

AB 2023-818

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. 202312005

Table with 2 columns: Field Name, Value. Fields include Originating Department (Administrative Services), Division/Program (Human Resources), Contract or Grant Administrator (Donnie LaPlante), Contractor's / Agency Name (Midwest Employers Casualty).

Is this a New Contract? Yes (X) No ( ) If not, is this an Amendment or Renewal to an Existing Contract? Yes ( ) No (X) If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: \_\_\_\_\_

Does contract require Council Approval? Yes (X) No ( ) If No, include WCC: \_\_\_\_\_ Already approved? Council Approved Date: \_\_\_\_\_ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement? Yes ( ) No (X) If yes, grantor agency contract number(s): \_\_\_\_\_ CFDA#: \_\_\_\_\_

Is this contract grant funded? Yes ( ) No (X) If yes, Whatcom County grant contract number(s): \_\_\_\_\_

Is this contract the result of a RFP or Bid process? Yes ( ) No (X) If yes, RFP and Bid number(s): \_\_\_\_\_ Contract Cost Center: 507300

Is this agreement excluded from E-Verify? No (X) Yes ( ) If no, include Attachment D Contractor Declaration form.

- If YES, indicate exclusion(s) below:
- [X] Professional services agreement for certified/licensed professional.
- [ ] Contract work is for less than \$100,000.
- [ ] Contract work is for less than 120 days.
- [ ] Interlocal Agreement (between Governments).

Contract Amount:(sum of original contract amount and any prior amendments): \$ 120,358
This Amendment Amount: \$
Total Amended Amount: \$

Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:
1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies.
4. Equipment is included in Exhibit "B" of the Budget Ordinance.
5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

Summary of Scope:

Request authorization for the County Executive to authorize binding of coverage with Midwest Employer Casualty renewal for insurance protection for the self-insured workers compensation program in the amount of \$120,358 for calendar year 2024

Term of Contract: One year Expiration Date: 12/31/24

Contract Routing table with 3 columns: Step, Name, Date. Includes steps 1-9 with names like Donnie LaPlante, George Roche, Andrew Tan and dates like 11/20/23, 12/6/23.



**Melissa Keeley**  
Manager

**MEMORANDUM**

**RECEIVED**  
DEC 06 2023  
WHATCOM COUNTY  
EXECUTIVE'S OFFICE

**TO:** Satpal Singh Sidhu, County Executive  
**FROM:** Donnie LaPlante, Associate HR Manager   
**RE:** **Workers Compensation – Stop Loss Insurance Policy**  
**DATE:** November 22, 2023

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Enclosed is a Client Authorization to Bind Coverage for excess/stop loss coverage for workers' compensation claims over \$500,000 for non-law enforcement and over \$750,000 for law enforcement claims for your review and signature.

The estimated premium is \$112,560 for 2024 coverage plus a \$7,798 Broker Fee. Final premium will be based on actual worker hours during 2024.

**Background and Purpose**

The County protects its financial assets in the self-insured workers' compensation program with reserves and with insurance coverage for very large claims (also called stop loss or excess insurance). Each year, Arthur J. Gallagher, broker for the Washington Counties Risk Pool, seeks bids from the market, analyzes quotes, and provides options for coverage.

Current coverage for 2023 is with Midwest Employers Casualty Company which also proposed the best renewal pricing for 2024. The new rate per \$100 of 0.0638 represents a 4.7% increase over the previous year. There are not many options in this market who will write for municipalities in Washington state. The next best option would require a \$150,000 minimum premium regardless of our claims experience, which would be 33% higher than the current offer from Midwest.

**Funding Amount and Source**

The workers' compensation program is funded through internal rates charged to departments based on hours worked by risk classification (law enforcement, laborers, office, etc.). Premiums are paid from cost center 507300.

Please feel free to contact me at (360) 778-5306 if you have any questions or concerns regarding my recommendation.



# Proposal of Insurance

## Whatcom County

Donnie LaPlante  
311 Grand Avenue, Suite 107  
Bellingham, WA 98225-4082

**Presented:** November 20, 2023  
**Effective:** January 1, 2024

**Julie McCallum**  
Area Vice President  
**Arthur J. Gallagher Risk Management Services, Inc.**  
777 108<sup>th</sup> Ave. NE, Suite 200  
Bellevue, WA 98004  
**(425) 586-1040**  
[Julie\\_McCallum@AJG.com](mailto:Julie_McCallum@AJG.com)



[ajg.com](http://ajg.com)

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# Gallagher

Insurance | Risk Management | Consulting

## Important Disclosures

**IMPORTANT:** The proposal and/or any executive summaries outline certain terms and conditions of the insurance proposed by the insurers, based on the information provided by your company. The insurance policies themselves must be read to fully understand the terms, coverages, exclusions, limitations and/or conditions of the actual policy contract of insurance. Policy forms will be made available upon request. We make no warranties with respect to policy limits or coverage considerations of the carrier.

**TRIA/TRIPRA Disclaimer** – If this proposal contains options to purchase TRIA/TRIPRA coverage, the proposed TRIA/TRIPRA program may not cover all terrorism losses. While the amendments to TRIA eliminated the distinction between foreign and domestic acts of terrorism, a number of lines of coverage excluded under the amendments passed in 2005 remain excluded including commercial automobile, burglary and theft insurance; surety insurance, farm owners multiple perils and professional liability (although directors and officers liability is specifically included). If such excluded coverages are required, we recommend that you consider purchasing a separate terrorism policy. Please note that a separate terrorism policy for these excluded coverages may be necessary to satisfy loan covenants or other contractual obligations. TRIPRA includes a \$100 billion cap on insurers' aggregate liability.

TRIPRA is set to expire on December 31, 2027. There is no certainty of extension, thus the coverage provided by your insurers may or may not extend beyond December 31, 2027. In the event you have loan covenants or other contractual obligations requiring that TRIA/TRIPRA be maintained throughout the duration of your policy period, we recommend that a separate "Stand Alone" terrorism policy be purchased to satisfy those obligations.

### Terms and Conditions

It is important that we clearly outline the nature of our mutual relationship. The following terms and conditions (these "Terms") govern your relationship with Gallagher unless you have separately entered into a written services agreement with Gallagher relative to the policies and services outlined in this Proposal, in which case that services agreement will govern and control with respect to any conflicts with these Terms. These Terms will become effective upon your execution of the Client Authorization to Bind Coverage (the "CAB") included in this Proposal and shall survive for the duration of your relationship with Gallagher relative to the policies placed pursuant to the CAB or otherwise at your request.

### **Services**

Gallagher will represent and assist you in all discussions and transactions with insurance companies relating to the lines of insurance coverage set forth in the CAB and any other lines of insurance coverage with which you request Gallagher's assistance. Gallagher will consult with you regarding any matters involving these or other coverages for which you have engaged Gallagher. You have the sole discretion for approving any insurance policies placed, as well as all other material decisions involving your risk management, risk transfer and/or loss prevention needs.

Although you are responsible for notifying applicable insurance companies directly in connection with any claims, demands, suits, notices of potential claims or any other matters as required by the terms and conditions of your policies, Gallagher will assist you in determining applicable claim reporting requirements.

### **Treatment of Information**

Gallagher understands the need to protect the confidentiality and security of your confidential and sensitive information and strives to comply with applicable data privacy and security laws. Your confidential and sensitive information will be protected by Gallagher and only used to perform services for you; provided that Gallagher may disclose and transfer your information to our affiliates, agents or vendors that have a need to know such information in connection with the provision of such services (including insurance markets, as necessary, for marketing, quoting, placing and/or servicing insurance coverages). We may also disclose such information as required by applicable data protection laws or the order of any court or tribunal, subject to our providing you with prior notice as permitted by law.

We will (i) implement appropriate administrative, physical and technical safeguards to protect personal information; (ii) timely report security incidents involving personal information to affected parties and/or regulatory bodies; (iii) create and maintain required policies and procedures; and (iv) comply with data subjects' rights, as applicable. To the extent applicable under associated data protection laws, you are a "business" or "controller" and Gallagher is a "service provider" or "data processor." You will ensure that any information provided to Gallagher has been provided with any required notices and that you have

obtained all required consents, if any and where required, or are otherwise authorized to transfer all information to Gallagher and enable Gallagher to process the information for the purposes described in this Proposal and as set forth in Gallagher's Privacy Policy located at <https://www.aig.com/privacy-policy/>. Gallagher may update its Privacy Policy from time to time and any updates will be posted to such site.

### ***Dispute Resolution***

Gallagher does not expect that it will ever have a formal dispute with any of its clients. However, in the event that one should arise, we should each strive to achieve a fair, expedient and efficient resolution and we'd like to clearly outline the resolution process.

- A. If the parties have a dispute regarding Gallagher's services or the relationship governed by this Proposal ("**Dispute**"), each party agrees to resolve that Dispute by mediation. If mediation fails to resolve the Dispute, you and Gallagher agree to binding arbitration. Each party waives all rights to commence litigation in court to resolve a Dispute, and specifically waives all rights to pursue relief by class action or mass action in court or through arbitration. However, the parties do not waive the ability to seek a court order of injunction in aid of the mediation and arbitration required by these Terms.
- B. The party asserting a Dispute must provide a written notice ("**Notice**") of the claim to the other party and to the American Arbitration Association ("**AAA**") in accordance with its Commercial Arbitration Rules and Mediation Procedures. All Dispute resolutions will take place in Chicago, IL, unless you and Gallagher agree to another location. The parties will equally divide all costs of the mediation and arbitration proceedings and will each pay their own attorneys' fees. All matters will be before a neutral, impartial and disinterested mediator or arbitrator(s) that have at least 20 years' experience in commercial and insurance coverage disputes.
- C. Mediation will occur within sixty (60) days of filing the Notice with the AAA. Mediation results will be reduced to a memorandum of understanding signed by you, Gallagher and the mediator. A Dispute that is not resolved in mediation will commence to binding arbitration. For Disputes in excess of \$500,000, either party may elect to have the Dispute heard by a panel of three (3) arbitrators. The award of the arbitrator(s) must be accompanied by a reasoned opinion prepared and signed by the arbitrator(s). Except as may be required by law, neither you, Gallagher, nor a mediator or arbitrator may disclose the existence, content or results of any Dispute or its dispute resolution proceeding without the prior written consent of both you and Gallagher.

### ***Electronic Delivery***

In lieu of receiving documents in paper format, you agree, to the fullest extent permitted by law, to accept electronic delivery of any documents that Gallagher may be required to deliver to you (including, but not limited to, insurance policies and endorsements, account statements and all other agreements, forms and communications) in connection with services provided by Gallagher. Electronic delivery of a document to you may be made via electronic mail or by other electronic means, including posting documents to a secure website.

### ***Miscellaneous Terms***

Gallagher is engaged to perform services as an independent contractor and not as your employee or agent, and Gallagher will not be operating in a fiduciary capacity.

Where applicable, insurance coverage placements and other services may require the payment of federal excise taxes, surplus lines taxes, stamping or other fees to the Internal Revenue Service, various State(s) departments of revenue, state regulators, boards or associations. In such cases, you will be responsible for the payment of the taxes and/or fees, which Gallagher will separately identify on related invoices.

The Proposal and these Terms are governed by the laws of the State of Illinois, without regard to its conflict of law rules.

If an arbitrator/court of competent jurisdiction determines that any provision of these Terms is void or unenforceable, that provision will be severed, and the arbitrator/court will replace it with a valid and enforceable provision that most closely approximates the original intent, and the remainder of these Terms will remain in effect.

Except to the extent in conflict with a services agreement that you may enter into with Gallagher, these Terms and the remainder of the Proposal constitute the entire agreement between you and Gallagher with respect to the subject matter of the Proposal, and supersede all prior negotiations, agreements and understandings as to such matters.

## Compensation Disclosure

1. Gallagher Companies are primarily compensated from the usual and customary commissions, fees or, where permitted, a combination of both, for brokerage and servicing of insurance policies, annuity contracts, guarantee contracts and surety bonds (collectively "insurance coverages") handled for a client's account, which may vary based on market conditions and the insurance product placed for the client.
2. In placing, renewing, consulting on or servicing your insurance coverages, Gallagher companies may participate in contingent and supplemental commission arrangements with intermediaries and insurance companies that provide for additional compensation if certain underwriting, profitability, volume or retention goals are achieved. Such goals are typically based on the total amount of certain insurance coverages placed by Gallagher with the insurance company, not on an individual policy basis. As a result, Gallagher may be considered to have an incentive to place your insurance coverages with a particular insurance company. If you do not wish to have your commercial insurance placement included in consideration for additional compensation, contact your producer or service team for an Opt-out form.
3. Gallagher Companies may receive investment income on fiduciary funds temporarily held by them, or from obtaining or generating premium finance quotes, unless prohibited by law.
4. Gallagher Companies may also access or have an ownership interest in other facilities, including wholesalers, reinsurance intermediaries, captive managers, underwriting managers and others that act as intermediaries for both Gallagher and other brokers in the insurance marketplace some of which may earn and retain customary brokerage commission and fees for their work.

If you have specific questions about any compensation received by Gallagher and its affiliates in relation to your insurance placements, please contact your Gallagher representative for more details.

## Market Review

We approached the following carriers in an effort to provide the most comprehensive and cost effective insurance program.

Line of Coverage	Insurance Company ** (AM Best Rate/Financial Strength)	Market Response *	Admitted ***
Excess Workers' Compensation	Midwest Employers Casualty Company (A+ XV)	Recommended	Admitted

\*If shown as an indication, the actual premium and acceptance of the coverage requested will be determined by the market after a thorough review of the completed application.

\*\*Gallagher companies use AM Best rated insurers and the rating listed above was verified on the date the proposal document was created.

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A Best's Financial Strength Rating is an independent opinion of an insurer's financial strength and ability to meet its ongoing insurance policy and contract obligations. It is not a warranty of a company's financial strength and ability to meet its obligations to policyholders. Best's Credit Ratings™ are under continuous review and subject to change and/or affirmation. For the latest Best's Credit Ratings™ and Guide to Best's Credit Ratings, visit the AM Best website at <http://www.ambest.com/ratings/>.

\*\*\*If coverage placed with a non-admitted carrier, it is doing business in the state as a surplus lines or non-admitted carrier, and is neither subject to the same regulations as an admitted carrier nor do they participate in any state insurance guarantee fund.

Gallagher companies make no representations and warranties concerning the solvency of any carrier, nor does it make any representation or warranty concerning the rating of the carrier which may change.

# Whatcom County

## Client Authorization to Bind Coverage

After careful consideration of Gallagher's Proposal dated November 20, 2023, you accept the following coverage(s). Please check the desired coverage(s) and note any coverage amendments below:

	COVERAGE/CARRIER
<input checked="" type="checkbox"/> Accept <input type="checkbox"/> Reject	Excess Workers' Compensation Premium: \$112,560.00
	Midwest Employers Casualty Company

**Fee Agreement:** In lieu of commission received by Gallagher for the policy term reflected herein, effective **01/01/2024**, Gallagher will receive a fee of **\$7,798** for:

- Placement of insurance coverage

This fee IS NOT refundable, is fully earned by signing below, and is due and payable within thirty (30) days of such signing. Any placements that require the payment of additional state or federal taxes and/or fees are the client's responsibility.

By accepting this fee agreement, you agree and understand that it reflects services to be provided that have been discussed with and fully disclosed to you, and the above fee is consistent with your understanding. This agreement and any disputes that arise out of this fee agreement shall be governed by the laws of the state of Illinois.

### Exposures and Values

You confirm the payroll, values, schedules, and any other information pertaining to your operations, and submitted to the underwriters, were compiled from information provided by you. If no updates were provided to Gallagher, the values, exposures and operations used were based on the expiring policies. You acknowledge it is your responsibility to notify Gallagher of any material change in your operations or exposures.

### Additional Terms and Disclosures

Gallagher is not an expert in all aspects of your business. Gallagher's Proposals for insurance are based upon the information concerning your business that was provided to Gallagher by you. Gallagher expects the information you provide is true, correct and complete in all material respects. Gallagher assumes no responsibility to independently investigate the risks that may be facing your business, but rather have relied upon the information you provide to Gallagher in making our insurance Proposals.

Gallagher's liability to you arising from any of Gallagher's acts or omissions will not exceed \$20 million in the aggregate. The parties each will only be liable for actual damages incurred by the other party, and will not be liable for any indirect, special, exemplary, consequential, reliance or punitive damages. No claim or

cause of action, regardless of form (tort, contract, statutory, or otherwise), arising out of, relating to or in any way connected with the Proposal, any of Gallagher's services or your relationship with Gallagher may be brought by either party any later than two (2) years after the accrual of the claim or cause of action.

Gallagher has established security controls to protect Client confidential information from unauthorized use or disclosure. For additional information, please review Gallagher's Privacy Policy located at <https://www.ajg.com/privacy-policy/>.

You have read, understand and agree that the information contained in the Proposal and all documents attached to and incorporated into the Proposal, is correct and has been disclosed to you prior to authorizing Gallagher to bind coverage and/or provide services to you. By signing below, or authorizing Gallagher to bind your insurance coverage through email when allowed, you acknowledge you have reviewed and agree with terms, conditions and disclosures contained in the Proposal.

By: Satpal Sidhu, County Executive

Print Name (Specify Title)

Whatcom County

Company

Signature



Date: 12/6/2023



**Excess Workers Compensation  
Quotation Sheet**

Insurer: Midwest Employers Casualty Company

Policy Effective Date: 01/01/2024

Insured: Whatcom County  
Policy #: EWC008904

Quote Date: 11/17/2023  
Quote Expiration Date: 60 Days

POLICY TERMS	QUOTE OPTIONS				
<b>Named States</b>	0248408	WA			
<b><u>SPECIFIC:</u></b>					
Specific Limit		STATUTORY			
Specific Retention		\$500,000			
Specific Retention - 6905 WA		\$750,000			
Specific Retention - 6906 WA		\$750,000			
<b><u>EMPLOYERS LIABILITY:</u></b>					
Employers Liability Limit		\$1,000,000			
Employers Liability Retention		See Specific			
<b><u>AGGREGATE:</u></b>					
Aggregate Limit		NA			
Aggregate Retention		NA			
Estimated Aggregate Retention		NA			
Minimum Aggregate Retention		NA			
<b><u>RATING BASE:</u></b>					
Est. Annual Worker Hours		1,764,271			
Est. Annual Manual Premium		\$2,406,454			
Length of Policy (Years)		1.000000			
Est. Policy Normal Premium		\$2,406,454			
Rate Per Worker Hour		0.0638			
<b><u>PREMIUM:</u></b>					
Total Est Policy Prd Premium (including Flat Charges)		\$112,560			
Policy Minimum Premium		\$101,304			
Deposit Premium		\$112,560			
Deposit Flat Charge(s)		NA			
<u>Total Deposit Due</u>		\$112,560			
Terrorism Risk Ins Act of 2002 (incl in Total Deposit Due above)		\$3,377			
Commission		0%			

**CONDITIONS / COMMENTS:**

\* MECC must be notified of any aircraft changes occurring during the policy period.