

Agenda Report

June 29, 2020

TO: Honorable Mayor and City Council

FROM: City Attorney/City Prosecutor's Department/Liability & Claims Division

SUBJECT: ADOPT A RESOLUTION AUTHORIZING THE CITY OF PASADENA TO JOIN PUBLIC RISK INNOVATION, SOLUTIONS, AND MANAGEMENT (PRISM) FOR FISCAL YEAR (FY) 21 GENERAL AND EXCESS MUNICIPAL LIABILITY INSURANCE COVERAGE

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed action is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15378; and
2. Adopt a resolution authorizing the City of Pasadena ("City") to join Public Risk Innovation, Solutions, and Management (PRISM) for the City's general and excess municipal liability insurance coverages effective July 1, 2020 to July 1, 2021; 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

On June 22, 2020, this item came before City Council for adoption of a resolution authorizing the City to join PRISM for FY 21 general and excess municipal liability coverage. At that time, City Council was desirous of additional information, such as any prior consideration of risk pool options, PRISM's financial stability, PRISM's ability to pay significant and multi-claim losses, and whether there are potential risks of other public entities the City could be taking on by joining PRISM. This item comes before City Council today to provide additional information as requested. Furthermore, on

June 25, 2020, the City's insurance broker, Alliant, received a firm quote from PRISM in the amount of \$1,970,000 for the City's FY 21 general and excess municipal liability coverage. Staff is now in a position to present both a standalone option and a risk pool option to City Council for consideration.

For many years prior to 2012, the City purchased general and excess municipal liability insurance as part of a group purchase with other cities. Alliant was the City's insurance broker during that time. At the end of 2012, the City's Claims Coordinator released a Request for Proposals (RFP) through the Finance Department for insurance brokerage services. Arthur J. Gallagher was selected as the new broker of record and began placing standalone coverage for the City's liability program. At the end of 2019, the City's Risk and Insurance Administrator released a new RFP for the same services. City Council awarded the contract to Alliant in January 2020. Alliant's proposal included risk pool options for the City and it was agreed that Alliant would pursue such options as part of the FY 21 insurance renewals.

Since Alliant placed coverage for the City in the years prior to 2013, they have knowledge about the insurance program at that time and can recall the City's concerns about risk pools, such as: retaining the City's control over its claims, hesitation to pool risk, and the potential for retroactive adjustments/assessments.

Risk pools were established in the 1970s as a means to provide public entities with coverage for their exposures. During that time, the general insurance market was unable to provide cities with sufficient insurance. Coverage became so cost prohibitive that many insurers exited the public entity market. The innovative solution to this dilemma was the creation of risk pools. Considering the state of the insurance market today, increasing premiums, higher self-insured retentions (SIRs), large public entity losses, jury verdicts, settlements, and social inflation, staff saw a need to look into this option for the City's FY 21 general liability coverage.

PRISM, formerly known as California State Association of Counties – Excess Insurance Authority (CSAC EIA), is a risk sharing pool created in 1979 to find cost-effective insurance solutions and risk management services for members. It was initially created in 1979 for California counties, extended to other public entities in 2001, and is currently expanding nationally as of 2019. Current membership includes 55 of the 58 California counties and 295 public entity members that include cities, special districts, schools, courts, and smaller joint powers authorities.

PRISM's Board of Directors (Board) consists of 55 county board members and alternates appointed by the Board of Supervisors at each county. There are ten public entity board members, including three alternates, appointed by the public entity membership. The Board is required to hold at least one regular meeting each year and to provide for other regular meetings and special meetings as it deems necessary. The Board may establish committees, as it deems appropriate to conduct the business of PRISM, and each committee shall be composed of at least five members. Please refer to Attachment A for details about the organizational structure within PRISM.

After reviewing the standalone and PRISM options as presented by Alliant, staff recommends the City Council adopt a resolution authorizing the City to join PRISM for the FY 21 general and excess municipal liability coverage. PRISM will allow the City to retain its current terms of a \$5M SIR, albeit with a \$1M corridor deductible, and limits of \$25M, as opposed to increasing its Law Enforcement SIR to \$7.5M which would occur with the standalone option. The premium amount is \$6,967 less than the standalone option. Since risk exposures amongst PRISM members are diverse, risk is spread more evenly throughout the organization resulting in more stability. The City will benefit from risk management offerings not currently found in its current standalone coverage.

RISK POOLS VERSUS STANDALONE COVERAGE

Some of the advantages with risk pools include:

- Participation in a member-directed organization
- Exposures are smoothed across entities, whereas public entities are more susceptible to market volatility in the private market
- Greater funding flexibility at the pool and member levels
- Claims savings are retained by the pool and members, as opposed to becoming profits for insurance providers
- Competitive pricing by having multiple members and retained risk
- Agencies maintain control over claims administration
- Agencies have a vested interest in creating programs to manage risk and create retained savings
- Focus and expertise in governmental entities often not found in insurers

Potential drawbacks with risk pools include:

- Financial instability can lead to increased costs for members, but that is true for standalone options as well
- In general, member assessments may occur but would only apply to the City for those years the City was a member. It should be noted that, if the City decides to join PRISM, the City will be placed in PRISM's General Liability 2 program which does not have member assessments.

WHY PRISM?

Other pool options exist but are not considered as good of a fit for the City of Pasadena when compared to PRISM. For example, the Independent Cities Risk Management Authority (ICRMA) is currently comprised of 16 member cities, which is on the smaller end for the size of Pasadena. In a pool that size, risk can only be spread amongst 16 members as opposed to a risk pool with higher membership. The California Joint Powers Insurance Authority (CJPIA) is larger than ICRMA and offers first-dollar coverage. Unlike PRISM, CJPIA controls the claims administration and retains ultimate settlement authority.

Staff considered several factors when exploring PRISM as an option for the City's FY 21 general liability coverage. PRISM's deliberate and steady expansion from 1979 to date shows its longevity, financial growth, and stability. PRISM lacks limitations that are part of other risk sharing pools—no three-year commitment, the City's ability to retain control over its liability claims administration, the City's ability to use its own defense counsel, etc. The City will receive liability claims audits as part of its membership and have access to loss control and risk management services/resources. PRISM has a reputation for being a reliable option amongst public entity risk management personnel, such as Public Agency Risk Management Association (PARMA) members. The years of membership each member has in PRISM indicates a level of satisfaction with such coverage. PRISM serves a significant volume of public entities with diverse risk exposures, allowing for balance within PRISM and leverage in marketing the pool for excess coverage. A list of PRISM's member cities can be found at <https://www.csac-eia.org/members/public-entity/city/>. For ease of reference, the list is also included as Attachment B to this report.

In response to the questions about impact to Pasadena if other members have excessive claims, the City would not be directly responsible for contributing to those members' claims or payouts. However, the City's contribution could be larger in future years due to significant or mass payouts for members in general. This would be true for standalone options as well. Since PRISM does not require a multi-year commitment, staff can reassess whether PRISM is still the City's most worthwhile option year-to-year just as it does during every insurance renewal cycle.

PRISM has a strong history of managing members with negative claims practices and differing approaches to risk management. For example, SIRs have been increased due to poor cooperation by claims staff and attorneys with PRISM. Once the issues were resolved, SIRs decreased back down. Depending on the severity of loss history, a member could jeopardize its PRISM membership altogether. From those experiences and lessons learned, PRISM may enact more stringent protocols for all members if they want to continue having such coverage. Set written standards exist and must be adhered to in order for members to remain in good standing. PRISM committees and staff strive to make sure programs remain equitable and fair so the sharing of risk does not create advantages for some and disadvantages for others.

In February of this year, PRISM's Underwriting Committee recommended to the Executive Committee and the Board that surcharges be levied against members that have more than one large loss. In the lower layers, there is an experience modification factor (Ex Mod) process using losses in the lower layers to calculate the Ex Mod, adjusting various member premiums. This analysis looks at which members are having the larger losses. If a member has more than one large loss, then there is a surcharge process. PRISM then reallocates the pool loss surcharge collections to members with no claims excess of \$1,000,000 within the last seven years. This process aligns with PRISM's Service Vision of not only attracting new members but retaining existing members while improving program performance. Staff and the committees go to great

lengths to make sure the program is administered fairly, addressing those members presenting challenges to the group while rewarding others that demonstrate positive claims experiences and risk management practices.

FINANCIAL STABILITY

According to the FY 20 CSAC EIA (now known as PRISM) Adopted Budget (Budget), CSAC EIA collects a large amount of premium upfront and uses it to pay for reinsurance premiums, risk programs and the payment of claims on retained risk over a long period of time. The EIA has a very large Treasury that is invested by professional asset managers. As a result, EIA has no debt and no plans to acquire debt. The Budget also shows the Government of Finance Officers Association presented CSAC EIA with a Distinguished Budget Presentation Award for the Fiscal Year Beginning July 1, 2018.

The budget conforms to generally accepted governmental accounting standards including the unique requirements for state and local governments set forth by the Governmental Accounting Standards Board (GASB). The accounting records and the budget are prepared and maintained using the accrual basis of accounting. Revenues (insurance and pooled premium) are recognized when earned, and expenses for claims are recognized when known or estimated, rather than when paid. The Budget can be viewed in its entirety at <https://www.csac-eia.org/resources/eia-documents/financial-information/annual-budget/2019-20-adopted-budget/>.

According to the Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2019 and 2018 (CAFR), CSAC EIA's annual revenue for FY 2018/19 was \$1.03B, with an estimated revenue for FY 2019/20 to be around \$1.14B. PRISM funds conservatively and typically at an 80% confidence level. The Government Finance Officers Association presented CSAC EIA with a Certificate of Achievement for Excellence in Financial Reporting for the Fiscal Year Ended June 30, 2018. The California Association of Joint Powers Authorities (CAJPA) awarded CSAC EIA with a Certificate of Accreditation with Excellence for the Accreditation Period: March 28, 2019 – March 28, 2022. The CAFR can be viewed in its entirety at <https://www.csac-eia.org/resources/eia-documents/financial-information/comprehensive-annual-financial-report-cafr/cafr-fy-ended-06-30-19/>.

FY 21 PROPOSALS

The standalone option is still offering the City a general SIR of \$5M and limits of \$25M. However, this quote comes with different terms. Given the current social climate, this option would increase the City's Law Enforcement SIR from \$5M to \$7.5M. Another key difference is that the top \$5M layer in limits would exclude Auto Liability, Transit Operations, the Jones Dam, Sexual Molestation, Pasadena Water & Power, Medical Malpractice, Opioids and Glyphosate. Alliant approached over 30 carriers for the top layer of coverage and this was the best quote received.

PRISM is also offering the City a \$5M SIR and limits of \$25M. The \$5M SIR would still apply to Law Enforcement. Yet, this quote comes with notable terms as well. A major advantage in this option is that it is non-aggregated. A disadvantage is that PRISM's quote is based on a \$1M Corridor Deductible (CD), which is a one-time aggregate amount the City would be responsible for in addition to the \$5M per occurrence SIR. The CD can be eroded by one loss excess of the SIR or multiple losses excess of the SIR, depending on the size of the losses. For example, if the City has a \$7M loss, the City would have to cover the \$5M SIR plus the one-time \$1M CD. PRISM would cover the last \$1M. If the City has another \$7M loss during the same policy year, the City would have to cover the \$5M SIR and PRISM would cover the remaining \$2M, since the CD has already been fully eroded.

Please see Attachment C for Alliant's side-by-side comparison between the standalone option and the PRISM option.

COUNCIL POLICY CONSIDERATION:

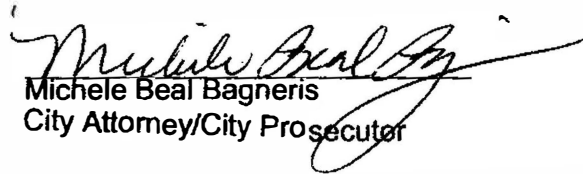
This action supports City Council's strategic planning goal to maintain fiscal responsibility and stability.

FISCAL IMPACT:

PRISM's quote in the amount of \$1,970,000 is within the \$2,287,706 authority City Council granted on June 15, 2020.

The standalone quote in the amount of \$1,976,967 is also within the \$2,287,706 authority City Council granted on June 15, 2020.

Respectfully submitted,


Michele Beal Bagneris
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Prepared by:

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Attachment A – PRISM Organization Chart
Attachment B – PRISM Public Entity/City Members
Attachment C – FY 21 General and Excess Municipal Liability Insurance Proposal