

Agenda Report

June 13, 2016

TO: Honorable Mayor and City Council

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

SUBJECT: AUTHORIZATION AND APPROVAL TO RENEW PROPERTY AND CASUALTY INSURANCE FOR THE CITY OF PASADENA FOR FISCAL YEAR 2017

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. Authorize the Interim City Manager and the City Attorney/City Prosecutor to place and bind the City's Property and Casualty Insurance coverages outlined in this report effective July 1, 2016, with the total premium amount not to exceed \$3,226,012; 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 operating companies against catastrophic loss and to comply with various bonds regarding protection of collateral and agreements the City enters into with outside agencies. In addition, the operating companies purchase various special liability policies to further protect the City and its assets. The City's insurance broker assists the City and its various operating companies to access insurance markets and manage the cost and coverage of their insurance program.

Premiums for many of the individual policies have decreased: General Liability policy premium decreased by 10%; Healthcare Professional Liability (Medical Malpractice) premium decreased by 18%; Automobile Physical Damage policy premium significantly decreased by 35%; Boiler & Machinery policy decreased by 16%; and Excess Workers Compensation policy decreased by 7%. And, in spite of the City having its first significant loss under the Crime policy, (embezzlement), the premium increase was less than 6%. Overall, total insurance premiums for fiscal year (FY) 2017 increased by 8.75%, after including the 57% increase of the shared premium for Paseo Colorado Parking Garage.

The reason for the increase of the annual premium for Paseo Colorado is two-fold. First, Paseo Colorado was recently purchased by CAPREF Paseo LLC. While conducting its due diligence, CAPREF had the property appraised and the replacement value for the parking structure alone increased by 48%. Second, insurance purchased by CAPREF now includes general liability coverage with limits of \$50,000,000 bringing the insurance in compliance with the Real Estate Agreement (REA). Prior insurance policies issued for Paseo Colorado did not include liability coverage, making the City non-compliant with the REA's insurance requirements.

The only policy premium that has had a significant increase was Property – Power Plant policy, which rose by 16%, however, based on the 54% increase in total insurable values, the composite account rate was reduced by 25%. The reason for the premium increase is the new GT5 (gas turbine unit) which is scheduled to be placed in service FY 2017. As part of the underwriting process, the Power Production Superintendent for Pasadena Water & Power, presented an overview to underwriters gathered at Lloyd's of London providing a history and overview of the City's gas turbine units, introducing the new GT5, and discussing maintenance schedules for each unit. The presentation was well received by the underwriters. Staff and broker were also present for this presentation.

As part of the renewal, staff has obtained cost reductions on several of the policies within the City's insurance program, and is making one recommendation, to increase the General Liability policy limits by \$5,000,000, for an additional premium of \$27,280. By increasing the liability policy limits, the City will have a total of \$25,000,000 in coverage above the self-insured retention. This increase in limits will better protect the City's assets against potential high exposure claims.

There are twenty-one (21) renewal policies recommended for FY 2017, separated into eleven (11) different coverage groups, and discussed in detail beginning on page 5.

The City's broker will continue to market these coverages until July 1, 2016 to ensure the City of Pasadena obtains the best rates with the broadest coverage.

BACKGROUND:

On January 14, 2013, the Finance Committee recommended and the City Council approved the City's current insurance broker of record, Arthur J. Gallagher and Company (Gallagher). The City had a three-year contract with Gallagher, which ran from 2012 through 2015, with 2 one-year options. The City is currently exercising its first one-year option. City staff within the various departments has collaborated to bring current property and automobile schedules, providing the underwriters with a more accurate picture of the City's exposures and total insurable values. Additionally, City staff has done a thorough analysis of coverage to ensure adequate coverage was purchased. Every year, Gallagher goes to market on behalf of the City obtaining multiple options for our consideration of a broad range of coverage from highly rated carriers. All recommendations for insurance coverage and premium indications are included in the City's Recommended FY 2017 Budget. As the City's insurance broker, premiums for all 21 renewal policies will be paid to Gallagher for Gallagher to distribute to the various insurance carriers through which coverage is purchased, except premiums paid for Paseo Colorado parking garage in which case premium is paid to CAPREF Paseo LLC as reimbursement for insurance purchased by the new owner of the property through their insurance carrier.

INSURANCE RENEWAL

The chart below summarizes the recommended insurance renewals and new, enhanced coverages. An explanation of the various coverage groups is included in the following section.

City of Pasadena and Affiliate Insurance Coverage Table

Coverage	Proposed Premium	Existing Premium	Difference	Limit Insured \$	Deductible/SIR \$	Status
Crime Protection Policy for Public Entities	\$40,007.00	\$37,703.00	6.00%	\$5,000,000.00	\$100,000.00	Renewal
Liability	\$216,517.00	\$247,805.00	-10.00%	\$10,000,000.00	\$3,000,000.00	Renewal
Excess Liability	\$87,720.00	\$87,720.00	0.00%	\$10,000,000.00	\$13,000,000.00	Renewal
Proposed increased limits	\$27,280.00	\$0.00	100.00%	\$5,000,000.00	\$13,000,000.00	New
Pollution Liability	\$23,678.00	\$25,658.00	-8.00%	\$1,000,000.00	\$50,000.00	Renewal
Underground Storage Tanks (USTs)	\$12,022.00	\$9,181.00	31.00%	\$1,000,000.00	\$5,000.00	Renewal
Healthcare Professional Liability: Medical Malpractice	\$38,712.38	\$47,376.02	0.00%	\$10,000,000.00	\$1,000,000.00	Renewal
Heliport and Aircraft (LA Impact Aircraft included)	\$65,750.00	\$67,211.00	-2.00%	\$50,000,000.00	\$0 Liability; 1.5% Hull	Renewal
Property: Power Plant	\$1,465,081.00	\$1,261,682.00	16.00%	\$100,000,000.00	\$750,000 all other property; \$1,500,000 machinery breakdown	Renewal
Equipment Breakdown	\$21,575.00	\$17,715.00	41.00%	\$100,000,000.00	\$25,000.00	Renewal
Property	\$345,164.00	\$360,000.00	-4.00%	\$250,000,000.00	\$25,000 Earthquake; Sprinkler Leakage; \$100,000 Flood	Renewal
Terrorism to include CBRN	\$66,435.00	\$61,507.00	5.00%	\$10,000,000.00	\$50,000 Power Plant at 85 East State Street; \$25,000 all other	Renewal
Automobile Physical Damage	\$76,756.00	\$118,798.00	-35.00%	\$10,000,000.00	\$25,000.00	Renewal
Paseo Colorado Parking Garage	\$369,584.00	\$235,504.00	57.00%	\$312,199,421 Property; \$50,000,000 General Liability	\$25,000; \$100,000 for Flood	Renewal
Cyber	\$15,530.36	\$15,830.26	-2.00%	\$1,000,000.00	\$50,000 media & technology; \$100,000 all other	Renewal
Sparta: Special Events Liability	\$282.00	\$404.00	-30.00%	Varies by applicant	Varies by applicant	Renewal
Special Liability Policies (SLIP)						
SLIP - Pasadena Center Operating Company (PCOC)	\$13,638.00	\$15,430.00	0.00%	\$1,000,000.00	\$50,000; except public officials at \$5,000	Renewal
SLIP - Foothill Workforce Investment Board (FWIB)	\$3,171.00	\$3,515.00	0.00%	\$1,000,000.00	\$50,000; except public officials at \$5,000	Renewal
SLIP - Old Pasadena Management District (OPMD)	\$8,114.00	\$9,302.00	0.00%	\$1,000,000.00	\$50,000; except public officials at \$5,000	Renewal
SLIP - Pasadena Enterprise Center (PEC)	\$2,407.00	\$2,674.00	0.00%	\$1,000,000.00	\$50,000; except public officials at \$5,000	Renewal
Excess Workers' Compensation	\$246,588.00	\$266,267.00	-7.00%		\$5,000,000 (SIR)	Renewal
Broker Fee	\$80,000.00	\$75,000.00	7.00%			Renewal
TOTALS	\$3,226,011.74	\$2,966,282.28	8.75%			

DISCUSSION OF COVERAGE (BY GROUPS)

❖ Group 1

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, also known as Fidelity and Crime Policy. The proposed policy has a \$100,000 deductible with limits of \$5,000,000 for all coverage parts, except for Faithfull Performance of Duty Coverage which has a limit of \$1,000,000. 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 program was established to fund the exposures of General Liability, Auto Liability, Errors & Omissions, Employment Practices Liability, and other similar public liability exposures of the City. These policies afford coverage to the City and its various Operating Companies for liability claims of damage or injury, in excess of the City's self-insured retention. Total policy limits are \$10,000,000, with various sub-limits for the differing coverages. First layer limits are \$1,00,000 and \$9,000,000 umbrella coverage. Coverage under this policy triggers after the City's self-insured retention of \$3,000,000 is exhausted. Renewal of the excess liability policy is proposed, providing an additional \$10,000,000 in coverage, which triggers after the umbrella policy is exhausted. Total liability coverage purchased by the City is \$20,000,000.

Staff recommends increasing liability limits from \$20,000,000 to \$25,000,000. Given the size of the city, the fact that it is a destination city, and the constant activity throughout the city, the current liability limits should be increased. In conducting an informal analysis of policy limits, comparing City of Pasadena to fifteen other local cities, it was determined that the City's liability limits are slightly below the average. In order to maintain a healthy liability program, staff proposes the purchase of a \$5,000,000 increase excess policy limits for an additional premium of \$27,280.

Terrorism Risk Insurance Act (TRIA) coverage is added to the liability policies for a separate 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 to extend through December 31, 2020. 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 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.

❖ Group 3

Pollution Liability: Coverage under this policy provides environmental protection to the City for the discovery of pollution related claims, arising from covered operations at covered locations, resulting from City operations for which limited or no coverage is provided under the liability policies. The policy has a \$1,000,000 per pollution condition limit and a \$1,000,000 aggregate limit, with a \$50,000 self-insured retention. The policy has a retroactive date of July 1, 2013 which means that the policy will cover a pollution related claim discovered anytime from July 1, 2013 to the current policy period. Pollution Liability includes coverage for site decontamination and remediation. Coverage extends to bodily injury claims related to asbestos. In addition, the insurance carrier provides "value-added services" to include access to their proprietary system for reporting an incident which allows for quick dispatching, 24/7, of clean-up crews, mitigating potential liabilities.

Underground Storage Tank Liability: A separate proposed policy will provide protection to the City for specific perils of loss associated with Underground Storage Tanks (UST). The City maintains ten USTs located throughout the City to fuel City vehicles including police and fire trucks, aircrafts, City sanitation trucks and street sweepers. The number of USTs was increased from eight to ten, after staff confirmed that the City's police heliport also has two USTs used to fuel aircrafts, resulting in a 31% increase in annual premium. The UST policy provides coverage limits of \$1,000,000 per storage tank, with an aggregate of \$1,000,000, plus \$1,000,000 for legal defense expenses per storage tank incident. The policy deductible is \$5,000.

❖ Group 4

Healthcare Professional Liability Medical Malpractice: The City operates the Pasadena Public Health Department (PPHD). PPHD conducts various clinical operations including Drug & Alcohol Treatment/Tuberculosis Clinic, Communicable Disease Clinic, providing immunizations and educational programs on a handful of subjects. Although PPHD doctors do not provide medical services to patients, they do evaluate patients and prescribe medication and recommend treatment plans. Currently PPHD employs one doctor acting as the Health Officer and one independent contractor. A second independent contractor is set to join PHD on July 1, 2016. Medical Malpractice insurance

affords coverage for errors and omissions of the medical providers and covers the facility.

❖ Group 5

Heliport and Aircraft, including LA Impact Aircraft: This coverage provides protection to the City for liability arising out of its public safety/police helicopter operations and for the City's leadership role on the LA Impact Team. The policy carries a per occurrence limit of \$50,000,000 for Aircraft Hull and Liability, with an aggregate of \$50,000,000. Coverages include hull physical damage for the scheduled aircraft, damage done by the City's aircraft to someone else's hangar, and emergency landing. This policy also covers liability resulting from an error by pilot. In addition, the policy provides coverage for Airport Liability with a \$50,000,000 per occurrence limit. This coverage complies with the City's contract with Burbank airport.

The annual premium is apportioned between City and LA Impact since the policy carries hull coverage for LA Impact aircraft. Coverage enhancements include property damage to hangar and contents increased from \$1,000,000 to \$5,000,000; emergency landing increased from \$500,000 to \$1,000,000; deductible for Liability is \$0; deductible for Aircraft Hull is 1.5% while in motion.

❖ Group 6

Property: Power Plant: This program provides property and equipment breakdown coverage. City's total insurable values increased significantly, by 54%, upon the introduction of the GT5. These values do not include non-working gas turbine units, GT2 and B3. The increased total insurable values account for the 16% increase in premium for the policy. This policy affords coverage for risks of loss or damage, including boiler explosion, machinery breakdown for property located at the City's power plant. Limits are \$100,000,000, with deductibles of \$750,000 per occurrence for property damage, (decreased from last year's deductible of \$1,000,000) and \$1,500,000 per occurrence for machinery breakdown.

Property: A separate Property policy is purchased by the City for the balance of City owned and leased property, as scheduled. This policy includes coverage for fine arts, valuable papers, business personal property, business income and extended business income or rental value. Total insurable values are \$875,494,803. Policy limits are 250,000,000 with a deductible of \$25,000 for Earthquake Sprinkler Leakage, and \$100,000 for Flood.

Equipment Breakdown: A separate Equipment Breakdown, also known as Boiler and Machinery, policy is purchased by the City, to provide coverage for all other boiler and machinery property owned by the City and Pasadena Water &

Power, located outside of the power plant. Limits under this are \$100,000,000 with a \$25,000 per occurrence deductible.

Terrorism with Chemical, Biological or Biochemical, Radiological or Nuclear (CBRN): 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 for Citywide property to include the Rose Bowl and Power Plant. This policy affords coverage to include the actual release, discharge or dispersal of Chemical, Biological or Biochemical, Radiological or Nuclear Material (CBRN). This broader coverage assists after a CBRN event with removal, disposal, treatment, demolition or destruction of scheduled property and removal of debris, decontamination, in the alternative, the policy will indemnify the City for rebuilding costs. Policy limits are \$10,000,000 with a \$25,000 deductible.

Automobile Physical Damage: The proposed renewal policy will afford coverage for scheduled automobiles and mobile equipment owned by the City, at replacement cost, for covered perils including earth movement and flood. The policy limit is \$10,000,000 per occurrence, with a sub-limit of \$5,000,000 for earth movement, flood and windstorm. A \$25,000 per loss deductible applies. The premium for this policy significantly decreased, by 35%.

❖ Group 7

Paseo Garage: The Paseo Colorado property was recently purchased by CAPREF Paseo LLC and insurance for same was purchased through their broker, Arrow Retail. Arrow Retail has undertaken coordination of insurance for all three tract owners, Retail, Residential and Parking (City), as per the Real Estate Agreement (REA). The new policy purchased now is in compliance with contractual requirements as to limits and deductibles. This policy is maintained and serviced by Arrow Retail on behalf of all three tract owners, with each tract owner paying their share of the apportioned premium based on total insurable values of each tract. City of Pasadena is named as an additional insured on this policy.

❖ Group 8

Cyber Policy: This policy provides protection related to claims arising out of technology and miscellaneous, professional services, technology product, network security, privacy and media communications. This coverage includes breach of information contained within City databases, i.e., employee data, resident data, credit card information, etc., by City employees or a third-party. In addition, the City maintains a fiber optic network loop throughout the City with contractual connections with NASA/JPL, Caltech and Raytheon. The City's database is further vulnerable by employee use of laptops, tablet and smartphones. The policy covers data breach response, crisis management,

extortion threats and data recovery. Policy limits are \$1,000,000, with \$500,000 sub-limit for data recovery and cyber extortion. Deductibles are \$50,000 or \$100,000 depending on coverage triggered.

❖ Group 9

Sparta: The Sparta policy is a special events liability policy providing liability protection for the City during public events held on City owned and/or managed property. The City purchases an annual master policy allowing various City departments as well as vendors, contractors, individual facility users and specialty programs to be added to the City's master policy as an additional insured for the specific event. Sparta limits and coverages have been approved by City staff. The policy premium is considered a working deposit premium and rolls over annually as long as the program earns \$1,000 in contractors' premiums during the policy period. Because of this rollover premium, City paid a lower premium for the master policy for the March renewal, which is ratified by this action.

❖ Group 10

Special Liability Insurance Policies (SLIP): These policies provide liability coverage to the Pasadena Center Operating Company (PCOC), the Foothill Workforce Investment Board (FWB), the Old Pasadena Management District (OPMD), and the Pasadena Enterprise Center, Inc. (PEC). Policy limits will be \$1,000,000, likely with a \$50,000 deductible, in line with previous policies. We will be moving the expiration date for all four of these policies from September 29, 2016 to July 1, to coincide with the balance of the City's other policies.

❖ Group 11

Excess Worker's Compensation: The City currently self-funds all Workers' Compensation losses. Last year the Council agreed to purchase an Excess Workers' Compensation policy with a \$5,000,000 self-insured retention to provide protection against a major catastrophe, causing injuries to multiple employees. The City has a number of locations housing large concentrations of employees outside of City Hall which houses more than 300 employees. Since 2003 premiums have become more affordable and most cities and counties who had gone without this coverage in the past are now purchasing similar policies, especially in light of the December 2, 2015 terrorist attacks at the San Bernardino Government Center. This policy will stop the City's loss at \$5,000,000 per incident and continue to pay the statutory Workers' Compensation benefits.


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 the Insurance Renewal section of this report, the cost of adopting all of the proposed actions is approximately \$3,198,732 for insurance renewal purposes (account number: 50720025-815600). The final cost of the total insurance premium increased over the prior year by \$232,450. Purchase of the proposed increase in excess liability limits will increase the total cost of insurance program to \$3,226,012, less than a 1% difference, while providing the City with \$5,000,000 more in liability coverage. Funding for this action is included in the City's Recommended FY 2017 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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