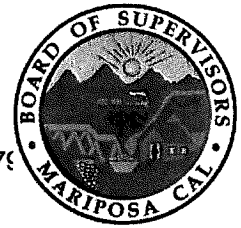




MARIPOSA COUNTY

Human Resources/Risk Management • (209) 742-1375



RESOLUTION - ACTION REQUESTED 2016-333

MEETING: June 28, 2016

TO: The Board of Supervisors

FROM: Steve Johnson, Human Resources Director - Risk Manager

RE: Approve an Agreement Amendment with Tristar Risk Management

RECOMMENDATION AND JUSTIFICATION:

Approve an Amendment Extending the Agreement with Tristar Risk Management Services for the Administration of the County's Workers' Compensation Claims for the Period from July 1, 2016 through September 30, 2016; and Authorize the Board of Supervisors Chair to Sign the Amendment.

The Board of Supervisors authorized that Human Resources/Risk Management staff proceed with a Request for Proposal for the administration of the County's Workers' Compensation claims. Staff has identified vendor finalists and these finalists are currently being vetted to determine which vendor or vendors will provide cost-effective service as well as provide superior client and claimant customer service for every aspect of claims administration. This process will take the County beyond the June 30, 2016, termination date of the current Agreement with Tristar and therefore, it is necessary to extend the existing Agreement for a three-month period.

By extending the Agreement, there will be one additional claims administration quarterly payment due of \$7,740.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors initially approved a 3-year agreement with Tristar effective July 1, 2006 with subsequent approved contracts through June 30, 2016.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

A negative action would result in the expiration of the existing Agreement that could impact the management of current open claims.

FINANCIAL IMPACT:

Funding is budgeted in the Workers' Compensation fund.

ATTACHMENTS:

Tristar extension amendment to 9-30-16 (DOCX)

CAO RECOMMENDATION

Requested Action Recommended

Mary Hodson
Mary Hodson, CAO 6/23/2016

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Merlin Jones, District II Supervisor
SECONDER: Rosemarie Smallcombe, District I Supervisor
AYES: Rosemarie Smallcombe, Merlin Jones, Marshall Long, Kevin Cann
EXCUSED: John Carrier

Amendment One Banking and Funding; Extension

Effective July 1, 2015 ("Effective Date"), this Amendment One ("Amendment") is attached to and made part of the Two Party Claims Servicing Agreement dated July 1, 2015 by and between **TRISTAR Risk Management** ("TRISTAR") and **Mariposa County** ("Client").

Conflict Resolution. In the event of a conflict of any kind, be it direct or indirect, between any or all terms of this Amendment One and those of the Two Party Claims Servicing Agreement ("Agreement"), then the terms and conditions of this Amendment One shall control.

WHEREAS, Client and TRISTAR desire to modify the Agreement to memorialize the funding arrangement for the payment of the claims and Allocated Loss Adjustment Expenses subject to the terms and conditions below; and

WHEREAS, Client and TRISTAR desire to extend the Agreement for three (3) months;

NOW, THEREFORE, in consideration of mutual promises and agreements the parties hereto agree as follows:

1. CLAIMS PAYMENT FUND

1.1 Section V. *Voucher Issuance* of the Agreement is deleted in its entirety and replaced by the following:

V. Claims Payment Fund

- 5.1 All claims obligations, including loss, indemnity, and Allocated Loss Adjustment Expenses and other claim-related expenses, are the obligations of Client and shall be paid by Client.
- 5.2 Client acknowledges and agrees that the depository bank for Client funds provided to TRISTAR for the payment of claims and Allocated Loss Adjustment Expenses is Citizens Business Bank ("CBB").
- 5.3 Client hereby authorizes TRISTAR to maintain an account with CBB in trust for ("ITF") Client to be used as the depository/funding account relating to the payment of claims and Allocated Loss Adjustment Expenses ("Account").

5.4 Duties of TRISTAR

- [a] Any amounts collected by TRISTAR on behalf of or for Client and any amounts received from Client shall be deposited in the Account. Claims and Allocated Loss Adjustment Expenses for the claims will be paid by checks showing the identity of Client that are issued by TRISTAR against funds in this Account. CBB shall keep records clearly recording the deposits into and withdrawals from the Account and the balance held on behalf of Client. TRISTAR shall cause CBB to render an accounting each month and on an annual basis detailing all transactions with respect to the Account, which accounting shall be provided by TRISTAR to Client.
- [b] TRISTAR shall collect, process, and report data in the manner prescribed by the Internal Revenue Service for the purpose of preparing Client's 1099 Miscellaneous Income filing with respect to the claims and Allocated Loss

Adjustment Expenses payments which are the subject of this Amendment. As respects the Account, TRISTAR shall file required Unclaimed Property reports.

5.5 Duties of Client

- [a] Client shall:
- i) initially deposit in the Account an initial required balance set forth in Exhibit 1 attached hereto and made a part hereof (“Target Amount”); thereafter, maintain such required Target Amount by transferring additional funds to the Account at the interval indicated in Exhibit 1 so that it equals or exceeds the Target Amount. Client agrees to increase the Target Amount upon request of TRISTAR, and in an amount to be determined by TRISTAR, within two (2) business days after Client is notified by TRISTAR of the amount of the increase; subject to written justification for the increase of the Target Amount;
 - ii) maintain a minimum balance equal to or greater than Thirty percent (30%) of the Target Amount (“Minimum Balance”) in the Account at all times. On any day the Account balance is less than the Minimum Balance, Client agrees to transfer sufficient funds to the Account within two (2) business days after it is notified by TRISTAR so that the balance in the Account equals or exceeds the Target Amount. Any request to make a deposit that exceeds the Target Amount is subject to written justification
 - iii) transfer sufficient funds to the Account within two (2) business days of receipt of each request from TRISTAR to cover each obligation for claims or Allocated Loss Adjustment Expenses exceeding the prefunding threshold amount set forth in Exhibit 1 (“Cash Call”) that have been or are expected to be paid on behalf of Client;
 - iv) be liable for and pay any and all overdraft amounts including bank fees and charges and interest thereon that are the responsibility of the Client and subject to verification. In the event TRISTAR pays any such amounts on Client's behalf pursuant to TRISTAR's agreement with the Bank, Client shall immediately reimburse TRISTAR upon demand and subject to verification; and
 - v) except as provided in Section 5.5[a]iv) above, not be responsible for fees charged by CBB to administer the Client transactions and the Account. However, earnings or credits earned are applied toward such bank fees, with the excess, if any, retained by TRISTAR.
- [b] The Client shall provide such documents, written authorizations or resolutions, in a form required or acceptable to the Bank, authorizing TRISTAR and/or the Bank to effect the funding and payment arrangement agreed to under this this Amendment.
- [c] In the event of any dispute between TRISTAR and Client regarding the propriety of any request for additional funds as contemplated by Subsection 5.5[a] above, or regarding the propriety of TRISTAR's actions in paying or determining to pay a claim or Claims or an Allocated Loss Adjustment

Expense, Client shall nonetheless permit or make the payments to the Account under a reservation of rights so that Client may enforce its rights with respect to any such payments or any other matters relating to this Amendment.

[d] The Client's obligations under this Section 5.5 have been duly authorized by all necessary corporate or governmental bodies and do not and will not violate any provision of law or of the Client's charter, or by-laws, or require any consent or result in the breach of any agreement to which the Client is a party or by which it may be bound or affected.

2. THREE (3) MONTH EXTENSION

2.1 Section 2.1 of the Agreement shall be modified to recognize the extension of the Agreement so that it now reads, in its entirety:

2.1 This Agreement shall be effective as of July 1, 2015 and shall continue in full force and effect until September 30, 2016 or until termination in accordance with the provisions of Article XIV.

2.2 Due to the extension of the Agreement, the first (1st) paragraph of the "Claims Administration Fees" section of Exhibit A, Compensation, shall be modified to recognize the additional quarterly payment due, so that it now reads, in its entirety:

For service rendered pursuant to the attached Agreement, Client will pay TRISTAR an annual Claim Administration Fee of \$30,960, payable in arrears, in quarterly installments of \$7,740.00 for the five (5) quarters during the period July 1, 2015 to September 30, 2016.

3. GENERAL

3.1 This Amendment may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

3.2 The exchange of copies of this Amendment and of signature pages by e-mail transmission shall constitute effective execution and delivery of this Amendment and may be used in lieu of the original for all purposes. Signatures of the parties transmitted by e-mail shall be deemed to be their original signatures for all purposes.

3.3 All other terms and conditions not modified by this Amendment One are hereby ratified and affirmed.

TRISTAR AND CLIENT CERTIFY BY THEIR UNDERSIGNED AUTHORIZED OFFICERS THAT THEY HAVE READ THIS AMENDMENT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

TRISTAR Risk Management

By: _____

Name: Thomas J. Veale

Title: President

Date: June 3, 2016

Mariposa County By: Marshall Long, Vice-Chair

By: _____

Name: John Carrier

Title: Chair

Date: 6/28/16

APPROVED AS TO FORM:

STEVEN W. DAHLEM

COUNTY COUNSEL Amendment One - page 3

Exhibit 1
To Amendment One

Citizens Business Bank Account #: 47035549

Target Amount: \$ 65,000

Cash Call Amount: \$ 10,000

Minimum Balance: 30% of the Target Amount

Funding Frequency: Client shall fund the Account through the Federal Reserve:

- on any day the Account balance is less than the Minimum Balance; which is defined in section 5.5 a (ii) above and
- upon notification of a Cash Call; and
- semi-monthly so that it equals or exceeds the Target Amount.