

Project title: Authorize the Mayor to sign Amendments Section 7 and Section 18 of the Healthcare Management Administrators Administrative Services Agreement

Council Bill # *interoffice use*

Agenda dates requested:

June 15, 2022

Briefing

Proposed action

Consent

Action

Ordinance

Public hearing

Yes No

Budget amendment:

Yes No

PowerPoint presentation:

Yes No

Attachments:

HMA Amendment to Administrative Services Agreement

Department(s) involved:

HR, Legal

Contact person:

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Initialed by:

KB

Department head

Administration

Council President

Project: Amendment - Section 7 and Section 18 to the Healthcare Administrators Administrative Services Agreement

Partner/Supplier : Healthcare Management Administrators (HMA)

Location:

Preceding action:

Fund:

Fiscal summary statement:

There are no costs resulting from this amendment.

Project summary statement:

The amendment modifies the provisions of the Administrative Services Agreement by replacing the entirety of Section 7, Term and Terminations which outlines the Initial Term of Agreement, Renewal of Agreement, Termination by Either Party, Events Triggering Immediate Termination, and Termination of Plan. The amendment also adds to Section 18, Confidential Information and Conflict of Interest provisions as required by the State Auditor.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign Amendments to Section 7 and Section 18 of the Healthcare Management Administrators Administrative Services Agreement.



Amendment to Administrative Services Agreement

This amendment shall modify the Administrative Services Agreement (“Agreement”) effective January 1, 2014 between City of Everett (“the Plan Sponsor”) and Healthcare Management Administrators, Inc. (“HMA”). This Amendment is deemed effective as of October 26, 2021, regardless of the date(s) this amendment is signed by the parties (“Effective Date”).

The provisions of the Administrative Services Agreement Section 7 are replaced in their entirety with the provisions below.

7. Term and Termination.

- (a) **Initial Term.** The initial term of this Agreement shall be for a period of one year, commencing as of the Effective Date of this Agreement and terminating, if not renewed, one year thereafter (the “Initial Term”), unless sooner terminated in accordance with the provisions of this Paragraph 7.
- (b) **Renewal.** Renewal of this Agreement shall be accomplished by attaching to this Agreement a revised Client Intent form which shall include an updated Schedule of Commissions and Administrative Fees, signed by the parties to this Agreement and setting forth the term of such renewal (the “Renewal Term”). In the event a revised Client Intent Form is not signed by the parties, but the parties continue to perform under this Agreement, then it shall be deemed to be renewed for successive one (1) year periods until terminated.
- (c) **Termination by Either Party.** This Agreement may be terminated by either Plan Sponsor or by HMA by written notice of intention to terminate given to the other party, to be effective as of a certain date set forth in the written notice, which shall not be less than ninety (90) days from the date of such notice.

Upon termination by either party, within thirty days after the date of termination, HMA shall prepare and deliver a complete and final accounting and report as of the date of termination of the financial status of the Plan to the Plan Sponsor, together with all books and records in its possession and control pertaining to the administration of the Plan. All claim files, enrollment materials and other papers necessary for claim payments under the Plan shall be available to the Plan Sponsor upon the date of termination of this Agreement. If requested, HMA will process run-out claims (claims incurred prior to the date of termination). The charge for run-out claim processing will equal 3 months of current administrative fees and the duration will be 12 months. HMA will provide a final accounting to Plan Sponsor on its order.

In the event that HMA offers and Plan Sponsor accepts a multi-year fixed rate guarantee for a Renewal Term, as shown within the Schedule of Commissions and Administrative Fees included within the Client Intent form, Plan Sponsor will pay an Early Termination Fee if Plan Sponsor terminates this Agreement prior to the end of the applicable Renewal Term for which the rate guarantee applies, except that the Early Termination Fee will not be due if Plan Sponsor's termination of the Agreement is for HMA's breach of the Agreement or for HMA's negligence or willful misconduct. The Early Termination Fee will be payable in addition to any run-out service fees or other costs owed by Plan Sponsor to HMA under this Agreement. The Early Termination Fee will be an amount equal to 25% of the “Claim Administrative Fees” shown in the applicable Schedule of Commissions and Administrative Fees that, absent termination of the Agreement, would have been otherwise due to HMA during the remainder of the applicable Renewal Term.

The Early Termination Fee shall be determined based on enrollment data calculated at an average enrollment head count for the 3 months prior to the termination date of the Agreement.

- (d) **Events Triggering Immediate Termination.** In the event of willful misconduct or gross negligence by a party to this Agreement, the other party may terminate this Agreement immediately upon written notice. In addition, HMA shall have the right, in its sole and absolute discretion, to terminate this Agreement immediately if:
 - (i) After written notice to cure, the Plan Sponsor fails to cure a material breach of any provision of this Agreement within ten days of the date of the notice to cure. A material breach includes, but is not limited to, failure to pay fees or charges owing HMA, failure to fund benefit payments in a timely manner, or failure to fund the Designated Account as specified in Section 5 above. The notice to cure shall describe the nature of the breach with reasonable particularity; or
 - (ii) The Plan Sponsor becomes insolvent, is adjudicated bankrupt, voluntarily files or permits the filing of a petition in bankruptcy, makes an assignment for the benefit of creditors, or seeks any similar relief under any bankruptcy laws or related statutes.
- (e) **Termination of Plan.** If the Plan is terminated, for whatever reason, this Agreement shall automatically terminate as of the effective date of such termination except as set forth in 7(c) if run-out processing is elected.

The provisions of the Administrative Services Agreement Section 18 are amended to include the provisions below.

- (s) **Confidential Information.** Neither party shall disclose confidential information to any other entity without the prior written consent of the party that holds the right, title and interest in the information. Confidential information means all confidential and proprietary information that includes information not generally known to the public, is maintained by the party that holds the right, title, and interest in the information as confidential, and may contain information which has commercial value or other business utility. All HMA confidential information must be transmitted by or attached to an email to the City containing the words, "This email contains Confidential Information subject to a Confidentiality Agreement." Any HMA confidential information not so transmitted or attached is not confidential information for the purposes of this section.

Regardless of the foregoing, this contract and all invoices, pricing, and documents stating what the City pays the HMA are never confidential, regardless of whether or not it is marked confidential by HMA. If confidential information is inputted into a City system, such as Cayenta, POs, or the City's Contract Management System, the information loses its confidential designation and is no longer confidential information for the purposes of this section.

Nothing in this section shall prohibit the disclosure of any confidential information required by law, but in the event of any such disclosure, the disclosing party shall within a reasonable time notify the other party in writing, describing the circumstances of and extent of the disclosure.

- (t) **Conflict of Interest.** HMA declares that no conflict of interest with the City exists, nor do they have an affiliation with or involvement in any organization or entity which may pose a financial or non-financial conflict of interest with the City.

The provisions of this Amendment to the Agreement shall survive the termination of the Agreement.

By the Signature below, HMA and Plan Sponsor have read this Amendment and accept and agree to each and every term and condition herein.

City of Everett

By: _____

Name: _____

Title: _____

Date: _____

HMA

By: _____

Name: _____

Title: _____

Date: _____