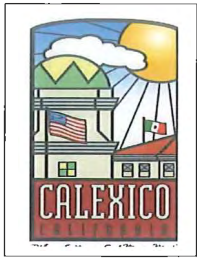


AGENDA  
ITEM

**13**



# AGENDA STAFF REPORT

**DATE:** November 17, 2021

**TO:** Mayor and City Council

**APPROVED BY:** Miguel Figueroa, City Manager *MV*

**PREPARED BY:** Denise Garcia, Human Resources/Risk Management Manager *Denise Garcia*

**SUBJECT:** Approval of the Service Agreement for Administration of Claims with Sedgwick Claims Management Services, Inc. and the City of Calexico

=====

## Recommendation:

Staff recommends that the City Council approve the Service Agreement between the City of Calexico and Sedgwick Claims Management Services, Inc. for the Term Beginning January 1, 2021 to December 31, 2024.

## Background:

As a certified self-insured employer, the City retains the services of a Third Party Administrator to ensure its workers' compensation meets the complex administration requirements of the State. The City has worked with Sedgwick Claims Management Services, Inc., formerly York Risk Services Group, for many years. The previous contract, expired on December 31, 2020 and there were ongoing negotiations for terms, contract language and new rates now reflected in the proposed agreement.

## Discussion & Analysis:

Under the terms of this agreement Sedgwick will continue to review and process claims in accordance with applicable statutory, PRISM, and administrative regulations.

## Fiscal Impact:

Funds for this agreement are available under Internal Service Funds/Workers' Compensation in the existing budget.

AGENDA  
ITEM  
**13**

**Coordinated With:**

City Manager  
Alliant Insurance Services  
PRISM/  
City Attorney's Office

**Attachment:**

1. Sedgwick Claims Management Services Agreement

**Coordinated With:**

City Manager.  
Alliant Insurance Services.  
PRISM/  
City Attorney's Office.

**Attachment:**

1. Sedgwick Claims Management Services Agreement.

SERVICE AGREEMENT FOR ADMINISTRATION OF  
A CLAIMS PROGRAM

This Service Agreement for Administration of a Claims Program (the "Agreement"), is entered into and effective the 1th date of January 2021 (effective date) through December 31<sup>st</sup>, 2024 (termination date), by and between Sedgwick Claims Management Services, Inc. ("Sedgwick"), and the City of Calexico (the "Client") (Sedgwick and Client together the "Parties").

RECITALS

1. Client self-insures its claims administration program for workers' compensation risks and desires to have Sedgwick provide the specific services set forth below in connection with such self-insured program (the "Program," as defined on the attached Exhibit A).
2. Sedgwick is willing and has the knowledge, experience and qualifications, to provide such services on the terms and conditions hereinafter stated.

AGREEMENT

1. Services to Be Performed by Sedgwick: Sedgwick agrees to perform the following services:
  - A. With regard to Claims Administration, Sedgwick shall:
    - (1) Follow, as applicable, the Public Risk Innovation, Solutions, and Management ("PRISM"): PRISM Excess Reporting, Reimbursement & Settlement Authority Guidelines, including, but not limited to, ADDENDUM A, Workers' Compensation Claims Administration Standards as provided at [www.prismrisk.gov](http://www.prismrisk.gov).
    - (2) During the term of this Agreement, review all claim and loss reports received from Client that are required to be reviewed under the Program (a "Qualified Claim"), and process each such claim or loss report in accordance with applicable statutory, PRISM and administrative regulations;
    - (3) Conduct an investigation of each Qualified Claim as required by Sedgwick in the performance of its obligations hereunder;
    - (4) Arrange for independent investigators, appraisers, or medical or other experts as required by Sedgwick in connection with processing any Qualified Claim;
    - (5) Pay benefits, expenses, and adjust or settle each Qualified Claim, but only

if in the sole judgment of Sedgwick such payment would be prudent for Client and the anticipated amount thereof does not exceed the limit specified in accordance with paragraphs 2F and 2G below, or as Client specifically approves or directs such action in writing;

- (6) Maintain a file for each Qualified Claim which shall be the property of Client (for self-insured claims) or Insurer (for insured claims) and which shall be available for review by Client or Insurer during normal business hours upon three (3) days' prior written notice;
  - (7) Notify Client's first layer of insurance coverage for each Qualified Claim where the values may exceed Client's retention, providing such insurer with necessary information on the current status of those claims, unless relieved of this obligation by Client pursuant to paragraph 2A;
  - (8) Assist Client's counsel, if requested, in preparing the defense of litigated cases arising out of Qualified Claims, negotiating settlements and pursuing subrogation or contribution actions;
  - (9) Maintain a current estimate of the expected total cost of each Qualified Claim which is based on facts known at the estimation date, but is not trended or actuarially developed;
  - (10) Use a proprietary data management system to furnish to Client all agreed upon and required loss and information reports. These reports shall contain information such as each Qualified Claim date, condensed claim description, payments made, estimated future costs and total expected costs of all Qualified Claims, as well as summary and other data as required and as otherwise deemed relevant by Sedgwick and Client, but not IBNR (incurred but not reported) claims or actuarially developed loss values; and
  - (11) Annually report federal, state and local 1099 information under Client's tax identification number(s), when Client has provided all required IRS authorizations, for vendor payments issued by Sedgwick on bank accounts owned by Client, but not for payment authorizations when Sedgwick does not issue the checks.
- B. Sedgwick will provide managed care services as set forth in the attached Managed Care Service Schedule.
- C. Sedgwick will provide the call center services as set forth in the attached Call Center Service Schedule.

- D. Sedgwick will provide special investigative unit services as set forth in the attached SIU Service Schedule
- E. Sedgwick will provide the MMSEA/SCHIP Reporting services as set forth in the Medicare Reporting Services Schedule attached hereto.
- F. Sedgwick will provide the clinical consultation services as set forth in the Clinical Consultation Services Schedule attached hereto.

2. Obligations of Client:

- A. Client shall provide Sedgwick in a timely manner with its first layer of insurance coverage for the policy years necessary for proper notification of applicable Qualified Claims to such first layer insurers by Sedgwick. Should Client fail to provide this information, Sedgwick shall be relieved of any such reporting obligations.
- B. Client shall pay to Sedgwick a service fee which, in the initial term of this Agreement, shall be computed and payable as shown on the attached Exhibit B, plus applicable taxes, if any. Client shall reimburse Sedgwick for the reasonable and customary out-of-pocket expenses incurred by Sedgwick such as travel expenses in conjunction with the services being performed. If Client, in its sole discretion, requests Sedgwick to perform services outside of the scope of work listed herein, then Client shall compensate Sedgwick for such services at Sedgwick's then applicable standard rates for such service.
- C. Client shall at all times provide funds adequate for the payment of Qualified Claims, including allocated loss adjustment expenses. For purposes of this Agreement, allocated loss adjustment expenses shall mean all costs, charges or expenses incurred by Sedgwick, its agents or its employees which are properly chargeable to a Qualified Claim including, without limitation, court costs; fees and expenses of attorneys; appeal bonds; independent adjusters; investigators; appraisers; vocational services, training or evaluation; medical expenses and medical cost containment service providers (including those provided by Sedgwick, if applicable); durable medical equipment; rehabilitation services; experts and witnesses; fees for obtaining statements, diagrams, reports, records, documents, transcripts, depositions, Medicare reporting and compliance services fees and costs, index bureau filings and re-filings, and photographs; cost of file retrieval; cost associated with the pursuit of subrogation and/or Special Injury Fund claims; hearing representation services; and travel fees and expenses incurred at Client's request. Sedgwick may, but need not, elect to utilize its own staff or affiliated entities to perform these services. Associated fees and costs will be charged as allocated loss adjustment expenses.
- D. Client shall deposit funds for payment of Qualified Claims, including allocated loss

adjustment expenses, in a bank account or accounts (the "Claim Account"). Client shall be responsible for providing sufficient funds to enable Sedgwick to write checks on the Claim Account for use in the payment of Client's Qualified Claims. Such funds shall be provided by electronic funds transfer at the inception of the Program and replenished by electronic funds transfer promptly from time to time thereafter. The amount of the escrow required for the Claim Account may be modified in the following instances:

- (1) There is a substantial increase or decrease in claims payment activity;
  - (2) Client fails to fund the Claim Account within the agreed upon time period;
  - (3) There is a change in funding cycle;
  - (4) The escrow is recalculated at Client's request; or
  - (5) The escrow amount is automatically recalculated on an annual basis.
- E. It is expressly understood that Sedgwick shall not be required to advance its own funds to pay losses or allocated loss adjustment expenses for any Qualified Claim hereunder. It is further understood that if Client fails to promptly provide funds sufficient to allow required payments to be made timely, or if funds previously provided by or on behalf of Client are seized, frozen or otherwise unavailable to Sedgwick to allow required payments to be made timely on account of the bankruptcy, receivership, or other insolvency proceeding of Client [or Insurer, in cases where Insurer funds claim account], Sedgwick will have no obligation to perform any claims payments services during any period of underfunding.
- F. Sedgwick shall have full discretion to make an individual payment of an allocated loss adjustment expense in an amount up to \$10,000 on any Qualified Claim and shall not need the approval of Client to make such payments. This amount may be changed at any time by Client upon ten (10) days' prior written notice to Sedgwick. It is agreed that Sedgwick shall have full authority and control in all matters pertaining to the payment, processing, investigation and administration of Qualified Claims within the limit established by this paragraph.
- G. Except as otherwise provide herein, Sedgwick shall have full discretion to redeem, compromise or settle any Qualified Claim for an amount not to exceed \$10,000 and shall not need the approval of Client to consummate such redemption, compromise or settlement. This amount may be changed at any time by Client upon ten (10) days' prior written notice to Sedgwick. Upon request of Client to settle any Qualified Claim for an amount not to exceed \$10,000, and Sedgwick's failure to settle a Qualified Claim within such limit, shall subject Sedgwick to liability in the event of an adverse judgment entered by any court or the



settlement of such Qualified Claim for an amount in excess of such limit. Absent Client's request to settle any Qualified Claim for an amount not to exceed \$10,000, Sedgwick shall not be subject to any liability whatsoever for any adverse judgment entered by any court or the settlement of such Qualified Claim for an amount in excess of such limit

- H. Should Client fail to make timely payments of any service fees due Sedgwick or should Client in any other way breach a material term of this Agreement, Sedgwick shall then have the right to refuse to perform any further services or terminate this Agreement. If Sedgwick elects to exercise its rights under this paragraph, in addition to all other legal or equitable remedies, Sedgwick will have the right to its full minimum fee, if any, as well as any other fees for which Sedgwick may be eligible, and may collect such fees from any loss fund that may be in Sedgwick's care, custody and control.
- I. Upon receipt of any form of notice advising of facts which are or may be a Qualified Claim, Client shall promptly assign the Qualified Claim to Sedgwick for management. Client shall promptly provide Sedgwick with such information as Sedgwick may require, including, but not limited to, any copy of documents describing its Program, including but not limited to documents submitted to any legal, administrative or regulatory authority for approval of the Program, as well as incident reports and related information in Client's possession and otherwise cooperate with Sedgwick in carrying out Sedgwick's tasks hereunder.

3. Discontinuance of Operations:

Should either of the Parties discontinue its business for any reason, it shall provide the other party with at least ten (10) days written notice of discontinuance, or greater notice is possible. Upon discontinuance, all fees due Sedgwick shall be paid within ten (10) days of Client receiving such notice. Sedgwick shall have no further obligation to continue to provide the services called for in this Agreement, and, at Sedgwick's option, this Agreement shall be considered terminated as of the date either party ceases operations or is subject to a bankruptcy or receivership filing, either voluntarily or involuntarily.

4. Covered Jurisdictions:

This Agreement shall cover all operations of Client in the state of California.

5. Term of Agreement and Termination:

- A. The term of this Agreement shall be for the period commencing on January 1, 2021 and ending on December 31, 2024.
- B. This Agreement may be terminated by either party at any time, provided that at

least sixty (60) days' prior written notice of the effective date of termination is given to the other party.

- C. Sedgwick is providing services to Client on a life of contract basis. If requested by Client, Sedgwick will continue to process Client's Qualified Claims remaining open at the expiration or termination of this Agreement, if any, provided that Client shall continue to make adequate funds available for the payment of such Qualified Claims, including any allocated loss adjustment expenses and pay information technology fees, fees for encrypted data files, program management fees, and any other applicable fees. This provision shall not apply unless the additional fee for this service shall have been negotiated and agreed to in writing prior to the effective date of termination.
- D. If Sedgwick is required by Insurer to adjust Client's insured Qualified Claims after expiration or termination of this Agreement, Client shall continue to fund claims payments and allocated loss adjustment expenses as otherwise provided herein, and Client shall pay Sedgwick a mutually agreed upon fee, plus the prevailing fee for any information technology or encrypted data files required by Insurer.
- E. If Insurer fails to pay Sedgwick service fees which it is obligated to pay, then Sedgwick may present all unpaid invoices to Client and Client shall pay such service fees within thirty (30) days of presentment. If Insurer is responsible for funding the Claim Account and fails to adequately do so, then Client shall immediately and adequately fund the Claim Account upon notice from Sedgwick of the deficiency.
- F. Upon expiration or termination of this Agreement, Sedgwick shall deliver, at Client's sole cost, the hard copy and imaged files that Sedgwick has maintained for Qualified Claims (but not including any computer hardware, firmware, software or other proprietary information of Sedgwick), except those Sedgwick has agreed in writing to continue to process or files that are owned by Insurer; provided, however, that Sedgwick or its agents, employees or attorneys shall continue to be entitled to inspect all such files and make copies or extracts there from. Imaged files shall be transferred to Client in the same electronic format. Client shall pay Sedgwick a one-time payment for transition of Qualified Claims as consideration for Sedgwick's associated costs, which costs may include, but are not limited to, carrier coordination, coordination with the new third party administrator, if any, necessary mailings and notifications, catalog and transfer of hard inventory, digital recording retrieval & transfer, advanced TTD payments, multiple loss runs, payment history for advanced TTD, claim hot list, banking reconciliation, validation of billings paid in field prior to transfer, field examiners validation and release of pending payments, client services & parameters group time (B2B interface shutoff, intake shutoff, CSI shutdown), as well as technology items such as preliminary and final data extract, image extract, bill review extract,

MMSEA extract and hierarchy structure extract. If Client does not agree to accept such files, they will be retained or destroyed at Sedgwick's option and Client shall have no recourse against Sedgwick for failure to retain them.

- G. Should Client terminate the Agreement for convenience, the Client shall pay Sedgwick fees for the services provided. Termination fees are payable within thirty (30) days of the date of notice of such termination.

6. Professional Advice:

Nothing in this Agreement is intended to require Sedgwick to engage in the practice of law, and services provided shall not be considered legal, tax or accounting advice, and Sedgwick shall in no event give, or be required to give, any legal opinion or provide any legal, tax or accounting representation to Client. Client acknowledges that Sedgwick has been engaged to provide certain professional services and that it is not the intent of the Parties that Sedgwick assume any insurance risk. Sedgwick shall not act as an insurer for Client, and this Agreement shall not be construed as an insurance policy; it being understood that Sedgwick is in no event financially responsible for payment or satisfaction of Client's claims, lawsuits, or any form of cause of action against Client from Sedgwick funds.

7. Indemnification:

- A. Sedgwick shall be fully responsible for exercising reasonable care at all times in the performance of its obligations hereunder. However, if Sedgwick is named as a party to any litigation or proceeding, or is the subject of any claim or demand because of its actions on behalf of Client, Client agrees to hold Sedgwick, its officers, directors, employees and agents harmless from any and all losses, damages, costs, judgments and expenses (including attorneys' fees and costs) with respect to any such litigation, proceeding, claim or demand, unless and until a finding is entered to the effect that Sedgwick failed to exercise such reasonable care in the performance of its obligations hereunder. Sedgwick agrees to indemnify, hold harmless and defend Client, its directors, officers, employees and agents from and against any and all liabilities, loss or damage that they may suffer as a result of any claim, demand, cost or judgment and expenses (including attorneys' fees and costs) as a result of any litigation or proceeding, fines, penalties against them arising out of the negligence or willful misconduct of Sedgwick in connection with its performance under this Agreement, provided that such acts or omissions do not arise out of or relate to oral or written instructions, procedures or forms supplied by Client or to Client's internal management or adjustment of its claims. Each party agrees to keep the other fully informed of any matter for which it is defending, holding harmless or indemnifying the other party. Sedgwick reserves the right to appoint its own counsel, at its own expense, regarding any matter defended hereunder and to approve any settlements of

same.

- B. Notwithstanding anything to the contrary contained in the above paragraph, it is understood and agreed that if Client, directly or through a subcontractor or vendor of Client's choosing ("Client Subcontractor"), retains administration of a claim or performs any services for a claim Sedgwick administers, or if Client otherwise directs the administration of a claim, Client will indemnify, defend, and hold Sedgwick, its officers, directors, employees and agents harmless from the losses, damages, costs, judgments and expenses (including attorneys' fees and costs) as a result of any litigation or proceeding, fines, penalties, revocation of license, or any other state regulatory investigation or action arising against Sedgwick related to the acts or omissions of Client or the Client Subcontractor.
- C. If Client's access to claim data includes the ability to add and modify data, Sedgwick shall not be required to verify, or otherwise be responsible for, the accuracy of data added or modified by Client. Client shall indemnify, defend and hold Sedgwick, its officers, directors, employees and agents harmless for any loss, cost (including attorneys' fees), claim or judgment which is attributable to Client's input or modification of data.
- D. EXCEPT AS IS OTHERWISE PROVIDED IN PARAGRAPH 7A AND IN THIS AGREEMENT, IN NO EVENT SHALL SEDGWICK BE LIABLE FOR ANY LOSS OR DAMAGE TO REVENUES, PROFITS OR GOODWILL OR OTHER SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND RESULTING FROM ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT OR RESULTING FROM THE FURNISHING, PERFORMANCE, USE OR LOSS OF USE OF ANY SOFTWARE, SYSTEM, SITE, OR DELIVERABLE PROVIDED TO CLIENT HEREUNDER, INCLUDING WITHOUT LIMITATION ANY INTERRUPTION OF BUSINESS, EVEN IF SEDGWICK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
- E. Notwithstanding the foregoing, an indemnifying party will not settle a claim without the indemnified party's written consent, unless such settlement results in (i) a full release of all Parties, (ii) no liability to the indemnified party or future obligation of the indemnified party, and (iii) no admission of wrongdoing by Client or Sedgwick.
- F. The provisions of this section shall survive the expiration or termination of the Agreement.

8. Insurance:

Sedgwick shall procure and maintain for the duration of the contract insurance against

claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by Sedgwick, its agents, representatives, employees, affiliates or subcontractors.

1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 05 09 or 25 04 05 09) or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Sedgwick has no owned autos, covering hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation: as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. Professional Liability (Errors and Omissions): Insurance appropriate to the Sedgwick's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

#### Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Client.

#### 9. Network Security/Confidentiality:

- A. If Client's access to the data management system requires a network connection (the "Network Connection") between Client's network and Sedgwick's network, Sedgwick and Client shall take reasonable and customary precautions to prevent unauthorized access to or use of the Network Connection through their respective networks. The Parties agree, however, that each party is responsible for the security of its own network. Neither party shall be liable to the other for unauthorized access to the Network Connection, so long as the accused party shall have taken reasonable and customary precautions to prevent such unauthorized access.
- B. Whether or not marked as such, and without regard to the media in which such records are stored, "Confidential Information" shall mean:

- (1) any business or technical information pertaining to the Parties or to third parties, which is furnished, disclosed or made available by one party to the other, including, without limitation, specifications, prototypes, software, marketing plans, financial data and personnel statistics; and
  - (2) Medical records, reports and information, as well as any other non-medical records, reports or information pertaining to claimants under the Program.
- C. Except as is required by law, or administrative or court order, each party agrees to protect Confidential Information received hereunder with the same degree of care that such party exercises with its own confidential information (but in no event less than reasonable care) and to limit access and disclosure of Confidential Information only to their employees, agents and contractors who have a “need to know,” and who agree to maintain confidentiality in accordance with this section. Notwithstanding the foregoing, Client agrees to permit Sedgwick to compile and disseminate aggregate, de-identified information for auditing, compliance, internal assessments, process improvement and related analytics, benchmarking purposes or forward to a data collection facility data for Qualified Claims handled pursuant to this Agreement, provided that such facility agrees in writing to keep Client’s data confidential. Further, Sedgwick shall be entitled, without violation of this section and without the prior consent of Client, to retain claims administration information and to forward claims administration information to government agencies to the extent required by law for the proper performance of the services set forth herein.
- D. The provisions of this section shall survive the expiration or termination of the Agreement.

10. Notices:

Any notice required to be given under this Agreement shall be sent by certified or registered mail, postage prepaid, to General Counsel - Americas, Sedgwick Claims Management Services, Inc., 8125 Sedgwick Way, Memphis, TN 38125, in the case of Sedgwick, and to the City of Calexico – Denise Garcia, 608 Herber Avenue, Calexico, CA 9223, in the case of Client.

11. Assignment:

The Client may not assign its rights or obligations under this Agreement. Upon thirty (30) day’s written notice to Client, Sedgwick may assign or subcontract part of the services required hereunder and may at its discretion delegate to a subsidiary or affiliate such of its duties as it deems appropriate, provided that such subcontracting or delegation shall

not relieve Sedgwick of any of its obligations hereunder. Client reserves the right to terminate this agreement, in accordance with the termination provisions herein, should such assignment not be approved by Client, which approval will not unreasonably be withheld.

12. Entire Agreement and Modification or Amendment:

This Agreement and its attached exhibits and schedules represent the full and final understanding of the Parties with respect to the subject matter described herein and supersedes any and all prior agreements or understandings, written or oral, express or implied. This Agreement may be modified or amended only by a written statement signed by both Parties.

13. Applicable Law:

The terms and conditions of this Agreement shall be governed by the laws of the State of California without regard to conflicts of law principles. If any dispute or claim arises hereunder that the Parties are not able to resolve amicably, the Parties agree and stipulate that such litigation shall be resolved in the State of California, and the Parties irrevocably submit to the exclusive venue and jurisdiction of such court for the purpose of any such action or proceeding. In the event of a dispute between the Parties resulting in litigation, the prevailing party may, in addition to any other relief obtained, recover its court costs and reasonable attorney's fees.

14. Force Majeure:

Neither party shall be liable to the other party or be deemed to have breached this Agreement for any failure or delay in the performance of all or any portion of its obligations under this Agreement if such failure or delay is due to any contingency beyond its reasonable control (a "Force Majeure Event"). Without limiting the generality of the foregoing, such contingency includes, but is not limited to, acts of God, fires, floods, pandemics, storms, earthquakes, riots, boycotts, strikes, lock-outs, acts of terror, wars and war operations, restraints of government, power or communication line failure or other circumstance beyond such party's reasonable control, or by reason of the bankruptcy, receivership or other insolvency proceeding of any bank or other financial institution where funds to pay losses and allocated loss adjustment expenses are held, or by reason of a judgment, ruling or order of any court or agency of competent jurisdiction or change of law or regulation subsequent to the execution of this Agreement. Both Parties are obligated to provide reasonable back-up capability to avoid the potential interruptions described above. If a Force Majeure Event occurs, the party delayed or unable to perform shall give immediate notice to the other party. Client acknowledges that the foregoing provision does not apply to Client's obligation to make timely payment of any fees due Sedgwick, and that Sedgwick shall be entitled to all remedies set forth in

this Agreement and those allowed by law for Client's failure to timely pay such fees.

15. Headings:

Headings herein are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

16. Relationship of Parties; Expenses:

Nothing contained in this Agreement shall be deemed to create a partnership or joint venture between the Parties; the only relationship among the Parties shall be that of independent parties to a contract. Except as expressly provided herein, no party hereto shall have authority or shall hold itself out as having authority to act for or bind any other party hereto. Except as expressly set forth herein, each party shall bear all expenses it may incur in connection with the execution, delivery and performance of this Agreement.

17. Waiver of Breach:

Failure of either party hereto to require the performance by the other party hereto of any obligation under this Agreement shall not affect its right subsequently to require performance of that or any other obligation. Any waiver by any party hereto of any breach of any provision of this Agreement shall not be construed as a continuing waiver of any such provision or a waiver of any succeeding breach or modification of any other right under this Agreement.

18. Subcontractor Disclosure:

Through contractual arrangements with subcontractors, Sedgwick provides a full range of medical management and investigative services to its clients, as well as structured settlements, claim indexing services, imaging, auto-bill adjudication, and extra-territorial claims administration services. Medical management services include, but are not limited to, bill review, network access, pharmacy benefits management, peer review, field case management, electro-medical devices, bone growth stimulators, orthotics, prosthetics, translation and interpretation, transportation, medical supplies, IV and respiratory therapy, home health, and durable medical equipment. Client, upon reasonable notice of the subcontractors providing services herein, recognizes and agrees that delivery of some of these services are being provided pursuant to separate agreements between subcontractors and Sedgwick. Invoices for these services will be paid as allocated loss adjustment expenses on individual claims, unless otherwise agreed between Client and Sedgwick. Notwithstanding the foregoing, Client agrees and understands that Client is obligated to make payment to the subcontractors either directly or by remitting such payment to Sedgwick, for any money due for subcontracted services which have been provided under this Agreement. Client acknowledges that Sedgwick receives a portion of charges for subcontracted services as reimbursement for



cost of program management, administration, and technological and service enhancements. In no event will charges to Client exceed the amount indicated in the Agreement.

19. Equitable Adjustment:

This Agreement contemplates that the standards applicable to this Agreement are those in effect on the date of this Agreement, whether such standards are set forth in statutes, regulations, rules, orders, case law or otherwise. In the event of a change in a service standard, Sedgwick shall be entitled to an equitable adjustment in its compensation if such change increases Sedgwick's cost of providing the services under this Agreement or reduces its profitability.

20. Non-Solicitation:

Client acknowledges and agrees that Sedgwick personnel who perform the services are a valuable asset to Sedgwick and difficult to replace. Accordingly, Client agrees that, during the term of the Agreement, and for twelve months thereafter, it will not solicit, contract or hire Sedgwick personnel or encourage them to seek employment or any other contractual arrangements with Client. The Parties further agree that in the event Client breaches the provision of this Section, Client shall pay Sedgwick liquidated damages in the amount of two times the annual compensation to be paid to such person for each such breach, which is the Parties' good faith estimate of the amount of damages to Sedgwick from such breach. This Section shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the dates written below.

City of Calexico

Sedgwick Claims Management Services, Inc.

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

EXHIBIT A

SERVICE PROGRAM OVERVIEW

I. Introduction

Sedgwick is administering the self-insured workers' compensation claims for Client as follows:

State(s) Serviced: California

Sedgwick Servicing Office: Rancho Cucamonga, CA

Insured Claims (if applicable):

A portion of Client's program is insured. Client shall provide the relevant policy information, including a complete copy of all applicable policies, as soon as reasonably practical after same becomes available.

II. Account Coordination

On behalf of Client, this service program will be coordinated by:

Client Representative	Denise Garcia
Client Name	City of Calexico
Client Address	608 Herber Avenue, Calexico, CA 92231
Telephone #	760.768.2177
Fax #	

On behalf of Sedgwick, this service program will be coordinated by:

Sedgwick Representative	Devora Brainard- DeLong
Sedgwick Office Address	Rancho Cucamonga, CA
Telephone #	909.633.9518
Fax #	

Each party reserves the right to change its designated representative during the term of the Agreement.

## EXHIBIT B

### SERVICE FEES

Client shall pay the following fees on a life of contract basis for services provided during the term of this Agreement:

1. Per Claim Fees

- A. Client shall pay the following fees for claims received by Sedgwick during the period beginning January 1, 2021 and ending December 31, 2024:

**Per claim fee pricing**

Coverage line	Year 1	Year 2	Year 3	Year 4
Indemnity (CA)	\$1,869.00	\$1,981.00	\$2,040.00	\$2,101.00
Medical Only (CA)	\$193.00	\$205.00	\$211.00	\$217.00

**Annual administration fee**

There will be an annual administration fee as follows. Any annual administrative, program management, RMIS fees will continue to be invoiced annually for as long as Sedgwick continues to administer the claims.

Item	Year 1	Year 2	Year 3	Year 4
Annual Administration Fee	\$9,046.00	\$9,589.00	\$9,877.00	\$10,173.00

Items included in the quoted fees include:

- Services of client service director
- Telephonic claim reviews (semi-annual)
- RMIS access: viaOne for up to four users, which provides a platform-independent, web-based tool for viewing and analyzing claims data. Access provides secure, near real-time information from Sedgwick's proprietary claims information systems.

- ISO Fees covered through PRISM EWC program

**Additional bundled services and fees (optional use):**

- Subrogation services will be charged 20% of recoveries
- In person file reviews are \$1,250.00 per review
- RMIS: Additional user access is \$870 per user per year
- RMIS data feeds: Additional interface files are \$225 per month for monthly file, \$645 per month for weekly file or \$1,945 per month for daily file
- RMIS: System interfaces or custom programming charged at \$185 per hour
- Risk control services are available for \$155 per hour plus direct expenses for general safety personnel, \$170 per hour plus direct expenses for specialized industrial hygiene and \$180 per hour plus direct expenses for ergonomists/analytics
- Escheatment services charged at \$15,850 per year for claim related payments issued from an escrow account in Sedgwick's Tax ID. Under this process, Sedgwick reports un-cashed claim related payments to the appropriate state, according to each states' unclaimed property law. Sedgwick offers an alternative escheatment service for free, however, City of Calexico is responsible for filing unclaimed property to the states.

- A. For purposes of this Agreement, an "Indemnity Claim" shall mean any workers' compensation Qualified Claim:
- o For which a payment is made or reserve is posted under the indemnity portion (i.e. not medical and not expense) of the Qualified Claim or there is time lost from work;
  - o For which an application for adjudication of a claim or hearing notice is received or otherwise involves litigation or communication from or to a petitioner's attorney;
  - o Where incurred medical costs exceed \$3,500;
  - o That is denied but otherwise would have been classified as Indemnity Claims;
  - o For which Client requests to be investigated or classified as an Indemnity Claim;
  - o That Sedgwick determines additional investigation is necessary to determine compensability, to comply with applicable laws, or both;
  - o For which subrogation is investigated or pursued; or
  - o That is open longer than twelve months.
- B. For purposes of this Agreement, a "Medical Only Claim" shall mean any workers' compensation Qualified Claim which is not an Indemnity Claim or an Incident Only.
- C. For purposes of this Agreement, an "Incident Only" shall mean claims reported by Client that require no payment or activity other than generating a record in the data management system. These claims carry no reserves and no contacts are made by Sedgwick. If contacts are required on incident only cases, additional fees will apply.

- D. Client acknowledges that if an Incident Only Claim is converted to another claim type, then Client shall pay the difference in the per claim fee between the per claim fee already paid and the applicable per claim fee after the claim's conversion.
- E. Client acknowledges that the per claim fees set forth in this section 1 are based on the assumption that Client will forward to Sedgwick all claims arising under the Program within the applicable time period in a covered jurisdiction. In the event that Client does not forward to Sedgwick all such claims, Sedgwick may in its discretion adjust the per claim fees accordingly.

2. Managed Care Fee Schedule

All claim administration fees and services contemplate the deployment of Sedgwick's managed care services for all bill review and case management services. Managed care fees are detailed below. Fees may change from time to time upon 60 days' written notice.

Service	Rate
Medical bill review	
State fee scheduling/usual, customary and reasonable; state reporting	\$8.93 per bill
Provider networks	
Enhanced savings	28% of savings
Preferred provider organization (PPO) networks/out of network services	28% of savings
California outcomes-based statewide medical provider network (MPN) (all California bills)	\$1,500 Set Up/\$61.50 Access Fee – Alternative option to access EIA MPN at PRISM rates
Telephonic Clinical Services	
Telephonic case management: · Telephonic Nurse Case Manager, · Surgery Nurse Case Manager, · Behavioral Health Specialist	\$107 per hour
Utilization Review & Peer Review	
Utilization review	\$149 per review
Physician advisor/peer review	\$275 per review

Service	Rate
Physician review of records	\$275 per hour
Physician advisor appeal	\$275 per review
Complex pharmacy management	Pharmacy nurse management/pain coaching: \$115 per hour Physician and PharmD management (as needed): \$275 per hour
Field Case Management	
Medical field case management: Full field	\$113 per hour, plus direct expenses Urgent/Catastrophic case management: \$135 per hour

### 3. SIU Service Fees

The charges set forth below are the current fees for the services listed, and these fees may change from time to time upon sixty days' prior written notice to Client:

Service name	Price
Research services	
Social media investigation	\$275
Smart plus investigation	\$475
Comprehensive background	\$525
Canvassing services	\$250
Skip tracing/individual locate	\$175
Asset check	\$225
Criminal and civil check	\$135 plus cost of records Additional counties: \$35 (per county)
Records request	\$100 plus cost of records
Social media monitoring	\$25/week of monitoring
Other research services	Quote upon request
Surveillance services	
Surveillance	\$85 per hour (portal to portal): All other states \$95 per hour (portal to portal): California, Hawaii and New York <u>Additional expenses to hourly rate:</u> <ul style="list-style-type: none"> <li>• Report writing (up to 1/2 hour per day at standard surveillance rates)</li> <li>• Pre-surveillance investigation: \$85</li> <li>• License plate searches: \$10 (post prelim)</li> </ul>

Service name	Price
Unmanned surveillance	\$700 per day (three-day minimum) Deployment and extraction of stationary device: \$85 per hour: All other states \$95 per hour: California, Hawaii and New York
Video copies	\$60 per additional copy plus shipping
Field Services	
Alive and Well Check - In person	\$325: All other states \$350: California, Hawaii and New York
Alive and Well Check-Virtual Interview	\$125
Activity Check	\$350: All other states \$375: California, Hawaii and New York
AOE/COE Recorded Statement Scene Investigation Trial/Deposition	\$85 per hour (portal to portal): All other states \$95 per hour (portal to portal): California, Hawaii and New York Mileage charged at IRS standard mileage rate
International investigations	Quote upon request
Other field services	Quote upon request
Assessment services	
Suspect file review	\$95 per hour
Fraud investigation (includes state reporting)	\$95 per hour
SIU intelligence program	Workers' compensation and general liability — \$150 per claim triggered (includes up to three claim triage reviews per claim triggered)
Other assessment services	Quote upon request

4. Subrogation and Other Recoveries:

Sedgwick shall pursue recoveries for subrogation, second injury funds, and other applicable special funds such as supplemental state funds, COLA reimbursements, retro funds, and other similar funds. Client shall pay Sedgwick twenty percent (20%) of the recovery received. All fees and expenses, including attorneys' fees or investigations, for pursuit of any recovery shall be charged to the appropriate Qualified Claim file as an allocated loss adjustment expense.

## 5. Medicare Secondary Payer Services

The charges set forth below are the current fees for the services listed, and these fees may change from time to time upon sixty days' prior written notice to Client:

MSA fees are detailed below. Fees may change from time to time upon 60 days written notice.

No.	Service name and description	Price
1	Medicare Set-Aside (MSA): This comprehensive report is primarily used to assist the examiner in determining an appropriate amount of money to set aside for the benefit of Medicare at the time of settlement. This MSA expires after 6 months per CMS guidelines.	\$2,500
2	MSA without submission: This is a compact, evidence based MSA report that will not be submitted to CMS for review. It does not expire.	\$2,000
3	Zero dollar MSA waiver: Preparation and submission of the \$0 MSA to CMS. This is only for DENIED cases where \$0 in medical and indemnity payments have been made.	\$1,750
4	Complex Medicare set-aside (MSA): Any MSA that includes three or more open claims to be included in the same report; catastrophic cases, or more than 200 pages of medical records. In addition to WCMSA fee.	\$650
5	MSA submission: Compiling, reviewing, analyzing and submitting necessary documentation to CMS for approval of an MSA.	\$800
6	Medicare lien search: Sedgwick's lien resolution program will review and obtain conditional payment information from Medicare or Medicare advantage organization when applicable.	\$165
7	Medicare lien appeal: Sedgwick's lien resolution program will file an appeal with Medicare or Medicare advantage organization for any unrelated charges. No charge for liens under \$1,000.	\$350
8	Medical cost projection (MCP): A medical cost projection is similar to an MSA in that it projects the anticipated future medical care for a claimant. However, it could contain non-Medicare covered expenses and is not submitted to CMS for approval. Generally completed on claims with no current Medicare exposure or for reserving purposes.	\$2,250
9	MSA/MCP combination report: This product is a combination of the MSA and MCP. It includes one report that summarizes medical records and two spreadsheets (Medicare and Non Medicare items).	\$3,300
10	MSA update: All updates will be charged at a flat rate. Exception: MSAs older than two years may be charged the full MSA rate for an update.	\$615 per update



11	Social security disability check: We will check to determine if the claimant has applied for or been accepted for Social Security disability benefits.	\$350
12	Rated age request: In certain circumstances, it may be necessary to secure a rated age to minimize the MSA.	\$25

6. Payment Terms

Client acknowledges that all fees set forth in the Agreement are due and payable within thirty (30) days of the invoice. Any and all past due fees will incur interest at the rate of 1.5% per month, unless otherwise prohibited by law. Client acknowledges that in the event Sedgwick undertakes collection proceedings for any outstanding fees, then Client will reimburse Sedgwick for all costs associated with such collection action, including a reasonable attorney fee and court cost.

## MANAGED CARE SERVICE SCHEDULE

Client has chosen the following managed care services, as defined herein:

- (1) Provider Fee Management - The bill review process reviews bills against up-to-date and accurate mandated state fee schedules or the usual and customary ("UCR") data base, whichever is appropriate, to reveal excessive, duplicate, or inappropriate charges.
- (2) Preferred Provider Organization ("PPO") Networks - Sedgwick will arrange for access and channeling to national and regional PPO networks including specialty networks (Diagnostics, Physical Therapy, etc.) under the managed care program in conjunction with the Provider Fee Management service.
- (3) Hospital Bill Review - Hospital or outpatient non-PPO bills will be reviewed by a nurse for possible errors or excessive charges relative to the patient's medical diagnosis at Sedgwick's or Client's request.
- (4) Out of Network Bill Review – Bills from out of network health care providers will be reviewed, and if appropriate a negotiation with the billing provider will be pursued. Additionally, inpatient and outpatient procedures that are not addressed by an individual state's fee schedule or UCR will be repriced to a geographically driven and cost to charge repricing database to determine appropriate reimbursement.
- (5) Specialty Usual and Customary Review – Sedgwick's vendors will apply geographic charges (fee for same procedure charged by other providers in same area) and cost to charge ratios (actual cost to provider for procedure or hospital stay v. amount charged) to determine reimbursement of medical services billed that are not addressed within the jurisdictional fee schedule or usual and customary reimbursement.
- (6) Field Case Management - Sedgwick will assign appropriate cases for field medical and vocational management services.
- (7) Utilization Review, which includes the following components:
  - (a) Prospective Review - a review prior to treatment or admission conducted by an experienced registered nurse to validate or negotiate the necessity, setting, frequency, intensity and duration of care delivery.
  - (b) Concurrent Review - during the course of treatment, a review of treatment and planned procedures and establishment of target completion dates.
  - (c) Retrospective Utilization Review- a review post treatment conducted by an experienced registered nurse to identify inappropriate treatment utilization.

- (d) Peer Review - physician-to-physician contact to resolve treatment and diagnosis questions.
- (8) Prescription Services – Pharmacy program made available to Client’s employees whereby a network of pharmacies, local to Employer sites/employee residences will provide prescription medications related to the work related injury with no out of pocket expenses to the employee.
- (9) Pharmacy review services include a review of all current medications prescribed to the claimant as well as a review of over the counter medication being taken by the claimant. The purpose of the review is to evaluate whether the medications prescribed to and/or taken by the claimant are appropriate for treatment of the injury or ailment which is the subject of the underlying claim being administered by Sedgwick.
- (10) Telephonic Case Management services are described below and are available upon request and for an additional fee.
- (11) Complex file review (nurse review) - Hospital or outpatient non-PPO bills that meet specific, pre-established criteria may be reviewed by a nurse for possible errors or excessive charges relative to the patient’s medical diagnosis.

#### Additional Managed Care Services

##### Telephonic Case Management

Sedgwick will provide a telephonic medical case management program in which nurse case managers receive early notice of a worker’s injury and telephonically manage the appropriate cases. Other elements of the Telephonic Case Management program include:

- The management phase includes ongoing return to work (“RTW”) and treatment plan management and negotiation. The treating physician will be contacted within forty-eight (48) hours to assess/determine the treatment and RTW plan, including any negotiation required to approve the treatment plan. The Client may also be contacted to assess/determine RTW opportunities. By continuing to contact the injured worker, the provider, and the Client, case management is best able to facilitate early RTW and appropriate treatment.
- The case may go simultaneously to the assigned claim examiner and nurse or the Sedgwick claims professional will make initial contacts to determine compensability and triage based on preset triggers and/or the claims professional’s judgment to determine if the case will be sent to a telephonic case management nurse.
- Throughout the telephonic case management process, telephone contact will be made with the provider, employee, and Client. Status reports will be provided, within seventy-two (72) hours, to the claims professional via documentation in the data management system as significant events (e.g., surgery, treatment plan updates, RTW status, etc.) occur in a case, and

no less often than every thirty (30) days.

If, at the end of thirty (30) days, the case has not closed, the nurse case manager will contact the claims professional with a recommendation. At that time, the case will either:

- ◆ Close based on a decision by the claims professional
- ◆ Continue with case management on a month-to-month basis until closure and/or RTW and/or maximum medical improvement (MMI).
- ◆ Be referred for Field Case Management

Documentation of this contact will be transmitted electronically to the data management system.

- Sedgwick claims offices will receive standard, open, closed, referred and savings reports. All information collected will allow for insured level, by office reporting. Client customized communication reports may carry an additional charge to be borne directly by Client. If this is the case, these charges will be detailed in a separate document to be agreed upon in writing between the Parties.

#### Evaluation and Recommendation

The Sedgwick Evaluation and Recommendation program involves triage contact with the injured worker, treating physician and, if appropriate and necessary, Client, to determine treatment and return to work ("RTW") plans and appropriateness for telephonic case management.

- In the evaluation and recommendation phase, a Sedgwick nurse will receive demographic and initial claims professional contact information and open the case. The treating physician will be contacted within forty-eight (48) hours to assess/determine the treatment and RTW plan, including any negotiation required to approve the treatment plan. The Client may also be contacted to assess/determine RTW opportunities.
- Status reports will be provided, within seventy-two (72) hours to the claims professional via documentation in the data management system as significant events (e.g., surgery, treatment plan updates, RTW status, etc.) occur in a case, and no less often than every thirty (30) days.
- Continued telephonic case management will proceed on only those cases in which clinical activities can assist in resolving medical or RTW issues at the discretion of the Sedgwick claims professional. These activities require regular contact with the injured worker, treating physician or therapist, and Client, as appropriate.

## CALL CENTER SERVICE SCHEDULE

1. Sedgwick will perform the following call center services:
  - A. Provide to the Client a toll free number owned by Sedgwick to be used by Client and its employees to access the Sedgwick telephonic claims intake center during the term of the Agreement between Client and Sedgwick regarding a claims administration program for Client's Program as defined in Exhibit A.
  - B. Shall fill out the appropriate form as required by an applicable program or statute.
  - C. Provide a copy of the form to Client via fax, mail, or electronically as agreed with Client.
  - D. Provide a copy of the form via fax, or electronically to the Sedgwick office responsible for managing the loss, as necessary.
2. Client agrees that:
  - A. Client shall provide Sedgwick in a timely manner information to facilitate distribution of report copies by Sedgwick.
  - B. Client shall pay to Sedgwick a service fee which, in the initial term of this Agreement, shall be computed and payable as shown in Exhibit B, attached hereto and made a part hereof, plus applicable taxes, if any.

## SIU SERVICE SCHEDULE

Sedgwick Special Investigations Unit ("Sedgwick SIU") will provide centralized management of investigative service vendors and will maintain a national vendor list of approved service providers based upon client or local Sedgwick office preference. Sedgwick SIU will establish quality benchmarking and ensure its vendors are properly licensed and maintain insurance coverage as mandated in vendor agreements with these firms.

Sedgwick SIU will serve as a central referral and coordination unit providing the following SIU services for the fees itemized in Exhibit B:

1. Assessment services including case review, consultation, action plan development, state fraud filing, claim file demand and fraud packaging.
2. Field services including surveillance, activity checks, alive and well checks, and on-site investigations including recorded statements, AOE/COE, and scene investigations.
3. Research services including comprehensive background checks, internet searches, facility canvasses public records, skip tracing, criminal, civil and asset checks.
4. SIU compliance services including carrier and state annual reporting and fraud awareness training.
5. And, other services as outlined in Exhibit B.

## MEDICARE REPORTING SERVICES SCHEDULE

To assist the Client in fulfilling Client's Medicare beneficiary reporting obligations under Medicare, Medicaid and State Children's Health Insurance Program Extension Act of 2007 ("MMSEA") Section 111 as set forth in 42 U.S.C. §1395y (b) (7) & (8) and the CMS User Guide ("User Guide") published on March 16, 2009 (and as amended and revised), Sedgwick will perform the following reporting services:

1. Sedgwick will electronically interface with the Centers for Medicare and Medicaid Services ("CMS") to capture and report data in the format prescribed by the CMS Specifications.
2. Sedgwick will report directly to CMS on behalf of Client as an Account Designee (reporting agent), as such term is defined in the CMS User Guide as amended from time to time by CMS.
3. Client will be considered a Responsible Reporting Entity ("RRE") as that term is defined in the User Guide.
  - a. Client will be responsible for maintaining a valid RRE Identification Number as described in the User Guide and is a condition precedent to Sedgwick performing the duties under this section. Failure to maintain the RRE Identification Number will result in Sedgwick's inability to properly report claims on behalf of the Client. Sedgwick assumes no responsibility for maintaining a valid RRE Identification Number on behalf of the Client.
4. Sedgwick will assist Client as follows:
  - a. Sedgwick will electronically interface with the Centers for Medicare and Medicaid Services ("CMS") to capture and report data in the format prescribed by the User Guide.
  - b. Sedgwick will report directly to CMS on behalf of the Client as an Account Designee (reporting agent), and/or Account Manager as such term is defined in the User Guide.
  - c. Sedgwick will prepare the required data files and submit them to CMS on a periodic basis in order to properly query and report the appropriate files as defined in the User Guide.
5. Sedgwick will be responsible for payment of any and all fines assessed to Client regarding compliance with the Medicare beneficiary reporting requirements of Medicare, Medicaid and SCHIP Extension Act of 2007 that relate to the negligent acts or omissions of Sedgwick except to the extent that:
  - a. Such fines or penalties are the direct result of specific direction given by Client and/or its agent or the actions or omissions of Client and/or its agent; or
  - b. Sedgwick did not receive information from Client that is essential to the performance of the duties set forth herein in a timely manner so as to be able to comply with the terms of this Agreement.

## CLINICAL CONSULTATION SERVICES SCHEDULE

Sedgwick will provide clinical consultation services. Clinical consultation services allow a nurse to speak with the injured employee at the time that the claim is reported in order to make recommendations whether medical intervention is needed. At the time of the initial call to Sedgwick, the injured employee will be transferred to a nurse who will utilize clinical guidelines to assess the injury, recommend immediate return-to-work or refer the claimant to the appropriate medical treatment provider, and document the care recommendation.

Sedgwick will make outbound calls to the injured employee on appropriate claims to obtain injured employees status and conduct the clinical consultation survey 24 hours after the initial clinical consultation call.

The current fee for agreed upon clinical consultation services are set forth in Exhibit B, but this fee will be reviewed and agreed upon annually with sixty days' written notice to Client of any changes. The fee for this service shall be added to Client's periodic invoicing.