

Agenda Report

July 8, 2013

TO: Honorable Mayor and City Council

THROUGH: Finance Committee

FROM: Director of Finance

SUBJECT: AUTHORIZATION AND APPROVAL TO RENEW PROPERTY AND CASUALTY INSURANCE FOR THE CITY OF PASADENA FOR FISCAL YEAR 2014

RECOMMENDATION:

It is recommended that the City Council:

1. Authorize the City Manager and the Director of Finance to place and bind for the coverages outlined in this report, the City's Property and Casualty Insurance effective July 1, 2013; and,
2. Find that 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; 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.

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 2014 are \$3,962,714. This is an increase from the prior year of \$1,964,501. The overall cost increase resulted from increased property values (current property values increased from \$890 million to over \$1.3 billion including the completed Rose Bowl renovations) and from adverse loss experience at the City's power plant. As part of this renewal, staff has obtained coverage enhancements and has reduced self-insured retentions to protect the City's cash flow and to minimize premiums.

There are sixteen policies being recommended for FY 2014; ten are renewal policies and six are new coverage policies. The recommended policies are separated into nine different group coverages and are discussed in greater detail later in this report. The RBOC Builder's Risk policy is not being recommended for renewal due to the anticipated completion of the Rose Bowl renovation project by the end of the fiscal year.

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). 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. All recommendations for insurance coverage and premium indications are included in the City's fiscal year 2014 adopted budget.

Insurance Renewal

The table below summarizes insurance renewals and new, enhanced coverage recommendations. A more detailed explanation of the various coverage groups is included in the next section of this report.

Group	Coverage	Proposed Premium	Expiring Premium	% Difference	Status
1	Crime-Inside/Outside Robbery, Safe Burglary	\$35,236	\$26,367	25%	Renewal
2 A	Liability	\$254,785	\$283,063	-10%	Renewal
2 B	Optional Excess Liability	\$87,800	\$81,640	8%	Renewal
3 A	Pollution Liability	\$25,000	N/A		New
3 B	Underground Storage Tanks	\$6,313	N/A		New
4	Medical Malpractice	\$33,024	N/A		New
5 A	Heliport/Aircraft (LA Impact included)	\$63,894	\$58,582	29%	Renewal
5 B	*Aircraft/LA Impact	N/A	\$12,410	-184%	Renew 5A

*This coverage is now included in the Heliport Aircraft policy (Item 5A).

Group	Coverage	Proposed Premium	Expiring Premium	% Difference	Status
6 A	Property/Boiler & Machinery	\$608,986	\$457,732	54%	Renewal
6 B	Power Plant/Boiler & Machinery	\$2,029,600	\$602,306	297%	Renewal
6 C	Prop. Terrorism	\$30,960	\$30,960	0%	Renewal
6 D	Prop. NCBR Terrorism	\$49,790	N/A		New
6 E	RBOC Builders' Risk	N/A	\$102,313	-100%	Discontinued
6 F	Auto Physical Damage	\$108,342	N/A		Renewal
7	Paseo Garage (Property)	\$262,378	\$283,324	-7%	Renewal
8	Cyber Policy	\$15,747	N/A		New
9	SPARTA/Tenants Users & Vendors Special Events	\$1,782	\$26,367	-93%	New
	TOTALS:	\$3,603,234	\$1,964,501		

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. The City approached three markets and has been informed that with our current competitive rate, the prospective markets could not compete with our incumbent carrier.

- **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 a reduction in the City's Self-Insured Retention (SIR) to \$3 million from the prior \$5 million. Coverage enhancements include a rate stabilization SIR to include internal costs for employed adjusters, attorneys, paralegals, and investigators, increased reimbursement of defense costs for Employment Practices Liability (EPLI) from \$250,000 to \$500,000; 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.

Staff also recommends an excess policy providing additional coverage limits of \$10 million for a total limit of \$23 million in coverage including SIR. 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. 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 (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, 2014.

Overall, the City's broker approached 18 markets and received 14 proposals from 6 markets.

- **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 beyond the mere 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 Storage Tank Liability policy provides coverage limits of \$1 million per occurrence with \$1 to \$2 million aggregate options 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.

The City approached three markets and received two proposals. Staff recommends both the Pollution Liability and the Storage Tank Liability policies to protect against pollution-related claims not covered under the pollution liability policy.

- **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 and exposures commonly excluded from all liability policies and 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. Medical Malpractice Liability is a new coverage for the City.

The City approached 20 markets and received 1 proposal. This coverage is highly recommended to reduce the City's overall risk associated with its medical/dental practices.

- **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. The City approached 12 markets and received 2 proposals. While more carriers could offer pricing, firm proposals were not pursued as the other carriers could not provide the full range of coverage requested.

At renewal, this coverage will combine into one policy the three policies from prior years that included separate liability coverage, separate hull coverage for City aircraft, and separate 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 this year 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 have increased over the past year. The overall costs of rebuilding (trade, materials, and fixtures) and the addition of the values of the completed Rose Bowl construction have increased the City's total insurable values considerably from \$890 million to \$1.3 billion. Due to the adverse loss experience at the power plant and its aging infrastructure (B3 unit), insurance companies are reluctant to provide coverage. 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 coverage subject to a basic "all risk" deductible of \$25,000. Regarding the power plant policy, City staff and the broker examined various insurance option including reducing limits and carrying high deductibles. Carrying a higher deductible consistent with the City's other policies yielded the best coverage and cost profile for the City. In short, higher deductibles will apply to equipment with objects producing over 5,000 KW/KVA/Amps. Staff recommends this coverage to protect the City's physical assets.

Terrorism With Nuclear, Chemical, Biological, 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 Nuclear, Chemical, Biological, and Radiological (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.

RBOC Builders' Risk: The City purchased a supplemental Builders' Risk for the Rose Bowl construction projects. Since, according to RBOC staff, major renovations will be completed by June 30, 2013, the City is not recommending renewal of this policy. Rose Bowl improvements, along with the rest of the Rose Bowl property, will be covered under the City's renewing property policy.

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. The City's current fleet value is \$41,670,000. 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.

The City approached three markets and received firm quotes from one. This coverage represents the most cost-efficient option for the City.

- **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 as contracted.

- **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.

The City approached four markets and received two proposals.

- **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.

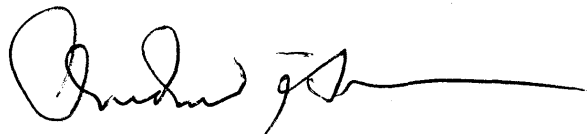
COUNCIL POLICY CONSIDERATION:

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 \$3,603,234 for insurance renewal purposes (account number: 1301-101-000000). The final cost of this insurance premium increased over the prior year as a result of increased property valuations, property loss experience, and enhanced coverages. Funding for this action is included in the Fiscal Year 2014 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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