

REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:

SEPTEMBER 3, 2019

TITLE:

**APPROVE THE FIRST AMENDMENT TO
THE AGREEMENTS WITH ADMINISURE,
INC., FOR THIRD PARTY ADMINISTRATOR
CLAIMS SERVICES ADDITIONAL ANNUAL
FEES FOR GENERAL LIABILITY OF
\$93,360 AND WORKERS' COMPENSATION
CLAIMS OF \$49,800
{STRATEGIC PLAN NO. 7; 6}**

CITY MANAGER

CLERK OF COUNCIL USE ONLY:

APPROVED

- ☐ As Recommended
- ☐ As Amended
- ☐ Ordinance on 1st Reading
- ☐ Ordinance on 2nd Reading
- ☐ Implementing Resolution
- ☐ Set Public Hearing For _____

CONTINUED TO _____

FILE NUMBER _____

RECOMMENDED ACTION

Authorize the City Manager to execute the attached first amendments to the agreements with AdminSure, Inc., to provide an increased scope of services to the City's self-insured third party claims administration and management for General Liability and Workers' Compensation with term of agreements remaining from September 5, 2018 through August 31, 2021 which include two, two-year options for renewal. Additional amount of \$7,780 per month for General Liability and \$4,150 per month for Workers' Compensation, subject to non-substantive changes approved by the City Manager and City Attorney. This increase annualized is \$49,800 for Workers' Compensation and \$93,360 for General Liability.

DISCUSSION

The City is self-insured for General Liability and Workers' Compensation with excess coverage previously through participation in a Joint Powers Agreement with the Big Independent Cities Excess Pool (BICEP). For Workers' Compensation, the City was self-insured and self-administered for claims management and processing and had excess coverage through the California State Association of Counties - Excess Insurance Authority (CSAC-EIA). Due to the dissolution process of BICEP, on July 2, 2019, the City Council approved that the City become a member in excess coverage pool and ancillary insurance coverages with Independent Cities Risk Management Authority (ICRMA). Through this change, the City will realize a savings in Fiscal Year 2019/2020 of approximately \$1,000,000.

Prospectively, all claims and reporting will be processed with ICRMA by the City's current Third Party Administrator, AdminSure. However, the dissolution of BICEP requires additional and duplicative monitoring, processing and reporting throughout the dissolution process which could extend for several years, dependent upon the closure of each outstanding claim from each Member City or an alternative claim resolution for the remaining open claims.

Due to the increase in scope to the current AdminSure agreement, staff is recommending that City Council authorize the increase of the current monthly rate for Workers' Compensation administration, beginning September 1, 2019 through August 31, 2020, from \$42,125 to \$47,539, which includes the 3% increase as approved in the original agreement, and General Liability administration from \$14,600 to \$22,818 monthly, also inclusive of the 3% annual increase. Subsequent years are shown in the table below.

The amended scope is due in part, to the enhanced ongoing obligations of the City of Santa Ana under the terms and conditions of the documents that describe BICEP's authority to serve as a risk sharing pool among its Member public agencies. Additionally, current reporting will need to be duplicative in nature but will entail separating the reporting according to the applicable pool coverage terms and differing Self Insured Retentions (SIR) for applicable periods, various insurance carriers, as well as State and Federal reporting requirements.

1. BICEP is required to retain an actuary to prepare a report on each Member's Risk Sharing Premium based on loss rate, if any future Premiums are to be established. In accordance with BICEP's Liability Program, Art. 4.1.2.2; Exhibit A (I.) (A), BICEP is requesting quarterly electronic submittals of all claims data for purposes of conducting actuarial analyses and reinsurance for each Coverage Period for which the City is a participant.
2. In addition to scope of services in the Agreement with TPA regarding requirements by and to BICEP, the TPA will provide all requirements under the ICRMA Agreement, including but not limited to:
 - a. Participate with regular submissions of all qualifying claims to ICRMA Claims Committee and Litigation Manager.
 - b. Observe all claims reporting requirements under ICRMA Liability Program Memorandum of Coverage.
 - c. Follow all State reporting requirements for ICRMA & BICEP

The current Agreement defines Consultant's Obligations as follows:

"The Consultant represents that it employs, or will employ, at its own expense, all personnel required for the satisfactory performance of the Services."

"Consultant shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement."

The increased workload is different and larger in scope than that described and discussed from the original RFP requirements thus increasing the amount of materials, equipment, personnel that the Consultant is obligated to provide under the current rate of compensation.

Fee Structure Comparison:

Original Agreement: 9/1/2018 - 8/30-2019

<i>AdminSure, Inc. – Fee Structure</i>	Workers' Compensation Monthly Fee	Workers' Compensation Annual Fee	General Liability Monthly Fee	General Liability Annual Fee
<i>Year 1 (Completed-No Adjustment)</i>	\$ 42,125	\$ 505,500	\$ 14,600	\$ 175,200
<i>Year 2</i>	\$ 43,389	\$ 520,665	\$ 15,038	\$ 180,456
<i>Year 3</i>	\$ 44,690	\$ 536,285	\$ 15,489	\$ 185,870
<i>Optional Year 4</i>	\$ 46,031	\$ 552,373	\$ 15,954	\$ 191,446
<i>Optional Year 5</i>	\$ 47,412	\$ 568,945	\$ 16,432	\$ 197,189
<i>Optional Year 6</i>	\$ 48,834	\$ 586,012	\$ 16,925	\$ 203,100
<i>Optional Year 7</i>	\$ 50,299	\$ 603,593	\$ 17,433	\$ 209,193

PROPOSED: EFFECTIVE 9/1/2019

<i>AdminSure, Inc. – Fee Structure</i>	Workers' Compensation Monthly Fee	Workers' Compensation Annual Fee	General Liability Monthly Fee	General Liability Annual Fee
<i>Year 1 (Completed-No Adjustment)</i>	\$ 42,125	\$ 505,500	\$ 14,600	\$ 175,200
<i>Year 2</i>	\$ 47,539	\$ 570,465	\$ 22,818	\$ 273,816
<i>Year 3</i>	\$ 48,965	\$ 587,579	\$ 23,503	\$ 282,030
<i>Optional Year 4</i>	\$ 50,434	\$ 605,206	\$ 24,208	\$ 290,491
<i>Optional Year 5</i>	\$ 51,947	\$ 623,363	\$ 24,934	\$ 299,206
<i>Optional Year 6</i>	\$ 53,505	\$ 642,063	\$ 25,682	\$ 308,182
<i>Optional Year 7</i>	\$ 55,110	\$ 661,325	\$ 26,452	\$ 317,428

PROPOSED: EFFECTIVE 9/1/2019

Increase Difference Including Agreement Annual Increase and Additional Scope Increase

<i>AdminSure, Inc. – Fee Structure</i>	Workers' Compensation Monthly Fee	Workers' Compensation Annual Fee	General Liability Monthly Fee	General Liability Annual Fee
<i>Year 1 (Completed-No Adjustment)</i>	\$ -	\$ -	\$ -	\$ -
<i>Year 2</i>	\$ 4,150	\$ 49,797	\$ 7,780	\$ 93,360
<i>Year 3</i>	\$ 4,275	\$ 51,299	\$ 8,014	\$ 96,162
<i>Optional Year 4</i>	\$ 4,403	\$ 52,834	\$ 8,254	\$ 99,043
<i>Optional Year 5</i>	\$ 4,535	\$ 54,419	\$ 8,502	\$ 102,022
<i>Optional Year 6</i>	\$ 4,671	\$ 56,051	\$ 8,757	\$ 105,083
<i>Optional Year 7</i>	\$ 4,811	\$ 57,733	\$ 9,020	\$ 108,235

This amendment will not alter any other terms or conditions of the current Agreements, A-2018-210 and A-2018-211.

Staff recommends that City Council authorize the City Manager to amend the current agreements with AdminSure, Inc. to provide increased scope for TPA services for General Liability and Workers' Compensation claims processing. Documents will be reviewed by the City Attorney's Office before execution by the City Manager or her designee.

STRATEGIC PLAN ALIGNMENT

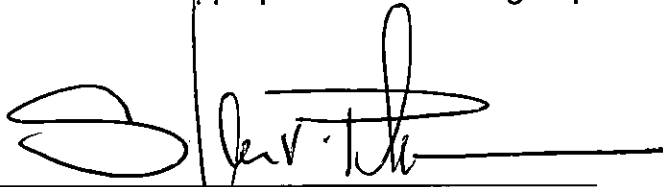
Approval of this item supports the City's effort to meet Goal #7 – Team Santa Ana, Objective #6, Provide a positive workplace environment that supports the health of its employees and celebrates its success.

FISCAL IMPACT

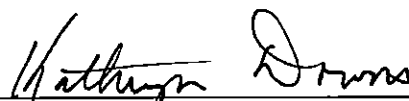
Workers' Compensation and General Liability TPA administrative services are currently budgeted under Contract Services in Fiscal Year 2019-20 Budget. Funds are available in the Human Resources Department / Risk Management Division Budget for original agreement fees (initial Workers' Compensation contract agreement fee for a total of \$570,465 for FY 2019-20 and initial General Liability contract agreement fee for a total of \$273,816 for FY 2019-20) as well as the increased fee for increased scope of services to the City's self-insured third party claims administration and management as follows:

Fiscal Year	Accounting Unit – Account #	Fund Description	Accounting Unit, Account Description	Amount
FY 2019-20	08209054-62302	Workers' Compensation	Workers' Compensation, Contracted Vendor Personnel Services	\$49,800
FY 2019-20	08009051-62302	Liability & Property Insurance	Liability & Property Insurance, Contracted Vendor Personnel Services	\$93,360
			Total Additional Contract Amount	\$143,160

No additional appropriations are being requested.


Steven V. Pham
Executive Director
Human Resources Agency

APPROVED AS TO FUNDS AND ACCOUNTS:


Kathryn Downs, CPA
Executive Director
Finance and Management Services Agency

mbf

SVP/dsl

Exhibits: 1. First Amendment to Agreements No. A-2018-210
2. First Amendment to Agreements No. A-2018-211

EXHIBIT 1

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT FOR THIRD PARTY WORKERS' COMPENSATION CLAIMS ADMINISTRATION

THIS FIRST AMENDMENT to the above-referenced agreement is entered into on September 3, 2019, by and between AdminSure, Inc. ("Administrator"), and the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("City").

RECITALS

- A. The parties entered into Agreement No. A-2018-210, dated September 4, 2018, by which Administrator agreed to provide claims administration services for the City's workers' compensation self-insurance program ("Agreement").
- B. The Agreement remains in effect for a three-year term through August 31, 2021, with provision for extension, and the parties now wish to expand the scope of work and increase the annual amount to be expended under the Agreement in consideration of the expanded scope.

The Parties therefore agree:

1. **Section 6, Claims Administration**, is amended to include the following additional services: Where applicable, the Independent Cities Risk Management Association ("ICRMA") shall be included relative to any obligation or duty by the Administrator in Section 6 of the Agreement, including without limitation claims administration, notification, monitoring, reporting, litigation management, and disclosure.
2. **Section 12, Consideration**, is amended to include the following monthly fee structure effective September 1, 2019. All other fees, if any, shall remain unchanged.

<i>AdminSure, Inc. – Fee Structure</i>	Workers' Compensation Monthly Fee	Workers' Compensation Annual Fee
<i>Year 1 (Completed-No Adjustment)</i>	\$ 42,125	\$ 505,500
<i>Year 2</i>	\$ 47,539	\$ 570,465
<i>Year 3</i>	\$ 48,965	\$ 587,579
<i>Optional Year 4</i>	\$ 50,434	\$ 605,206
<i>Optional Year 5</i>	\$ 51,947	\$ 623,363
<i>Optional Year 6</i>	\$ 53,505	\$ 642,063
<i>Optional Year 7</i>	\$ 55,110	\$ 661,325

3. Except as modified by this First Amendment, all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to the Agreement on the date and year first written above.

ATTEST

CITY OF SANTA ANA

DAISY GOMEZ
Clerk of the Council

KRISTINE RIDGE
City Manager

APPROVED AS TO FORM
SONIA R. CARVALHO, City Attorney

ADMINSURE, INC.

By: John M. Funk
JOHN M. FUNK
Assistant City Attorney

Alithia Vargas-Flores
ALITHIA VARGAS-FLORES
President

RECOMMENDED FOR APPROVAL

Steven V. Pham
Executive Director
Human Resources Agency

EXHIBIT 2

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT FOR THIRD PARTY GENERAL LIABILITY CLAIMS ADMINISTRATION

THIS FIRST AMENDMENT to the above-referenced agreement is entered into on September 3, 2019, by and between AdminSure, Inc. ("Administrator"), and the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("City").

RECITALS

- A. The parties entered into Agreement No. A-2018-211, dated September 4, 2018, by which Administrator agreed to provide claims administration services for the City's general liability claims ("Agreement").
- B. The Agreement remains in effect for a three-year term through August 31, 2021, with provision for extension, and the parties now wish to expand the scope of work and increase the annual amount to be expended under the Agreement in consideration of the expanded scope.

The Parties therefore agree:

1. **Section 2, Description of Services**, is amended to include the following additional services: Where applicable, the Independent Cities Risk Management Association ("ICRMA") shall be included relative to any obligation or duty by the Administrator in Section 2 of the Agreement, including without limitation claims administration, litigation management, and reporting of claims activity.
2. **Section 6, Term**, is amended to include the following monthly fee structure effective September 1, 2019. All other fees, if any, shall remain unchanged.

<i>AdminSure, Inc. – Fee Structure</i>	General Liability Monthly Fee	General Liability Annual Fee
<i>Year 1 (Completed-No Adjustment)</i>	\$ 14,600	\$ 175,200
<i>Year 2</i>	\$ 22,818	\$ 273,816
<i>Year 3</i>	\$ 23,503	\$ 282,030
<i>Optional Year 4</i>	\$ 24,208	\$ 290,491
<i>Optional Year 5</i>	\$ 24,934	\$ 299,206
<i>Optional Year 6</i>	\$ 25,682	\$ 308,182
<i>Optional Year 7</i>	\$ 26,452	\$ 317,428

3. Except as modified by this First Amendment, all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to the Agreement on the date and year first written above.

ATTEST

CITY OF SANTA ANA

DAISY GOMEZ
Clerk of the Council

KRISTINE RIDGE
City Manager

APPROVED AS TO FORM
SONIA R. CARVALHO, City Attorney

ADMINSURE, INC.

By: John M. Funk
JOHN M. FUNK
Assistant City Attorney

Alithia Vargas Flores
ALITHIA VARGAS-FLORES
President

RECOMMENDED FOR APPROVAL

Steven V. Pham
Executive Director
Human Resources Agency