

CONSULTANT: Helmsman Management Services, LLC
CONTACT PERSON: Lisa McMahon
ADDRESS: 206 Railroad Avenue North
Kent, WA 98032
FEDERAL TAX ID NUMBER/U.B.I. NUMBER: 602 382 360
TELEPHONE/FAX NUMBER: 206-499-5672
COUNTY DEPT: Finance
DEPT. CONTACT PERSON: Sheila Barker
TELEPHONE/FAX NUMBER: 425-388-3726
PROJECT: Third Party Administration, Workers' Compensation
AMOUNT: \$220,000 year one, annual increase thereafter of WA CPI + 2%
FUND SOURCE: 506-- 5124714101
CONTRACT DURATION: January 1, 2025, through December 31, 2026
unless extended or renewed pursuant to Section 2 hereof

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT (the "Agreement") is made by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the "County") and Helmsman Management Services, LLC, dba Eberle Vivian, a Massachusetts limited liability company (the "Contractor"). In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. Purpose of Agreement; Scope of Services. The purpose of this Agreement is to manage Snohomish County's workers' compensation claims. The scope of services is as defined in Schedule A attached hereto and by this reference made a part hereof. This Agreement is the product of County RFP-24-021JM Third Party Administration, Workers' Compensation.

The services shall be performed in accordance with the requirements of this Agreement and with generally accepted practices prevailing in the western Washington region in the occupation or industry in which the Contractor practices or operates at the time the services are performed. The Contractor shall perform the work in a timely manner and in accordance with the terms of this Agreement. Any materials or equipment used by the Contractor in connection with performing the services shall be of good quality. The Contractor represents that it is fully qualified to perform the services to be performed under this Agreement in a competent and professional manner.

The Contractor will prepare and present status reports and other information regarding performance of the Agreement as the County may request.

2. Term of Agreement; Time of Performance. This Agreement shall be effective January 1, 2025 (the "Effective Date") and shall terminate on December 31, 2026, PROVIDED, HOWEVER, that the term of this Agreement may be extended or renewed for up to two (2) additional two (2) year terms, at the sole discretion of the County, by written notice from the County to the Contractor. The Contractor shall commence work upon the Effective Date and shall complete the work required by this Agreement no later than December 31, 2026, PROVIDED, HOWEVER, that the County's obligations after December 31, 2025, are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with the County Charter and applicable law.

3. Compensation.

A. Services. The County will pay the Contractor \$220,000 for the services provided between January 1, 2025, and December 31, 2025, and pay the same amount adjusted to reflect the Washington State Consumer Price Index plus 2% for each year of service thereafter. The annual amount will be invoice in equal amounts over 12 months.

The County may also request highly customized claims reports that will be billed at an additional rate of \$300/hour per each customized report.

B. Overhead and Expenses. The Contractor's compensation for services includes overhead and reimbursable expenses.

C. Invoices. The Contractor shall send detailed, monthly invoices showing the work completed for the previous month and any additional fees for customized reports. Subject to Section 8 of this Agreement, the County will pay the invoice within thirty (30) calendar days of receipt.

D. Payment. The County's preferred method of payment under this contract is electronic using the County's "e-Payable" system with Bank of America. The Contractor is highly encouraged to take advantage of the electronic payment method.

In order to utilize the electronic payment method, the Contractor shall email SnocoEpaybles@snoco.org and indicate it was awarded a contract with Snohomish County and will be receiving payment through the County's e-Payable process. The Contractor needs to provide contact information (name, phone number and email address). The Contractor will be contacted by a person in the Finance Accounts Payable group and assisted with the enrollment process. This should be done as soon as feasible after County award of a contract or purchase order, but not exceeding ten (10) business days.

Department approved invoices received in Finance will be processed for payment within seven calendar days for e-Payable contractors. Invoices are processed for payment by Finance two times a week for contractors who have selected the e-Payable payment option.

In the alternative, if the Contractor does not enroll in the electronic ("e-Payable") payment method described above, contract payments will be processed by Finance with the issuance of paper checks or, if available, an alternative electronic method. Alternative payment methods, other than e-Payables, will be processed not more than 30 days from receipt of department approved invoices to Finance.

THE COUNTY MAY MAKE PAYMENTS FOR PURCHASES UNDER THIS CONTRACT USING THE COUNTY'S VISA PURCHASING CARD (PCARD).

Upon acceptance of payment, the Contractor waives any claims for the goods or services covered by the Invoice. No advance payment shall be made for the goods or services furnished by Contractor pursuant to this Contract.

E. Payment Method. In addition to Payment section above, the County may make payments for purchases under this contract using the County's VISA purchasing card (PCARD).

Are you willing to accept PCARD payments without any fees or surcharges?

Yes No

F. Contract Maximum. Total charges under this Agreement, all fees and expenses included, shall not exceed \$220,000 for the initial term of this Agreement (excluding extensions or renewals, if any) plus any additional fees for customized reports. Annual renewal cost will be at WA CPI plus 2%.

4. Independent Contractor. The Contractor agrees that Contractor will perform the services under this Agreement as an independent contractor and not as an agent, employee, or servant of the County. This Agreement neither constitutes nor creates an employer-employee relationship. The parties agree that the Contractor is not entitled to any benefits or rights enjoyed by employees of the County. The Contractor specifically has the right to direct and control Contractor's own activities in providing the agreed services in accordance with the specifications set out in this Agreement. The County shall only have the right to ensure performance. Nothing in this Agreement shall be construed to render the parties partners or joint venturers.

The Contractor shall furnish, employ, and have exclusive control of all persons to be engaged in performing the Contractor's obligations under this Agreement (the "Contractor personnel"), and shall prescribe and control the means and methods of performing such obligations by providing adequate and proper supervision. Such Contractor personnel shall for all purposes be solely the employees or agents of the Contractor and shall not be deemed to be employees or agents of the County for any purposes whatsoever. With respect to Contractor personnel, the Contractor shall be solely responsible for compliance with all rules, laws and regulations relating to employment of labor, hours of labor, working conditions, payment of wages and payment of taxes, including applicable contributions from Contractor personnel when required by law.

Because it is an independent contractor, the Contractor shall be responsible for all obligations relating to federal income tax, self-employment or FICA taxes and contributions, and all other so-called employer taxes and contributions including, but not limited to, industrial insurance (workers' compensation). The Contractor agrees to indemnify, defend, and hold the County harmless from any and all claims, valid or otherwise, made to the County because of these obligations.

The Contractor assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes, fees, licenses, excises, or payments required by any city, county, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by the Contractor and as to all duties, activities, and requirements by the Contractor in performance of the work under this Agreement. The Contractor shall assume exclusive liability therefor, and shall meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.

5. Ownership. Any and all data, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films, or any other materials created, prepared, produced, constructed, assembled, made, performed, or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Agreement shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Agreement but is not created, prepared, constructed, assembled, made, performed, or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

6. Changes. No changes or additions shall be made in this Agreement except as agreed to by both parties, reduced to writing and executed with the same formalities as are required for the execution of this Agreement.

7. County Contact Person. The assigned contact person (or project manager) for the County for this Agreement shall be:

Name: Lisa Scalf
Title: Risk Management Specialist
Department: Finance, Risk Management Division
Telephone: 425-388-3475

Email: lisa.scalf@snoco.org

8. County Review and Approval. When the Contractor has completed any discrete portion of the services, the Contractor shall verify that the work is free from errors and defects and otherwise conforms to the requirements of this Agreement. The Contractor shall then notify the County that said work is complete. The County shall promptly review and inspect the work to determine whether the work is acceptable. If the County determines the work conforms to the requirements of this Agreement, the County shall notify the Contractor that the County accepts the work. If the County determines the work contains errors, omissions, or otherwise fails to conform to the requirements of this Agreement, the County shall reject the work by providing the Contractor with written notice describing the problems with the work and describing the necessary corrections or modifications to same. In such event, the Contractor shall promptly remedy the problem or problems and re-submit the work to the County. The Contractor shall receive no additional compensation for time spent correcting errors. Payment for the work will not be made until the work is accepted by the County. The Contractor shall be responsible for the accuracy of work even after the County accepts the work.

If the Contractor fails or refuses to correct the Contractor's work when so directed by the County, the County may withhold from any payment otherwise due to the Contractor an amount that the County in good faith believes is equal to the cost the County would incur in correcting the errors, in re-procuring the work from an alternate source, and in remedying any damage caused by the Contractor's conduct.

9. Assignment. The parties shall not assign any of the rights, duties or obligations covered by this Agreement without prior express written consent of the other party. Any attempt by either party to assign any portion of that party's obligations under this Agreement to another party in violation of the preceding sentence shall be null and void and shall constitute a material breach of this Agreement.

10. Records and Access; Audit; Ineligible Expenditures. The Contractor shall retain claim files in accordance with Local Government Common Records Retention Schedule requirements. The Contractor shall maintain adequate records to support billings. Said records shall be maintained for a period of seven (7) years after completion of this Agreement by the Contractor. The County or any of its duly authorized representatives shall have access at reasonable times to any books, documents, papers, and records of the Contractor which are directly related to this Agreement for the purposes of making audit examinations, obtaining excerpts, transcripts, or copies, and ensuring compliance by the County with applicable laws. Expenditures under this Agreement, which are determined by audit to be ineligible for reimbursement and for which payment has been made to the Contractor, shall be refunded to the County by the Contractor.

11. Indemnification.

The Contractor agrees to indemnify, protect, defend and hold harmless the County, its elected and appointed officials, officers, employees and agents, from and against all third-party claims, demands and causes of action of any kind or character, including any cost of defense and attorney's fees, arising out of the services provided by or on behalf of the Contractor, but only to the extent the same are caused by any negligent or wrongful act of the Contractor, except for those arising out of the sole negligence of the County.

The County agrees to indemnify, protect, defend and hold harmless the Contractor, its elected and appointed officials, officers, employees and agents, from and against all third-party claims, demands and causes of action of any kind or character, including any cost of defense and attorney's fees, arising out of any actions, errors or omissions of the County, its officials, officers, employees and agents in performing this Agreement, but only to the extent the same are caused by any negligent or wrongful act of the County, except for those arising out of the sole negligence of the Contractor.

In addition to injuries to persons and damage to property, the term "claims", for purposes of this provision, shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report,

film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in an unfair trade practice.

Waiver of Immunity Under Industrial Insurance Act. The indemnification provisions of Sections 11 A and B above are specifically intended to constitute a waiver of each party's immunity under Washington's Industrial Insurance Act, Title 51 RCW, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

Survival. The provisions of this Section 11 shall survive the expiration or earlier termination of this Agreement.

Nothing contained within this provision shall affect or alter the application of any other provision contained within this Agreement.

12. Insurance Requirements. The Contractor shall procure by the time of execution of this Agreement, and maintain for the duration of this Agreement, (i) insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the services hereunder by the Contractor, its agents, representatives, or employees, and (ii) a current certificate of insurance and additional insured endorsement when applicable.

A. General. Each insurance policy shall be written on an "occurrence" form, except that Professional Liability, Errors, and Omissions coverage, if applicable, may be written on a "claims made" basis. If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the work which is the subject of this Agreement.

By requiring the minimum insurance coverage set forth in this Section 12, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Agreement. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

B. No Limitation on Liability. The Contractor's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or in equity.

C. Minimum Scope and Limits of Insurance. The Contractor shall maintain coverage at least as broad as, and with limits no less than:

- i. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operations;
- ii. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. CA 0001 current edition, Symbol 1;
- iii. Workers' Compensation: To meet applicable statutory requirements for workers' compensation coverage of the state or states of residency of the workers providing services under this Agreement;
- iv. Employers' Liability or "Stop Gap" coverage: \$1,000,000

v. Professional Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate with an Extended Reporting Period Endorsement (two-year tail).

D. Other Insurance Provisions and Requirements. The insurance coverages required in this Agreement for all liability policies except workers' compensation and Professional Liability, if applicable, must contain, or must be endorsed to contain, the following provisions:

i. The County, its officers, officials, employees, and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Agreement. Such coverage shall be primary and non-contributory insurance as respects the County, its officers, officials, employees, and agents. Additional Insured Endorsement shall be included with the certificate of insurance, "CG 2026 07/04" or its equivalent is required.

ii. The Contractor's insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

iii. Any deductibles or self-insured retentions must be declared to the County. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the County and shall be the sole responsibility of the Contractor.

iv. If coverage is suspended, voided, canceled, reduced in coverage or in limits, written notice will be given to the County.

If at any time any of the foregoing policies fail to meet minimum requirements, the Contractor shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

E. Subcontractors. The Contractor shall include all subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each subcontractor. **Insurance coverages provided by subcontractors instead of the Contractor as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.**

13. County Non-discrimination. It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts.

The Contractor shall comply with the substantive requirements of Chapter 2.460 SCC, which are incorporated herein by this reference. Execution of this Agreement constitutes a certification by the Contractor of the Contractor's compliance with the requirements of Chapter 2.460 SCC. If the Contractor is found to have violated this provision, or to have furnished false or misleading information in an investigation or proceeding conducted pursuant to this Agreement or Chapter 2.460 SCC, this Agreement may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Contractor's obligations under other federal, state, or local laws against discrimination.

14. Federal Non-discrimination. Snohomish County assures that no persons shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964 (Pub. L. No. 88-352), as amended, and the Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any County sponsored program or activity. Snohomish County further assures that every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

15. Employment of County Employees. SCC 2.50.075, “Restrictions on future employment of County employees,” imposes certain restrictions on the subsequent employment and compensation of County employees. The Contractor represents and warrants to the County that it does not at the time of execution of this Agreement, and that it shall not during the term of this Agreement, employ a former or current County employee in violation of SCC 2.50.075. For breach or violation of these representations and warranties, the County shall have the right to terminate this Agreement without liability.

16. Compliance with Other Laws. The Contractor shall comply with all other applicable federal, state, and local laws, rules, and regulations in performing this Agreement.

17. Compliance with Grant Terms and Conditions. The Contractor shall comply with any and all conditions, terms, and requirements of any federal, state, or other grant, if any, that wholly or partially funds the Contractor’s work hereunder.

18. Prohibition of Contingency Fee Arrangements. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the County shall have the right to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

19. Force Majeure. If either party is unable to perform any of its obligations under this Agreement as a direct result of an unforeseeable event beyond that party’s reasonable control, including but not limited to an act of war, act of nature (including but not limited to earthquake and flood), embargo, riot, sabotage, labor shortage or dispute (despite due diligence in obtaining the same), or governmental restriction imposed subsequent to execution of the Agreement (collectively, a “force majeure event”), the time for performance shall be extended by the number of days directly attributable to the force majeure event. Both parties agree to use their best efforts to minimize the effects of such failures or delays.

20. Suspension of Work. The County may, at any time, instruct the Contractor in writing to stop work effective immediately, or as directed, pending either further instructions from the County to resume the work or a notice from the County of breach or termination under Section 21 of this Agreement.

21. Non-Waiver of Breach; Termination.

A. The failure of either party to insist upon strict performance of any of the covenants or agreements contained in this Agreement, or to exercise any option conferred by this Agreement, in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

B. If either party breaches any of its obligations hereunder, and fails to cure the same within thirty (30) business days of written notice to do so by other party, that party may terminate this Agreement, in which case the County shall pay the Contractor only for the services and corresponding reimbursable expenses, if any, accepted by the County in accordance with Sections 3 and 8 hereof.

law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

25. Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the parties. The language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the parties hereto. The captions and headings of this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

26. Complete Agreement. The Contractor was selected through the County's RFP identified in Section 1. The RFP and the Contractor's response are incorporated herein by this reference. To the extent of any inconsistency among this Agreement, the RFP, and the Contractor's response, this Agreement shall govern. To the extent of any inconsistency between the RFP and the Contractor's response, the RFP shall govern.

27. Conflicts between Attachments and Text. Should any conflicts exist between any attached exhibit or schedule and the text or main body of this Agreement, the text or main body of this Agreement shall prevail.

28. No Third-Party Beneficiaries. The provisions of this Agreement are for the exclusive benefit of the County and the Contractor. This Agreement shall not be deemed to have conferred any rights, express or implied, upon any third parties.

29. Governing Law; Venue. This Agreement shall be governed by the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Snohomish County.

30. Severability. Should any clause, phrase, sentence, or paragraph of this agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.

31. Authority. Each signatory to this Agreement represents that he or she has full and sufficient authority to execute this Agreement on behalf of the County or the Contractor, as the case may be, and that upon execution of this Agreement it shall constitute a binding obligation of the County or the Contractor, as the case may be.

32. Survival. Those provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive.

33. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement.

The anticipated outcome of this project is the management and administration of all Snohomish County workers' compensation claims, according to the rules, guidelines, and regulations outlined by the Washington State Department of Labor and Industry (LNI).

The successful proposer Contractor shall:

- A. Provide management services and issue payments for a workers' compensation function that supports and assists a highly proactive approach to injury and claims management.
- B. Conduct all workers' compensation claims in a timely, courteous, and fair manner and in accordance with the rules, guidelines, and regulations outlined by LNI.
- C. Actively participate in the coordination of the workers' compensation program.
- D. Receive, review, and analyze all petitions for benefits made by claimants.
- E. Create and maintain claim files.
- F. Establish reserves in a timely manner; review at least monthly, or as the claim indicates.
- G. Write initial review, action plan, and outcome goals for each time loss and/or large medical claim and regularly transmit information to Snohomish County Risk Management Specialist.
- H. Notify Excess Carrier as indicated; provide information, reports, and assistance as is appropriate or is requested.
- I. Attend trials and settlement conferences.
- J. Pursue reasonable subrogation and distribute any recovered sums.
- K. Advise the County's Risk Management Specialist about assigning case managers, counselors, independent medical examiners, therapists, etc., in a timely manner, as indicated or directed.
- L. Consult with the County Risk Management Specialist before assigning an attorney to any claim. The County Risk Manager and/or Risk Management Specialist reserves the right to designate counsel.
- M. Complete closure documents and assure prompt and proper closure of claims.
- N. Utilize varying forms of information management, including but not limited to e-mail, reports, phone updates, and internet.
- O. Provide training and updates on recent legal requirements and data management system changes.
- P. Maintain a current database of all claims with the capability of granting access to Risk Management staff. This database should also provide requested reports and MMSEA Section 111 data.
- Q. Reporting:
 - i. Provide detailed loss and financial transaction reports monthly, quarterly, annually and as needed for mandatory reporting.
 - ii. Upon County request, provide customized reports of claim information.
 - iii. Regularly communicate with County Risk Management staff and injured workers with open claims.
- R. Act as an account manager for the County for the purposes of complying with MMSEA Section 111 Medicare Secondary Payer Mandatory Reporting provisions for workers' compensation claims.

- i. As account manager, the Contractor is responsible for the creation and proper submission (upload and download) of files using acceptable format as a file transfer method for Section 111 files.
 - ii. The Contractor will review file transmission history, review file processing statuses and file statistics, perform other functions of an account designee and reporting agent and assist County Risk Manager for MMSEA Section 111 as needed to ensure compliance with reporting requirements.
 - iii. For Claims serviced under this Agreement, Contractor shall (1) identify those individuals who are eligible to receive Medicare benefits and/or to whom Medicare Secondary Payer ("MSP") requirements apply; (2) accurately and timely submit required reports including without limitation reports under the Medicare and Medicaid Extension Act of 2007 ("MMSEA"), specifically Section 111, and any regulations that the federal government may issue pertaining to the MMSEA, using the appropriate Responsible Reporting Entity ("RRE") identification number; (3) promptly provide missing data and/or corrections to the Center for Medicare & Medicaid Services ("CMS") if the Claims Administrator provided incomplete or inaccurate data; and (4) make responsible individuals available for CMS inquiries on data it submits.
 - iv. Helmsman's Contractor's obligations pursuant to this Section are conditioned upon County's good faith cooperation with Contractor in its efforts to fulfill its obligations under this Section. As a condition precedent to Contractor's obligations under this paragraph, Customer shall designate Contractor or its agent for the purpose of mandatory reporting under MMSEA and related regulations and shall obtain and provide Helmsman Contractor with a Responsible Reporting Entity identification number to be used solely by Helmsman Contractor to report Claims pursuant to this Section.
- S. Regularly communicate with County Risk Management staff and injured workers with open claims.
- T. Provide a computerized system to recoup Supplemental Benefits paid.
- U. Attend regular meetings with Snohomish County personnel, or as requested.
- V. Forward copies of the following paperwork to the County's Risk Management Specialist immediately upon receipt:
- i. Initial reports.
 - ii. Status reports and action plans (as described above).
 - iii. Modified work or return to work correspondence.
 - iv. Litigation correspondence.
 - v. Additional reports, etc. as may be requested.
- W. Maintain the following paperwork in files and provide it to the County upon request:
- i. IMEs.
 - ii. Reports from nurse case managers or vocational counselors.
 - iii. Closing requests and confirmations.
- X. Settlement Administration:
- i. County authorization shall be obtained for all settlements.

- ii. Contractor shall have the capacity to issue checks for and on behalf of the County from a checking account established for payment.
 - iii. Contractor shall provide the County a weekly detailed accounting of all workers' compensation benefits and allocated loss expenses paid from the fund with a detailed check register summary included.
 - iv. Contractor shall be responsible for erroneous payments made from the account by their error. The amount of any such erroneous payments made from the account shall be deducted from administrative fee payments.
 - v. Contractor shall develop, implement, and maintain physical and electronic security systems and procedures to ensure safeguard of funds in the account and the bank checks. Such procedures will be approved by the County.
- Y. Program Development:
- i. Consult with key personnel of the County on the establishment of and coordination of necessary procedures and practices to meet any applicable state requirements and the needs of the County.
 - ii. Provide information on changes or proposed changes in legislation, rules and regulations affecting the responsibility of the County.
- Z. Review the development of the self-insurance program periodically with representatives of the County in order to identify problems and recommend corrective action.
- AA. OSHA Log Responsibility: Contractor to record and update OSHA reportable exposures and complete log. Provide to Risk Management Specialist upon request.
- BB. Advance money, on behalf of County, to pay any Claim(s) covered by this Agreement.
- CC. Unless otherwise provided in this Agreement and except in those controverted cases when County, or its carrier, where applicable, has retained counsel, with respect to Claims serviced pursuant to this Agreement, Contractor will act as agent for County to investigate, negotiate, adjust or settle Claims in accordance with agreed upon Claims adjusting parameters, if any, and applicable law. It will be the responsibility of County to designate counsel to work with Contractor in the handling of cases, which are in litigation or may go into litigation. Legal services and associated expenses will be the direct responsibility of County but Contractor may assist County by:
- i. advancing payments and maintaining records of payments to County's counsel; and
 - ii. advancing payments and maintaining records of costs taxed against County in any such claim and interest accruing after judgment.
- DD. Maintain Claim files per section 10. Once the record retention period expires, the County may direct Contractor either to transfer the files electronically, or to destroy them. County agrees that it may receive Data or Confidential Information relating to a claimant's medical condition that does not result from a Claim. County shall not use such Data or Confidential Information except as permitted by law. Contractor has the right, in its sole judgment, to limit access to claimant medical information where required by law. Claim files are the property of the County.

During the period of this Agreement, Contractor shall represent and act for County in matters pertaining to the actual or

potential liability of County for claims based on injuries to County's employees which occur during the term of this Agreement that are or should be, in County's judgment, handled pursuant to the self-insured provisions of the workers compensation laws of the States to be Serviced. More specifically, Contractor shall:

1. Receive notice of and create files on each claim reported and maintain these files for County.
2. Investigate all claims as required to determine their validity and compensability.
3. Determine proper benefits due on compensable claims.
4. Make timely payment of benefits due, in accord with payment procedures as established from funds provided by County. County will be wholly responsible for providing such funds as may be required for these payments.
5. Prepare documentation and defense of cases considered non-compensable and assist legal counsel selected by County in preparation of cases for hearing, appeals, and/or trial.
6. Maintain and provide County pertinent data on all claim payments.
7. Provide monthly and/or quarterly computerized loss reports in a tailored format, as mutually agreed at inception of the program, showing descriptive data, details of each month's payments, total payments, reserves and total experience for each claim.
8. Provide County's excess insurers such reports as they may reasonably require within specific excess coverage reporting requirement.
9. Provide information and assistance as may be reasonably required for preparation and filing of all reports required by the Act and any other applicable law in connection with County's approved self-insured status.
10. File with the appropriate state administrative agencies such information as is required by Act and any other applicable law with respect to each claim.
11. Provide loss control services, defined as loss control, consultations and surveys as mutually agreed.
12. Perform all services to be rendered pursuant to this Agreement in full compliance with the Act and all other applicable law.
13. RMIS will electronically interface with the Centers for Medicare and Medicaid Services (CMS) to capture and report data in the format prescribed by the CMS Specifications.
14. RMIS will report directly to CMS on behalf of County as an Account Designee (reporting agent), as such term is defined in the CMS User Guide published on March 16, 2009 ("Account Designee").

Contractor Personnel - Snohomish County requires the following:

- A. One designated Adjuster to exclusively manage Snohomish County claims. This Claims Adjuster shall:
 - i. Initiate and document 3-point contact within forty-eight (48) hours or within two business days of receipt of a claim and advise the injured worker of the availability of modified work during the 3-point contact. The Claims Adjuster will document all failed contact attempts.

- ii. Enter claims in the system within three (3) working days from date of receipt.
- iii. Advise County Risk Management Specialist when an employee is released to modified or light-duty work within one (1) working day after receiving the release.
- iv. Coordinate release of employees to modified work with the County's Risk Management Specialist within five (5) working days of knowledge of time loss.
- v. On a monthly basis, or more frequently as needed or requested, follow-up with the employee's physician to obtain a release to regular duty.
- vi. Prepare action plans for all time loss claims within five (5) working days of notification. Update action plans at least every thirty (30) days or more frequently as needed, and enter this information in progress notes.
- vii. Review all time loss claims at least every twenty-one (21) days. Review any time loss over \$50,000 every fourteen (14) days, document in progress notes and notify the County of any irregularities.
- viii. On all-time loss claims make physician contact at least every thirty (30) days or as requested by the County Risk Manager or Risk Management Specialist.
- ix. Set time loss claim reserves within ten (10) days of receipt of claim and review reserves every thirty (30) days thereafter documenting in progress notes.
- x. Advise the County Risk Manager/Risk Management Specialist when reserves exceed \$100,000.
- xi. Report promptly to Snohomish County's excess workers' compensation liability carrier per the terms of the policy liability agreement (to be provided to the TPA).
- xii. Set reserves on an "ultimate cost of loss" basis.
- xiii. Prepare written status reports as requested. Update those reports quarterly or more frequently if there are significant developments.
- xiv. Assign vocational services according to Washington State laws and guidelines.
- xv. Notify the County Risk Manager/Risk Management Specialist immediately, both electronically and in writing, of any litigation, regardless of reserve.
- xvi. Advise the County's Risk Management Specialist of any assignment of a nurse case manager and consult before assigning a vocational counselor. Document all assignments in progress notes.
- xvii. Complete "Employer Closure" notification within ten (10) days of receipt of information indicating the file can be closed.
- xviii. Include in the progress notes the following information/documentation: telephone contacts and conversations, written correspondence, investigations, diary reviews, supervisor file reviews, authority requests, authorizations, report summaries, strategy notes, examiner analyses, payment records and changes, delays, denials, and any other information that is material to the proper handling of the claims within a reasonable time from when the information is received, either orally or in writing.
- xix. Meet the requirements of WAC 296-15-360 – Certified claims administrator.

B. Obtain prior approval from Snohomish County Risk Manager before changing the Adjuster.

- C. The Contractor is responsible for paying the wages and benefits of its employees. All wages and benefits will be paid in accordance with various Federal, State, and local laws that guide such matters.
- D. Provide a Manager or designated Adjustor to resolve any issues and serve as or assign a back-up in Adjustor's absence.

The County will:

- A. Provide a Designated Risk Management Specialist will provide the contractor with claim related information, work to obtain light duty offers, job analysis and descriptions as necessary. This position is the liaison between the county employees and the Adjustor and interacts almost daily with the contractor.
- B. Make funds available to Contractor to be used by Contractor to pay Loss and ALAE.
- C. Cooperate with Contractor and, upon Contractor's request, shall attend hearings and trials, and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses, and in the conduct of all suits or proceedings. Any expenses incurred by County in the fulfillment of this Section shall be the direct responsibility of the County.