

Agenda Report

June 8, 2015

TO: Honorable Mayor and City Council

THROUGH: Finance Committee

FROM: Interim Director of Finance

SUBJECT: AUTHORIZATION AND APPROVAL TO RENEW PROPERTY AND CASUALTY INSURANCE FOR THE CITY OF PASADENA FOR FISCAL YEAR 2016

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed action is not subject to the California Environmental Quality Act (CEQA) as defined in Section 21065 of CEQA and Section 15378 of the State CEQA Guidelines and as such, no environmental document pursuant to CEQA is required for this project; and
2. Authorize the City Manager and the Director of Finance to place and bind the City's Property and Casualty Insurance coverages outlined in this report effective July 1, 2015; and
3. Grant an exemption from the competitive selection process of the Competitive Bidding and Purchasing Ordinance, Pasadena Municipal code Chapter 4.08, pursuant to Section 4.08.049(B) contracts which the City's best interests are served. The proposed insurance coverages are exempt from the competitive bidding process pursuant to the City Charter Section 1002 (f), contracts for professional or unique services.

EXECUTIVE SUMMARY:

The City of Pasadena purchases property and casualty insurance to protect the City and its affiliated agencies against catastrophic loss and to comply with various bond agreements regarding protection of collateral. In addition, the affiliated agencies purchase various special liability policies to further protect the City. The City's insurance broker assists the City and the affiliated agencies to access insurance markets and manage their insurance program.

Insurance premium costs for fiscal year (FY) 2016 are \$3,031,236. This is an overall 12% reduction of \$430,599 from the prior year cost of \$3,461,835. The rates are down 31% for the Power Plant, 18% for the Paseo Garage property insurance, and 15% for the property insurance policy insuring the balance of City's Property. The City's Crime coverage came in at a 2% increase following the filing of a claim that is expected to payout the full policy limit of \$5 million. We were advised that the FY 2017 premium would likely include a significant premium increase as well as an increase in the deductible amount.

City staff (including Power Plant staff) and the broker presented an overview to several firms at a London meeting reestablishing the positive image of the power plant following the losses to GT1 and GT2 and the new GT5 coming on board. This assisted with the final negotiations for a \$559,928 premium reduction, which accounts for a majority of the overall reduction in premiums. Another factor for the overall reduction in premiums is that the insurance market is soft due to being overcapitalized at the moment.

As part of this renewal, staff has obtained cost reductions and is making two recommendations. First, to increase our Aircraft Liability limit from \$20 million to \$50 million for \$1,481 less than the expiring premium (still a 2% reduction over last year's premium) and secondly, to secure Excess Workers' Compensation Insurance for job related injury, accident, occupational disease or death, at a \$5 million SIR (Self Insured Retention) for Statutory limits to protect against a major catastrophe. The City discontinued purchasing Workers' Compensation Insurance in 2003 when premiums quadrupled and is currently self-insured.

There are 19 renewal policies recommended for FY 2016. The recommended policies are separated into 11 different coverage groups and are discussed in greater detail within the Insurance Renewal portion (page 3) of this report.

The City's broker will continue to market these coverages up until July 1, 2015 to ensure the City of Pasadena obtains the best possible rates.

BACKGROUND:

On January 14, 2013, the Finance Committee recommended and the City Council approved the City's new insurance broker of record, Arthur J. Gallagher and Company (Gallagher). The contract with Gallagher runs until 2016, with two additional one year renewals. City staff and Gallagher have worked diligently to review various insurance schedules, refine values, and identify insurable and non-insurable items. In addition, Gallagher and City staff identified areas where coverage was non-existent or where policies were limited in scope and coverage. Gallagher canvases the marketplace each year on behalf of the City presenting all options from financially stable carriers who are able to provide the broad breath of coverage the City requires. All recommendations for insurance coverage and premium indications are included in the City's Recommended FY 2016 Budget. Although various insurance companies provide coverage, the premiums are paid to Gallagher except in the case of the Paseo Colorado garage, where we reimburse the broker who purchases coverage on behalf of the Paseo Colorado complex for the coverage on just the garage.

Insurance Renewal

The table below summarizes insurance renewals and new, enhanced coverage recommendations. A more detailed explanation of the various coverage groups is included within the Discussion of Coverage section (page 4) of this report.

CITY OF PASADENA AND AFFILIATE INSURANCE COVERAGE TABLE

Group	Coverage	a Proposed Premium	b Existing Premium	c Difference % (a-b)	d Limit Insured \$	e Deductible/ SIR ⁽¹⁾ \$	f Status
1 _a	Crime-Inside/Outside Robbery, Safe Burglary	37,703	36,925	-2%	1,000,000	10,000	Renewal
1 _b	<i>except</i> , Computer Fraud, Employee Theft, Forgery/Alteration, or Funds Transfer Fraud				5,000,000	50,000	
2 _a	Liability	247,805	254,784	3%	10,000,000	3,000,000	Renewal
2 _b	Optional Excess Liability	87,720	87,720	0%	10,000,000	0	
3 _a	Pollution Liability	29,640	26,250	-13%	1,000,000	50,000	Renewal
3 _b	Underground Storage Tanks (USTs)	9,181	8,281	-11%	1,000,000	5,000	
4 _a	Medical Malpractice Liability (Pasadena Health Department)	54,592	52,853	-3%	10,000,000	1,000,000 (SIR)	Renewal
5 _a	Helicopter and Aircraft (LA Impact Aircraft included)	59,760	61,241	2%	50,000,000	0	Renewal
5 _b	Aircraft/LA Impact <i>This coverage is now included in the Helicopter Aircraft policy (Item 5a)</i>						Renew 5a
6 _a	Property: Boiler & Machinery	438,892	515,524	15%	100,000,000	25,000	Renewal
6 _b	<i>except</i> , Flood					100,000	
6 _c	Property: Power Plant/Boiler & Machinery	1,261,682	1,821,610	31%	100,000,000	1,000,000	
6 _d	Boiler & Machinery					1,500,000	
6 _e	Terrorism With Nuclear, Chemical, Biological, Radiological (NCBR)	61,537	72,601	15%	10,000,000	25,000	
6 _f	<i>except</i> , Property/Power Plant at 85 East State Street					50,000	
6 _g	Automobile Physical Damage	118,798	116,402	-2%	10,000,000	25,000	
6 _h	<i>except</i> , Earthquake/Flood				5,000,000	25,000	
7 _a	Paseo Garage (Property)	235,504	288,300	18%	259,398,659	25,000	Renewal
7 _b	<i>except</i> , Flood					100,000	
8 _a	Cyber Policy	15,830	15,830	0%	1,000,000	50,000	Renewal
8 _b	<i>except</i> , Privacy Notification Costs from a Data Breach					100,000	
9 _a	SPARTA/Tenants Users & Vendors Special Events	404	404				
10 _a	SLIP – Pasadena Center Operating Company (PCOC)	15,430	14,027	-10%	1,000,000	50,000	Renewal
10 _b	<i>except</i> , Public Officials					5,000	
10 _c	SLIP – Foothill Workforce Investment Board (FWIB)	3,515	3,195	-10%	1,000,000	50,000	
10 _d	<i>except</i> , Public Officials					5,000	
10 _e	SLIP – Old Pasadena Management District (OPMD)	9,302	8,456	-10%	1,000,000	50,000	
10 _f	<i>except</i> , Public Officials					5,000	
10 _g	SLIP – Pasadena Enterprise Center (PEC)	2,674	2,431	-10%	1,000,000	50,000	
10 _h	<i>except</i> , Public Officials					5,000	
11 _a	Excess Workers' Compensation	266,267	0	100%		5,000,000 (SIR)	New
	Brokers Fee	75,000	75,000	0%			Renewal
	TOTALS	3,031,236	3,461,835	12%			

⁽¹⁾ Self Insured Retention (SIR): The amount the City (the Insured) must pay in a liability insurance policy before the insurance company will pay.

Discussion of Coverage (by Groups)

▪ Group 1

Crime: Crime coverage provides protection to the City against theft of City monies and securities by employees of the City and for the faithful performance of duties. This coverage is also referred to as an Employee Dishonesty or Employee Blanket Bond. The proposed policy has a \$50,000 deductible with limits of \$5,000,000 for all coverage parts except for Theft Inside & Outside Premises which is capped at \$1 million with a \$10,000 deductible. This coverage is required by the City's Municipal Charter Code, Section 2.255.040 Official Bonds. The proposed coverage complies with all statutory requirements.

▪ Group 2

Liability and Optional Excess Liability: The City's Liability policy provides coverage to the City in the event of a catastrophic loss on occasion of an act or failure to act where required of a City of employee. The proposed primary policy provides coverage enhancements to include internal costs for employed adjusters, attorneys, paralegals, and investigators, reimbursement of defense costs for Employment Practices Liability Insurance (EPLI); and certain limits of first dollar coverage (not subject to the SIR) for key personnel such as the Mayor and City Manager for identity theft expense, replacement expense, emergency travel expense, and animal mortality coverage for canine or equestrian patrol.

Overall, the Liability policy provides a limit of \$20 million per occurrence, with a \$3 million SIR (Self-Insured Retention).

Terrorism Risk Insurance Act (TRIA) coverage is included within the liability policies. Terrorism insurance is a commercial insurance product purchased by property owners to cover their potential losses by bodily injury and property damage that arise out of a terrorist attack. Most insurance companies exclude terrorism from coverage in casualty and property insurance and require that an endorsement be issued to extend coverage and charge an additional premium.

TRIA is a United States federal law signed by President George W. Bush on November 26, 2002 and was renewed again in January 2015. The act created a federal "backstop" for insurance claims related to acts of terrorism and provided insureds' with the right to purchase insurance coverage for losses arising out of an act of terrorism defined as "an act certified by the Secretary of the Treasury (The Secretary) (i) to be an act of terrorism, (ii) to be a violent act or an act that is dangerous to (A) human life, (B) property, or (C) infrastructure; (iii) to have resulted in damage and (iv) to have been committed on behalf of a foreign person or agent as part of an effort to coerce the civilian population of the United States or to influence the policy or conduct of the United States government by coercion."

The Secretary's decision to certify or not to certify an event as an act of terrorism and thus allow it to be covered by this law is final and not subject to review. There is a \$100 billion annual cap on all losses resulting from acts of terrorism above which no coverage will be provided.

TRIA was intended to be a temporary measure to allow time for the insurance industry to develop their own solutions and products to insure against acts of terrorism. TRIA was set to expire December 31, 2005 but was legislatively extended through December 31, 2020.

- **Group 3**

Pollution Liability: Coverage for this policy provides blanket environmental protection to the City for the discovery of pollution related claims from City operations. This coverage is for sudden and accidental spills or discharge involved during the scope of City business for which limited coverage is provided under a property or liability policy. This specific policy provides protection in the event of long-term issues arising with any pollution discovery after implementation of this coverage. Discoveries occurring before this policy will not be covered. Pollution Liability includes coverage for site decontamination and remediation of downstream/down flow areas. This policy commonly provides coverage for Environmental Protection Agency (EPA), California Department of Toxic Substances Control (DTSC), and any California water regulatory agency related sites and includes fines and regulatory fees for corrective actions.

Overall, the Pollution policy provides a limit of \$1 million per occurrence, \$1 million aggregate at a deductible of \$50,000 per covered loss.

Underground Storage Tank Liability: In addition, a separate policy will provide protection to the City for specific perils of loss associated with Underground Storage Tanks (UST). The City currently maintains eight USTs located throughout the City to fuel City vehicles including police and fire trucks, City sanitation trucks, and City street sweepers. The UST policy provides coverage limits of \$1 million per occurrence at a deductible of \$5,000 per loss. Prior to this coverage, the City self-insured the entire loss including site decontamination, remediation of grounds/waterways, downstream/down flow, and repair or replacement of the tanks.

- **Group 4**

Medical Malpractice Liability: The City currently operates the Pasadena Health Department (PHD). The PHD has various operations including medical services, dental services, mental health services, laboratory testing, and medical surveillance programs. This coverage will insure for Medical Malpractice Liability claims protecting the City and City-employed physicians and dentists, contract-employee physicians and dentists, and allied health service providers for liability associated with their respective practice areas. Medical Malpractice insures the acts, errors, and omissions of our medical providers. In the past, the City was fully self-insured for all claims alleging medical malpractice. The City does not engage in "high-risk" medical work such as emergency rooms or trauma

centers, but does operate clinics and clinical programs along with educational outreach programs.

This policy provides the separate and distinct coverage for operations, exposures commonly excluded from all liability policies and is currently excluded on the City's liability policy because of the specialty and practice areas of the professionals performing the work.

A benefit to this policy is that defense costs are included. This policy will provide the City with limits of \$10 million per claim after a \$1 million per claim self-insured retention.

▪ **Group 5**

Heliport and Aircraft, Including LA Impact Aircraft: Heliport/Airport coverage provides protection for the City's liability due to its public safety/police helicopter operations and for the City's leadership role on the LA Impact Team. The Aircraft policy covers individually, all City aircraft and the LA Impact aircraft for hull damage. Similar to the City's General Liability policy, these policies provide the City overall liability limits of \$20 million and our recommendation is to increase this limit to \$50 million, at a reduction over last year's premium with no deductible.

This coverage has combined three policies into one policy, providing liability coverage, hull coverage for City aircraft, and hull coverage for LA Impact aircraft. Each item is separately rated and LA Impact will be billed its prorated share of the premium. Important enhancements to this policy include the addition of \$1 million limits of hull coverage on each of the two OH58's, constructive total loss at 70 percent value, a \$300,000 limit for physical damage to engines, and a reduced eligibility for down time (lay-up) credit from 50 days to 30 days. These are significant enhancements to the City's aviation coverage.

▪ **Group 6**

Property/Boiler and Machinery and Power Plant Property/Boiler and Machinery: The City's overall total insurable values increased slightly to reflect the current inflationary factors of 2%. Due to the adverse loss experience at the power plant and its aging infrastructure (B3 unit), insurance companies are reluctant to provide coverage that is the reason why the City purchases two separate policies. To obtain the most advantageous rate for the balance of City-owned property and other Pasadena Water & Power property not currently located at the power plant, two property policies will be secured each including boiler and machinery. These policies will provide \$100 million coverage subject to a \$1 million deductible for property and \$1.5 million deductible for boiler and machinery for the Power Plant and a deductible of \$25,000 for all other City boiler and machinery property.

The power plant has had another profitable year. As previously stated in this report, Finance staff (including the Power Plant staff) and the broker presented an overview in London reestablishing the positive image of the power plant following the losses to GT1 and GT2 and GT5 coming on board. This assisted with the final negotiations for a \$559,928 premium reduction. The City and Power Plant will continue to carrying

deductibles consistent with the City's other policies, to yield the best coverage and cost profile for the City

Terrorism with Nuclear, Chemical, Biological, and Radiological (NCBR): Under the City's renewal property program, in addition to the City's coverage for damage to property, the proposed terrorism coverage will provide protection covering terrorism acts and will be extended to include terrorism risks with NCBR events. This expanded coverage protects the City's buildings, grounds, and information technology equipment in the event of a declared terrorist act. This coverage will assist to relocate vital City services and remediate/rebuild City buildings or information technology systems and equipment. This coverage attaches a low \$25,000 deductible for NCBR terrorism risks as compared to the strict TRIA coverage. However, a terrorism incident at the power plant at 85 East State Street attaches a \$50,000 deductible.

Automobile Physical Damage: In addition to property coverage, the City also obtained quotes for Automobile Physical Damage ("comprehensive & collision/overturn") coverage on City vehicles. This policy provides a deductible of \$25,000 and all vehicles are scheduled. Coverage is on a replacement cost value. This coverage is beneficial to the City as it protects cash flow when the City purchases new vehicles to replace damaged vehicles. This increased as a result of a reevaluation of vehicle costs and new vehicles being placed in service. Coverage is provided at a loss limit of \$10 million for any one loss and \$5 million for Earthquake and Flood in the annual aggregate.

- **Group 7**

Paseo Garage: The Paseo Colorado property is managed by the developer's real estate company which purchases insurance services through Mesirow Financial Services. Mesirow Financial coordinates the garage coverage and premium through the City staff. The property is insured and complies with all facility bonds and financing agreements. The policy is scheduled to be renewed by Mesirow Financial on behalf of the participants in Paseo Colorado project with the City continuing to pay the garage premium portion of \$235,504 as contracted. A \$25,000 deductible is associated with all losses except in the instance of flood with a \$100,000 deductible.

- **Group 8**

Cyber Policy: This policy provides protection for all sensitive data in the City's care, custody, and control and protects against adverse errors or actions taken by an employee or a third-party against the City's information technology systems including but not limited to hacking. The City maintains, or has access to, sensitive information including but not limited to employee data, customer data (water and power billing/credit; trash service billing/credit; and private health information (Pasadena Health Department)). The City also maintains a fiber optic network loop throughout the City with contractual connections with NASA/JPL, Caltech, and Raytheon. City employees have access to certain data which is susceptible to loss or theft through the use of laptops, tablet computers, flash drives, and smartphone technology. This policy covers privacy liability, crisis management, credit monitoring, notifications, fines and other miscellaneous expenses related to most types of

breaches for which the City is responsible. This policy provides \$1 million in limits with a \$50,000 deductible.

- **Group 9**

SPARTA/Tenants Users, Vendors Special Events and Contractors Liability: The SPARTA and Contractors policy is a special events liability policy that allows City vendors, contractors, facility users, and specialty programs to obtain cost-effective coverage to protect the City and City facilities against loss caused by their performance, use of City facilities, or work under small contract values for the City. The City purchases a master policy annually and vendors, contractors, and facility users may obtain rates and coverage and make payments via a web portal as needs dictate.

- **Group 10**

Special Liability Insurance Policies (SLIP): The SLIP policies provide the liability coverage to the Pasadena Center Operating Company (PCOC), the Foothill Workforce Investment Board (FWIB), the Old Pasadena Management District (OPMD), and the Pasadena Enterprise Center, Inc. (PEC). The coverage provided is \$1 million with a \$50,000 deductible.

- **Group 11**

Excess Workers' Compensation: This City currently self-funds all Workers' Compensation losses. The purchase of an Excess Workers' Compensation policy is being recommended at a \$5 million SIR to provide protect against a major catastrophe, causing injuries to multiple employees. The City has a number of locations housing large concentrations of employee such as City Hall with 340 employees, in addition to at least half of a dozen other facilities with 100-200 employees. Since 2003 premiums have become more affordable and most Cities and Counties who had gone bare have resumed purchasing coverage at retentions ranging from \$5 million to \$10 million. This policy would stop the City's loss at \$5 million per incident and continue to pay the statutory Worker's Compensation costs.

COUNCIL POLICY CONSIDERATION:

This action supports the City Council's strategic planning goal to maintain fiscal responsibility and stability and to protect the City's infrastructure and collateral for bond purposes.

FISCAL IMPACT:

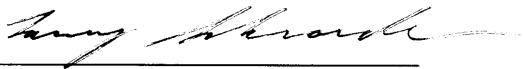
In accordance with the table provided in this report, the cost of this action is approximately \$3,031,236 for insurance renewal purposes (account number: 1301-101-000000). The final cost of this insurance premium decreased over the prior year by \$430,599 as a result of decreased premiums for Property/Boiler and Machinery and Power Plant Property/Boiler and Machinery coverage. Funding for this action is included in the City's Recommended FY 2016 Budget in the various departmental budgets. No indirect and support costs such as maintenance or IT support are anticipated.

Respectfully submitted,



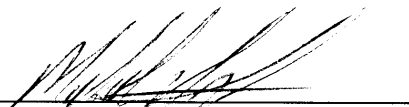
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