

R. 21489

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into this 1st day of October 2023 by and between Jackson County Missouri ("hereinafter called Jackson County") with principal offices in Kansas City, Missouri and Cowell Insurance Services, Inc., 7450 W 130th Street Suite 180, Overland Park, KS 66213., ("hereinafter called CIS").

WITNESSETH;

WHEREAS, Jackson County has determined that it is in the best interest of its employees to hire CIS to act as third-party administrator to perform certain professional services related to the administration of the Self-Insured Workers' Compensation Program adopted by Jackson County for its employees and in accordance with applicable law; and

WHEREAS, CIS has the skill and expertise necessary to provide such professional services; and

WHEREAS, CIS and Jackson County have agreed to be bound by the provisions hereof,

NOW, THEREFORE, in consideration of the foregoing and the terms and provisions herein contained, Jackson County and CIS respectively promise, covenant and mutually agree as follows:

SECTION I — GENERAL PROVISIONS

- A. **Professional Services:** CIS shall fulfill its contractual obligations as third-party administrator for Jackson County's Self-Insured Worker's Compensation Program as set out herein.
- B. **Independent Contractor:**
 - 1. CIS shall work as an independent contractor and not as an employee of Jackson County.
 - 2. CIS shall be subject to the direction of Jackson County only as to the result to be accomplished and not to the means and methods for accomplishing the result;
 - 3. CIS shall report all earnings received hereunder as gross income and be responsible for its own Federal, State and City withholding taxes and all other taxes and operate its business independent of the business of Jackson County except as required by this agreement.
 - 4. CIS shall not for any purpose be deemed to be an employee or partner of a joint venture with Jackson County, nor shall CIS be deemed to be an insurer or re-insurer, underwriter or guarantor with respect to any benefits payable under the Plan. CIS assumes no responsibility for the obligations of Jackson County, or for the performance of any duties of Jackson County except those obligations set forth in Section V.

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MARY JO SPINO
COUNTY CLERK

5. CIS agrees to notify Jackson County promptly of any lawsuit or complaint of which it becomes aware.

C. Term of Agreement:

1. This Agreement is made on this date and shall be effective for a period of one year from October 1, 2023 to September 30, 2024.
2. Jackson County shall have four (4) one-year options to renew, each at rates and fees indicated in Section V of this Service Agreement, or with an agreed upon increase between Jackson County and CIS.
3. This Agreement shall terminate upon ninety-day written notice by either party to the other specifying the effective date of termination.
4. Should this Agreement terminate, for any reason, Jackson County shall contact CIS to designate a time for which to pick up any and all papers, documents, records, books and other County materials.
5. Termination of the Agreement shall not constitute a waiver of the rights or obligations which Jackson County or CIS may be entitled to receive or be obligated to perform under this Agreement.

D. Confidentiality:

1. Each of the parties acknowledges that in and as a result of this Agreement, the parties shall be making use of and acquiring and/or adding to confidential information of special and unique value to the other party relating to such matters as each party's trade secrets, systems, procedures, confidential reports, as well as the type of insurance products and programs sold and/or used by the parties and fees charged for services rendered.
2. Each party covenants and agrees that neither party shall, at any time during or following the term of this Agreement, directly or indirectly, divulge or disclose, for any purpose whatsoever, any of such confidential information which was obtained by or disclosed to it as result of this Agreement. Specific contract details protected by the Missouri Open Meetings and Records Law, for the purposes of this contract are not considered confidential information and therefore would not be subject to the confidentiality clause. Additionally, any documents or communications that would be considered open under Missouri or federal law would not be considered confidential information and therefore would not be subject to the confidentiality clause.
3. In the event of a breach or threatened breach by either party of any of the provisions of this paragraph, the non-breaching party, in addition to and not in limitation of any of the rights, remedies or damages available to said party at law or in equity, shall be entitled to a permanent injunction in order to prevent or to restrain any such breach by the breaching party, or by said party's partners, agents, representatives, servants, Jackson County's employees and/or any and all persons directly or indirectly acting for or with it.

E. Successors and Assignments:

1. This Agreement is binding upon the parties, their successors and assigns. CIS agrees to provide thirty (30) days notice of any change in its ownership or significant change in its legal status.
2. CIS promises, covenants and agrees, in addition to all other provisions herein that during the term of this Agreement, and for a period of six (6) months thereafter, CIS shall not: (1) assign any portion or whole of this contract without the prior written consent of Jackson County, or, utilize the form or substance of any contracts or documents of every description used in any and all business operations of Jackson County. Jackson County shall be entitled to collect any and all profits, gains, benefits and properties of every description received by CIS as a result of said breach.

F. Further Assurances:

Each party hereto agrees to perform any further acts and to execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

G. Severability:

If any covenant or other provision of this Agreement is invalid, or incapable of being enforced, by reason of any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect and no covenant or provision shall be deemed dependent upon any other covenant or provision unless so expressed herein.

H. Captions and Headings:

1. The captions and headings throughout this Agreement are for convenience and reference only.
2. The words of the captions and headings will in no way be held or deemed to define, describe, explain, or modify, or limit the meaning of any provision, or the scope or the intent of this Agreement.

I. Waiver of Provisions:

Failure by either party to insist upon compliance with any provision of this Agreement at any time or under any set of circumstances shall not operate to waive or modify the provisions or in any manner render it unenforceable as to any other time or as to any other occurrence, whether the circumstances are or not the same, and no waiver of any terms or conditions of this Agreement shall be valid or of any force or effect unless contained in a written memorandum specifically expressing such waiver and signed by a person duly authorized by that party to sign such waiver.

J. Time of the Essences:

Timely performance of all duties provided herein is of the essence of this Agreement.

K. Incorporation:

This Agreement incorporates the entire understanding and agreement of the parties.

L. Conflict of Interest:

CIS warrants that no officer or employee of Jackson County, whether elected or appointed, shall in any manner whatsoever be interested in or receive any benefit from the profits or emoluments of this Agreement.

M. Definitions:

The following definitions shall apply to this Agreement.

Allocated Loss Adjustment Expenses:

As used in this contract means any cost or expenses incurred by Jackson County or by CIS on behalf of Jackson County as a result of CIS or Jackson County engaging the services of a firm or person outside the CIS organization for work in connection with the investigation, adjustment, or settlement of a claim. Allocated Loss Adjustment Expenses include but are not limited to the following: subrogation expenses; rehabilitation expenses, court costs, fees and expenses; fees for service of process; the cost of services for undercover operations and detectives; fees of independent adjusters or attorneys for the investigation of adjustment of claims in areas removed from the reasonable access of CIS employees; the costs of employing experts for the purpose of preparing maps, photographs, diagrams and chemical or physical analysis, or for expert advice or opinions; the cost of obtaining copies of any public records; Allocated Loss Adjustment Expenses are not included within CIS fees but these expenses must be approved by Jackson County in advance.

Incidents:

Incident reports involving no medical payments. Jackson County will maintain incidents.

Indemnity Claims:

- i) Claims for temporary disability/lost time payments under the applicable workers' compensation statute;
- ii) Claims for permanent disability payments under the applicable workers' compensation statute; or
- iii) Claims for which an administrative hearing or conference is scheduled by the state workers' compensation division.

Medical Only Claims:

All claims for payment not defined as Indemnity Claims. Claims for which medical payments are made and result in no permanent partial disability.

**SECTION II — SERVICES PROVIDED BY
COWELL INSURANCE SERVICES, INC.**

A. Claims Administration Services

CIS will:

1. Investigate, adjust and otherwise administer claims, including the negotiation of settlements, in accordance with applicable law, established claims handling procedures, and CIS's best professional judgment. CIS may meet this obligation by engaging the services of persons or firms outside of the CIS organization with the approval of Jackson County. The fees for these services shall be Allocated Loss adjustment Expenses.
2. Determine what claim payments, including settlement payments, should be made on behalf of the Program; provided CIS shall obtain Jackson County's approval before offering or making any claim payment, including any settlement payment, which exceeds the Discretionary Settlement Authority Limit as defined in subparagraph A.12 of this paragraph; and further provided that CIS's failure to settle a claim, either within the Discretionary Settlement Authority Limit or otherwise, will no subject CIS to any liability whatsoever, including in the event of an adverse judgement against Jackson County for any action based upon or related to the claim.
3. Determine, with the approval of Jackson County, any Allocated Loss Adjustment Expenses to be incurred in connection with a claim.
4. Pay claims, including settled and litigated claims, and Allocated Loss Adjustment Expense out of the Program claims/loss fund. CIS shall have no obligation to pay such claims or expenses except out of said fund.
5. Establish reserves for all reported Indemnity Claims.
6. Review medical, legal and other invoices relative to reported claims and obtain discounts were appropriate.
7. Initiate and monitor subrogation proceedings where advisable.
8. Advise Jackson County of major developments in the administration of significant claims.
9. Provide Jackson County with online reports on losses, claims, payments, reserves and expenses.
10. Cooperate with reinsurance carriers as appropriate including claims reporting.
11. Complete and file, with the cooperation and assistance of Jackson County, all forms required by the appropriate State regulators.

12. Settle claims as provided in this subparagraph. Jackson County authorizes a Discretionary Settlement Authority Limit as the total amount of money CIS is authorized to spend without seeking prior approval from Jackson County in order to pay or settle any single claim. Allocated Loss Adjustment Expenses are not subject to nor included in the Discretionary Settlement Authority Limit. The Discretionary Settlement Authority Limit shall be established initially in the amount of \$10,000 for any one medical only claim not involving permanent partial disability.
13. Complete and submit any required forms to the State of Missouri.
14. Issue certificates of insurance as required.
15. Complete and submit to the National Council on Compensation Insurance (NCCI) annual reports and review published NCCI experience modification factor and correct errors.
16. Provide quarterly claims reviews.
17. Develop annual stewardship report.
18. Produce individualized claims manual.
19. Provide projected annual loss picks.
20. Review benchmarking statistics for comparative analysis as provided by the excess carrier.
21. Provide a quality assurance program including a client survey.
22. Provide on-line viewing of claims files.
23. Provide indexing of all appropriate claims with the Index Bureau.
24. Provide all loss information necessary for the completing of the excess insurance application.
25. Provide fraud identification.
26. Provide storage of all claims and events online.

SECTION III — PERFORMANCE MEASURES

1. CIS shall align its system to meet the County's needs by displaying an accurate description for each County Department. This will improve reports when requested for claims by each department.

2. CIS shall request rating reports within a month of maximum medical improvement and reports shall give adequate summary of injury and treatment in the rating report. Reports shall be forwarded to Jackson County as soon as they are received from the provider. E-mails should be sent to Michelle Chrisman (mchrisman@jacksongov.org) and Gina Campbell (gcampbell@jacksongov.org) on ratings and settlements.
3. CIS shall monitor medical only cases closely so that treatment does not go beyond what is needed to bring closure to the case. i.e. Physical therapy, moving from clinic level to a specialist when needed.
4. CIS shall submit a monthly report to Jackson County at the end of each month on the current status of each claim and include notes regarding the course of action to conclude the claim. The report shall be e-mailed to Michelle Chrisman and Gina Campbell.
5. CIS shall respond to claimant's telephone calls within 48 business hours.

SECTION IV — MAINTENANCE OF BOOKS AND RECORDS

- A. In performing the services outlined in this Agreement CIS agrees to:
 1. Maintain a complete record of Jackson County business for at least five (5) years following the termination of this Agreement.
 2. Maintain a claim file on each reported claim.
 3. Avoid disclosing the contents of these files and records to third parties, except as reasonably necessary for CIS to carry out its obligations to Jackson County under this Agreement or to comply with any requirements imposed by law.
 4. Maintain appropriate licenses and insurance including Professional Liability Insurance coverage with a limit of not less than \$500,000 per claim and aggregate.
- B. All files and records shall be considered the property of Jackson County and shall be available for inspection by Jackson County upon reasonable notice. Jackson County may obtain copies of these files and records, with any cost to be the responsibility of Jackson County. Jackson County may, upon the termination of this Agreement at its discretion, require CIS to return said files and records to Jackson County, with the understanding that such action will terminate CIS's responsibilities set down in paragraph A.1 of this section. Provided, should Jackson County require CIS to return said files and records to Jackson County upon termination of this Agreement, Jackson County shall maintain said files and records for at least five (5) years, during which time CIS shall have access for inspection and copying purposes upon reasonable notice.

SECTION IV — DUTIES OF JACKSON COUNTY

Jackson County shall:

1. Promptly refer to CIS all claims, incidents, reports thereof, and other matters relating to CIS's duties hereunder.
2. Cooperate with CIS in the disposition of the matters referred under item 1 above and in the performance of this Agreement.
3. Maintain sufficient funds in a County claim account so that CIS may pay claims, settlements and awards, and allocated Loss Adjustment Expenses as required.
4. Promptly pay CIS service fees.

SECTION V — COWELL INSURANCE SERVICES, INC. SERVICE FEES

A. Service Fees:

CIS's service fees shall be in accordance with the following schedule:

1. Indemnity Claims per Claim \$925.00
2. Medical Only Claims per Claim \$195.00
3. Incident Only/Information Only Claims No charge
4. Bill Review 25% PPO
(For each medical bill reviewed and discounted) 25% bill review
..... \$1.60
5. Program Administration Fee \$10,000.00
(Annual Fee – inclusive of Medicare Section 111 Reporting Services, Actuarial Services, Quarterly Claim Reviews, Management Meetings, State Reporting, Excess Carrier Reporting, On-line Claim Access and up to 25 hours of Loss Control Services)
6. Loss Control Fees \$110.00
(After exhausting the initial 25 hours of Loss Control Services that is included in the Program Administration Fee)

B. Payment of Fees:

1. Claims Fees shall be paid on an estimated basis, in quarterly installments commencing on October 1, 2023. Claims audits will be conducted 60 days after each contract period to determine the actual number of claims occurring from October 1, 2023 to October 1, 2024. Additional payments, if any, will be due 30 days after receipt of invoice.
2. Administrative fees shall be paid annually commencing October 1, 2023.

C. Expenses:

CIS shall pay all of its expenses including mileage unless otherwise set out under this Agreement. Administration and Service Fees do not include allocated and or unallocated claims expenses.

Cowell Insurance Services, Inc.

Jackson County, Missouri

By:

Lance J Cowell

Name: Lance J Cowell

Title: President

By:

Frank White Jr.

Name: Frank White Jr

Title: County Executive of Jackson County

APPROVED AS TO FORM

[Signature]
County Counselor

ATTEST:

[Signature]
Clerk of the County Legislature

IN WITNESS WHEREOF, the parties hereto have signed and executed this