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To: Members of PURMS' Board of Directors

Re: PURMS' Interlocal Agreement – SUMMARY of Changes and Additions under 2011 SIA Amendments

Dear Board Members:

On October 11th, everyone was provided with a final proposed copy of the 2011 Amendments to the Interlocal Agreement (“2011 Amendments”) under which PURMS is organized pursuant to RCW 48.62 (“Amended ILA”). Dick also sent you all an email that contained a link to another version of the Amended ILA that showed all changes and additions from the original language in color font. (Deletions on this version, however, are not necessarily evident.) I highly recommend reviewing the “color-font” version to appreciate all of the changes.

In general, changes and additions reflected in the Amended ILA incorporate and/or update:

- The five (5) 2009 Resolutions passed by the Members, including revisions necessary to be consistent with the Administrator Service Agreement;
- The work and decisions of the Executive Committee in the spring of 2010 regarding procedures and safeguards for PURMS Financial Activities and possible losses that could result therefrom, including bonding for PURMS' Directors, Officers, Auditor, Committees and Administrator;
- The Voting Procedures allowing post-Board meeting approval by Authorizing Resolution of Voting Standards higher than Majority Vote;
- The changes required by or to be consistent with the WACs in other areas in addition to development of the Program Funding Amendments;
- The updates in procedures and assignments of duties as they have been developed and approved over time since the Interlocal Agreement was last significantly amended in 2000; and
- The substantive changes needed to implement the six (6) Resolutions the PURMS Board passed at its November 4, 2010 Annual Meeting.

Finally, the Amended ILA includes some changes and additions that simply were necessary to update the ILA to some of the practices and procedures that PURMS and the Administrator have in fact been following for some years with tacit or actual approval of the Board or Executive and Administrative Committee for years.

As you may notice, there are places in the proposed Amended ILA where language is bracketed or there is a blank to be filled in. That is because some final consideration and recommendations need to be made by the Executive Committee at its November 9th meeting on some remaining issues. Any substantive changes or decisions made by the Executive Committee will be specifically presented to the Board and/or subsequently to Members as an additional part of the SIA Amendment package being considered.

We have discussed that, under WAC 82-60-02019, thirty (30) days' notice of proposed changes to a joint self-insurance program's "Foundation Agreement" or "Bylaws" must be provided to Risk Pool Members and the State Risk Manager ("SRM"), along with a copy of the proposed changes. PURMS' "Interlocal Agreement" constitutes both PURMS' "Foundation Agreement" and "Bylaws". On October 11, 2011 all Members and the SRM received a copy of the proposed Amended ILA, thereby satisfying this requirement for PURMS' Board to Vote at the November 10, 2011 Annual Meeting on the proposed changes and additions to the PURMS Interlocal Agreement.

However, WAC 82-60-02021, entitled "Changes to Foundation Agreement", states in sub-¶ (2), in pertinent part:

"(2) Amendments to the foundation agreement shall be adopted by ordinance or resolution of the governing board or council of each member. The signed amendment and copy of the ordinance or resolution, as appropriate, shall be retained by the joint self-insurance program." (Emphasis added.)

Thus, even if we had 100% attendance at the Board Meeting and all Members voted to adopt the Amended ILA, all Members' commissions or governing bodies must also pass their own Resolution adopting the Amended ILA and sign the Amended ILA itself (or a separate signature page thereof). As a result, the 2011 SIA Amendments cannot *finally* be approved at, and cannot become effective on date of, the Board's November 10 meeting.¹

However, although PURMS must complete the formal approval-of-amendments process required by the WAC in order for the changes to the Amended ILA to *become* effective, there is nothing in the WAC that precludes the Members from establishing an "effective date" for the Amended ILA, or specified provisions therein, at an earlier point in time. Therefore, language and policy or procedural

¹ Some of the Amendments to the ILA require a Super-Majority Vote while others require a Unanimous Vote. (See current ILA, ¶¶ 5.2.2 and 5.3.) It is not clear whether the effect of WAC 82-60-02021(2), which requires a resolution or ordinance approving amendments to the "Foundation Agreement" or "Bylaws", is to make any change to the ILA essentially a "Unanimous Vote". WAC 62-80-02021(1) states: "Changes to any terms of the foundation agreement *shall be approved by a majority of the members, or by a greater majority if provided for in the bylaws or foundation agreement* of the joint self-insurance program." (Emphasis added.) Perhaps the only way to harmonize the two requirements is to allow amendments of some provisions of the ILA by less-than-Unanimous Votes, and if the amendment passes by the applicable Voting Standard, then all Members' governing bodies must execute their own resolution and sign the amendments even if they voted against them. That is in fact how we have treated this issue in ¶¶ 5.4.3 and 5.4.4 of the Amended ILA.

changes approved in the 2009 and 2010 Resolutions to take effect immediately, or upon a specific date or event that has already occurred, shall be deemed to have been in effect since those dates. Provisions not subject to previously specified “effective dates”, or specified in the PURMS and Authorizing Resolutions approved this November, will generally become effective as of the beginning of the next year, January 1, 2012.

Finally, all joint self-insurance programs must receive written approval from SRM prior to implementing changes to the Foundation Agreement and/or Bylaws. [*See* WAC 82-60-065(1)(a) and (2)(d) for the Liability and Property Pools; and WAC 82-65-140(1)(a) and (2)(b) for the H&W Pool] We sent the proposed Amended ILA and Program Funding Amendments to the State Risk Manager on October 11 when we sent them to everyone else. As of the date of this letter, the Administrator has not received written indication from SRM whether it has any objections with the PURMS amendments to its Interlocal Agreement, as proposed.

I hope the attached “Summary of 2011 Amendments to PURMS Interlocal Agreement” for the Liability and Property Pools is helpful in your review and understanding of the reasons for the provisions and language of the ILA Amendments.

Best Regards,

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PURMS General Counsel