

Agenda Report

October 26, 2020

TO: Honorable Mayor and City Council

FROM: Department of Human Resources

SUBJECT: ADOPT A RESOLUTION APPROVING AND ADOPTING A WORKERS' COMPENSATION ALTERNATIVE DISPUTE PREVENTION AND RESOLUTION PROGRAM AGREEMENT BETWEEN THE CITY OF PASADENA AND THE PASADENA POLICE OFFICERS ASSOCIATION (PPOA)

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the action proposed herein is not a "project" as defined in the California Environmental Quality Act (CEQA), Public Resources Code Section 21065 and Section 15378(b)(2) of the State CEQA Guidelines and, as such, is not subject to environmental review; and
2. Adopt a resolution approving and adopting a Workers' Compensation Alternative Dispute Prevention and Resolution Program Agreement between the City of Pasadena and the Pasadena Police Officers Association for workers' compensation benefits
3. Authorize the City Manager and Director of Human Resources to negotiate with the Pasadena Police Officers Association and amend the Agreement as needed to implement the goals of the program so long as such amendments do not change the economic or non-economic benefits and rights of the parties

BACKGROUND:

The Human Resources Department's Workers' Compensation Division is responsible for managing the City's workers' compensation program, which is a State of California mandated benefit delivery system. On December 13, 2017, Pasadena Police Officers Association (PPOA) secured permission with State of California, Division of Workers' Compensation Administrative Director to negotiate with the City of Pasadena to

establish a workers' compensation Alternative Dispute Prevention and Resolution Program Agreement, more commonly known as a Workers' Compensation Carve-Out program.

The goals of creating a Workers' Compensation Carve-Out program are to:

- Improve service to injured employees by reducing medical delays
- Offer quality medical care
- Provide early return-to-work for employees recovering from injury
- Establish an alternate dispute resolution for addressing compensability and eligibility for benefits, and
- Reduce costs

The Agreement is not intended to nor can it diminish, erode or impair the rights of the City or PPOA members of state-mandated workers' compensation benefits.

A condition of the carve-out program is that both labor and management be fully involved in the process. The City and PPOA established a Joint Committee ("Committee") to draft the terms and conditions of this Agreement. The Committee consists of three PPOA-designated employees and three City-designated employees. The City-designated members are the Director of Human Resources, Workers' Compensation Supervisor and a third member selected by the Chief of Police. The Committee will remain intact throughout this Agreement and meet on a regular basis to monitor program performance and make recommendations or adjustments as necessary.

While meetings with the PPOA and the City began in 2018 to discuss establishing a carve-out program, the PPOA requested and received two one-year extensions from the state with a final deadline of December 13, 2020 to complete negotiations. The City and the PPOA reached agreement in April 2020, but further steps to implement the carve-out program were postponed due to COVID-19. The parties now wish to move forward, and upon acceptance of the Agreement by the Administrative Director of the State of California Department of Industrial Relations, Division of Workers' Compensation, it will cover sworn Police Officers, Corporals, and Sergeants for a period of at least one year and continue to remain in effect from year to year unless terminated by either party as provided for in the Agreement.

Performance of the program will be measured by an outside actuarial. Working with the actuary, the City and PPOA will establish criteria to include items such as early return-to-work metrics, timeliness of treatment, workers' compensation claims costs, and litigation expenses, and set a baseline year with each subsequent year being measured with the baseline year.

Administration of the Agreement and the workers' compensation benefits will continue to be supported by the Third-Party Administrator along with the addition of an Alternative Dispute Resolution (ADR) Director/Mediator/Arbitrator and Ombudsperson. The cost for the Director/Mediator/Arbitrator and Ombudsperson is estimated at

\$100,000, and are included in the Workers' Compensation division budget for FY2021. Costs associated with establishing the carve-out program are:

- 1) Actuarial Consultant – Estimated annual cost is \$5,000
- 2) ADR Director/Mediator/Arbitrator – Estimated annual cost is \$24,000. The role of a Director/Mediator/Arbitrator is to engage parties in further discussions if they cannot reach agreement after working with the Ombudsperson. The duties include facilitating meetings, resolving legal, factual and medical disputes and expediting disputed issues to resolution. It is unknown how many issues will be raised to this level for resolution.
- 3) Ombudsperson – Estimated annual cost is \$30,000-\$45,000 depending on the number of the workers' compensation cases the Ombudsperson is working and the complexity of those cases. Costs will be billed to each claims file. The role of the Ombudsperson is to resolve concerns and misunderstandings and speed up decisions that are often delayed in the state system. The duties include informal discussions with the injured worker and others involved in the claim as well as providing basic information, answering questions, listening to concerns, reviewing complaints, and helping to avoid or resolve problems before becoming formal disputes.

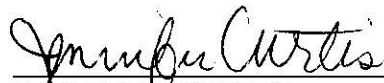
COUNCIL POLICY CONSIDERATION:

Approval of staff's recommendation supports the City Council's strategic goals of maintaining fiscal responsibility and stability and ensuring public safety.

FISCAL IMPACT:

The direct fiscal impact as a result of approving the recommendations is \$100,000 annually for the ADR Director/Mediator/Arbitrator and Ombudsperson and are included in the FY2021 Workers' Compensation Division budget, Fund 506. Additional costs associated with the carve-out program will be paid through the workers' compensation claim files. Nevertheless, should the program work as anticipated, there would be an overall reduction in the cost of workers' compensation claims associated with the PPOA.

Respectfully submitted,



JENNIFER CURTIS
Director of Human Resources

Prepared by:



Matthew Howard
Workers' Compensation Supervisor

Approved by:



STEVE MERMELL
City Manager

Attachment:

Resolution of the City Council of the City of Pasadena adopting a Workers' Compensation Alternative Dispute Prevention and Resolution program agreement between the City of Pasadena and the Pasadena Police Officers Association