

**City of Culver City, California  
Agenda Item Report**

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| Meeting Date: 07/28/14                                                                                                                                                                                                                                                                                                                                                                                                |  | Item Number: <u>C-4</u>                                                           |  |
| <b>CITY COUNCIL AGENDA ITEM: Approval of (1) a Five-Year Professional Services Agreement (to June 30, 2019) with Carl Warren &amp; Company and the Independent Cities Risk Management Authority (ICRMA) for Liability Claims Administration and Management; and (2) a Five-Year Professional Services Agreement (to June 30, 2019) with Carl Warren and Company for Transit Claims Administration and Management.</b> |  |                                                                                   |  |
| Contact Person/Dept.: Lisa Vidra, City Attorney's Office                                                                                                                                                                                                                                                                                                                                                              |  | Phone Number: (310) 253-5660                                                      |  |
| Fiscal Impact: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                    |  | General Fund: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |  |
| Public Hearing: <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                              |  | Action Item: <input type="checkbox"/> Attachments: <input type="checkbox"/>       |  |
| Commission Action Required: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Date: _____                                                                                                                                                                                                                                                                                                           |  |                                                                                   |  |
| Public Notification: (E-Mail) Meetings and Agendas – City Council (07/23/14)                                                                                                                                                                                                                                                                                                                                          |  |                                                                                   |  |
| Department Approval:<br>Carol Schwab, City Attorney (07/22/14)                                                                                                                                                                                                                                                                                                                                                        |  | City Attorney Approval:<br>Carol Schwab (07/22/14)                                |  |
| Chief Financial Officer Approval:<br>Jeff Muir (by M. Noller) (07/22/14)                                                                                                                                                                                                                                                                                                                                              |  | City Manager Approval:<br>John Nachbar (07/23/14)                                 |  |

**RECOMMENDATION**

Staff recommends the City Council approve: (1) a five-year professional services agreement (to June 30, 2019) with Carl Warren & Company and the Independent Cities Risk Management Authority (ICRMA) for liability claims administration and management; and (2) a five-year professional services agreement with Carl Warren and Company (to June 30, 2019) for transit claims administration and management.

**BACKGROUND**

The City is a member of two different self-funded insurance pools: (1) the Independent Cities Risk Management Authority (ICRMA), a joint powers authority (JPA) formed by a number of independent cities in the early 1980s to support the cities' individual self-insurance programs; and (2) the California Transit Indemnity Pool (CalTIP), a JPA formed by public transit operators. To facilitate its liability claims management, historically the City has used a third party administrator (TPA) for investigation, adjustment, and administration of liability claims asserted by third parties against the City. The TPA works closely with the City Attorney's Office in evaluating claims, negotiating and handling the paperwork for settlements at the claims stage, and monitoring the defense of litigation brought against the City. The TPA also ensures that the City and its outside defense firms follow the policies and guidelines set by the two risk pools.

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Beginning on January 1, 1993, the City entered into an agreement for City and Transit liability claims administration with Ward-THG, which was subsequently bought out by NovaPro Risk Solutions, L.P. (NovaPro). NovaPro continued to be the City's TPA until 2011, when Carl Warren & Company (Carl Warren) acquired NovaPro. The City has contracted with Carl Warren since 2011. Carl Warren, a 100% employee-owned company, has been in the claims and litigation management business for over 70 years.

In 2012 and 2013, ICRMA underwent a process to evaluate member spending on liability claims. Among other things, the outcome of the evaluation was the establishment of a number of measures to save money by reducing costs and improving the management of claims processing. ICRMA found that its member cities were using a wide variety of TPAs, and some member cities were self-administering their claims.

Effective January 1, 2014, the ICRMA Board of Directors determined that member cities must use one of two approved third party claims administrators: either AdminSure or Carl Warren & Company. Existing agreements were to be honored, but upon expiration the members must follow the new ICRMA policies.

The most recent agreement between the City and Carl Warren expired June 30, 2014, and therefore, the new ICRMA contracting policies must be followed and a new agreement executed.

**DISCUSSION**

ICRMA negotiated a five-year group purchase contract with AdminSure and Carl Warren. All ICRMA members must utilize one of these two firms for the full range of TPA services. Effective January 1, 2014, ICRMA members may no longer self-administer liability claims. ICRMA members may choose either AdminSure or Carl Warren; however, ICRMA must be a party to the agreement with the requirement that the TPA meets ICRMA reporting requirements.

Both Carl Warren and AdminSure agreed to offer ICRMA members the same "life of contract" pricing, as follows:

| ITEM                                              | AMOUNT  |
|---------------------------------------------------|---------|
| Incident only (no claim)                          | \$50    |
| Property Damage, no bodily injury, not litigated. | \$375   |
| Property Damage, no bodily injury, litigated      | \$1,350 |

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|------------------------------|---------|
| Bodily Injury, not litigated | \$750   |
| Bodily Injury, litigated     | \$1,750 |

The highest price is all inclusive. In other words, if a claim moves from being “incident only” to “bodily injury, not litigated,” and the member has paid \$50, under the TPA pricing the member will owe \$700 more rather than the entire \$750. This model provides incentives for the TPAs to resolve claims more quickly. Based upon the average length of time litigated claims remain open, it will also be more cost effective for the members, since previously an annual fee was charged for each year the litigation continued.

The pricing structure is set up differently than the previous fee structure Carl Warren charged the City, which structure was based on the old NovaPro contract. Previously, Carl Warren charged separately for the bodily injury and property damage components of a claim and charged an additional fee for each named claimant/litigant involved in the same incident. They also charged an additional fee if claims were open longer than one year (typically claims that were litigated fell into this category). The total cost for TPA services fluctuates each year, based on the number and type of claims filed against the City.

Although CalTIP has not set their member TPA rates as ICRMA did, Carl Warren has agreed to charge the same fees for Transit claims and litigation as it will for claims governed by the ICRMA policies and procedures. Although the services and fees will be the same, the City will need to enter into two different agreements—one for Transit and one for other liability claims (including but not limited to premises liability, dangerous condition of public property, civil rights, employment, and police liability).

Generally, staff has been very satisfied with Carl Warren's service to the City. Their representatives have been responsive, accessible, and effective in performance of their job duties. Since both approved firms are charging the same rates for the exact same scope of services, staff recommends that the City enter into an agreement with Carl Warren for continuity of service and record-keeping.

**FISCAL ANALYSIS:**

In Fiscal Year 2012/2013, there were 128 claims filed with the City for a TPA cost of \$42,378.65. In Fiscal Year 2013/2014, a total of 134 claims were filed with the City, for a TPA cost of \$35,166.80. As discussed above, the total cost fluctuates based on the number and type of claims (bodily injury or property damage) and whether the claim is resolved at the claims stage or litigated. The cost of TPA services is included each year in the Liability portion of the City's Self Insurance Fund

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(30913400) which is managed by the City Attorney's Office, as well as Transportation's Operations Line Items (20370200).

**MOTION:**

That the City Council:

- (1) Approve a five-year professional services agreement with Carl Warren & Company (to June 30, 2019) and the Independent Cities Risk Management Authority (ICRMA) for liability claims administration and management; and,
- (2) Approve a five-year professional services agreement with Carl Warren and Company (to June 30, 2019) for Transit claims administration and management; and,
- (3) Authorize the City Attorney to review/prepare the necessary documents; and,
- (4) Authorize the City Manager to execute such documents on behalf of the City.