File #: 21-0483

REQUEST FOR CITY COUNCIL AND CORONA UTILITY AUTHORITY ACTION

DATE: 06/16/2021

TO: Honorable Mayor and City Council Members
Honorable President and Board

FROM: Legal & Risk Management

SUBJECT:
City Council and Corona Utility Authority consideration and approval of City Liability, Property and Workers' Compensation Insurance Policies for fiscal year 2022.

EXECUTIVE SUMMARY:
Each year the City purchases at least eight insurance policies/programs to help mitigate the more common risks associated with the operation of the municipal organization. Alliant Insurance Services is the City's broker of record and works with Legal & Risk Management (LRM) staff for more than 10 months each year to market and obtain the most effective coverage for the City, considering what is reasonably available at our designated risk tolerances, and at the most competitive prices possible. The recommended actions below will allow for such purchases to be completed utilizing Alliant's extensive marketing efforts and professional advice.

RECOMMENDED ACTION:
That the:

a. City Council authorize the renewal of the City's excess general liability insurance policy through the Public Risk Innovation, Solutions, and Management ("PRISM") JPA for Fiscal Year ("FY") 2022, *with an estimated maximum premium amount of up to* **$977,000**, coverage of $25,000,000 per occurrence, and maintenance of our self-insured retention ("SIR") at $500,000 per occurrence.

b. City Council authorize the renewal of the City's excess workers' compensation insurance policy through the PRISM for FY 2022, *with an estimated maximum premium amount of up to* **$295,000**. Coverage is equal to the statutory requirements for workers' compensation and

$5,000,000 per occurrence for employer's liability, and an SIR of $1,000,000 per occurrence. The premium is based on estimated payroll and is subject to adjustment based on actual payroll.

c. City Council authorize the renewal of the City's property insurance with Alliant's Property Insurance Program ("APIP") for FY 2022, *with an estimated maximum premium amount of up to* **$776,085**, coverage for both real and personal property valued at approximately $648,501,324 (up from $561,091,204 last year), a coverage limit of $500,000,000 per occurrence (subject to policy exclusions and other sub-limits, including a $500,000 deductible for wildfires and $5,000,000 deductible for the biosolids facility), continuation of coverage for vehicles at actual cash value (as opposed to replacement value), continuation of coverage off-premises only for vehicles with a value of $100,000 or more, and the continuation of the primary SIR levels set at $5,000 per occurrence for vehicles off-premises and on-premises, $50,000 for buildings and facilities, and $500,000 for wells.

d. City Council authorize the renewal of the second year of a two-year policy for the City's Master Government Crime insurance through the PRISM with the National Union Fire Insurance Company of Pittsburgh, PA ("National Union") for FYs 2021-2022, *with an annual premium of* **$11,041** for FY 2022, coverage of $10,000,000 per occurrence, and a deductible of $2,500 per occurrence.

e. City Council authorize the renewal of the second year of a two-year policy for the City's Airport Liability insurance with the Starr Indemnity & Liability Company for FYs 2021-2022, *with an annual premium of* **$4,429** for FY 2022, coverage of $25,000,000 per occurrence, and no deductible or SIR.

f. City Council authorize the renewal of the first year of a three-year policy for the City's enhanced pollution liability insurance with Illinois Union Insurance for FYs 2022-2024, *with an estimated maximum premium amount of up to* **$71,177** for FY 2022, coverage of $10,000,000 per pollution condition, and an SIR of $25,000 per pollution condition.

g. City Council authorize the renewal of the City's excess Cyber Liability insurance policy with Axis Insurance Company for FY 2022, *with an estimated maximum premium amount of up to* **$50,616,** (up from $25,308 FY 2021) and coverage of $3,000,000 in excess of the Cyber Liability coverage included on the City's APIP property policy.

h. City Council authorize the renewal of Alliant's Deadly Weapon Response Program coverage, underwritten by Lloyd's of London, for FY 2022, *with an annual premium of* **$5,952** and coverage of $500,000 and sub-limit coverage of $250,000 for various incident related services and coverages.

i. Pursuant to Corona Municipal Code Section 3.08.140(E), find that it is in the best interest of the city and its administrative operations to dispense with the City's normal formal competitive bidding process and authorize the above purchases using Alliant's competitive process, since the City's competitive bidding process is not amenable to the purchase of these insurance policies and Alliant's competitive process is a thorough and competitive which is an appropriate alternative to the City's formal public competitive bidding procedures.

j. City Council concur with staff recommendation not to purchase earthquake and flood insurance because it is not available at a reasonable cost.

k. City Council concur with staff recommendation, as discussed at the Committee of the Whole meeting on May 12, 2021, not to purchase the additional "Shake and Pay" and "Individual Member Corridor Deductible" options, because they are not deemed to add value based on City costs v. value analysis.

l. City Council authorize the City Manager and Finance Director to increase the FY 2022 budgets adopted this evening for the Workers Compensation Fund (#68320120) and the General Liability Fund (#68720120) based upon the final premium amounts provided by all of the insurance providers, since the insurance market is particularly "hard" and expensive this year and thus the final estimated insurance premiums appear to be coming in slightly more than $100,000 above the third round of estimates provided to the City in March and since some of the final premium numbers have not yet been provided.

m. City Council authorize staff to take all other actions and execute all documents necessary to implement these recommendations, including any minor adjustments which are consistent with these recommendations and within the finally adopted FY 2022 budgets for the Workers Compensation Fund (#68320120) and the General Liability Fund (#68720120).

n. Corona Utility review, ratify and to the extent necessary direct the City Council to take the above actions.

BACKGROUND & HISTORY:
Discussed below.

ANALYSIS:

A. BASIS FOR EXCEPTION TO COMPETITIVE BIDDING

Alliant Insurance Services, Inc. ("Alliant") is the City's broker of record for liability, property, and workers' compensation insurance coverage. Alliant is a well-establish provider of specialty brokerage services to the public sector and has worked with the City for many years.

Alliant is not in the position to strictly follow the City's formal public competitive bidding procedures, as the renewal of the City's varied and detailed insurance policies does not lend itself to a typical RFP process and takes many months to complete. We have worked with Alliant over the years to identify the City's complex coverage criteria, including broad and detailed coverage terms, various policy limits depending upon City risks and needs, and self-insured retentions ("SIR") that allow for stable premium costs. Moreover, almost as soon as we purchase our policies for a given year, we begin to work with Alliant to gather information in order to begin the next renewal period. The process begins in earnest in the Fall and literally does not finish until this agenda report is ready to be finalized and published.

Staff believes that Alliant's competitive process is an appropriate alternative authorized by Corona Municipal Code Section 3.08.140(E), which states as follows:

> "(E) Purpose of bidding is otherwise accomplished. When the purchasing agent and the authorized contracting party, with the approval of the City Manager, determine that it is in the best interest of the city and its administrative operations to dispense with public bidding for non-public projects under this chapter."

Staff believes that it is in the City's best interests to follow the process established by our broker, since the process is more thorough and competitive than what the City could conduct itself using our competitive bidding procedures. Alliant begins to provide premium estimates to us in or about October, followed by updates in or about December and two or three additional times into the Spring. Alliant formally releases the City's applications for coverage to insurance markets no later than March of each year. Alliant is able to reach markets and potential insurers that would very likely never respond to an RFP issued by the City or a process required by the City's formal competitive bidding provisions.

Please See Exhibit "1" Attached Hereto: It provides a summary of those markets to whom Alliant marketed our Excess Workers Compensation, Property, Master Crime Liability, Enhanced Pollution Liability and Excess Cyber Liability insurance policies. This year, Alliant accessed the following competitive-markets on behalf of the City:

- Excess General Liability: Due to the hard market and past marketing efforts, this coverage was not marketed this year outside of the current insurance program. In 2019 FY Alliant surveyed other possible Joint Powers Insurance Authorities, and ultimately determined that only one (California JPIA) could even offer a program similar to that provided by PRISM. The quote provided by California JPIA was $1,521,700 for a $500,000 SIR and $50M in coverage. While the coverage was double, the premium was more than 3 times the premium paid by the City in FY 2019 and more than 2 times the premium for FY 2020. Alliant has determined through this process that the current program through PRISM will continue to be the most competitive option in terms of broad coverage and lower premium.

- Excess Workers Compensation: The coverage was extensively marketed this year outside the current program to 6 alternative markets, and all but one declined to quote. The remaining one market (Safety National) is still pending but it not expected to quote or be competitive.

- Property Insurance: The APIP is marketed each year to ensure that only insurance companies offering the broadest coverage terms at a preferred rate participate. Alliant also conducts marketing efforts outside of the APIP every year. This year the property insurance was marketed to 33 additional carriers. Of those that responded, none of them could compete with APIP and/or they are already participating as one of the carriers writing the APIP program.

- Master Crime Liability Coverage: The PRISM crime program placed with National Union Fire Insurance Company was marketed outside the program last year, and was placed with a two-year policy (FYs 2021-2022).

- Airport Liability: The airport liability coverage was marketed outside of its program last year, and was placed with Starr Indemnity and Liability Company in a two-year guarantee rate program (FYs 2021-2022).

- Enhanced Pollution Liability: This coverage was marketed in October 2015 to approximately 8 viable carriers. Coverage was placed with Illinois Union Insurance ("Illinois Union"), in part due to the availability of coverage for regulatory fines and penalties. This coverage was remarketed for FY 2022 to 8 additional carriers to be sure continuation of coverage with Illinois Union provides the broadest coverage and best pricing, but no other reasonable and responsive quote could be obtained.

- Excess Cyber Liability: The Excess Cyber Liability program is available only to those entities that purchase Cyber Liability coverage under APIP, and the excess program is marketed each year. The program was marketed for FY 2022 to more than 50 additional carriers. Alliant has determined through this process that the current policy from Axis Insurance will continue to be the most competitive option for members of APIP in terms of broad coverage and lower premium.

Joint purchase plans and any available stable pooled insurance programs were also reviewed to provide the City with the best renewal quotes possible. Thus, while other markets were explored, those selected continue to offer the broadest policy language at the best premium for the City.

After searching the markets, Alliant thereafter negotiates competitive coverage and premiums on the City's behalf.

Pursuant to Corona Municipal Code Section 3.08.140(E), for the above reasons staff believes that the City Council should find that it is in the best interest of the City and its administrative operations to dispense with the City's normal formal competitive bidding process and authorize the recommended purchases using Alliant's competitive process, since it is an appropriate alternative to the City's formal public competitive bidding procedures.

B. UNUSUALLY HARD & EXPENSIVE INSURANCE MARKET

Please See Exhibit "2" Attached Hereto: It provides a memo from Alliant summarizing the unprecedently "hard" and expensive insurance market we are experiencing this year. Stressors include the following:

- Property: Catastrophic events throughout the world, including California wildfires; loss of investment income due to lower interest rates; and less and less carriers willing to participate in the market.

- Liability: Particularly hard for public agencies, with more and more carriers existing the market; frequency and severity of claims; 3rd party financing of litigation efforts; and social inflation of jury verdicts, impacting the perceived normality of very large dollar amounts.

- Cyber: With ransomware claims on a steep increase, a once fairly stable market is experiencing the exiting of many carriers.

- Workers Compensation: While this market is still relatively more stable, it is feeling the pressure of COVID 19 claims.

Please See Exhibits "3" through "5" Attached Hereto: They provide the following additional messages to help understand this difficult market: (Ex. "2") State of the Property and Casualty Market (Alliant Memo) (06-07-21); (Ex. "3") PRISM Stakeholder Message (General Liability) (02-04-21); (Ex. "4") PRISM State of the Property Market (02-03-21); and (Ex. "5") PRISM Stakeholder Message (Cyber Market) (04-06-21).

In addition to the City having a few relatively large claims since FY 2015, including storm damages to trees in FY 2017 (appx $50,000), the Canyon fire in FY 2018 (appx $1.05M), water seepage damage in FY 2018 (appx $63,000) and the Biosolids Dryer explosion in 2020 (appx $5M), as well as an increase in insurable property values, the "hard" insurance market has in large measure resulted in the following significant premium increases:

Policy	FY 21 Premium	FY 22 Premium (Est.)	% Increase
Property	$431,196	$776,085	79.9%
General Liability	$741,744	$977,000	31.7%
Enhanced Pollution	$47,108	$71,177	51.1%
Excess Cyber	$25,308	$50,616	100%
Workers Compensation	$242,638	$295,000	21.6%

C. RECOMMENDED INSURANCE COVERAGES

Please See Exhibits "6" through "9" Attached Hereto: While this Agenda Report provides a brief overview of the various insurance policies, executive summaries with binding quotes for most of

them are attached hereto as Exhibits "6" through "9" for your reference. The executive summaries provide detailed information about insurance premiums, coverages, deductibles and related issues, along with proposed changes to insurance terms from last year.

As discussed below, as of the publication of this Agenda Report, final executive summaries and binding quotes are not yet available for the Excess General Liability, Excess Workers Compensation and Excess Cyber. Alliant has indicated, however, that the quotes provided for these three policies should be good "not-to-exceed" estimates. If the final executive summaries and binding quotes for them become available before the City Council meeting, staff will make them available.

1. Excess General Liability

Excess General Liability Insurance is proposed to be renewed with PRISM which will provide the City $25,000,000 in coverage per occurrence. Liability insurance provides protection against losses that exceed the City's $500,000 SIR for injury, property damage, errors & omissions, and unfair employment practices claims. Most private insurers will only issue policies with a minimum SIR of $1,000,000, so the $500,000 SIR the City is able to retain is relatively favorable.

Final Insurance Quotes Not Yet Available: Because of the very difficult nature of the insurance market this year, Alliant has been unable to secure a final, binding Excess General Liability quote as of the publication of this report. ***However, the premium at the $500,000 SIR deductible level is estimated not to exceed $977,000, compared with $741,744 last year.*** While this would represent an increase of approximately 32%, Alliant indicates that the increase is almost entirely due to market and pool issues, and is not necessarily reflective of any actual risk facing the City.

Increasing SIR to Save Premium Dollars: As we discussed over the last couple years, the City can save premium dollars by increasing our SIR from $500,000 to $1M (this year's premium could be reduced up to $258,000 or so). Thus far the City has determined that maintaining our $500,000 SIR is important, since as a full-service City a risk of a covered GL claim and related costs exceeding $500,000 is quite real, but budget issues could force this change. The problem is, once we move to a $1M SIR, we likely could never return to a $500,000 SIR. The City has been quite fortunate - due to good management and very well-trained employees (particularly in the Police Department, which of course carries higher risk potential) - to seemingly have only one claim above $500,000 in essentially the last 30 years or so. In the event we have another such claim, we will likely be forced to move to a $1M SIR. In addition, increasing the GL deductible would also not be in compliance with the terms of several of our bond agreements, so those would need to be changed as well.

Independence Day Event Insurance Coverage: Please also note that, in addition to this excess general liability policy, the Community Services Department ("CS") routinely budgets and purchases a special event policy for the Fourth of July Family Parade and Festival, in order to obtain first dollar General Liability coverage due to the large crowd hazard. Limits of liability carried in 2019 were $1,000,000, since the PRISM liability policy is available, if needed, to provide coverage above the special event policy.

2. Excess Workers' Compensation

Workers' compensation insurance is proposed to be renewed with PRISM, a joint powers insurance pool for excess workers' compensation coverage, which will provide the City with statutory workers' compensation coverage and employer's liability coverage of $5,000,000 per occurrence. The City's workers' compensation SIR per occurrence is $1,000,000.

Final Insurance Quotes Not Yet Available: Because of the very difficult nature of the insurance market this year, Alliant has been unable to secure a final, binding Excess Workers Compensation quote as of the publication of this report. **However, the premium is estimated not to exceed $295,000**, an increase of approximately 22% from $242,638, based on actual payroll (currently estimated to be $67,741,362 up from $63,993,058 last year).

California's Worker's Compensation rates are higher for public agencies with a high percentage of safety personnel, as they tend to experience higher loss severity and frequency. Fortunately, however, Workers' Compensation is the lone casualty line in which a competitive market exists for most industries in most states, as Alliant reports that workplace injuries continue to decline year over year and loss ratios remain favorable.

State Self-Insurance Fee: In addition to the excess policy premium, the City is assessed an annual fee by the State of California's Department of Industrial Relations, Office of Self Insurance plans. The fee, which is intended to cover the State's costs to administer self-insurance plans, as well as an annual self-insurance license renewal fee and funding for various funds that protect against problematic insurers. The yearly assessment is based on the City's paid indemnity loss experience taken from the prior year's Self Insured Annual Report. $90,000 has been included in the FY 2022 budget for the workers' compensation fund.

3. Property

Property coverage is proposed to be renewed with APIP, which will provide the City with coverage of both real and personal property valued at approximately $648,501,324 (up approximately 15% from $561,091,204 last year), including boiler and machinery coverage. The renewal rate unfortunately increased approximately 56.42% from $.076 per hundred dollars of value last year to $0.120 per hundred dollars of value this year. This collectively represents a premium increase of approximately 79.9% from $431,196 to $776,085 for FY 2022.

4. Master Crime Liability

Master crime liability coverage is proposed to be renewed with National Union, which will provide the City with coverage of $10,000,000 per occurrence for employee theft, forgery or alteration, theft of money and securities, robbery, safe burglary, computer fraud, funds transfer fraud, money orders and counterfeit paper currency. The crime liability deductible per occurrence is $2,500. The premium is estimated to be $11,041 for FY 2022, down from $11,660 in FY 2021.

5. Airport Liability

Last year, the City entered a two-year agreement for a primary Airport Liability coverage with the Starr Indemnity & Liability Company for FYs 2021-2022, which provides Airport Owners and Operators General Liability and Hangar Keepers Liability coverage of $25,000,000 per occurrence. There is no SIR or deductible. The premium is $4,429, which is up from $4,218 last year.

6. Enhanced Pollution Liability

Effective October 22, 2015, the City Council authorized DWP to purchase Enhanced Pollution Liability coverage due to a heighted awareness created by lessons learned from other water reclamation agencies. The goal was to cover litigation and other costs due to releases and odors, as well as associated regulatory fines and penalties. The coverage was obtained from Illinois Union Insurance with coverage of $10,000,000 per Pollution Condition, with an SIR of $25,000 per pollution condition.

Enhanced pollution coverage is proposed to be renewed with Illinois Union due to the inclusion of regulatory penalty and fine coverage not found elsewhere, with coverage of $10,000,000 per pollution condition, with a SIR of $25,000 per pollution condition. The premium is $47,108 for FY 2021.

Final Insurance Quotes Not Yet Available: Because of the very difficult nature of the insurance market this year, Alliant has been unable to secure a final, binding Enhanced Pollution Liability quote as of the publication of this report. ***However, the premium is estimated not to exceed $71,177***, an increase of approximately 51% from last year). This pricing is based on entering into a three-year program (FY 2022 through 2024) with three equal installments of $71,177 per year.

7. Excess Cyber Liability

The City's current property insurance includes $2,000,000 in cyber limits for services related to a data breach, with a sublimit up to $1,000,000 for privacy notification costs. A quote was obtained for excess cyber liability with higher excess limits for protections such as regulatory defense & penalties, website media content liability, cyber extortion, data protection loss and business interruption.

Beginning a couple years ago, the Information Technology Department recommended the purchase of additional limits in the amount of $3,000,000, which when added to the underlying $2,000,000 purchased through the APIP property program, would amount to an overall limit for cyber liability of $5,000,000. The coverage was purchased at an annual cost of $25,308 effective July 1, 2017 and remained the same through FY 2021.

Final Insurance Quotes Not Yet Available: Because of the very difficult nature of the insurance market this year, Alliant has been unable to secure a final, binding Excess Cyber Liability quote as of the publication of this report. ***However, the premium is estimated not to exceed $50,616***, an increase of approximately 100% from last year).

8. Deadly Weapon Response Program

Two years ago the City chose to join a new program developed by Alliant, which provides certain coverages for third party liability, business interruption and crisis management for events occurring at City scheduled locations. While it does not provide coverage for employee or City contractor claims, it does provide other services, such as crisis management and counseling services, which can be utilized by such persons. In addition, the $500,000 coverage limit can be used to cover the City's SIR for its General Liability Insurance. It is recommended to renew this coverage at the premium of $5,952, which is a slight increase from $5,777 last year.

D. RECOMMENDED NOT TO BE COVERED

1. Earthquake and Flood

Optional quotes were obtained in 2016 for Earthquake and Flood insurance on three City properties (City Hall, Police Headquarters and the Water Treatment Facility on Harrison), as a gauge of the feasibility of obtaining this coverage City wide. In addition to added protection, staff understands that public finance bond companies prefer such coverage to be carried if it is available at a reasonable cost with a reputable insurer.

Adding Earthquake and Flood to these 3 locations alone (with total insurable values of $75,928,501) would have cost approximately $200,000. The deductible for Earthquake would be $100,000 or 5%, whichever is greater, and the deductible for Flood would be between $100,000 and $250,000 depending on the flood zone. Thus, providing such coverage City wide would be quite expensive and could easily double the City's property insurance costs.

While LRM does not recommend purchasing such coverage City wide, since it does not appear to be a reasonable cost and we believe there is some protection under State and Federal disaster assistance programs, the City Council could direct otherwise. Please also note that, as discussed at the Committee of the Whole meeting on May 12, 2021, staff will continue to seek quotes every five years or so and look for reasonable opportunities to provide such insurance. We intend to seek such quotes this coming year.

Please also now that the City's current risk insurance program conforms to the practices of California municipalities of similar size and risk factors.

2. Additional New Alliant Insurance Proposals for FY2022

Please See Exhibit "10" Attached Hereto: It is staff's presentation from the Committee of the Whole meeting on May 12, 2021, at which we discussed the following two new insurance programs offered by Alliant for FY 2022: (1) a "Shake & Pay" alternative earthquake coverage; and (2) an Individual Member Corridor Deductible ("IMCD") option.

Shake and Pay is Parametric (Index-Based) Insurance, which means that if there is an Earthquake Event of 6.0M or greater and the City experiences an economic loss, not just property damage, the policy pays a percentage based on the Peak Ground Acceleration Index in Riverside County. The IMCD option in the GL1 Program is a risk financing tool that allows members to retain an aggregated

or limited amount of risk above its SIR in exchange for a premium discount.

As discussed at the May 12, 2021 COTW meeting, staff recommended and the City Council agreed not to participate in either of the new programs at this time.

FINANCIAL IMPACT:
Sufficient funds to purchase the recommended insurance policies have been included in the proposed FY 2022 operational budgets or will be pursuant to the above recommended actions.

ENVIRONMENTAL ANALYSIS:
This action is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the common sense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This action is strictly an action to purchase City Liability, Property and Workers' Compensation Insurance Policies, and there is no possibility that adopting this resolution will have a significant effect on the environment. Therefore, no environmental analysis is required.

PREPARED BY: MARIA CONZELMAN, SR. PARALEGAL & CLAIMS MANAGER

REVIEWED BY: DEAN DERLETH, CITY ATTORNEY/LRM DIRECTOR

REVIEWED BY: TOM MOODY, GENERAL MANAGER

REVIEWED BY: KIM SITTION, ADMINISTRATIVE SERVICES DIRECTOR

Attachments:
1. Ex. "1" - Marketing Summaries
2. Ex. "2" - State of the Property and Casualty Market (Alliant Memo) (06-07-21)
3. Ex. "3" - PRISM Stakeholder Message (General Liability) (02-04-21)
4. Ex. "4" - PRISM State of the Property Market (02-03-21)
5. Ex. "5" - PRISM Stakeholder Message (Cyber Market) (04-06-21)
6. Ex. "6" - Property Insurance Renewal (69 Pages)
7. Ex. "7" - Master Crime Insurance Renewal (8 Pages)
8. Ex. "8" - Deadly Weapon Response Program Renewal (12 Pages)
9. Ex. "9" - Airport Liability Insurance Renewal (5 Pages)
10. Ex. "10" - Presentation to COTW (05-12-21)

Not Attached:

Excess General Liability - Not Yet Available
Excess Workers' Compensation - Not Yet Available
Excess Cyber Liability - Not Yet Available
Enhanced Pollution - Not Yet Available