, State of Alabama [hereinafter the EMPLOYER] effective the 1st day of October, 2014.

BRENTWOOD shall provide to the EMPLOYER certain claims services necessary for the day to day servicing of the workers' compensation and employer's liability claims brought against the EMPLOYER by its employees. The obligation to provide such services shall be limited to the EMPLOYER's workers' compensation and employer's liability claims that are (i) reported to BRENTWOOD by the EMPLOYER during the term of this agreement, or are (ii) old claims that have been serviced by a previous service company/third party administrator and which BRENTWOOD hereby agrees to assume servicing responsibility for as provided herein.

In particular, BRENTWOOD shall:

1. service, review, investigate, adjust, process and/or resist workers' compensation and employer's liability claims presented against the EMPLOYER;
2. establish claims reserves for each such claim and provide continuous review of and continually update claims reserves to reflect the establishment and/or change in claims reserves;
3. acknowledge to the EMPLOYER, in writing, the receipt of all such claims, on an agreed basis;
4. acknowledge to the EMPLOYER, in writing, all such claims that have been closed, on an agreed basis, such acknowledgement to contain the date the claim was closed and the amount paid;
5. acknowledge to the EMPLOYER, in writing and on an agreed basis, the receipt of all lawsuits, and a copy of the complaint or bill filed. As litigation proceeds, BRENTWOOD and the EMPLOYER shall keep one another apprised, to the extent reasonable, of the dates of discovery requests, depositions, conferences and trials;
6. provide a narrative report to the EMPLOYER on any such claims where the total incurred claim, inclusive of any reserves established, exceeds One Hundred Thousand Dollars (\$100,000.00) on an agreed basis, but no less often than quarterly, and discuss in person any and all claims requested by the EMPLOYER on an agreed basis, but no less often than quarterly;

7. prepare and maintain a claim file for each such claim, such file to be open at all reasonable times for inspection and copying by the EMPLOYER and its agents, servants, employees and officers upon request;
8. prepare, maintain and file any and all records and reports that may be required by any state regulatory agencies in connection with BRENTWOOD's handling of such claims, as instructed by the EMPLOYER; and cooperate fully with the EMPLOYER in gaining the approval of the Alabama of Industrial Relations for BRENTWOOD to act as the EMPLOYER's third party administrator;
9. coordinate the assignment of and/or provide utilization management services and case management services on claims requiring or needing such services, upon the request of the EMPLOYER. Charges for such services are allocated loss expense, and thus the EMPLOYER shall be billed and make payment for all such expenses in addition to the fees delineated in Exhibit C. BRENTWOOD may utilize the services of a subcontractor to perform all or a portion of such services, and the EMPLOYER understands and agrees that BRENTWOOD may be compensated for its administrative expense in connection with the provision of such services. Billing and payment shall occur at least monthly. If BRENTWOOD intends to provide utilization management and/or case management services for the EMPLOYER, then on or about the date this agreement is executed, BRENTWOOD will provide to the EMPLOYER a list of rates that will be charged for such services. Periodically, BRENTWOOD may adjust these rates. In the event such rates are ever increased, BRENTWOOD shall provide to the EMPLOYER an updated list of rates that will be charged for such services prior to such rates being increased. The EMPLOYER may request and obtain, at any time, a list of current rates being charged for such utilization management services and case management services by BRENTWOOD;
10. provide bill review services FREE OF CHARGE for each itemized line reviewed to reduce the bill to the fee schedule or reasonable and customary amounts as applicable. Further reductions on the bill to reflect preferred provider organization savings and other types of savings below the fee schedule or reasonable and customary amounts will be billed at Twenty-Eight Percent (28%) of such savings. Furthermore, BRENTWOOD shall procure, on the EMPLOYER's behalf, pharmaceutical bill review services, pharmaceutical PPO network services, durable medical equipment bill review services, and durable medical equipment PPO services. For procuring these services for the EMPLOYER, and providing an incentive for BRENTWOOD to locate service providers who obtain the maximum amount of savings off of the fee schedule or usual and customary charges, as applicable, the

EMPLOYER shall pay to BRENTWOOD Twenty-Eight Percent (28%) of all savings achieved below the billed amount or the usual and customary charge/fee schedule, whichever is lower; for all savings achieved above the usual and customary/fee schedule, said services shall be provided FREE OF CHARGE. Charges for all such services in this paragraph are allocated loss expense, and thus the EMPLOYER shall be billed and make payment for all such expenses in addition to the fees delineated in Exhibit C. Billing and payment shall occur at least monthly. BRENTWOOD may utilize the services of a subcontractor to perform all or a portion of such services;

11. recommend panel physicians, as required or permitted by law, and assist in the implementation of the services such panel physicians provide;
12. investigate and determine subrogation possibilities and subsequent injury fund recovery possibilities, as appropriate;
13. pay out of the EMPLOYER's claims fund account such disability (lost time; indemnity) benefits, medical benefits, death benefits, allocated loss expense and any other loss and expense as may be required to comply with applicable workers' compensation laws, including any judgments or expenses as set forth in this exhibit and the agreement. EMPLOYER agrees to maintain the claims fund account with BRENTWOOD at a minimum level of One Hundred Thousand Dollars (\$100,000.00), it being understood that payments in settlement of claims will be made from said account, and EMPLOYER shall pay to BRENTWOOD within fourteen (14) days from the receipt of invoice such sum as is necessary to maintain the fund at said minimum level;
14. provide any information requested by any appropriate reinsurance and/or excess insurance carrier(s), including, any claims that have exceeded or are expected to exceed the established threshold;
15. provide to such certified public accountants, attorneys or actuaries any claim cost information as may be reasonably directed by the EMPLOYER.

The claims services provided by BRENTWOOD under this exhibit and this agreement shall be in accordance with any rules and regulations adopted by the EMPLOYER and provided to BRENTWOOD, the rules and regulations of any governmental regulatory authority, and in accordance with any express requirement of any reinsurance and/or excess insurance contracts issued to the EMPLOYER, all as consistent with applicable law.

EMPLOYER _____
Initial

BRENTWOOD  _____
Initial

EXHIBIT B

Loss Control Services

In accordance with Section II of the agreement, this exhibit is attached to and shall be incorporated within the agreement between Brentwood Services Administrators, Inc. [hereinafter BRENTWOOD] and the City of Huntsville, State of Alabama [hereinafter the EMPLOYER] effective the 1st day of October, 2014.

BRENTWOOD shall provide to the EMPLOYER certain loss control services which shall consist of the enumerated items contained hereinbelow. In particular, BRENTWOOD shall:

1. provide qualified loss control consultants to visit the EMPLOYER on an as needed and agreed upon basis to review and advise the EMPLOYER of its current loss control program;
2. assist the management of the EMPLOYER in the development and/or modification of a loss control program, and conduct safety training seminars as agreed;
3. perform on site surveys for hazard identification and work practice evaluation, including accident analysis, to identify trends and problem areas for loss control focus;
4. provide written reports to the EMPLOYER with an appropriate summary of activities, listing hazards and loss problems, along with recommendations for improvements; and,
5. provide to the EMPLOYER information on third party independent contractors which may be utilized, at the EMPLOYER's expense, to secure industrial hygiene and OSHA compliance.

BRENTWOOD shall be obligated to provide said services for one (1) working day every quarter during the term of this agreement. The parties hereto shall coordinate which days during the term of this agreement that a BRENTWOOD loss control representative shall provide said services. It is recognized and agreed by the EMPLOYER that it is responsible for its own safety program and that BRENTWOOD makes no representation that every unsafe condition or procedure will be discovered. BRENTWOOD makes no representation that any location, workplace, operation, machinery or equipment is safe, healthful or in compliance with any laws, rules, or regulations.

EMPLOYER _____
Initial

BRENTWOOD 
Initial

EXHIBIT C

Fee Schedule

In accordance with Section III of the agreement, this exhibit is attached to and shall become incorporated within the agreement between Brentwood Services Administrators, Inc. [hereinafter BRENTWOOD] and the City of Huntsville, State of Alabama [hereinafter the EMPLOYER] effective the 1st day of October, 2014.

New Claims Service Fee. The EMPLOYER shall pay to BRENTWOOD a new claims service fee of Eighty-Four Thousand Dollars (\$84,000) per annum. New claims service fees are earned on a pro-rata basis.

It is understood and agreed that nothing in this agreement shall be construed as prohibiting BRENTWOOD or any of its affiliates from receiving ordinary and reasonable commission(s) from any reinsurer and/or insurer(s) providing reinsurance and/or excess insurance or other insurance coverage(s) as shall be necessary and/or desired by the EMPLOYER; no such commission(s) shall be considered a setoff against the fees due under this agreement. It is further understood and agreed between BRENTWOOD and the EMPLOYER that the above fees contemplate BRENTWOOD providing the services described in this agreement only during the time that this agreement, or a renewal thereof, is in full force and effect.

It is further understood and agreed that BRENTWOOD shall receive fees for PPO network savings services, utilization review services, pharmaceutical PPO procurement services, durable medical equipment bill review and durable medical equipment PPO services, and medical cost containment services in addition to the fees delineated herein as more fully delineated in Exhibit A herein, such fees being considered an allocated loss expense in accordance with Exhibit D herein.

Payment of Fees. Equal monthly installment payments of the new claims service fee shall be paid to BRENTWOOD within thirty (30) days from the date of invoice, with invoicing to occur monthly. Should payment not be received by the due dates delineated herein, the EMPLOYER shall be charged a late fee of one percent (1%) of the amount not paid timely.

EMPLOYER _____
Initial

BRENTWOOD  _____
Initial

EXHIBIT D

Allocated Loss Expense

In accordance with Section III of the agreement, this exhibit is attached to and shall be incorporated within the agreement between Brentwood Services Administrators, Inc. [hereinafter BRENTWOOD] and the City of Huntsville, State of Alabama [hereinafter the EMPLOYER] effective the 1st day of October, 2014.

It is agreed that the allocated loss expense shall be defined as:

1. attorneys' fees;
2. court reporter's fees;
3. court costs, court fees, and court expenses;
4. pre- and post-judgment interest paid as a result of litigation;
5. costs of depositions, including but not limited to transcript fees;
6. costs of obtaining copies of public records;
7. costs of obtaining copies of medical records;
8. fees for service of process;
9. witness fees and witness travel expenses;
10. expert fees and related expenses;
11. costs of independent medical examinations and/or evaluations for testimony at trial or to contest disputed facts;
12. medical cost containment services, including but not limited to utilization management services;
13. extraordinary travel expenses incurred by BRENTWOOD at the request of the EMPLOYER;
14. PPO network savings service fees;
15. costs associated with indexing claims through and/or submitting claims information to the Insurance Service Office or other rate advisory service organizations, a claims compilation or transmission agency, or any state agency or designee of a state agency;
16. costs and expenses of subrogation;
17. costs of operative, investigative and detective services;
18. medical case management services; and,
19. any other similar fee, cost or expense that is reasonably chargeable to the investigation, negotiation, settlement, adjustment or defense of a claim and/or loss, or as required for the protection of the subrogation rights or the collection of subrogation on behalf of the EMPLOYER.

EMPLOYER _____
Initial

BRENTWOOD  _____
Initial

EXHIBIT E

Electronically Accessible Information

In accordance with Section III of the agreement, this exhibit is attached to and shall become incorporated within the agreement between Brentwood Services Administrators, Inc. [hereinafter BRENTWOOD] and the City of Huntsville, State of Alabama [hereinafter the EMPLOYER] effective the 1st day of October, 2014.

WHEREAS, BRENTWOOD will provide the EMPLOYER electronic access to its claims information through the utilization of BRENTWOOD'S licensed Power View data access program; and,

WHEREAS, the EMPLOYER will have electronic access to information gathered during the investigation of present and prior years' workers' compensation claims submitted by the EMPLOYER's employees through the aforementioned program; and,

WHEREAS, the EMPLOYER understands that this electronic access to information will likely include information that is confidential and private to the employee, the EMPLOYER and BRENTWOOD, and which may be confidential or privileged pursuant to law; and,

WHEREAS, the EMPLOYER understands and agrees that the confidentiality of such information should be maintained and preserved to the greatest extent possible in order to protect the privacy and interests of its employees, itself and BRENTWOOD.

NOW THEREFORE, the EMPLOYER agrees, covenants and/or understands that:

1. all electronically stored information made accessible by BRENTWOOD to the EMPLOYER will not under any circumstances be revealed or released to any person or entity not directly in the decision making process of handling the claim to which the information refers; and,
2. it will not directly or indirectly release or cause to be released the electronic information access codes or passwords to persons or entities, other than to those persons identified to BRENTWOOD by the EMPLOYER as persons who require access to such electronically stored information, except as required by law; and,
3. it will indemnify and hold harmless BRENTWOOD from any and all claims, losses, liability, costs, damages and reasonable attorneys' fees incurred as a result of any allegation, claim, or litigation arising out of a violation of this exhibit; and,

4. the computer programs, software programs, source codes and other computer software items utilized by BRENTWOOD to store the electronically accessible information are the property of and/or are licensed to BRENTWOOD, and the release or review of such information would cause irreparable harm and damages to BRENTWOOD.

EMPLOYER _____
Initial

BRENTWOOD  _____
Initial