



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jennifer Schembri

SUBJECT: SEE BELOW

DATE: May 23, 2022

Approved

Date

06/01/22

**SUBJECT: AMENDMENT TO THE AGREEMENT WITH PACIFIC SECURED
EQUITIES, DBA INTERCARE HOLDINGS INSURANCE SERVICES,
INC. FOR COMPREHENSIVE WORKERS' COMPENSATION
SERVICES**

RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute an Amendment to the Agreement with Pacific Secured Equities, DBA Intercare Holdings Insurance Services, Inc. (Intercare) to extend the term of the Agreement from July 1, 2022 to June 30, 2025 and to increase the compensation by \$16,618,903 for a total amount of compensation not to exceed \$32,582,834, subject to annual appropriation of funds.

OUTCOME

Authorizing the City Manager to negotiate and execute an amendment to extend the current Agreement for an additional three years, through June 30, 2025, and increase the amount of compensation by \$16,618,903 for total not to exceed amount of \$32,582,834, with Intercare will allow Intercare to continue to provide comprehensive Workers' Compensation services and serve as the City of San José (City) Third-Party Administrator to administer all workers' compensation claims.

BACKGROUND

Intercare has been the City's Third-Party Administrator providing Workers' Compensation services with the most recent contract from June 18, 2019 through June 30, 2022, resulting from a request for proposals (RFP) released on December 14, 2018 and completed on January 31, 2019.

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Pursuant to the RFP, the intent was to enter an agreement for a six-year period, three of which would be option years. None of the responding vendors, however, submitted costs for the three option years. Staff provided, in the May 29, 2019 City Council memorandum titled "Report on Request for Proposal (RFP) and Actions Related to Workers' Compensation Comprehensive Services", that prior to the expiration of the Agreement on June 30, 2022 they would return to City Council with recommendations on whether to amend the Agreement with Intercare for the three-year period covering July 1, 2022 through June 30, 2025 or not.

The current Intercare Agreement has a term from July 1, 2019 through June 30, 2022. The total compensation amount for the current three-year agreement shall not exceed \$15,963,931 based on an estimated caseload of 2,330 – 2,850 claims and is subject to annual appropriation of funds. Intercare performs the following services on behalf of the City: Claims Administration; Investigations, Litigations, Settlement negotiations; Subrogation, Benefit payments; Cost Containment in the form of reviewing bills, utilization review and assigning a medical case management on specific claims; Medicare item processing; Medical Provider Network management; and Pharmacy Benefit management. All the above-mentioned services are essential to ensure compliance with state laws, cost containment for the City and continued Workers' Compensation benefit services for employees.

ANALYSIS

Staff sought an extension of the current Agreement with Intercare for an additional three years. Intercare agreed to extending the term of the Agreement from July 1, 2022 to June 30, 2025 and increasing the amount of compensation by \$16,618,903 for a total amount of compensation not to exceed \$32,582,834.

Regarding the increase in costs for the new agreement, staff negotiated no increases in the first year of the agreement due to no significant increases in the estimated caseload requiring additional Intercare staff. Staff negotiated and agreed to a 2% increase in Claims Administration fees for year two and a 2% increase in year three to include cost of living increases for all Intercare staff servicing the City program. Claims administration fees for year one will be \$3,926,790, for year two it will be \$4,005,326 and for year three it will be \$4,085,432 reflecting the 2% increases.

Intercare was ranked as the top carrier by the RFP Evaluation Committee in 2019, meeting the City's RFP requirements. As the incumbent, Intercare has specific experience working with the City and its employees, and extending the contract provides continued Workers' Compensation benefit services for injured employees.

Staff recommends extending the contract with Intercare based on its proven ability to continue to offer quality workers' compensation claims services. In addition, Intercare's performance has been consistent and excellent in the following areas which are measured annually:

A. Open Claims

The total number of open claims for Intercare decreased by approximately 5% from 2,647 on June 30, 2019 to 2,508 on June 30, 2020. Open claims have remained relatively flat since June 30, 2020, with the total number of open claims at 2,489 on June 30, 2021. As of December 31, 2021, the total number of open claims totaled 2,510. Open claim inventory fluctuates on a daily basis.

B. Closing Ratios

Closing Ratios measures the ratio between new/reopened claims and closed claims. The industry standard has a target of 100 percent. For the period July 1, 2019 through June 30, 2020, Intercare reported an overall closure rate of 108.9%. For the period July 1, 2020 through June 30, 2021, Intercare reported an overall closure rate of 101.8%. For the six-month period July 1, 2021, through December 31, 2021, Intercare reported an overall closure rate of 96.9%. Timely claims resolution ensures that future costs are mitigated, and the employee may either return to work or find an alternative resolution. On an annual basis, Intercare has consistently met the industry standard of 100% since the onset of the agreement.

C. Intercare Staffing

Intercare staffing increases and/or decreases based on the number of open claims. As mentioned previously, the number of open claims has been relatively flat since June 30, 2020, therefore, the number of Intercare staff has remained at 19 total staff members. As of December 31, 2021, Intercare had 10 Senior Claims Examiners handling 1,392 indemnity claims, four examiners handling 1,031 medical only/future medical claims and five Clerical and support staff. Industry standard for caseloads range from 150-175 for Senior Claims Examiners and up to a maximum of 300 for Future Medical/Medical Only Examiners. Intercare's Senior Claims Examiners on the City's account average 129.2 cases while Future Medical/Medical Only Examiners on the City's account average 279.5 cases which adhere to industry standards.

D. Adjuster Technical Audit

As part of the management of Intercare, an annual Adjuster Technical Audit for Quality and State Compliance performance has been implemented for all adjusters or examiners on our account. Specific areas measured in the audit for both Quality and State Compliance performance are as follows:

1) Quality Performance

- Three-point contacts – Timely completion of 3 Point Contacts (Pass/Fail)
- Causation Analysis – Timely causation decision within 90 days (Pass/Fail)
- Plan of Action – Plan of Action in claim notes every 90 days (Pass/Fail)
- Benefit Payments – Timely and accurate payment of benefits (Pass/Fail)

2) State Compliance Performance

- Temporary Disability payment compliance
- Permanent Disability & Death benefits payment compliance
- Subsequent indemnity payment compliance
- Agreed Medical Examiner/Qualified Medical examiner notices compliance

The performance measures for the period of July 1, 2021 through December 31, 2021 reflect an overall audit score of 96.7% compared to a 96% overall audit score for the previous reporting period July 1, 2020 through June 30, 2021. For the period July 1, 2019 through June 30, 2020, an overall audit score of 93% was achieved.

In the workers' compensation industry, external auditors conduct statutory audits. The audit structure for rating the overall effectiveness is as follows:

- 90% - 100% - Exceeds Expectations
- 80% - 89% - Meets Expectations
- 70% - 79% - Below Expectations
- 0% - 69% - Unsatisfactory: Immediate Action Required

Intercare holds its internal audits to the same standard. A score of 90% or "Exceeds Expectations" is the achievable passing score. Intercare has consistently demonstrated an Exceeds Expectations overall score on the Adjuster Technical Audit since the beginning of the agreement.

CONCLUSION

To ensure the continued delivery of Workers' Compensation insurance services, staff recommends adoption of a resolution authorizing the City Manager to negotiate and execute an Amendment to the Agreement with Intercare to extend the term for an additional three years through June 30, 2025 and increase compensation by \$16,618,903 for a total not to exceed amount of \$32,582,834, subject to the annual appropriation of funds.

EVALUATION AND FOLLOW-UP

Report updates on the Workers' Compensation Program will be on the Public Safety, Finance and Strategic Support Committee agenda in the fall of 2022 and once a year thereafter. In addition, a new RFP will be required before the end of the requested extension through June 2025.

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CLIMATE SMART SAN JOSE

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the June 14, 2022 City Council meeting.

COORDINATION

This memorandum has been coordinated with the Office of the City Attorney and City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

The amendment to the contract will extend the current contract for an additional three years. These costs are related to the comprehensive Workers' Compensation services provided by Intercare. The funding for the existing contract is currently budgeted in the Human Resources Non-Personal/Equipment appropriation and the various Workers' Compensation Claims appropriations in the General Fund. Payment of the extended contract beginning July 1, 2022 through June 30, 2025 would be subject to the appropriation of funds as part of future budget development processes and is estimated below:

1. FY 2022-2023 projected cost is \$5,460,575.
2. FY 2023-2024 projected cost is \$5,539,111.
3. FY 2024-2025 projected cost is \$5,619,217.

The total cost for the three-year extension to the Agreement is projected to be \$16,618,903.

The new contract maximum compensation for the term of June 18, 2019 through June 30, 2025 is \$32,582,834.

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CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.



JENNIFER SCHEMBRI

Director of City Manager's Office of Employee Relations
Director of Human Resources

For questions, please contact Eric Fortes, WC & Health/Safety Division Manager, (408) 975-1418.