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AGENDA REPORT REQUEST FOR CITY COUNCIL AND CORONA UTILITY AUTHORITY ACTION

DATE: 6/21/2017

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

FROM: Legal and Risk Management

SUBJECT:
City Council and Corona Utility Authority consideration and approval of City Liability, Property and Workers' Compensation Insurance Policies for fiscal year 2017-2018

RECOMMENDED ACTION:

That the City Council:

1. Authorize the renewal of the City's excess general liability insurance policy with the California State Association of Counties Excess Insurance Authority (CSAC-EIA) for Fiscal Year 2017-18, with an estimated premium amount of \$415,000, coverage of \$25,000,000 per occurrence, and a self-insured retention (SIR) of \$500,000 per occurrence.
2. Authorize the renewal of the City's excess workers' compensation insurance policy with CSAC-EIA for Fiscal Year 2017-18, with an estimated premium amount of \$245,000. 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.

3. Authorize the renewal of the City's property insurance with Alliant's Property Insurance Program (APIP) for Fiscal Year 2017-18, with an estimated premium amount of \$285,000, coverage for both real and personal property valued at \$505,827,203, and an SIR of \$5,000 per occurrence for all property other than wells, which have an SIR of \$500,000.
4. Authorize the renewal of the City's Master Government Crime insurance policy with the National Union Fire Insurance Company of Pittsburgh, PA (AIG) for Fiscal Year 2017-18, with an estimated premium amount of \$7,900, coverage of \$15,000,000 per occurrence, and a deductible of \$2,500 per occurrence.
5. Authorize the renewal of the City's Airport Liability insurance policy with the Old Republic Insurance Company for Fiscal Year 2017-18, with a premium of \$3,668, coverage of \$10,000,000 per occurrence and no deductible or SIR.
6. Authorize the renewal of the City's enhanced pollution liability insurance policy with Illinois Union Insurance for Fiscal Year 2017-18, with an estimated annual renewal premium amount not to exceed \$55,000 subject to underwriting approval.
7. Authorize the purchase of an excess Cyber Liability insurance policy with XL Insurance company for Fiscal Year 2017-18, with an estimated premium of \$26,000 and coverage of \$3,000,000 in excess of the Cyber Liability coverage included on the City's property policy.
8. Authorize the above purchases using Alliant's competitive process as an appropriate alternative to the City's formal public competitive bidding procedures, as authorized by Corona Municipal Code Section 3.08.140(E).
9. Concur with staff recommendation not to purchase earthquake and flood insurance because it is not available at a reasonable cost and we believe there is some protection under State and Federal disaster assistance programs.
10. Corona Utility Authority review, ratify and to the extent necessary direct the City Council to take the above actions.

ANALYSIS:

BROKER COMPETITIVE SOLICITATION

Alliant Insurance Services, Inc. (Alliant) is the City's broker of record for liability, property and workers' compensation insurance coverage. Alliant is a well-established provider of specialty brokerage services to the public sector and has worked with the City for many years. Together we have identified the City's coverage criteria to include broad coverage terms, various policy limits depending upon City risks and needs, and self-insured retentions (SIRs) that allow for stable premium costs.

Alliant releases the City's applications for coverage to insurance markets in March of each year. For instance, as discussed further below under Recommended Coverages, Alliant accessed the following competitive-markets on behalf of the City:

- Excess General Liability: This coverage was extensively marketed this year outside of the current insurance program to approximately 25 insurance and reinsurance markets. Two

alternative bids are still pending. However, it is anticipated that through this process it will be determined that the current program through CSAC-EIA will continue to be the most competitive option in terms of broad coverage and lower premium.

- Excess Workers Compensation: The renewal coverage was marketed outside the current program to 5 markets. All declined to quote due to not being able to compete with CSAC-EIA.
- Property Insurance: The Alliant Property Insurance Program ("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 program every year. This year the Property insurance was marketed to ten carriers. All ten indicated that they cannot compete with the APIP program's broad terms and competitive pricing.
- Crime Liability Coverage: The CSAC-EIA crime program placed with National Union Fire Insurance Company was marketed outside the program. However, National Union Fire Insurance Company's pricing is well below the other markets. In addition, National Union Fire is the only market that offers \$15,000,000 limits for faithful performance of duty.
- Airport Liability: Last year the airport liability coverage was placed with Old Republic in a three year guaranteed rate program that expires June 19, 2019, so it was not remarketed this year.
- Enhanced Pollution Liability: This coverage was marketed in October 2015 to approximately eight viable carriers. Coverage was placed with Illinois Union Insurance, in part due to the availability of coverage for regulatory fines and penalties. This coverage was remarketed 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. For instance, it was determined that there are no other viable markets that offer coverage for regulatory fines and penalties, which is priority coverage for the Department of Water & Power ("DWP"). Moreover, while at least one other carrier was willing to provide a quote, albeit without the regulatory fines and penalties coverage as noted, they also wanted the City to provide Phase I environmental studies on all of DWP's well sites, which would have been both cost and time prohibitive simply to obtain a quote.

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.

Although Alliant is not in the position to follow the City's formal public competitive bidding procedures, 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."

RECOMMENDED COVERAGES

Excess General Liability

Liability insurance is proposed to be renewed with CSAC-EIA, 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 self-insured retention (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. The estimated premium is \$415,000 compared with \$374,116 last year. Alliant indicates that the increase is almost entirely due to the insurance markets hardening, as well as increased litigation across the country in the areas of police liability and inverse condemnation.

Please note that, in addition to this excess general liability policy, the Library and Recreation Services Department will once again purchase 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. The premium is \$8,779 compared with \$9,602 last year. The cost of the coverage has been budgeted and will be paid for by the LRS Department. Limits of liability carried last year were \$2,000,000 and this year only \$1,000,000 limits are being carried, since the CSAC-EIA liability policy is available, if needed, to provide coverage above the special event policy.

Excess Workers' Compensation

Worker's compensation insurance is proposed to be renewed with CSAC-EIA, 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. The premium is estimated to be \$245,000, compared with \$209,820 last year based on actual payroll (currently estimated to be \$62,849,742). California Workers' Compensation rates are higher for public agencies with a high percentage of safety personnel. Safety personnel tend to experience higher loss severity and frequency. The rate increases for municipalities reflect increased indemnity claim frequency and severity, rapidly escalating medical costs including a spike in opiate drug abuse issues.

An optional quote was obtained for a \$500,000 SIR instead of \$1,000,000. The additional premium is approximately \$216,000 and is not recommended based on our actuarial study and a review of the City's loss history. As of 03-31-17, there were only 3 Workers' Compensation open losses reserved between \$500,000 and \$1,000,000 and 2 losses reserved at more than \$1,000,000. Moreover, it is important to note that claims are reserved based upon very conservative estimates of potential losses - the City rarely pays more than \$500,000 of its SIR. Thus, staff believes that the additional premium of \$216,000 is not warranted in relation to the relatively low risk of payment above the \$500,000 SIR.

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. The fee was \$99,640 for fiscal year 2016-17 and \$130,000 has been included in the 2017-18 budget for the workers compensation and liability funds.

Property Insurance

Property insurance is proposed to be renewed with APIP, which will provide the City with coverage for both real and personal property valued at \$505,827,203, including boiler and machinery coverage.

Renewal is being offered at the same rate as last year of \$.0558678 per hundred dollars of insured values. The property premium is estimated to be \$285,000 compared with \$247,163 last year. The premium increase is attributable to the City's insured values increasing from \$442,406,904 to \$505,827,202. The increase in values is due to adding a large number of DWP locations not previously scheduled.

For most Property coverages, the City's property SIR per occurrence is \$5,000, which is only available due to the City being a long-time participant in this property program. Otherwise, the minimum deductible is usually \$10,000. Two notable exceptions are that the deductible for City wells was increased to \$500,000 during 2016 after a claim was filed.

Since the coverage provides only limited pollution coverage (\$25,000,000 aggregate shared by all members with various deductibles between \$37,500 and \$750,000 depending on the type of pollution event), the City Council authorized the purchase of Enhanced Pollution Liability Coverage, as discussed further below, in October 2015.

Crime Liability

Crime liability coverage is proposed to be renewed with AIG, which will provide the City with coverage of \$15,000,000 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 estimated premium is \$7,900 compared to \$7,148 last year.

Airport Liability

The City's primary Airport Liability coverage will be in its third year of a three year policy effective June 30, 2016. Coverage will continue with Old Republic Insurance Company, which will provide Airport Owners and Operators General Liability and Hangar Keepers Liability coverage of \$10,000,000 per occurrence. There is no SIR or deductible. The premium is \$3,668, which is the same as last year.

Enhanced Pollution Liability

Effective 10-22-15, the City Council authorized DWP to purchase Enhanced Pollution Liability coverage due to a heightened 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.

Coverage is proposed to be renewed with Illinois Union due to the inclusion of regulatory penalty and fine coverage not found elsewhere. The premium is estimated not to exceed \$55,000 (pending underwriting approval) compared to \$56,175 last year.

OPTIONAL QUOTES OBTAINED AND PENDING

Excess General Liability - Possible \$1M SIR

We obtained an optional quote to increase the SIR from \$500,000 to \$1,000,000. While the premium savings is \$120,000 per year, staff is not prepared at this time to recommend this change, in part

because of the risk noted above of increased litigation across the country in the areas of police liability and inverse condemnation. Staff is reviewing historical loss runs over the last couple decades in order to further evaluate this proposal, so we will return to Council if we are prepared to recommend a change.

Enhanced Cyber Liability

Alliant researched a number of options for enhanced cyber liability insurance. 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 enhanced 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.

The Information Technology department recommends the purchase of additional limits in the amount of \$3,000,000, which when added to the underlying \$2,000,000 purchased through the property program, would amount to an overall limit for cyber liability of \$5,000,000. The cost to add this coverage is \$25,308 and would be effective July 1, 2017 for an annual term.

Earthquake and Flood

Optional quotes were obtained last year 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 Legal and Risk Management 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, while staff will continue to look for reasonable opportunities to provide such insurance, the City's current risk insurance program conforms to the practices of California municipalities of similar size and risk factors.

COMMITTEE ACTION:

Not applicable

STRATEGIC PLAN:

This item supports the City's Strategic Plan Goal 6: Improve Communications with Our Community; Objective a: Commit to transparency in all City actions. The report includes all City insurance needs, including smaller policy purchases that are otherwise within the staff's purchasing authority.

FISCAL IMPACT:

Premiums paid for the existing Excess General Liability, Excess Workers Compensation, Property, Crime Liability and the Enhanced Pollution Liability, which is paid for by DWP, increased by

approximately \$123,430. In addition, the cost to secure increased Cyber Liability limits is approximately \$26,000. Sufficient funds are included in the Proposed Fiscal Year 2017-18 operational budgets.

ENVIRONMENTAL ANALYSIS:

No environmental review is required because the proposed action is not a project governed by the California Environmental Quality Act.

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