

COUNCIL AGENDA: 8/16/22 FILE: 22-1177 ITEM: 3.3

# Memorandum

# TO: HONORABLE MAYOR AND CITY COUNCIL

**FROM:** Jennifer Schembri

**SUBJECT: SEE BELOW** 

**DATE:** August 1, 2022

Date Approved 8/3/2022

# SUBJECT: AGREEMENT WITH CONCERN FOR EMPLOYEE ASSISTANCE PROGRAM AND CRITICAL INCIDENT RESPONSE PROGRAM

# **RECOMMENDATION**

Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the City and Concern: Employee Assistance Program (Concern) for an Employee Assistance Program and Critical Incident Response Program for a four-year term for the period of January 1, 2023, through December 31, 2026, with an option to extend an additional two years, for a total cost not to exceed \$3,481,561, subject to the annual appropriation of funds.

# **OUTCOME**

Approval of the recommendation will provide a Critical Incident Response (CIR) program to City of San José (City) employees and an Employee Assistance Program (EAP) to City employees and their dependents.

# **BACKGROUND**

Managed Health Network (MHN) has been the provider of the City's sworn and non-sworn staff EAP and Critical Incident Stress Debriefings programs since July 1, 1994, except for a short period from 2012 to mid-2014 when Magellan provided these services after a Request for Proposal (RFP) in 2011. Due to unresolved service issues with Magellan, MHN replaced Magellan on July 1, 2014. Staff conducted an RFP in 2016 which resulted in MHN being the only bidder and its current contract is set to expire on December 31, 2022.

EAP is a 100% City paid benefit that provides confidential mental health and work-life support services to benefited City employees who work 20 hours or more per week and their dependents. The work-life support services include legal consultations, tax planning, financial services, childcare and eldercare referrals, identity theft protection, and daily living service referrals. Critical Incident Stress Debriefings (CISDs) is also provided on-site where licensed mental health professionals assist employees in coping with the severe emotional stress that can occur following traumatic events experienced on the job. Additionally, trainings are available through EAP for Management Consultation Services, Organizational Development Services, and Training and Skill Development including health and wellness and work/life seminars for employees.

Currently, non-sworn employees and their dependents receive five counseling sessions for each personal incident that prompts treatment per year. Sworn employees, public safety dispatchers, and their dependents receive unlimited counseling sessions. All employees and their dependents have access to a 24-hour crisis intervention service by telephone.

MHN has advised the City that they will no longer offer unlimited counseling sessions to sworn employees upon the expiration of its current contract ending on December 31, 2022. Additionally, among EAP providers in the marketplace, offering unlimited mental health sessions is extremely rare, especially since an EAP is designed to be an assessment, short-term counseling, and referral service to provide employees and their families with assistance in managing everyday concerns. An EAP is defined as a work-based intervention program designed to assist employees in resolving personal problems that may adversely affect an employee's performance. An EAP will help in identifying problems, determining needs, and referring members to the right experts to get the specialized help or long-term care they need. All commercial health plans, including the City's Anthem and Kaiser plans, cover behavioral health services. These services include treatment for mental health and substance use disorders, including counseling and specialized psychotherapies.

The trending number of counseling sessions offered by providers by EAP services is eight per incident per year, and many employers have already increased or are planning to increase the number of sessions they offer to employees beginning in 2023. As such, and in an effort not to dissuade EAP providers from bidding by requesting unlimited sessions for sworn employees, as well as to obtain multiple bids for the RFP, the City requested bids for both five and eight sessions for non-sworn employees and 15 and 20 sessions for sworn employees.

The City's current Substance Abuse Policy provides that upon an employee seeking assistance from the EAP for a substance abuse concern, the EAP will approve a treatment plan and facility if deemed appropriate. This provision was only possible because MHN is a behavioral health plan that covers medically necessary mental health services, substance use disorder treatment, and EAP wellbeing services. This section of the Substance Abuse Policy was implemented many years ago when the City's health plans were either not covering substance abuse or were covering substance abuse on a limited basis. However, with the Mental Health Parity and

Addiction Equity Act in 2008, substance abuse treatment is now covered by health plans. This act is a federal law that generally prevents group health plans and health insurance issuers from imposing less favorable benefit limitations on substance abuse benefits than on medical/surgical benefits. As MHN is a behavioral health plan and has a network of contracted health care providers, it has been able to offer claims administration for substance abuse and invoice the City for its 70 percent share of a treatment program. Other EAP vendors are not able to provide these services as EAPs are typically only licensed to provide EAP services, which is assessment, short-term therapy (counseling), and work life services. Since substance abuse treatment is now covered under health plans, EAP providers, when deemed necessary, refer employees to their health plans for treatment. Therefore, the EAP RFP did not include a requirement or request for substance abuse treatment or claims administration, which are outside the scope of services for an EAP.

Since the last RFP in 2016, the landscape of the EAP marketplace has changed in terms of expanding and enhancing the types and methods of service offerings, such as providing life coaching in addition to mental health counseling; having web-based portals and self-serve online resources, including self-assessment mental well-being surveys; having an expanded digital network comprised of providers outside of the local area which improves access to care for employees; and having mobile applications for easy access to EAP services.

Another important change since the last RFP is the establishment of the City's Powered by People initiative to "Nurture Employee Growth, Safety and Wellness." The City has been working on expanding the employee wellness program with a focus on mental well-being. Additionally, the City launched a Trauma Informed Care initiative to raise awareness of mental health issues experienced by employees and their families, to create a culture that supports the mental well-being of employees, and to build resilience.

Also, since the last RFP, the COVID-19 pandemic accelerated the need to address mental health by laying bare the challenges all employees faced over the last couple of years. Every employer has employees in a variety of mental health states with varying needs, and employers across the country are realizing more than ever how important it is to address them. A top priority for the City is to address these needs and expand access to mental health services.

With the current MHN contract set to expire December 31, 2022, the City conducted an EAP RFP to not only explore the enhanced services and new delivery platforms offered by many EAP providers in the marketplace but also to support the City's Powered by People initiative to "Nurture Employee Growth, Safety and Wellness" by requesting proposals that include offerings above the City's current EAP program.

In preparing for the EAP RFP, staff received and incorporated input from the City's Powered by People Human Centered Design Learning Lab. The lab is a development experience designed to foster a culture of innovation and creative problem-solving among employees. Using a teambased approach, participants are given the opportunity to solve a meaningful challenge in

collaboration with department leadership. In fall of 2021, one of the teams examined the City's EAP to determine how the program might be improved and to increase utilization. Suggestions included increasing the number of counseling sessions for non-sworn employees, quicker response time for obtaining an appointment with a therapist, and the need for more therapists, especially therapists from diverse backgrounds. Questions were included in the RFP to address these criteria including a request for pricing of more than the current five counseling sessions per incident per year for non-sworn employees.

Also, staff included questions in the RFP regarding diversity, equity, and inclusion (DEI). The City is focusing on DEI, in part to attract and retain diversity in the workforce by offering culturally responsive resources to help staff maintain their wellbeing. As a result, Human Resources is incorporating DEI in program offerings. DEI questions in the RFP addressed vendors' experience and approach to DEI, including a request for information on their accessibility practices, racial and gender diversity of providers, and provider experience.

## ANALYSIS

EAP objectives for the pending agreement, starting in January 2023, include matching or enhanced benefits from what is currently offered, strength and breadth of network, adequate and equitable access to services, strong customer service and enhanced "white-glove" employee experience intake process, a robust first responder program including a curated first responder network, and the ability to offer an expanded digital network for coaching and therapy. However, instead of unlimited sessions for sworn staff and dispatchers, staff requested 15 and 20 session options. Unlimited sessions are rarely offered by EAP providers.

The RFP for EAP services was value based, not cost based. While costs were part of the evaluation criteria, this RFP focused on the importance of a strong network, including a curated first responder network and a comprehensive service model with capabilities to meet the needs of the City and its employees and their dependents.

#### Targeted Outreach

The RFP was posted on the City's procurement website Biddingo, and at the direction of Human Resources, Alliant, the City's contracted benefits consultant, conducted a targeted outreach to several known EAP providers. Additionally, Alliant followed up with EAP providers who reviewed the RFP on Biddingo, as well as EAP providers to whom it had notified of the RFP, to inquire if they intended to bid.

#### **Evaluation Committee**

A request for volunteers for the EAP RFP Evaluation Committee was made to City departments and bargaining units. The Evaluation Committee consisted of representatives from various unions including staff from Human Resources, the Office of the City Manager, and Library, Environmental Services, Fire, and Police departments.

#### **Evaluation and Selection**

The City received proposals from MHN, Anthem, Concern, Human Affairs International of CA known as HAI-CA /Magellan, Integrated Behavioral Health known as Uprise Health/Claremont (Claremont), and Morneau Shepell known as Lifeworks. The Evaluation Committee met to review and discuss the proposals. Of the six proposals, three were selected as finalists: Concern, Claremont, and MHN. Anthem, Lifeworks, and HAI-CA/Magellan were eliminated from further consideration, as their proposals did not meet the City's needs.

Anthem submitted the lowest cost proposal; however, it does not provide a first responder curated network, has the lowest provider count for the Bay Area, and the highest count of employees without desired access. It currently does not have an expanded digital network and does not offer life coaching. For these reasons, it was eliminated from further consideration.

Lifeworks was eliminated from consideration because it does not have a first responder curated network, provide a count of employees without desired access (based on the City's provided employee census), or have an expanded digital network. Lifeworks has the third lowest provider count of the Bay Area. Lifeworks submitted the second highest cost proposal.

Magellan submitted the highest cost proposal, which was more than 30% above the second highest cost proposal. Magellan has the second lowest provider count for the Bay Area and the third highest count of employees without desired access. Also, Magellan's intake process includes features that are helpful for employees wanting self-directed resources and services, however, many employees prefer an enhanced intake experience where they receive "live" human support and assistance. As such, Magellan was eliminated from further consideration.

<b>Evaluation</b> Criteria	Weight	MHN	Claremont	Concern
Minimum Qualifications	Pass/Fail	Pass	Pass	Pass
Cost Proposal	20%	50%	100%	75%
Provider Network & Access	20%	64%	79%	89%
Plan Offerings	20%	46%	79%	98%
1 <sup>st</sup> Responder Program	20%	68%	80%	94%
Experience of Proposer	10%	81%	81%	94%
Local Business Enterprise	5%	0%	0%	0%
Small Business Enterprise	5%	0%	0%	0%
Total	100%	54%	71%	82%
Ranking		3	2	1

#### Evaluation Criteria, Weight and Scores

Of the three finalists, MHN was the third highest cost proposal. MHN does not have an expanded digital network or mobile application. MHN's technology is not on par with that of Concern and Claremont. Also, for MHN's intake process, clinicians provide members with a list of referral options that meet their needs for specialty, demographics, and proximity by email or by phone. Once a member selects a provider and schedules an appointment, the employee needs to contact MHN to request authorization. This traditional list model intake process has been cumbersome and frustrating for employees. For these reasons, MHN was eliminated from further consideration.

The proposals from both Concern and Claremont were the most comprehensive and inclusive of the City's objectives for an EAP and CIR program. Both vendors offer a strong network of providers, a curated first responder network, high provider counts in the Bay Area, the lowest count of employees without desired access, an expanded digital network and coaching through BetterHelp, strong customer service, and an enhanced employee experience intake process. BetterHelp is a mental health platform that provides online mental health services directly to consumers. The online counseling and therapy services are provided through web-based interaction as well as phone and text communication. BetterHelp offers access to licensed, trained, experienced, and accredited psychologists, marriage and family therapists, clinical social workers, and board licensed professional counselors.

While Concern's rates were higher than those of Claremont, and costs are part of the proposal evaluation, the EAP RFP was value based, not cost based. Also, the pricing structures for these two vendors were different. Claremont offers a per employee per month (PEPM) rate structure for an EAP. Concern offers a PEPM for eight sessions for non-sworn employees and for the sworn population, it offers a fee-for-service pricing model for nine or more sessions. Concern provided an estimated the cost for this added fee; however, actual costs will be based on utilization. Therefore, actual costs may be higher or lower than the estimate. City staff utilization above eight sessions has historically been low. By having this fee-for-service structure, the City will pay only actual costs incurred for sessions above the base eight rather than a fixed PEPM for all 20 sessions per year for sworn employees.

Both Concern and Claremont have a curated first responder network, however Concern has 100 providers while Claremont has 40. Concern's first responder providers are trauma-trained counselors, many of whom are former first responders who are uniquely qualified to handle the specific needs of first responders.

In terms of number of clients, Concern has 220 employer clients with an average client size of 4,000-6,000 employees, whereas Claremont has 60,000 employer clients with an average client size of 979. Through this RFP, the City sought proposals from vendors that provide EAP services to employers of a comparable size to the City's approximately 5,800 employees. Concern's client base is more aligned with the City's expectations for a vendor's experience.

The Evaluation Committee concluded that Concern's approach to providing personalized services to its clients, along with its ability to customize offerings for the City, fit well with the City's objectives. The Evaluation Committee also thought that Concern offered a good balance between personal and technical services, whereas Claremont leaned more toward technical services, guiding employees to digital resources. While digital resources are important for the City's EAP, many City employees still prefer personal services.

Also, while the total provider counts for Concern and Claremont were comparable. In Santa Clara County, where the majority of City employees reside, Concern has 960 providers compared to Claremont's 710 providers. Additionally, Concern focuses on building partnerships with a diverse national network of top-tier counselors, and it tightly manages its provider network to ensure easy access to competent, effective, and compassionate care.

Overall, Concern's experience and knowledge combined with its high-touch and high-tech approach to delivering benefits tailored to its clients, including offering a powerful digital platform and an elite, accessible counseling network, impressed the Evaluation Committee and best met the City's objectives for a EAP and CIR services. Additionally, Concern has integrated diversity into its recruitment and hiring efforts to better reflect its customers' diverse employee populations. Concern has a diverse network of providers, critical incident responders and trainers, and it's vetted its work-life partners for corporate diversity initiatives. Concern's commitment and efforts to incorporate DEI into its organization and provider network align with the City's initiatives on DEI.

## Pricing

## EAP

For the pending agreement with Concern, the non-sworn staff premium for eight sessions will be \$3.89 PEPM for plan years one and two, 2023 and 2024. For plan years three and four of the four-year contract, 2025 and 2026, and optional additional two years, 2027 and 2028, the PEPM annual renewal rate will be based on utilization. For sworn staff, premiums will be a combination of a PEPM rate for eight base sessions per employee, and an added fee-for-service rate for the additional 12 sessions, for a total of 20 sessions. The sworn staff premium for eight base sessions

is \$9.67 PEPM for plan year one, 2023. The estimated cost for the added fee-for-service for plan year one, 2023, is estimated to be \$85,000. The actual cost may be lower or higher depending on utilization. For plan years two, three, and four of the four-year contract, 2024, 2025, and 2026, and the optional two years, 2027 and 2028, via the option to extend the contract, the PEPM annual renewal rate as well as the added fee-for-service for the additional 12 sessions will be based on utilization. To account for the estimated \$85,000 above the base PEPM for plan year 2023, the inflated PEPM rate will be \$13.26.

There is a one-time implementation fee of \$5,000 under the pending contract with Concern, which will be funded by the General Fund.

The following table summarizes the City's current EAP premiums compared to the proposed premiums PEPM using the sworn inflated PEPM rate to account for the estimated added fee-for-service of \$85,000.

EAP Premiums	January 2022 Enrollment	Current Premium (PEPM)	Current Premium Annualized	Proposed Premium (PEPM) for Non- sworn/ (Inflated PEPM) for Sworn	Proposed Premium Annualized	Estimated Cost Difference
Non-Sworn	3693	\$1.75	\$77,553	\$3.89	\$172,389	\$(94,836)
Sworn & Public Safety Dispatchers	1974	\$15.10	\$357,689	\$13.26	\$314,063	\$43,626
Total \$435,242 \$486,452 \$						

**Current 2022 EAP Premiums compared to Proposed 2023 EAP Premiums** 

Staff estimates a not-to-exceed amount of \$3,241,561 for premiums for non-sworn and sworn employees combined, for the four-year contract, 2023 through 2026, and the additional two years, 2027 and 2028, via the option to extend the contract based on the proposed plan year one rates. Plan year one rates are the PEPM for non-sworn employees and the inflated PEPM for sworn employees, which accounts for the estimated \$85,000 added fee-for-service for additional 12 sessions. This not-to-exceed dollar amount includes a three percent hiring contingency factor each year for enrollment. Actual premiums will be determined by the vendor each year based on utilization.

The EAP premium also includes 50 training hours per calendar year. Up to ten unused training hours will be rolled over to the next calendar year. Any hours required in excess of the available 50 training hours would be charged to the department requesting the training. The fee-for-service training rates will be \$300 per hour for plan year one. Actual training rate for plan years two, three and four, 2024 through 2026, and the additional two years, 2027 and 2028 via the option to extend the contract, will be determined during rate renewals each year. Staff estimates a not-to exceed amount of \$90,000 for training above the 50 training hours included in the premiums for the four-year contract, 2023 through 2026, and the additional two years, 2027 and 2028 via the option to extend the contract based on the rate of \$300 per hour for plan year one, 2023.

# CIR

Currently, the critical incident services under the MHN contract are referred to as Critical Incident Stress Debriefings. Under the new contract with Concern, critical incident services are referred to as CIRs. The CIR cost under the pending contract with Concern is \$300 per hour, which is \$100 more per hour under the contract with MHN whose rates have not increased over the life of the current six-year contract. The City will be billed on a fee-for-service basis for CIRs, which will be charged to the requesting departments.

Historically, the majority of critical incident services have been provided to Police Department employees due to the nature of their jobs; however, other City departments have also requested CIR services. Recently, the City has seen much higher utilization of CIR services for the Police Department and other City departments. With this higher than usual utilization, combined with a higher fee for CIR services with a new vendor, staff estimates a much higher cost for CIRs under the new contract.

In fiscal year 2020/2021, CIR costs totaled \$10,250, based on service date. In fiscal year 2021/2022, costs based on service date totaled \$15,550, a 51.7 percent increase. Due to the increased utilization of CIR services in the past fiscal year, and the anticipated continued high utilization, in addition to the higher cost per CIR, staff estimates a not-to-exceed amount of \$150,000 for the four-year contract, 2023 through 2026, and the optional two years, 2027 and 2028, based on the rate of \$300 per hour for plan year one, 2023. Actual CIR rates for plan years two, three and four, and the additional two years, 2027 and 2028, via the option to extend the contract will be determined during rate renewals each year.

# **CONCLUSION**

Based upon benchmarking the number of EAP counseling sessions provided by other public agencies and given that employee health and wellness is a Citywide priority as part of the Powered by People initiative, the Evaluation Committee recommends eight EAP sessions for non-sworn employees and their dependents per incident per year and 20 EAP sessions for sworn employees and public safety dispatchers and their dependents per incident per year.

The HR recommends the agreement with Concern be approved based on its ability to offer quality services; a high level of customer service, including a user-friendly intake process; a strong and wide network of providers; a robust First Responder program, including a curated network of first responder providers; enhanced digital programs; and cost competitive rates. Concern's proposal meets the City's desire to offer the most comprehensive EAP and CIR services possible.

## **EVALUATION AND FOLLOW-UP**

No additional follow-up actions with the City Council are expected at this time.

## **CLIMATE SMART SAN JOSE**

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

## PUBLIC OUTREACH

The local business community was given the opportunity to compete by the posting of the RFP on the City's procurement website Biddingo. Additionally, targeted outreach was conducted to several known EAP providers. Interested providers were asked to submit proposals for their EAP and CIR services.

This recommendation was shared with the Benefits Review Forum and the eleven bargaining units that represent City employees and two City retiree associations via email on TBD Date.

This memorandum will be posted on the City's website for the City Council Agenda for the City Council meeting on August 16, 2022.

#### **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**

## Total EAP, CIR and Training Costs

Total estimated cost for the four-year contract, 2023 through 2026, and the additional two years, 2027 and 2028, via the option to extend the contract, for EAP premiums is \$3,241,561, CIRs is \$150,000, and training is \$90,000 for a total not to exceed amount of \$3,481,561. EAP premium costs include the three percent per year hiring contingency factor noted above. EAP premiums, which are 100 percent City-paid, are collected on the first pay period of each month and are budgeted in the Benefits Fund. CIR and training costs are paid by the requesting City departments' budgets and not by the Benefits Fund.

#### Fiscal Year Costs of the Proposed Agreement

The total fiscal year costs under the agreement for the four-year term plus the option to extend an additional two-years, shall not exceed \$3,481,561.

The costs by fiscal year for the six-year agreement are as follows:

- 1. EAP (\$250,531) and CIR (\$12,500) and Training (\$7,500) for the last six months of fiscal year 2022-2023, from January 1, 2023 through June 30, 2023, at an estimated cost of \$270,531.
- 2. EAP (\$508,576), and CIR (\$25,000) and Training (\$15,000) for fiscal year 2023-2024, from July 1, 2023 through June 30, 2024, at an estimated cost of \$548,576.
- 3. EAP (\$523,856), and CIR (\$25,000) and Training (\$15,000 for fiscal year 2024-2025, from July 1, 2024 through June 30, 2025, at an estimated cost of \$563,856.
- 4. EAP (\$539,618), and CIR (\$25,000) and Training (\$15,000) for fiscal year 2025-2026, from July 1, 2025 through June 30, 2026, at an estimated cost of \$579,618.
- 5. EAP (\$555,861), and CIR (\$25,000) and Training (\$15,000) for fiscal year 2026-2027, from July 1, 2026 through June 30, 2027, at an estimated cost of \$595,861.
- 6. EAP (\$572,587), and CIR (\$25,000) and Training (\$15,000) for fiscal year 2027-2028, from July 1, 2027 through June 30, 2028, at an estimated cost of \$612,587.
- 7. EAP (\$290,532), and CIR (\$12,500) and Training (\$7,500) for the first six months of fiscal year 2028-2029, from July 1, 2028 through December 31, 2028, at an estimated cost of \$310,532.

## **BUDGET REFERENCE**

The table below identifies the funds and appropriations to fund the EAP and CIR services for eligible employees recommended as part of this memorandum.

HONORABLE MAYOR AND CITY COUNCIL

August 1, 2022

Subject: Agreement with Concern: Employee Assistance Program for an Employee Assistance Program and **Critical Incident Response Program** 

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Fund #	Appn #	Appn. Name	Total FY22/23 Appn	Amt. for Contract	Proposed 2022-2023 Budget Page <sup>2</sup>	Last Budget Action (Date, Ord. No.)
160	0124	Employee Assistance Program	\$506,000	\$502,531 <sup>1</sup>	842	06/21/2022 Ord. No. 30790
001	0482	Non-Personal/ Equipment	\$5,699,481	\$5,000	558	6/21/2022 Ord. No 30790
	Total Current Funding Available		\$6,205,481	\$507,531		

<sup>1</sup>The above amount for the contract includes a contingency factor of 3% for Jan-Jun 2023 enrollment, based on the hiring initiative to increase the number of vacancies filled across the City.

<sup>2</sup>The 2022-2023 Adopted Operating Budget was approved on June 14, 2022 and adopted on June 21, 2022 by the City Council.

# 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 Employee Relations and Director of Human Resources

For questions, please contact Emily Hendon, Benefits Division Manager, at email emily.hendon@sanjoseca.gov or (408) 975-1448.