



# Agenda Report

June 19, 2017

**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 2018**

## **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 City staff to place and bind the City's Property and Casualty Insurance coverages outlined in this report effective July 1, 2017, with the total amount not to exceed \$2,791,204.50, for premium of all policies plus additional surcharges, taxes and fees; 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 bond covenants and agreements. 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 the insurance program.

Overall the premium for the Citywide insurance program has decreased by almost 3% over the prior year. The biggest drop in premium was on the City's Medical Malpractice insurance which decreased by 22%, followed by the Automobile Physical Damage premium which decreased by 17%. The premiums with any notable increase from last year are: Excess Liability with a 3% increase in premium; Liability with a 4% increase in premium; and Underground Storage Tank policy with a 7% increase in premium.

As part of the renewal, staff reviewed proposed coverage and limits for all policies in light of recommendations obtained from independent insurance consultants who were retained pursuant to recommendation made by the outside auditor. Staff has obtained cost reductions on several of the policies within the citywide insurance program, and is making one recommendation to increase the Property – Power Plant policy limits by \$30,000,000 raising the per occurrence limit to \$130,000,000. Currently, this policy limit is \$100,000,000 with a \$750,000 deductible for all other property and a \$1,500,000 deductible for machinery breakdown for gas turbine units GT1, GT3, and GT5. If the City maintains the current deductibles and increases the policy limit, the premium for this policy will be 3% less than that of the previous year. This increase in limits will provide full coverage for repairs/replacement of GT5 unit in the event of a catastrophic breakdown. If the recommendation is not accepted and the policy renewed with the existing \$100,000,000 limit, there is a 9% decrease in premium.

There are a total of twenty-one (21) renewal policies recommended for FY 2018, separated into nine (9) different coverage groups, and discussed in detail below.

The City's broker will continue to market these coverages until July 1, 2017 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 second and last one-year option. City staff within the various departments continued to collaborate and brought property and automobile schedules even more up to date, 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 2018 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.

**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 Citywide Insurance Program At-A-Glance**

Coverage	Proposed Premium	Existing Premium	Difference	Policy Limit	Deductible / SIR
Crime Protection Policy for Public Entities	\$40,007	\$40,007	0.00%	\$5,000,000 / \$1,000,000	\$50,000 / \$10,000
General Liability	\$225,824	\$216,517	4.30%	\$10,000,000	\$3,000,000
Excess Liability	\$117,000	\$115,000	1.74%	\$15,000,000	\$13,000,000
Pollution Liability	\$23,678	\$23,678	0.00%	\$1,000,000	\$50,000
Underground Storage Tanks	\$12,423	\$11,649	6.64%	\$1,000,000	\$5,000
Healthcare Professional Liability Medical Malpractice	\$29,320	\$37,512	-21.84%	\$10,000,000	\$1,000,000
Heliport and Aircraft (including LA Impact Aircraft)	\$63,876	\$65,750	-1.00%	\$50,000,000	\$0 Not In Motion / 1.5% In Motion
Property Power Plant (Recommended)	\$1,374,070	\$1,419,652	-3.21%	\$130,000,000	\$750,000 all other property, \$1,500,000 machinery breakdown
Equipment Breakdown	\$21,575	\$21,575	0.00%	\$250,000,000	\$25,000 property damage
Property City Wide	\$327,479	\$345,164	-5.12%	\$250,000,000	\$25,000 any other covered loss, \$25,000 Earthquake Sprinkler Leakage, \$100,000 Flood
Terrorism – Property and Business Interruption	\$12,500	\$12,600	-0.79%	\$10,000,000	\$500,000
Terrorism – Nuclear, Chemical, Biological & Radiological	\$50,000	\$51,775	-3.43%	\$10,000,000, \$25,000 excess	\$50,000 Power Plant at 85 E State Street; \$25,000 all other properties
Automobile Physical Damage	\$63,500	\$76,756	-17.27%	\$10,000,000 / \$5,000,000	\$25,000
Cyber	\$14,885	\$14,885	0.00%	\$1,000,000 / \$500,000	\$50,000 / \$100,000
Excess Worker's Compensation	\$246,951	\$246,588	0.15%	Statutory	\$5,000,000
Foothill Air Support Team, Liability and D&O	\$10,250	\$10,250	0.00%	\$1,000,000 D&O / \$1,000,000 Employment Practices	\$20,000 D&O / \$25,000 Employment Practices
Special Liability Policy (SLIP)					
Pasadena Center Operating Company (PCOC)	\$10,814	\$10,299	4.76%	\$1,000,000	\$50,000, except public officials at \$5,000
Foothill Workforce Investment Board (FWIB)	\$2,517	\$2,397	4.77%	\$1,000,000	\$50,000, except public officials at \$5,000
Old Pasadena Management District (OPMD)	\$6,414	\$6,109	4.76%	\$1,000,000	\$50,000, except public officials at \$5,000
Pasadena Enterprise Center (PEC)	\$1,892	\$1,806	4.76%	\$1,000,000	\$50,000, except public officials at \$5,000
<b>SUB-TOTAL</b>	<b>\$2,654,975</b>	<b>\$2,729,969</b>	<b>-2.75%</b>		
Broker Fee	\$80,000	\$80,000	0.00%		
<b>TOTAL PREMIUM (not including surcharges/taxes/fees)</b>	<b>\$2,734,975</b>	<b>\$2,809,969</b>			

## **DISCUSSION OF COVERAGE (BY GROUPS)**

### ❖ Group 1

Crime: The proposed renewal policy has no change in premium or in coverage. 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 renewal policy has no change in premium nor in coverage. Policy deductibles remain at \$10,000 and \$50,000 with limits of \$1,000,000 and \$5,000,000, for various coverage parts.

### ❖ Group 2

Liability and Excess Liability: Premium for the proposed renewal policies have increased over the prior year by 6%, for both policies, largely due to the increase in exposures, i.e., employee count, police officer count, policy payroll, water utility payroll and electric payroll. The City's liability program was established to fund third party liability exposures including General Liability, Automobile Liability, Law Enforcement Liability, Public Officials Liability, and Employment Practices Liability. These policies afford coverage to the City, its various Operating Companies, Successor Agencies, Commissions, etc., against third party liability claims for property damage and/or bodily injury. First layer of policy coverage, in the amount of \$10,000,000 per occurrence and in the aggregate, is triggered after the City's \$3,000,000 self-insured retention is exhausted. The policy contains sub-limits for various coverages. Excess liability policy provides an additional \$15,000,000 limit on top of the \$13,000,000 underlying coverage. Total liability coverage purchased by the City is \$25,000,000.

Terrorism Risk Insurance Act (TRIA) coverage is added to the liability policies for a separate premium. TRIA is a United States federal law in effect since November 26, 2002 and currently effective through December 31, 2020. TRIA 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: There has been no increase in premium and the proposed renewal policy adds two enhancements: the Asbestos and/or LBP (Bodily Injury Only) endorsement and the Fungi or Legionella Management Plan Exclusionary Endorsement. 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: The Proposed renewal policy is at a slightly higher premium than the previous year. A separate proposed renewal 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 from \$11,649 to \$12,423. 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 proposed renewal policy has a significant decrease in premium, by 22%, with no changes in coverage. Policy limit remains \$10,000,000 and deductible remains \$1,000,000. The decrease in policy premium is due to credits applied by the insurance carrier based on two factors: 1) The City removed a number of providers from their roster, due to cancellation of certain programs, effective July 1, 2016; 2) There have been no claims made against the providers removed from the policy for which the insurance carrier provides tail coverage. Each year The City gets farther away from the July 1, 2016 termination date, the insurance carrier will apply larger credits to renewal premium to a minimum premium of \$25,000.

The City operates the Pasadena Public Health Department (PPHD). PPHD conducts various clinical operations including Drug & Alcohol

Treatment/Tuberculosis Clinic and a 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 two independent contractors. Medical Malpractice insurance affords coverage for errors and omissions of the medical providers and covers the facility.

❖ Group 5

Helicopter and Aircraft, including LA Impact Aircraft: The proposed renewal reflects less than a 1% decrease in renewal premium. 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 the City and LA Impact since the policy carries hull coverage for LA Impact aircraft.

❖ Group 6

Property: Power Plant: The recommended change to the coverage reflects a 3% reduction in premium and a \$30,000,000 increase in coverage. The program provides property and equipment breakdown coverage for City's power plant facilities and machinery. The policy affords coverage for risks of loss or damage, including boiler explosion, machinery breakdown for City's power plant property. Current limits are \$100,000,000, with deductibles of \$750,000 per occurrence for all other property damage, and \$1,500,000 per occurrence for machinery breakdown of GT1, GT3, and GT5.

Lloyd's has offered an option to increase policy limits to \$130,000,000, full value of GT5 unit, with no change in deductibles. If the City agrees to purchase this option, City will still see a 3% reduction in premium, saving \$45,582, from the previous year and will gain more coverage. If the City chooses to renew policy with no changes, City will see a 9% reduction in premium, saving \$134,452 from previous year's premium. Staff recommends purchasing the increased policy limit to ensure adequate coverage as GT5 has been placed in service and is fully functioning.

Property: Citywide: The proposed renewal policy premium has decreased from prior year by 5%. 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 value has decreased over prior year, to \$874,911,389, as a result of staff's commitment to ensure accuracy of property schedule, which also resulted in a 5% decrease in premium. Policy limits remain \$250,000,000 and deductible remains \$25,000 for Earthquake Sprinkler Leakage, \$100,000 for Flood and \$25,000 for any other covered loss.

Equipment Breakdown: Proposed renewal policy contains no change to premium, coverage or policy limits. A separate Equipment Breakdown policy, 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 located outside of the power plant. Policy limit remains at \$250,000,000 with a \$25,000 property damage deductible.

Terrorism with Chemical, Biological or Biochemical, Radiological or Nuclear (CBRN): There is a 3% reduction in the proposed renewal policy premium with no changes in coverage. 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 remain at \$10,000,000 with a \$25,000 deductible for all other properties and a \$50,000 deductible for the Power Plant at 85 East State Street.

Automobile Physical Damage: Proposed renewal policy is at a 17% reduction in premium over the previous year. 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, and a \$25,000 per loss deductible. Premium for this policy continues to decrease year over year. Last year saw a significant 35% decrease.

❖ Group 7

Cyber Policy: The proposed renewal policy has no changes in coverage, limits or premium. 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 remain at \$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 8

Special Liability Insurance Policies (SLIP): These policies may see an almost 5% increase in premium based on inflationary rate. Final premium is pending as all markets have not offered their quotes and recommendation cannot be made at this time. 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 remain at \$1,000,000, with a \$50,000 deductible, in line with previous policies. During last renewal, staff moved the policy expiration date for all four policies from September 29, 2016 to July 1, 2017, to coincide with the balance of the City's other policies.

❖ Group 9

Excess Worker's Compensation: Premium for this policy increased insignificantly by 0.15%. The City currently self-funds all Workers' Compensation losses. For fiscal year 2016, City Council agreed to purchase an Excess Workers' Compensation policy with a \$5,000,000 self-insured retention to provide protection against a major catastrophe, including terrorist attack(s), causing injuries to multiple employees, (such as, the December 2, 2015 terrorist attacks at the San Bernardino Government Center). The City has a number of locations housing large concentrations of employees outside of City Hall. 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 \$2,791,204.50, including additional surcharges, taxes and fees, for insurance renewal. Funding for the recommended action is included in the City's Recommended FY 2018 Budget in the various departmental budgets.

Respectfully submitted,

  
Michele Beal Bagneris  
City Attorney/City Prosecutor

Prepared by:

  
Aarti Kaushal  
Risk & Claims Administrator

Concurrence:

  
STEVE MERMELL  
City Manager