

**SFM Risk Solutions, Inc.**  
**Agreement for Third Party Claims Administration Services**

**Parties**

**SFM Risk Solutions, Inc.** is a Minnesota corporation and licensed third party administrator, ("SFM Risk"); **City of Duluth** is an employer self-insured for workers' compensation liability ("Employer").

Employer wishes to contract with SFM Risk to provide workers' compensation claims administration services as described in this Agreement.

**Term of Agreement**

This Agreement is governed by the laws of the State of Minnesota. This Agreement is effective from **03/01/2018** through **2/28/2021**, unless amended and/or terminated as described under Section II - Terms and Conditions.

**Sections**

The following Sections are attached and are part of this Agreement:

- I. Services
- II. Terms & Conditions
- III. Claim Definitions
- IV. Banking
- V. Fees

**Notices/Contact**

Notices, requests, or other communications will be in writing and may be hand delivered, faxed, or mailed by first class, registered or certified mail, postage prepaid to: Debra Mattson, SFM Risk Solutions, Inc., 3500 American Blvd. West, Suite 700, Bloomington, MN 55431; or to Theresa Severance, City of Duluth, 313 City Hall, 411 West 1<sup>st</sup> Street, Duluth, MN 55802..

The parties have signed this Agreement by authorized representatives as of the date written.

**SFM RISK SOLUTIONS, INC.**

Date: \_\_\_\_\_

\_\_\_\_\_  
Debra K. Mattson, Business Manager

**CITY OF DULUTH**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Date: \_\_\_\_\_

Countersigned: \_\_\_\_\_  
City Auditor

Date: \_\_\_\_\_

Approved as to form: \_\_\_\_\_  
City Attorney

## **Section I: Services**

SFM Risk agrees to perform the following services:

1. **First Reports.** SFM Risk will review all First Reports of Injury upon receipt and establish a file for each reported claim. SFM Risk will promptly investigate the compensability of a claim, including the relevant facts surrounding the occurrence, the claimant's pre-existing medical history, and potential third-party liability for contribution, indemnity, subrogation, or special compensation fund reimbursement. When, in the judgment of SFM Risk, the location of an injury, or the nature of the circumstances of the incident giving rise to a claim or potential claim make it advisable to engage an independent investigation firm, SFM Risk will arrange for such investigation, but only upon prior approval by Employer. The Employer will be responsible for the cost of an independent investigation.
2. **Reserving.** SFM Risk will establish timely and reasonable reserves for each claim, and will promptly revise such reserves to reflect changes in the case's status.
3. **Denial of Liability/Payment of Claims.** SFM Risk will promptly deny liability of non-meritorious claims and promptly pay workers' compensation benefits for compensable claims, as required by law, making all necessary administrative filings. SFM Risk will make every effort to promptly commence benefits or promptly deny a claim; however, SFM Risk will not be responsible for late payment or denial where such late payment or denial is attributable to late reporting or other acts by the Employer. SFM Risk may refer contested cases for legal defense to the outside legal counsel of Employer's choosing. SFM Risk will consult with outside legal counsel and arrange for representation of the Employer's interests at claims conferences and hearings.
4. **Settlement.** SFM Risk may attempt to settle a contested claim on behalf of the Employer. Any compromised settlements will be negotiated and based on SFM Risk's evaluation of the Employer's liability exposure. Settlements may be consummated only with prior approval of the Employer. Upon settlement of any claim, SFM Risk will document the basis of the settlement and the amount paid. SFM Risk will prepare or request the preparation of all settlement agreements, forms, filings, and other documents necessary to effectuate settlement of the claim.
5. **Adjustment and Resolution of Claims.** SFM will use its best claims judgment to facilitate/monitor appropriate medical and rehabilitation services for the earliest possible return to work. Adjusting activities include but are not limited to:
  - a. Maintaining contact with Employer, claimant, medical provider(s), and rehabilitation providers;
  - b. Obtaining independent medical exams or functional capacity evaluations where there are questions of disability, causal relationship, appropriate treatment, or where reports from treating providers are not provided;
  - c. Returning the claimant to work as soon as medically feasible, whether to the former position or to modified/light-duty consistent with medical restrictions; and
  - d. Arranging for any vocational rehabilitation, job placement, or retraining as appropriate or required by law.
6. **Reimbursement, Contribution, Indemnity and Subrogation.** SFM Risk will seek reimbursement or contribution for benefits paid to claimants on behalf of the Employer from other workers' compensation insurers, the Workers' Compensation Reinsurance Association, or from other responsible third parties.
7. **Loss Reports:** SFM Risk will provide monthly and/or quarterly claim loss reports to the Employer.
8. **Reportings and Filings.** SFM Risk will file or provide the necessary information to the Employer for filing, all claim related reports required by the Department of Labor and Industry, Department of Commerce, MWCIA, WCRA, CMS, and other regulatory organizations. SFM Risk will be responsible to provide information only for periods covered by this Agreement.
9. **Medical/Disability Management Services.** SFM Risk retains physicians licensed in the State of Minnesota to consult with SFM Risk and/or the Employer regarding medical causation issues significant to the determination of compensability and the propriety of diagnosis, treatment, and claimed disability.
10. **Medical Billing Review Services.** SFM Risk will review medical, hospital, chiropractic, physical therapy, pharmacy, and rehabilitation billings on Employer's claims in order to:
  - a. Determine appropriate billed amounts after application of the Minnesota Workers' Compensation Fee Schedule, if applicable.
  - b. Identify noncompliance with prevailing billing practices and guidelines as prescribed by the State of Minnesota.
  - c. Identify treatments for a longer duration, greater frequency or higher service level than is typical of other claimants with the same diagnosis.

- d. Distinguish services that are related and not related to the work injury. SFM Risk will generate explanatory letters to service providers outlining the reasons for nonpayment or reduced payment for each billing.

Only and Lost Time Claims to SFM Risk. Fees will be invoiced monthly, and are due within thirty (30) days after the date of invoice. The Employer agrees to pay: (a) reasonable attorney fees and costs incurred by SFM Risk to enforce the provisions of this Agreement or to collect delinquent fees or expenses, and (b) interest on such fees and expenses which will accrue from and after the due date at the rate of eighteen percent (18%) per annum.

## **Section II: Terms & Conditions**

1. **Excluded Expenses.** SFM Risk may incur claims administration expenses on behalf of the Employer, including, without limitation, independent medical examinations, loss control reports, medical records, outside legal counsel, court reporter services/reports, filing fees, surveillance, police reports, outside investigative services, commercial photographs, and other services/reports. SFM Risk is not liable for penalties or fees incurred because of acts or omissions by the Employer in violation of law or this Agreement. The Employer will be solely responsible for such penalties and/or fees. Assessments, including Special Compensation Fund assessments, are payable by the Employer, except that SFM Risk will file any necessary reports with state authorities regarding such assessments. Costs or expenses for any special reinsurance, aggregate reinsurance, or surety bond requested by the Employer will be the exclusive responsibility of the Employer.
2. **Employer's Liability Exclusion.** This Agreement does not include administration of any claims against the Employer for other than regular workers' compensation benefits. Any such claims are the exclusive responsibility of the Employer, including claims asserted pursuant to Minn. Stat. sec. 176.82, and all claims normally within the scope of the Employer's or "Coverage B" liability section of a workers' compensation insurance policy.
3. **Data and Records.** SFM Risk will provide data processing and statistical recordkeeping services as warranted to fulfill its obligations under this Agreement. SFM Risk will record and maintain information essential to claims handling, financial transactions, and other obligations. SFM Risk will not destroy claim records without the approval of the Employer, although SFM Risk may retain records in retrievable images rather than in paper form. Records will be retained for time periods as are customary in the insurance industry. All records and materials concerning particular claims against the Employer will be kept confidential by SFM Risk for use only by the Employer, SFM Risk or their agents, except as otherwise required by law.
4. **Compensation.** Employer shall pay SFM Risk compensation for services rendered, as described in Section V. Employer agrees to report all Medical

5. **Termination or Modification of Agreement.** SFM Risk or the Employer may terminate this Agreement, at any time, with cause. "Cause" shall be defined as non-performance of any material aspect of duties, responsibilities or payment of any sums due under this Agreement. In the event of such non-performance, written notice shall be given to the non-performing Party. Upon receipt, the non-performing party shall have at least ninety (90) days' from the date of receipt to correct the non-performance, or if such non-performance cannot be corrected within the ninety (90) days period, undertake substantial action toward correction. If corrected under either circumstance, the termination notice shall be null and void. Upon termination of the Agreement, SFM Risk will have no further obligation to administer claims of the Employer or to provide any other services with respect to such claims, regardless of when incurred or reported. SFM Risk will, upon the Employer's request, and upon SFM Risk's receipt of an agreed upon administration fee, deliver claim records to the Employer, in an electronic format, which are essential to the ongoing administration of claims. This Agreement may not be modified, altered, or amended except by a written agreement signed by both parties.
6. **Indemnification.** Each party to this Agreement shall be liable for its own acts and the results thereof to the extent authorized by law, and shall not be responsible for the acts of the other party, its officers, employees or agents.

### **Section III: – Claim Definitions**

- New Claims are claims that are originally reported to SFM Risk during the current contract period.
- Existing Claims are claims that were originally reported to and opened by Employer's previous claim administrator.
- Incident Only Claims are claims for which no payments are made. SFM Risk provides data entry services only indicating pertinent information from the First Report of Injury.
- Indemnity Claims (Lost Time Claims) are claims on which indemnity benefits are payable (or potentially payable or claimed to be payable).
- Medical Only Claims are claims on which medical expenses are payable (or potentially payable or claimed to be payable) but no indemnity benefits are payable (or potentially payable or claimed to be payable).
- Reopened Claims are claims that have been opened by or handled by SFM Risk or a previous administrator, then subsequently closed, and are reopened twelve months or more after the last date the file was opened or reopened.
- Subsequent Year refers to a subsequent year charge, which attaches to claims originally opened by SFM Risk or a previous claims administrator and still open on the anniversary of the claim's referral to SFM Risk.

the SFM Risk account within 48 hours of notice, the Employer agrees to pay SFM Risk an administrative fee of \$50 plus interest charged against the cash shortfall at the interest rate set forth under Section II.

### **Section IV – Banking**

City of Duluth and SFM Risk agree to the following banking procedures:

Banking Procedures. SFM Risk will issue payments for claims it administers on checks provided by SFM Risk drawn against SFM Risk's account at a bank designated by SFM Risk. Employer will make an initial deposit of \$50,000 in the account, and will replenish the account with the dollars necessary to equal the initial deposit upon receipt of the monthly escrow invoice. SFM Risk will notify Employer in writing with a list of itemized checks drawn against the account for claim or expense payments on a weekly basis.

If, at any time during the month, payments are made by SFM Risk that result in insufficient funds in Employer's account, SFM Risk will contact Employer. Employer agrees to deposit the necessary funds to cover the checks already generated. The specific dollar amount deposited into the account by Employer will cover the amount of the shortfall plus the contractually stated minimum balance. If sufficient funds are not received in

**Schedule V****Year One Flat Fee\***

A fee of **\$57,400** is payable by the City of Duluth for the term of this Agreement, with twelve (12) equal payments of \$4,783.33. Fees are due and payable within thirty days of invoice. This is for a one year Life of Contract agreement.

**Year Two Flat Fee\***

A fee of **\$59,122** is payable by the City of Duluth for the term of this Agreement, with twelve (12) equal payments of \$4,923.83. Fees are due and payable within thirty days of invoice. This is for a one year Life of Contract agreement.

**Year Three Flat Fee\***

A fee of **\$60,896** is payable by the City of Duluth for the term of this Agreement, with twelve (12) equal payments of \$5,074.66. Fees are due and payable within thirty days of invoice. This is for a one year Life of Contract agreement.

\*The above fees contemplate access to CompOnline, our risk management information system, the account management fee, ISO ClaimSearch charges, and CMS reporting fees. This does not contemplate telephonic nurse case management, physician review, or loss prevention services. Please see the chart below for these ala carte services.

**Vendor Utilization Fees**

SFM Risk has contracted with a variety of vendors including, preferred provider and bill review vendors, as well as a pharmacy benefit network vendor. These firms employ pharmaceutical, as well as medical specialists with extensive training in pharmacology, surgical procedures, inpatient stays and other medical treatments that may be bundled, mislabeled, or misrepresented on a bill. Vendor savings may also result from the bills being compared to "usual and customary" charges for treatment and from access to state fee schedules and database information across the United States. Vendor bill review re-pricing, PPO and Pharmacy network savings will be paid from the individual claims for which the savings apply.

Telephonic Nurse Case Management	\$90 hour
Drug Nurse Review	\$90 per hour
Physician Advisor Review	\$125 per review
Loss Prevention	\$125 plus travel and expenses
Bill Review Re-pricing**	25% of net savings
PPO & Pharmacy Network*	25% of net savings

\*\*Does not include provider access fee