

**SECOND AMENDMENT
NAPA COUNTY AGREEMENT NO. 180072B**

THIS AMENDMENT NO. 2 OF NAPA COUNTY AGREEMENT NO. 180072B is made and entered into as of July 1, 2023, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as “COUNTY,” and GEORGE HILLS COMPANY, INC. a California corporation, whose principal place of business is 3043 Gold Canal Drive, Suite 200, Rancho Cordova, CA 95670-6129, hereinafter referred to as “CONTRACTOR.” COUNTY and CONTRACTOR may be referred to individually as “Party” and together as “Parties.”

RECITALS

WHEREAS, by Napa County Agreement No. **180072B** (“Agreement”), entered into as of August 1, 2017, CONTRACTOR agreed to conduct general liability claims adjusting and claims administration services in exchange for compensation from the COUNTY; and

WHEREAS, the Parties amended the Agreement on June 16, 2020, to extend the term of the Agreement to June 30, 2021, with two subsequent automatic fiscal year renewals; and

WHEREAS, the Parties now desire to amend the Agreement to further extend the term of the Agreement, update the scope of work to be provided by CONTRACTOR, and update the compensation to be paid by COUNTY for such services;

NOW, THEREFORE, COUNTY and CONTRACTOR hereby amend the Agreement as follows:

TERMS

1. Paragraph 1, “Term of the Agreement,” is hereby amended to read in full as follows:

1. **Term of the Agreement.** The term of this amended Agreement shall commence on July 1, 2023, and shall expire on **June 30, 2025**, unless terminated earlier in accordance with Paragraphs 9 (Termination for Cause), 10 (Other Termination), or 23(a) (Covenant of No Undisclosed Conflict); except that the obligations of the parties under Paragraphs 7 (Insurance) and 8 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the terms of the Agreement, and the obligations prescribed by Paragraphs 15 (Confidentiality), 20 (taxes) and 21 (Access to Records/Retention). For purposes of this Agreement, “fiscal year” shall mean the period commencing on July 1 and ending on June 30. Effective with this Amendment, the term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the terms and conditions then in effect, not to exceed three (3) additional years, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term.

2. **Exhibit A, “Scope of Services”** shall be replaced with the document attached hereto as **Exhibit A-1**, which is fully incorporated into the Agreement as of July 1, 2023, and which shall govern the services provided by CONTRACTOR to COUNTY as of that date.

3. **Exhibit B, “Compensation and Expense Reimbursement”** shall be replaced with the document attached hereto as **Exhibit B-1**, which is fully incorporated into the Agreement as of July 1, 2023, and which shall govern the compensation, fees, and reimbursement of expenses to be paid to CONTRACTOR by COUNTY as of that date.

4. All other terms and conditions stated in Agreement No. 180072B, as previously amended, and not expressly changed, replaced, or modified by this Second Amendment and Exhibits A-1 and B-1 hereto, shall remain as stated in the Agreement, as previously amended, without any change.

IN WITNESS WHEREOF, this Second Amendment of Napa County Agreement No. 180072B was executed by the Parties hereto, effective as of the date first above written.

GEORGE HILLS COMPANY, INC.

By: _____
JOHN E. CHAQUICA, CEO

By: _____
CHRIS SHAFFER, COO

NAPA COUNTY, a political subdivision of
the State of California

By: _____
BELIA RAMOS, Chair
Napa County Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By: <u>Sherri S. Kaiser</u> Chief Deputy County Counsel Date: <u>5/31/2023</u>	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By: _____
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**EXHIBIT “A-1”
SCOPE OF SERVICES**

CONTRACTOR, referred to in this Exhibit A-1 as “GH,” shall provide to COUNTY the following services:

I. SERVICES INCLUDED IN THE CONTRACT

A. General Administrative Services

- 1) Access to CMIS and training.
- 2) A monthly listing of open claims, showing expense categories, reserves, and total incurred.
- 3) Monthly claim summary reports.
- 4) Providing loss run data and required reports.
- 5) Providing annual reports to outside agencies.
- 6) Filing of regulatory reports (such as 1099, W-9, etc.).
- 7) Establish and maintain a trust fund to pay indemnity and expenses that may be due on claims. The amount to be maintained in the trust fund shall be determined by COUNTY.
- 8) If the trust fund is not set-up with the GH preferred bank—California Bank & Trust, there may be an additional set-up fee (other banks processes can be extraordinarily time consuming).
- 9) New bank account set up (signature cards, test checks, online access, set up bank in CXP).
- 10) Discussion and agreement on the Approval process.
- 11) Process checks weekly.
- 12) Submit positive pay if applicable/monitor positive pay (review daily emails from bank for exceptions).
- 13) Maintain a copy of all checks drawn by GH to pay claims and claims related expenses.
- 14) Submit monthly check registers of all transactions made for the period.
- 15) Monitor account balance, prepare replenishment requests as needed.
- 16) Monthly bank reconciliation (prepared and sent to COUNTY).
- 17) Special reports that are requested to go with billing invoices (by member, claim type, etc.).
- 18) Payment of invoices that are pass-throughs (i.e., invoices for medical record copies, ExamWorks, etc.).
- 19) Certificates of insurance and insurance policy endorsements as required by the Agreement.

B. Investigative Services

- 1) Receipt and examination of all reports of accidents or incidents that are or may be the subject of claims.
- 2) Investigate accidents or incidents as warranted, to include on-site investigation, photographs, witness interviews, determination of losses and other such investigative services necessary to determine all COUNTY losses but not to include extraordinary investigative services outside the expertise of GH.
- 3) In the event COUNTY or another agency conducts any investigation, and upon COUNTY's request, GH shall review and analyze that investigation for liability and/or damage issues and for possible additional follow-up investigation.
- 4) Maintain service on a 24-hour, 7 days per week basis, to receive reports of any incident or accident which may be the subject of a liability claim and provide immediate investigative services to the extent necessary to provide a complete investigation.
- 5) Undertake items of investigation requiring special handling for COUNTY at the direction of the COUNTY's Attorney or authorized representative.

C. Liability and Claim Handling Services

- 1) Promptly set up a claim file upon receipt of the claim and maintain a claim file on each potential or actual claim reported.
- 2) Assess and evaluate the nature and extent of each claim and establish claims reserves for indemnity and legal expense.
- 3) GH will follow any COUNTY policy regarding tort claim rejection instructions, including rejection and return of an untimely or insufficient claim.
- 4) Ensure timely tort claim handling, including contact and follow-up with claimants regarding claim issues and processing.
- 5) Any bodily injury claim that is being pursued shall be indexed. Notice only matters or precautionary bodily injury claims that are not pursued do not need to be indexed.
- 6) Determine the need for defense representation, recommend legal counsel, and support litigation activity.
- 7) Report claims to the excess insurer in compliance with excess carrier's reporting requirements and coordinate with the excess insurer on a claim's progress in accordance with the excess insurer's reporting requirements.
- 8) Maintain records on any such claim and notify COUNTY when COUNTY is about to exhaust the Self-Insured Retention.
- 9) Obtain COUNTY-approved settlement contracts and releases upon settlement of claims or potential claims not in litigation.
- 10) Appear on behalf of COUNTY in small claims actions filed against COUNTY on open claims handled by GH.
- 11) Perform periodic reviews, as needed, of COUNTY files and claims as well as statutory requirements to ensure compliance, including excess insurance related requirements.

- 12) Perform the necessary data gathering for the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) and the Set Aside Contracts in compliance with Section 111 of the MMSEA including the required reporting. (*See Attachment B*)
- 13) To the extent there is confidential PHI shared between agencies, which is subject to protection under HIPAA, GH shall implement all necessary measures in compliance with the Act and will execute a Business Associates Agreement (BAA).

D. General Liability and Property Claim Handling Services - Pre-Litigation

- 1) Promptly set up a claim file upon receipt of the claim and maintain a claim file on each potential or actual claim reported.
- 2) Assess and evaluate the nature and extent of each claim and establish claims reserves for indemnity and legal expense.
- 3) GH will follow any COUNTY policy regarding tort claim rejection instructions, including rejection and return of an untimely or insufficient claim.
- 4) Ensure timely tort claim handling, including contact and follow-up with claimants regarding claim issues and processing.
- 5) Any bodily injury claim that is being pursued shall be indexed. Notice only matters or precautionary bodily injury claims that are not pursued do not need to be indexed.
- 6) Determine the need for defense representation, recommend legal counsel, and support litigation efforts of defense counsel.
- 7) Report claims to the excess insurer in compliance with excess carrier's reporting requirements and coordinate with the excess insurer on a claim's progress in accordance with the excess insurer's reporting requirements.
- 8) Maintain records on any such claim and notify COUNTY when CIRA is about to exhaust the Self-Insured Retention.
- 9) Obtain COUNTY-approved settlement contracts and releases upon settlement of claims or potential claims not in litigation.
- 10) Appear on behalf of COUNTY in small claims actions filed against COUNTY on open claims handled by GH.
- 11) Perform periodic reviews, as needed, of COUNTY files and claims as well as statutory requirements to ensure compliance, including excess insurance-related requirements.
- 12) Perform the necessary data gathering for the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) and the Set Aside Contracts in compliance with Section 111 of the MMSEA including the required reporting.
- 13) To the extent there is confidential PHI shared between agencies, which is subject to protection under HIPAA, GH shall implement all necessary measures in compliance with the Act and will execute a Business Associates Agreement (BAA).

E. Litigation Management and Support Services

COUNTY has elected to handle all litigated matters in-house. Notwithstanding that decision and if COUNTY later determines that assistance is desired from GH on litigated matters, GH stands ready and willing to perform the following services:

- 1) Claims Processors, Adjusters, and/or Supervisors will perform the following services in relation to litigated or to-be-litigated claims:
 - a. Upon notification by the COUNTY that litigation has been filed on an General Liability or Property claim, GH shall follow the litigation referral process as outlined in the Client Expressed Scope of Work Instructions form.
 - b. Assist defense counsel in on-going litigation defense efforts.
 - c. Obtain regularly updated Litigation Plan and Budget from defense counsel.
 - d. Review legal bills for compliance with Litigation Plan and Budget.
 - e. Cooperate with and assist defense counsel assigned to litigation of open claims and provide such investigative services as directed during pre-trial and trial stages.
 - f. Assist in responding to discovery or preparing discovery.
 - g. At the request of COUNTY, attend mediations and settlement conferences on behalf of COUNTY.
 - h. Read and analyze relevant communications from defense counsel. Regularly discuss, review, and contribute to investigation, discovery, and case strategy with defense counsel.
 - i. Cooperate with counsel as a team with an open communication approach on each case to obtain the most economical and best result for the COUNTY.
- 2) If requested, GH will assign one of GH's in-house attorneys to serve as the Litigation Manager for designated claims which fall into any of the categories identified below:
 - a. Claims or cases designated as "Watchlist" based on agreement of COUNTY and GH;
 - b. All litigated matters involving an alleged violation of civil rights by law enforcement officers or public employees;
 - c. Matters with an incurred amount of \$250,000 or greater;
 - d. Any matter with fiscal or political significance;
 - e. Claims with potential Conflict of Interest for County.

The Litigation Management services to be performed may include:

- a. Assess excess coverage reporting requirements and potential issues related to coverage and advise GH personnel of the need for reporting;
- b. Identify the need for evidence preservation including scope and duration;
- c. Assess need for early intervention by and assignment to defense counsel where appropriate;
- d. Assess need for early retention and evaluation by expert witnesses;

- e. Review case evaluations, correspondence and status reports forwarded by defense counsel to advise COUNTY on proper handling including settlement, trial, or appellate work;
- f. Monitor the case and advise on updating reserves and financial information on the file to maintain current and accurate loss information;
- g. Provide advice on defense counsel and ensure that a plan of action, budget, and evaluation of the case is prepared and maintained by defense counsel on designated cases;
- h. Obtain, review, and analyze status reports of defense counsel and advise COUNTY on selection of strategy, need for motions, retention of experts, and trial preparation;
- i. Advise COUNTY on settlement positioning, need for authority, risks of trial, and valuation of case deemed prudent for settlement purposes.

F. Reports and Procedures

- 1) Within thirty (30) days of assignment, or sooner if practicable, required, or requested, GH will provide COUNTY with a report pursuant to specified claims handling instructions, showing name(s) of claimant(s), type of claim, date of loss, comments on liability, reserve recommendations, settlement recommendations, and other pertinent information. Subsequent to the initial thirty (30) day report, GH will report as often as warranted by any important change in status but no less than every ninety (90) days until the claim closes, unless extended diary is appropriate;
- 2) All original reports, documents, and claim data of every kind or description, that are prepared in whole or in part by GH in connection with this Agreement shall be COUNTY's property, except that GH may retain a copy of such reports, documents, and claim data that reflect its work product. Additional copies of original reports, documents, and data requested by COUNTY will be at COUNTY's expense;
- 3) GH agrees that COUNTY has access to and the right to audit and reproduce any of GH's relevant records to ensure that COUNTY is receiving all services to which COUNTY is entitled under this Agreement or for any purpose relating to the Agreement.

G. Data

- 1) Utilize GH's claims management system—CXP (ClaimsXpress), or a substantially similar equivalent with comparable features and functionality. COUNTY will be provided "read-only" access to the claims system. "Read-write" access may be obtained at the COUNTY's additional expense;
- 2) Record all claim information including all financial data;
- 3) Provide COUNTY and broker read only on-line access to the claims data system (up to five users), if desired by COUNTY;
- 4) Provide monthly standard loss run and check register;

- 5) Provide annual claims data report upon request. Written authorization and/or a Business Associate Agreement may be required for confidential information protected by HIPAA;
- 6) Provide assistance to COUNTY in developing customized reports when requested (may require additional charge);
- 7) Arrange for electronic file conversion for any open and closed claims at the direction of COUNTY.

H. Claim Review Meetings

GH shall, on a mutually agreed periodic basis, meet with COUNTY to review and discuss COUNTY's claims inventory and claims results for specified periods and the delivery of services by GH.

I. Financial Accounting

- 1) Establish and maintain a trust fund for the purpose of paying indemnity and expenses that may be due on the claims. The amount to be maintained in the trust fund shall be determined by the COUNTY;
- 2) Maintain a copy of all checks drawn by GH to pay claims and claims-related expenses;
- 3) Submit monthly check registers of all transactions made for the period;
- 4) Complete or update Attachment B "Preferred Method of Check Processing" for check processing options;
- 5) Approval process shall be documented in GH Client Expressed Scope of Work Standards and Instruction Form and may be amended from time to time at request of COUNTY;
- 6) GH will provide monthly bank reconciliation reports to COUNTY for audit purposes.

J. Third Party Subrogation Services

In any claim in which COUNTY is alleged to be liable or case in which COUNTY is a named defendant, GH will identify additional parties to that dispute which may also bear responsibility or liability for the damages claimed by the claimant(s) and/or plaintiff(s). Where additional individuals or entities are identified as having some responsibility, GH will perform the following services:

- 1) Inform COUNTY of such additional individuals or entities and the basis for potential liability;
- 2) Prepare and file a claim with each identified individual or entity;
- 3) As applicable, and with COUNTY's prior approval, tender defense to or seek recovery from any identified individual or entity;
- 4) With COUNTY's prior approval and ongoing legal oversight, and with the assistance of counsel, GH will prepare and file, or caused to be prepared and

- filed, any necessary litigation required to affect the claim of recovery on behalf of the COUNTY;
- 5) Subject to COUNTY's ongoing legal oversight and approval, manage litigation related to such claims or cases made to or filed against the other individual or entity;
 - 6) All costs and expenses of litigation filed pursuant to this section, including attorney's fees for outside counsel where necessary and approved, will be paid by COUNTY.

K. First Party Subrogation Services

In the event that COUNTY identifies damages it has sustained with a value of \$1,000 or greater and for which any individual or entity is believed to be liable or responsible, the following may be performed:

- 1) COUNTY may authorize GH to act as a representative of COUNTY for the investigation, adjustment, processing, supervision, and evaluation of an ultimate recovery of potential money from the identified individuals or entities;
- 2) With prior approval of COUNTY, GH may appear on behalf of COUNTY in small claims court;
- 3) With prior approval of COUNTY, GH may engage the services of an attorney acceptable to the COUNTY to consult, review, and determine the best legal strategy available leading to recovery for the COUNTY. Upon determination by the attorney that a civil action is in the best interest of COUNTY, GH will notify COUNTY and obtain authorization to initiate litigation in accordance with the recommendations of the COUNTY and its attorney;
- 4) Where GH is able to recover money from an identified individual or entity, in addition to any other compensation identified in this contract, COUNTY will pay a Subrogation Fee in the amount of 30% of the gross amount recovered for each recovery obtained by GH. The minimum amount to be paid to GH will be \$250 per claim upon recovery. However, GH has the authority to reject any claim for any reason, relieving the COUNTY of any fiscal responsibility for rejected claims only. The amounts due under this section shall be invoiced to the COUNTY on a monthly basis following COUNTY's receipt of the recovery payment from the at-fault party;
- 5) While GH is handling a subrogation claim for the COUNTY pursuant to the terms of this Agreement, and the institution of a civil action is determined by the COUNTY to be the best course of action, COUNTY may elect to, at COUNTY's expense, recall the claim to the COUNTY's control so that COUNTY may pursue recovery in a manner in the best interest of the COUNTY. In the event the COUNTY recalls the claim as indicated above, COUNTY shall be responsible for payment to GH for any and all time and expense incurred by GH's subrogation claim adjuster, and/or subrogation division staff, up to the time wherein the claim has been recalled by the COUNTY;

- 6) Where requested, GH shall consult with COUNTY on claims and other related matters not specifically assigned to GH for handling under this Agreement;
- 7) GH reserves the right to cease working on any claim whereas information has not been made available to GH within 120 days after GH has submitted the information and/or documentation to the COUNTY, at such time, the claim will be closed;
- 8) Due to the nature of these services, in that compensation is contingent upon recovery, if the contract is terminated prior to recovery or other closure of any claim, the COUNTY shall pay GH for all expenses and time spent, to date, on any claims(s) currently open and recovery in process. Payment shall be based on the current hourly rate of GH of \$95.00 per hour. GH will submit final invoice within five business days of termination;
- 9) All costs and expenses of litigation filed pursuant to this section, including attorney fees for outside counsel where necessary and approved, will be paid by the COUNTY;
- 10) GH does not handle subrogation claims with a value less than \$1,000.

II. **COUNTY EXPRESSED AUTHORITY AND LIMITATIONS**

The list immediately below contains numerous services provided in this Agreement. COUNTY has checked the appropriate boxes establishing the authority of GH to act on COUNTY's behalf or the limitation as to that authority.

INVESTIGATION:

- ☒ George Hills will conduct all investigations
- ☐ COUNTY will conduct all investigations
- ☐ COUNTY will direct GH on each claim as to who performs investigations

In the event the COUNTY or other agency conducts any investigation, GH shall review for completeness.

Retention of Vendors (appraisers, translators, copy services, Independent Adjuster, IME's, Surveillance, etc.):

- ☒ Must be preauthorized by COUNTY
- ☐ Does not need preauthorization

REJECTION OF CLAIMS:

COUNTY'S position regarding rejections (*e.g., if entity so dictates, a claim will be rejected for insufficiency*). Check all that apply.

Protocols for Rejections

- ☒ GH needs authorization
- ☐ GH does not need authorization
- ☐ GH sends the Rejection
- ☐ COUNTY sends the Rejection

☒ GH sends out Denial Letter simultaneously with Rejection outlining the reason

LITIGATION:

Check all that apply.

☒ GH will handle litigated claims

☐ Full

☒ As assigned

☐ Check Issuance and Data Input

☐ Data Input only

☒ COUNTY will supervise litigated claims through County Counsel

☐ COUNTY will send data to GH weekly

☒ COUNTY will send data to GH monthly

Mandatory Settlement Conferences

☐ GH always attends

☒ At COUNTY request only

Small Claims Actions filed against COUNTY

☒ GH always appears

☐ At COUNTY request only

Legal Counsel

☒ GH must have COUNTY authorization to refer to outside Legal Counsel

☐ GH does not need COUNTY authorization to refer to outside Legal Counsel

☐ GH must use COUNTY approved Legal Panel for Attorney selection

☒ COUNTY does not have an approved Legal Panel for Attorney selection

☐ All Litigation to be handled by COUNTY inhouse Legal

☐ GH always sends Litigation Assignment packets to Legal Counsel

COUNTY specific Litigation Guidelines:

☐ Yes ☐ No

COUNTY specific Litigation Referral Form/Letter:

☐ Yes ☐ No

COUNTY specific Litigation Budget Form:

☐ Yes ☐ No

Pay fees for Experts, photocopies, medical records as:

☐ Expense ☐ Legal

EXCESS REPORTING:

☒ GH will report claims to the excess insurer in compliance with excess carrier's reporting requirements and coordinate with the excess insurer on a claim's progress in accordance with the excess insurer's reporting requirements.

☐ COUNTY will report claims to the excess insurer in compliance with excess carrier's reporting requirements and coordinate with the excess insurer on a claim's progress in accordance with the excess insurer's reporting requirements.

AUTHORITY LEVELS:**Reserve Setting within SIR:**

☐ \$0.00 ☒ Other: \$5,000 Adjuster must seek approval from COUNTY to post indemnity reserves above authority level.

Settlement Authority

☒ \$0.00 ☐ Other: \$5,000 Adjuster must seek approval from COUNTY to consent to settlement of any claim at or above the amount indicated.

Medical Treatment:

- ☐ Medical Authorizations should only be sent to the claimant once liability is determined to be adverse to the COUNTY.
- ☒ Medical Authorizations should go out as soon as it is determined that a BI claim is being pursued.

CLAIMS EXCEEDING SIR:

- ☐ GH stops tracking activity once the SIR has been reached.
- ☒ GH will continue to track all activity at and/or above the SIR. The Excess JPA/Carrier will provide GH with activity documentation above the SIR.
- ☐ GH will reserve to Full Value and track recoveries.

THIRD PARTY SUBROGATION SERVICES:

- ☐ GH is authorized to initiate third party subrogation claims on behalf of COUNTY
- ☒ GH must obtain authorization to initiate third party subrogation claims on behalf of COUNTY.

FIRST PARTY SUBROGATION SERVICES:

- ☒ COUNTY elects to incorporate the first party subrogation services of GH into the contract
- ☐ COUNTY authorizes GH to initiate first party subrogation claims on behalf of COUNTY
- ☒ COUNTY agrees to the additional compensation payable to GH for its first party subrogation services as follows:
GH shall be entitled to 30% of the gross recovery for each claim initiated by GH through its first party subrogation efforts.
- ☒ COUNTY agrees to the terms and conditions stated in Attachment A-1 and B-1, Subrogation Services.

**EXHIBIT “B-1”
COMPENSATION AND EXPENSE REIMBURSEMENT**

The compensation to be paid pursuant to this Agreement is comprised of three distinct categories:

A: “Administrative Services”

B: “Fees for Claim Adjusting Services”

C: “Allocated Costs/Expenses”

The Fees and Costs/Expenses pursuant to subsections “A”, “B”, and “C” will be billed together monthly in a standard invoice format utilized by CONTRACTOR (herein referred to as “GH”) and acceptable to COUNTY. Additionally, if COUNTY elects to receive any optional services identified in subsections “F” or “G” below, all additional amounts will also be billed together monthly where applicable.

A. Administration Services

- 1) Annual Administration Fee: \$6,000 – billed annually subject to a prorated refund if for any reason the Agreement is terminated before the end of a fiscal year.
- 2) MMSEA: There is a \$500 annual reporting fee, charged to support our contract with our service provider for reporting to CMS. This fee is billed annually at the beginning of the Agreement period.
- 3) System Access Fee: Access to the claims management information system, “CMIS,” which includes the setup and management of up to five (5) “read only” user accounts. “Read/write” access to the system can be obtained for an additional fee. This fee is included in the Annual Administration Fee stated above.
- 4) iMetrics Report Fee: There will be no charge for our iMetrics business intelligence reports with executive in-person debriefs.
- 5) George Hills Client Portal: GH operates a client interface which is intended to provide COUNTY with information regarding claims related and loss information. COUNTY will be provided with access for two (2) users at no additional cost.
- 6) Custom Reports: Additional charges for custom reporting, which is defined as reporting that requires use of a third-party programmer for three hours or more and is COUNTY-specific. Custom reports requested by the County are billed at the rate of \$125 per hour for work needed to create the report. After creation of the report, there is no fee to run the report.

- 7) Catastrophic Fees (not applicable when fees are based on Time and Expense): GH recognizes that there are events that are unanticipated and catastrophic. When such events occur, GH requires additional hours for the handling of such claims. Should any one catastrophic event occur resulting in five or more claimants, or two or more claimants with their own attorneys, COUNTY shall be billed on a time and expense basis at the current hourly rate for all services.
- 8) Annual Fee Escalator: The Annual Fixed Fee and all hourly rates in this Agreement shall be adjusted at the beginning of each subsequent fiscal year during the term of this Agreement by the lesser of 5% or in accordance with the changes in the Consumer Price Index (CPI-U) for all Urban Consumers applicable to the Napa area using the most recently published month annual percentage change for "All Items," but in any event such increase shall not be less than 3%.
- 9) General File: A general administrative file shall be established and maintained to track effort related to services necessary to fulfill our contractual obligations and not otherwise associated with a claim.

B. Fees for Claim Adjusting Services

- 1) Time and Expense: The GH Claims team will charge time to each claim using 1/10th of an hour increments for each task performed on a claim. The time spent and further descriptions of each task shall be stated on each monthly invoice. The current hourly rates are:

Litigation Manager:	\$225/hour (if service requested by COUNTY)
Claims Supervisor:	\$124/hour
Claims Adjuster:	\$99/hour
Claims Processing:	\$84/hour

C. Allocated Costs/Expenses

GH will charge to COUNTY both allocated and non-allocated costs and expenses incurred pursuant to this Agreement as stated herein and defined further in Exhibit C, "Allocated Expenses."

- 1) Mileage Reimbursement: Mileage traveled will be paid at the IRS rate in effect at the time the mileage is traveled. This section applies to mileage which can be allocated to a specific claim and also mileage which is not allocated to any claim, such as attendance at claim review, board, and/or committee meetings, but only if attendance is requested or required by COUNTY.
- 2) Adjuster Travel Expenses: GH will separately charge for any travel expenses in connection with attendance at mediations, settlement conferences, trials, etc. This will be subject to prior approval by COUNTY and actual expenses will be submitted

with receipts on a monthly basis. This section applies to travel expenses which can be allocated to a specific claim and also travel expenses which are not allocated to any claim, such as attendance at claim review, board and/or committee meetings, but only if attendance is requested or required by COUNTY.

D. Payment Schedule

GH will submit its invoices to COUNTY, and payment shall be made by COUNTY, within a reasonable period of time, not to exceed thirty (30) days from the date of the invoice.

E. Electronic Funds Transfer or Direct Deposit

GH has determined that the most efficient and secure default form of payment for goods and/or services provided under Agreement with COUNTY shall be Electronic Funds Transfer (EFT) or direct deposit, unless an alternative method of payment is deemed appropriate by both GH and COUNTY and agreed to in writing.

GH will submit a direct deposit authorization request via to COUNTY with banking and vendor information, and any other information that COUNTY determines is reasonably necessary to process the payment and comply with all accounting, record keeping, and tax reporting requirements.

At any time during the duration of the Agreement, GH may submit a written request for an exemption to this requirement. Such request must be based on specific legal, business or operational needs and GH will explain why the payment method designated by COUNTY is not feasible and an alternative is necessary.

F. First Party Subrogation Services and Fees

GH is a claim administration firm experienced in the handling of first party subrogation claims and is ready and capable of performing such services on behalf of COUNTY. COUNTY elects to incorporate the Subrogation Services, as desired and as described more fully in Exhibit A-1, Scope of Services and Client Expressed Authority and Limitations, Section (K).

A. COUNTY will pay a Subrogation Fee in the amount of 30% for each and every recovery obtained by GH. The minimum amount to be paid to GH will be \$250 per claim upon recovery. However, GH has the authority to reject any claim for any reason, relieving COUNTY of any fiscal responsibility for rejected claims only.

a) Generally, no claimant recovery plan shall be agreed to involving payment plans if the recovery is less than \$5,000 and/or greater than a one-year term. Exceptions can be made on a case-by-case basis. If a recovery is agreed to exceed this amount and/or length of time, Subrogation fee shall be 45%. In the event a payment plan is authorized and entered into, the subrogation fee will be based upon the total amount of the lien and will be invoiced to the COUNTY upon

the entry of the payment agreement. GH will make every attempt to enforce the provisions of the payment agreement with the claimant, but in no way guarantees the fulfillment of the terms of the payment agreement. In the event the terms of the payment agreement are not fulfilled and warrant pursuit through the small claims process, authority to pursue through small claims will be requested.

- b) Authorize GH to appear in small claims court for recovery of funds. Authority for the pursuit of recovery through small claims will be requested prior to the filing of documents with the court to initiate the small claims action. Each appearance will be an additional fee of \$150. All costs for the handling of small claims court actions, i.e. service of process of documents on the responsible parties, mileage, parking, and toll shall be an additional cost and will be the responsibility of the COUNTY. Additional allocated costs shall be billed separately upon the cost being incurred, such as, but not limited to: skip tracing, service of process, and third-party sub contracted investigation.

- B. Due to the nature of these services, in that compensation is contingent upon recovery, if the contract is terminated prior to recovery or other closure of any claim, the COUNTY shall pay GH for all expenses and time spent, to date, on any claim(s) currently open and recovery in process. Payment shall be based on the then-current hourly rate of GH. GH will submit the final invoice within five business days of termination

G. Amendment Due to Governmental, Political, or Legislative changes

GH and COUNTY agree that governmental, political, or legislative changes may impact the work of GH and COUNTY. GH and COUNTY each reserve the right, for the benefit of both Parties, to require an amendment to any portion(s) of this Contract, expressly including the compensation, fees, and expenses stated in Section 3, and further in Exhibit B-1, in response to any change to, addition or deletion of any statute, rule, regulation, or policy which materially impacts the liability of public entities in California, damages for which public entities may become responsible, and/or the handling, administration, adjustment, payment, and/or reporting related to services performed under this Contract.

EXHIBIT C

ALLOCATED EXPENSES

Typically, allocated expenses are those expenses that are generated by a claim (by outside vendors other than George Hills) that cannot be foreseen nor included in an agreement. These are generally allocated back to the specific claim file for which the cost was incurred and then charged back to the entity whose claim incurred that cost. In most situations are pass-through costs (with processing fees) for services and/or fees not directly generated by the TPA, but rather by a third-party consultant where the TPA has acted as an agent on behalf of the entity to necessarily outsource services to a third-party consultant and/or miscellaneous fees applicable to the specific claim applied by an outside entity, such as a court or copy service. Below, George Hills has provided a list, by no means an exhaustive list, of typical allocated expenses.

- Fees of outside counsel for claims in suit, coverage opinions, and litigation, and for representation and hearings or pretrial conferences;
- Fees of court reporters;
- All court costs, court fees, and court expenses;
- Fees for service of process;
- CMS reporting costs and fees (ExamWorks);
- Costs of undercover operatives and detectives;
- Costs for employing experts for the preparation of maps, professional photographs, accounting, chemical or physical analysis, or diagrams;
- Costs for employing experts for the advice, opinions, or testimony concerning claims under investigation or in litigation for which a declaratory judgment is sought;
- Costs for independent medical examination or evaluation for rehabilitation;
- Costs of legal transcripts of testimony taken at coroner's inquests, or criminal or civil proceeding;
- Costs for copies of any public records or medical records;
- Costs of depositions and court reporting;
- Costs and expenses of subrogation, (if not George Hills);
- Costs of engineers, handwriting experts, or any other type of expert used in the preparation of litigation or used in a one-time basis to resolve disputes;
- Witness fees and travel expenses;
- Costs of photographers and photocopy services (if not George Hills—our costs for this is included in our rate);
- Costs of appraisal fees and expenses not included in flat fee or performed by others;
- Costs of indexing claimants;
- Services performed outside the TPA's normal geographical regions;
- Costs associated with Medicare Set-Aside analysis and submission or Medicare Conditional Lien negotiation;
- Investigation of possible fraud including SIU services and related expenses; and/or

- Any other similar cost, fee, or expense that is not otherwise included in the TPA's service fees that is reasonably chargeable to the investigation, negotiation, settlement, or defense of a claim or loss or to the protection or perfection of the subrogation rights of the entity, including travel related expenses.