BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: **December 20, 2005** Division: **Employee Services**

Bulk Item: Yes **X** No ___ Department: **Workers Compensation**

AGENDA ITEM WORDING: Approval of second-year contract renewal with Preferred Governmental Claims Solutions (PGCS) for third party administration of the Workers Compensation program. Current contract expires September 30, 2005.

ITEM BACKGROUND: PGCS originally contracted with Monroe County April 1996. Services were re-bid during 2003 with the contract granted October 2003. This is the second year renewal.

PREVIOUS RELEVANT BOCC ACTION: Rescind approval of September 28, 2005 contract changes and approve renewal of agreement with same contract terms.

CONTRACT/AGREEMENT CHANGES: None

STAFF RECOMMENDATIONS: Approval

TOTAL COST: $78,000.00 **BUDGETED:** Yes **X** No ___

COST TO COUNTY: $78,000.00 **SOURCE OF FUNDS: Primarily Ad Valorem**

REVENUE PRODUCING: Yes ___ No **X** **AMOUNT PER MONTH** ___ **Year** ___

APPROVED BY: County Atty ✓ OMB/Purchasing ✓ Risk Management ✓

DIVISION DIRECTOR APPROVAL: _____

Teresa E. Aguiar
Division Director Employee Services

DOCUMENTATION: Included **X** To Follow ___ Not Required ___

DISPOSITION: _____ **AGENDA ITEM #** _____

Revised 1/03

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: PGCS

Contract #_____

Effective Date: 10/01/2005

Expiration Date: 09/30/2006

Contract Purpose/Description:
Provide Third Party Administration services for the workers' compensation program.

Contract Manager: Maria Z. Fernandez (Name) | 4448 (Ext.) | Workers' Compensation (Department/Stop #)

for BOCC meeting on Dec. 20, 2005 Agenda Deadline: Dec. 5, 2005

CONTRACT COSTS

Total Dollar Value of Contract: $ 78,000.00 Current Year Portion: $ _____

Budgeted? Yes ☒ No ☐ Account Codes: 501-07502-530310-_____-_____

Grant: $ _____ _____-_____-_____-_____-_____

County Match: $ _____ _____-_____-_____-_____-_____

_____-_____-_____-_____-_____

ADDITIONAL COSTS

Estimated Ongoing Costs: $_____/yr For: _____
(Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	11.28.05	Yes ☐ No ☑	[signature]	11.28.05
Risk Management	11-30-05	Yes ☐ No ☑	[signature]	11-30-05
O.M.B./Purchasing	12/5/05	Yes ☐ No ☐	[signature]	12/5/05
County Attorney	12/01/05	Yes ☐ No ☑	[signature]	12/01/05

Comments: Need to attach the orig. agreement

OMB Form Revised 2/27/01 MCP #2

RENEWAL AGREEMENT

This renewal agreement is entered into this ____ day of _____, 200_, by and between Board of County Commissioners of Monroe County, Florida; 1100 Simonton Street, Room 2-268; Key West, Florida 33040 (hereafter Employer) and Preferred Governmental Claims Solutions, a Florida Corporation, P. O. Box 958456, Lake Mary, FL 32795-8456, (hereafter PGCS).

WHEREAS, on October 1, 2003, the Employer and PGCS entered into an agreement (hereafter the original agreement) whereby PGCS performs claim administration for the Employer's workers' compensation program; and

WHEREAS, the current renewal will expire on September 30, 2004 and the Employer desires to extend the original agreement for another year, therefore, the parties agree as follows:

1. This second one-year renewal term commences effective October 1, 2005, and will expire September 30, 2006.
2. In all other respects the terms and conditions of the original agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Renewal Agreement.

ATTEST: DANNY L. KOLHAGE, CLERK

By_____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Mayor/Chairman

PREFERRED GOVERNMENTAL CLAIMS SOLUTIONS

By _____
Vice President

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date 11/28/05

SERVICE AGREEMENT RENEWAL

This renewal of a Service Agreement is entered into by and between Monroe County, a political subdivision of the State of Florida whose address is Gato Building, 1100 Simonton Street, Key West, Florida 33040, hereafter County, and Preferred Governmental Claims Solutions, a corporation, whose address is P.O. Box 958456, Lake Mary, Florida 32795-8456, hereafter PGCS. The parties agree as follows:

1) The Service Agreement between the County and PGCS dated October 1, 2003 is renewed for an additional one year term beginning on October 1, 2004.

2) The terms of the Service Agreement between the County and PGCS attached hereto will remain in full force and effect.

3) This Service Agreement Renewal will be effective on October 1, 2004.

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

By Isabel C. DeSantis
Deputy Clerk

Date 05-19-04

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By Murray E. Nelson
Mayor/Chairman

FILED FOR RECORD
2004 MAY 27 PM 12:43
DANNY L. KOLHAGE
CLK. CIR. CT.
MONROE COUNTY, FLA.

Preferred Governmental
Claims Solutions

Date May 11, 2004

By [signature]

Title Vice President

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
[signature]
SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date 4/27/04

Received
MAY 06 2004
P.G.C.S.

RECEIVED
SEP 30 2003

SERVICE AGREEMENT

THIS AGREEMENT is entered into this 1st day of **October** 2003, by and between Preferred Governmental Claim Solutions, a Florida Corporation, hereinafter referred to as PGCS, and the County of Monroe hereinafter referred to as **"THE COUNTY".**

1. RECITALS

A. THE COUNTY wishes to retain the services of PGCS to provide claims Management services for it's Workers' Compensation risks and desires to have PGCS provide specific services in connection with such claims program.

B. PGCS is willing to provide such services on the terms and conditions hereinafter stated.

11. TERM

This Agreement shall be effective for a period of One (1) year from October 1, 2003 through September 30, 2004 and shall remain in full force and effect except as amended or terminated as hereinafter provided. THE COUNTY at its sole option, will have the right to renew the contract for an additional three (3) one (1) year periods.

LIl. CANCELLATION

Either Party shall have the right to terminate the Agreement by giving to the other Party written notice of such termination at least Ninety (90) days in advance. THE COUNTY'S failure to pay the PGCS service fee as provided in Item IV, Section B of this Agreement shall be construed as a breach of the Agreement and, in such event, PGCS shall have the right to terminate the Agreement by giving THE COUNTY ten (10) days' written notice of its intention to terminate. Upon termination of this Agreement, neither Party shall have any further responsibility or obligation hereunder except as provided in Item IV, Section D of this Agreement.

IV. AGREEMENT

A. Services to be Performed by PGCS PGCS agrees to perform the following services:

1. With regard to CLAIMS ADMINISTRATION, PGCS shall:

   a. Review all claim and loss reports submitted by THE COUNTY to PGCS during the term of this Agreement and process each submitted claim or loss report in accordance with Florida Statutes.

b. Conduct an investigation of each reported claim or loss under subparagraph "a" above (hereinafter referred to as a "qualified claim or loss") consistent with industry standards and in sufficient detail to determine the compensability of each claim.

c. Maintain a file for each qualified claim or loss which shall be available for review by THE COUNTY at any reasonable time.

d. Adjust settle or resist all qualified claims or losses arising from The County's Workers' Compensation program with no claims being settled without the prior approval of The County.

e. Perform reasonable and necessary administrative and clerical work in connection with each qualified claim or loss, including the preparation of checks or vouchers, compromises, releases, agreements and any other documents to finalize a claim.

f. Recommend claim reserves and provide a continuous review and updating of these to reflect changes.

g. PGCS will assist THE COUNTY in arranging a loss and expense payment account as set out in Section B. Paragraph 2.

h. Provide notice of claims and routine status reports to THE COUNTY'S Excess Insurer in accordance with the Excess Insurer's standard reporting requirements. THE COUNTY will provide PGCS with the name, address and telephone number of its Excess Insurer. PGCS will fully cooperate with THE COUNTY'S Excess Insurer and take no action, or lack of action that will jeopardize THE COUNTY'S rights to recovery under the policy.

i. Coordinate investigations on litigated claims with attorneys approved by THE COUNTY and with adjusters and attorneys of the excess insurance carrier as required. This includes the negotiation of settlements and preparation of subrogation and contribution actions. It is expressly understood by the Parties to this Agreement that all legal costs and loss payments will be charged to THE COUNTY'S Loss Fund.

j. All sizable and unusual claims will be reviewed by PGCS's staff at no additional cost to THE COUNTY, to ensure efficient and proper administration is provided.

k. PGCS will furnish one set of loss and information reports (as specified in PGCS's proposal) to: THE COUNTY'S Insurance Agent, THE COUNTY'S Risk Management Consultant and THE COUNTY'S Excess Insurer.

l. Additional optional and ad hoc information and analysis reports and services can be provided on a time and expense basis, as mutually agreed upon by PGCS and THE COUNTY.

m. Provide THE COUNTY and its Excess Insurer with narrative or analytical reports on all qualified claims with a total incurred in excess of $50,000, every ninety (90) days.

n. Provide THE COUNTY with claim and other forms mandated by the State of Florida's statutes and regulations to ensure efficient administration of THE COUNTY'S self-insured Workers' Compensation program.

o. Investigate and pursue all subrogation and Second Injury Disability Trust Fund possibilities (to the extent permitted by law) on behalf of THE COUNTY. THE COUNTY will receive the benefit of all recoveries associated with these activities.

p. Provide all personnel necessary to effectively perform the services agreed to herein.

2. With regard to WORKERS' COMPENSATION and MEDICAL CONTROL, PGCS shall:

a. Arrange for independent medical or other experts in connection with processing qualified claims or losses as is mutually agreeable to PGCS and THE COUNTY.

b. Pay medical and death benefits, temporary and permanent disability compensation and other losses and expenses but only if in the judgment of PGCS, such payment would be prudent for THE COUNTY and the anticipated amount thereof does not exceed the stated settlement authority or, in any case, THE COUNTY specifically approves or directs such action.

c. Assist in THE COUNTY'S selection of a panel of physicians or other providers of health care to initially treat employees and a panel of medical specialists to provide long-term or specialty care.

d. Consult with THE COUNTY in order to develop ways of using any medical facility more effectively.

e. Monitor the treatment programs recommended for employees by physicians, specialists and other health care providers by reviewing medical reports so prepared and by maintaining contact with the providers as is consistent with industry standards.

f. As THE COUNTY directs, assist in interpreting medical reports to consider the circumstances under which an injured employee who desires to do so could return to work in the shortest period of time without adversely effecting the employees recovery.

g. Assist THE COUNTY in arranging for rehabilitation or retraining of employees in appropriate cases; charges for these programs shall be considered allocated expense and charged to THE COUNTY.

h. Represent THE COUNTY at all hearings, mediations and trials at no additional costs. With the specific approval of THE COUNTY, which will be proved on a case by case basis, such representation may be conducted by telephone.

i. Conduct quarterly meetings (at no charge) with THE COUNTY officials to review the claim activity and develop methods for reducing the claim costs. Such meetings shall take place at THE COUNTY'S offices in Key West, Florida or at the offices of PGCS located in Lake Mary, Florida.

3. With regard to PROGRAM DEVELOPMENT, PGCS shall, to the extent appropriate:

a. Consult with key personnel of THE COUNTY on the establishment and coordination of necessary procedures and practices to meet any applicable state requirements and needs of THE COUNTY.

b. Participate in the orientation of THE COUNTY'S personnel who are directly or indirectly involved in the processing of qualified claims or losses.

c. Review the development of THE COUNTY'S program periodically with representatives of THE COUNTY in order to identify problems and recommend corrective action.

B. <u>Obligations of THE COUNTY</u>

1. THE COUNTY shall pay PGCS for services rendered here in accordance with Attachment A which is incorporated as part of this Agreement.
2. The County Shall at all times provide funds adequate for the payment of qualified claims or losses and of allocated loss expenses. For this purpose, allocated loss expenses shall mean all costs, charges or expenses of third parties incurred by PGCS, its agents or its employees, which are properly chargeable to a qualified claim or loss including, without limitation, court costs, independent investigators, experts and witnesses and fees for obtaining diagrams, reports, documents and photographs. It is expressly understood that all fees and expenses of attorneys will be paid directly by the County and upon receipt of such invoices PGCS, shall prepare a voucher and forward it with the original invoice to the County's Workers' Compensation Manager for review and processing. If the County makes adjustments to the invoice before paying, PGCS will be notified of such adjustments by the County's Workers' Compensation Manager and PGCS will adjust their payment records to reflect the actual amount paid.
3. It is expressly understood that PGCS shall not be required to advance its own funds to pay losses, allocated loss expenses or banking charges hereunder, or to perform any services hereunder if THE COUNTY fails to provide adequate funds as herein set forth.

C. Discretionary Disbursement Authority Limit. The limit on any discretionary payment by PGCS for a qualified claim or loss or for allocated loss expenses, as the case may be, shall be Five Thousand Dollars ($5,000) initially. This amount may be changed at any time by THE COUNTY upon written notice to PGCS. It is agreed that PGCS shall have full authority and control in all matters pertaining to the payment, processing, investigation and administration of qualified claims or losses with the limit established by this paragraph with the exception of fees and expenses paid to attorneys which will be paid directly by the County in accordance with paragraph IV.B.2. Failure of PGCS to settle a qualified claim or loss within such limit, however, shall not subject PGCS to liability to any party in the event of an adverse judgment entered by

any court or the settlement of such claim or loss for an amount in excess of such limit. PGCS will make no payment in excess of the Discretionary Disbursement Authority Limit without obtaining Prior approval of the County's Administrator or his designee.

It is further agreed that all checks or drafts in amounts in excess of $1,000 will require the signature of two PGCS employees in supervisory positions. All payments in excess of $5,000 will require the written authorization of the County Administrator before being issued.

D. Terms of Agreement and Cancellation

1. In the event of cancellation or non-renewal of this Agreement, THE COUNTY, at its sole option, may require that all open claims be transferred to its new administrator or require PGCS to continue administering the claims to conclusion. If THE COUNTY elects that PGCS is to continue administering the claims, a service fee of One Hundred Dollars ($200) per file per year will be paid for as long as the claim remains open.

   a. PGCS will treat as confidential all data furnished by THE COUNTY or generated as a result of the processing services performed under this Agreement and any other information so designated in writing by THE COUNTY, and PGCS will make the same effort to safeguard such information as it does in protecting its own confidential data.

   b. PGCS reserves the right to gather and utilize, as it sees fit, statistical information from the data base; provided, however, that THE COUNTY'S name and proprietary and/or confidential data are adequately protected and not disclosed.

2. In the event of cancellation or non renewal, PGCS shall provide, at no charge to COUNTY, detail history of all claims processed during the term of this Agreement on Electronic Data Processing Media. PGCS will cooperate with THE COUNTY or its new Administrator with all reasonable requests regarding the method and format of the information to be provided. Shipping of all physical claims will be a the sole expense of the County.

E. Practice of Law. It is understood and agreed that PGCS will not perform, and THE COUNTY will not request performance of, any services which may constitute the unauthorized practice of law.

F. Indemnification PGCS shall be fully responsible for exercising reasonable care at all times in the performance of its obligations hereunder. However, if PGCS is named as party to any litigation because of its actions on behalf of THE COUNTY agrees to defend PGCS in any such litigation if no allegation is made that PGCS failed to exercise such reasonable care, and to hold harmless and indemnify PGCS, pursuant to Florida Statue 768.28 if no finding is entered to the effect that PGCS failed to exercise such reasonable care.

G. Notices Any notice required to be given under this Agreement shall be sent by certified mail to the following in the case of PGCS:

Mr. Kevin Cothron
Vice President
Preferred Governmental Claim Solutions
PO Box 958456
Lake Mary, FL 32795-8456

And to the following in the case of THE COUNTY:

Monroe County, Florida
Attn: Manager Workers' Compensation
1100 Simonton Street
Suite 2-268
Key West, FL 33040
(305) 292-4449

H. Successors. This Agreement shall be binding upon and shall insure to the benefits of all assigns, transferees and successors in the interest of any kind of the Parties hereto.

I. Entire Agreement and Modification or Amendment. This Agreement represents the entire and exclusive statement of the agreement of the Parties and, except as otherwise provided in Item IV, Section C, may be modified or amended only by a written statement signed by both Parties. Such modification or amendment shall be attached to, and shall thereupon become a part of this Agreement.

J. Headings. Headings herein are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

K. Independent Contractor. It is understood and agreed that PGCS is engaged to perform services under this Agreement as an Independent contractor and not as an agent of THE COUNTY. The Parties hereto agreed that neither Party has any relationship with, or contractual liability to, the other with respect to the subject matter of this Agreement, other than as set forth herein.

L. PGCS will not discriminate against any person on the basis of race, creed, color, religion, sex, age, national origin, or any other characteristic which is not job-related in its recruiting, hiring, promoting, terminating or any other area affecting employment under this agreement. PGCS agrees to abide by federal or state laws regarding non-discrimination, including but not limited to, Executive Order 11246, Executive Order 11365 and US Department of Labor regulations.

M. PGCS warrants that it has not employed, retained or otherwise had acted on his behalf any former COUNTY officer subject to the prohibition is Sec. 2 of Ordinance No. 10-1990 or any COUNTY officer or employee in violation of Sec. 3 of Ordinance 10-1099, and that no employee or officer of THE COUNTY had any interest, financially or otherwise in PGCS except for such interest, permissible by law and fully disclosed by affidavit attached hereto. For breach or violation of this paragraph, THE COUNTY may, in its discretion, terminate this agreement without liability and may also, in its discretion, deduct from the contract or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift or consideration paid to the former COUNTY officer or employee.

N. PGCS assures THE COUNTY that, to the best of its knowledge, information and belief, the signing of this Agreement does not create conflict of interest and that during the time of this agreement PGCS will not undertake representation of any parties to or before THE COUNTY seeking to obtain contracts or other benefits from THE COUNTY.

O. All documents which are prepared in the performance of this Agreement are to be and shall remain, the property of THE COUNTY and shall be delivered to the Workers' Compensation Manager at any time upon request and no later than thirty (30) days after termination of this Agreement.

P. PGCS shall indemnify and hold THE COUNTY harmless from and against any and all losses, penalties, damages, professional fees, including attorney fees and all costs or litigation and/or

judgment arising out of any willful misconduct or negligent act, error or omission of PGCS arising out of any or incidental to the performance of this Agreement or work performed thereunder.

Q. PGCS is required to maintain the types and limits of insurance identified in Attachment "B".

R. PGCS shall not assign or sub-contract this Agreement, except in writing and with the prior written approval of THE COUNTY.

S. The following definitions shall apply of Medical Only and Lost Time Claims:

"Medical Only Cases" mean injuries that require medical treatment for which charges will be incurred, whether or not they are submitted to THE COUNTY, but which does not result in the disability of the employee (as defined by Florida Statute 440.02(13), for more than seven days as a result of the injury.

"Lost Time Cases" means injuries which result in the disability of the employee (as defined by Florida Statute 440.02(13), for more than seven days.

T. This contract is governed by the laws of the State of Florida and venue for any litigation between THE COUNTY and PGCS arising under this contract must be in Monroe County, Florida.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the day and date first above written.

(SEAL)
Attest: DANNY L.KOLHAGE, Clerk

By Isabel C. DeSantis
Deputy Clerk 9-17-03

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By Afejia M. Spehar
Mayor/Chairperson

PREFERRED GOVERNMENTAL CLAIMS SOLUTIONS

By: Kevin Cothron

Title: Vice President

Witness

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date 8/29/03

Contract for Workers' Compensation

Claims Administration Services

Between Preferred Governmental Claims Solutions

and

Monroe County, Florida

Attachment A

Fee Schedule

For consideration of PGCS administering the COUNTY's Workers' Compensation claims as specified in this contract, The COUNTY agrees to pay PGCS a flat annual fee of $78,000.00 for the period of 10/1/03 through 9/30/04. It is understood by both Parties that such fee includes, but not limited to the following.

- Administer to conclusion (subject to PGCS being retained as the County's claims administrator) all Workers' Compensation Lost Time and Medical Only claims.
- Reduce all medical bills associated with the County's Workers' Compensation claims to the State Fee Schedule.
- Prepare and file on behalf of the County all mandated State reports.
- Prepare and distribute 1099's as required by law.

It is further agreed that the flat annual fee will be paid in 12 equal payments of $6,500.

General Insurance Requirements
for
Contract Between Preferred Governmental Claims Solutions
and
Monroe County, Florida

Attachment B

As a pre-requisite of the work governed, or the goods supplied under this contract (including the pre-staging of personnel and material), PGCS shall obtain, at their own expense, insurance as specified in any attached schedules, which are made part of this contract. PGCS will ensure that the insurance obtained will extend protection to all Subcontractors engaged by PGCS. As an alternative, PGCS may require all Subcontractors to obtain insurance consistent with the attached schedules.

PGCS will not be permitted to commence work governed by this contract (including pre-staging of personnel and material) until satisfactory evidence of the required insurance has been furnished to the County as specified below. Delays in the commencement of work, resulting from the failure of PGCS to provide satisfactory evidence of the required insurance, shall not extend deadlines specified in this contract and any penalties and failure to perform assessments shall be imposed as if the work commenced on the specified date and time, except for PGCS' failure to provide satisfactory evidence.

PGCS shall maintain the required insurance throughout the entire term of this contract and any extensions specified in the attached schedules. Failure to comply with this provision may result in the immediate suspension of all work until the required insurance has been reinstated or replaced. Delays in the completion of work resulting from the failure of PGCS to maintain the required insurance shall not extend deadlines specified in this contract and any penalties and failure to perform assessments shall be imposed as if the work had not been suspended, except for PGCS' failure to maintain the required insurance.

PGCS shall provide, to the County, as satisfactory evidence of the required insurance, either:

- Certificate of Insurance

  or

- A Certified copy of the actual insurance policy.

The County, at its sole option, has the right to request a certified copy of any or all insurance policies required by this contract.

All insurance policies must specify that they are not subject to cancellation, non-renewal, material change, or reduction in coverage unless a minimum of thirty (30) days prior notification is given to the County by the insurer.

The acceptance and/or approval of the Contractor's insurance shall not be construed as relieving PGCS from any liability or obligation assumed under this contract or imposed by law.

The Monroe County Board of County Commissioners, its employees and officials will be included as "Additional Insured" on all policies, except for Workers' Compensation.

Any deviations from these General Insurance Requirements must be requested in writing on the County prepared form entitled "**Request for Waiver of Insurance Requirements**" and approved by Monroe County Risk Management.