



Legislation Text

File #: 19-0573, Version: 1

**AGENDA REPORT
REQUEST FOR CITY COUNCIL AND
CORONA UTILITY AUTHORITY ACTION**

DATE: June 19, 2019

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

FROM: Legal and Risk Management Department

SUBJECT:

City Council and Corona Utility Authority consideration and approval of City Liability, Property and Workers' Compensation Insurance Policies for fiscal year 2019-2020.

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 2019-2020, with an *estimated maximum* premium amount of **\$608,000**, coverage of \$25,000,000 per occurrence, and maintenance of our self-insured retention ("SIR") at \$500,000 per occurrence.
2. Authorize the renewal of the City's excess workers' compensation insurance policy with CSAC -EIA for Fiscal Year 2019-2020, with an estimated premium amount of **\$243,964**. 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 2019-2020, with an estimated premium amount of up to **\$299,019**, coverage for both real and personal property valued at approximately \$557,659,042 (up from \$535,181,844 last year), 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; \$10,000 per occurrence for vehicles on-premises, \$50,000 for buildings and facilities, and \$500,000 for wells.

4. Authorize the renewal of the second year of a two year policy for the City's Master Government Crime insurance with the National Union Fire Insurance Company of Pittsburgh, PA ("AIG") for Fiscal Years 2018-2020, with an annual premium of **\$9,812** for Fiscal Year 2019-2020, coverage of \$15,000,000 per occurrence, and a deductible of \$2,500 per occurrence.
5. Authorize the renewal of the third year of a four year policy for the City's Airport Liability insurance with the Old Republic Insurance Company for Fiscal Years 2016-2020, with a premium of **\$3,668** for Fiscal Year 2019-2020, coverage of \$10,000,000 per occurrence, and no deductible or SIR.
6. Authorize the renewal of the second year of a three-year policy for the City's enhanced pollution liability insurance with Illinois Union Insurance for Fiscal Years 2018-2021, with a premium of approximately **\$47,108** for Fiscal Year 2019-2020, coverage of \$10,000,000 per pollution condition, and an SIR of \$25,000 per pollution condition.
7. Authorize the renewal of the City's excess Cyber Liability insurance policy with Axis Insurance Company for Fiscal Year 2019-2020, with a premium of **\$25,308** and coverage of \$3,000,000 in excess of the Cyber Liability coverage included on the City's APIP property policy.
8. Authorize the purchase of Alliant's Deadly Weapon Response Program coverage, underwritten by Lloyd's of London, for Fiscal Year 2019-2020, with a premium of **\$5,872** and coverage of \$500,000 and sub-limit coverage of \$250,000 for various incident related services and coverages.
9. 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 it is an appropriate alternative to the City's formal public competitive bidding procedures.
10. Concur with staff recommendation not to purchase earthquake and flood insurance because it is not available at a reasonable cost.
11. Authorize staff to take all actions and execute all documents necessary to implement these recommendations, including any minor adjustments which are consistent with these recommendations and within the Proposed Fiscal Year 2019-2020 budgets for the Workers Compensation Fund (#68320120) and the General Liability Fund (#68720120).

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

ANALYSIS:

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-established 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.

This year, 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 13 insurance markets. All but one declined to quote, as they were unable to compete on pricing and limits, and the one that did quote was not competitive according to Alliant. In addition, 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 CSAC-EIA. 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 last year and more than 2 times this year's estimated premium. Alliant has determined through this process 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 coverage was extensively marketed this year outside the current program to 6 alternative markets. All declined to quote due to not being able to compete with CSAC-EIA.
- 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 9 additional carriers. Of those that responded, most indicated that they cannot compete with the APIP's broad terms and competitive pricing and one declined due to our recent loss experience and exposure to wildfires.

- Crime Liability Coverage: The CSAC-EIA crime program placed with National Union Fire Insurance Company was marketed outside the program, and was placed last year in a two-year policy (Fiscal Years 2018-2020). Alliant reports that National Union Fire Insurance Company's pricing is well below the other markets and is the only market that offers \$15,000,000 limits for faithful performance of duty. Thus, this policy was not remarketed this year.
- Airport Liability: The airport liability coverage was placed in 2016 with Old Republic in a three-year guarantee rate program (Fiscal Years 2016-2019), and was extended last year at the same rates into a four-year policy (Fiscal Years 2016-2020) that now expires June 30, 2020. Thus, this policy was not remarketed this year.
- Excess 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 Fiscal Year 2018-2019 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 1 environmental studies on all of DWP's well sites, which would have been both cost and time prohibitive simply to obtain a quote. Thus, this policy was not remarketed this year.
- 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 this year to 2 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.

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 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 on Monday, June 17, 2019. **However, the estimated premium at the \$500,000 SIR deductible level is estimated not to exceed \$608,000, compared with \$436,528 last year.** While this would represent an increase of approximately 39%, 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.

Significant Increases - Function of Pool & Market Issues: Alliant reports that this year's significant increases in Excess General Liability premiums are primarily due to the following pool and market issues:

- ✓ **Pool:** There has been an increase in employment related claims, such as harassment. In addition, there has been at least a perceived increase in jury verdicts for police related claims within the pool.
- ✓ **Market:** There are capacity restrictions, meaning that there are less firms writing liability policies for public agencies and those that are writing are doing so for less coverage. Moreover, there has been a general hardening of the insurance market overall.

Although the proposed 39% increase is very significant, it was projected to be worse earlier in the renewal process. The City's initial estimate in October of 2018 was for up to a 54% increase, but fortunately CSAC-EIA was able to take some steps to mitigate the pool and market issues noted above. Notably, among other steps they were able "sell-off" a portfolio of certain pool losses for the years 2007-19, and provide a guaranteed market for the program and a reinsurance partner for the next five years. Alliant will be present at the City Council meeting in the event you have additional questions regarding these pool and market issues.

As we discussed in detail last year, the City can save premium dollars by increasing our SIR from \$500,000 to \$1M, but LRM staff believes that maintaining our \$500,000 SIR for now is important, since as a full-service City a risk of a covered GL claim and related costs exceeding \$500,000 is quite real. 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 Library and Recreation Services Department (“LRS”) 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 \$8,554, which is slightly less than last year’s premium of \$8,699. The cost of coverage has been budgeted and will be paid for by LRS. Limits of liability carried last year were \$1,000,000, since the CSAC-EIA liability policy is available, if needed, to provide coverage above the special event policy.

Excess Workers’ Compensation

Workers’ 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 increase approximately 2.66% to \$243,964, up from \$237,639 last year, based on actual payroll (currently estimated to be \$61,977,721, down from \$62,677,195 last year). California’s Worker’s 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.

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. The fee was estimated at \$110,000 for fiscal year 2018-2019, but was later reduced to \$79,679.10. \$90,000 has been included in the 2019-2020 budget for the workers’ compensation fund.

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 \$557,659,042 (up approximately 4.19% from \$535,181,844 last year), including boiler and machinery coverage. The renewal rate increased approximately 25.33% from \$.0427828 per hundred dollars of value last year to \$.0536203 per hundred dollars of value this year. This collectively represents a premium increase of approximately 30.59% from \$228,966 last year to \$299,019 for 2019-2020.

Please note that while the property values and renewal rates ended up much lower than those estimated in last year’s Agenda Report (\$575,449,533 and \$.0632215 respectively), primarily due to the several contemplated “cost reduction efforts” also outlined in the report, last year’s premium of \$228,966 ended up on the lower end of the \$210,575 to \$262,108 contemplated range (see Pages 5

and 6 of last year's Agenda Report).

Significant Increases - Function of Pool, Market & City Claim Issues: Alliant reports that this year's significant increases in Property Insurance premiums are primarily due to the following pool, City and market issues:

- ✓ **Pool:** There were a significant number of fire related claims within the pool last year.
- ✓ **City:** The City had a claim of approximately \$958,000 last year related to fire damage to the SDO Water Treatment Plan caused by the Canyon Fire.
- ✓ **Market:** There are capacity restrictions, meaning that there are less firms writing property policies for public agencies, particularly in fire and other natural disaster areas, and those that are writing are doing so for less coverage. Moreover, there has been a general hardening of the insurance market overall.

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.

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 Crime Liability quote as of the publication of this report on Monday, June 17, 2019. ***However, the premium is estimated not to exceed \$9,812, compared with \$8,920 last year.***

Airport Liability

The City's primary Airport Liability coverage has been extended another year to expire June 30, 2020. 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 October 22, 2015, 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.

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

2019-20. This pricing is based on entering into a three year program with three installments. The installment for FY 2018-19 was 51,631, and FY 2019-20 and FY 2020-21 were quoted as \$47,108.33 each.

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 has remained the same ever since. Thus, it is recommended to renew the coverage at a premium of \$25,308 effective July 1, 2019.

OPTIONAL QUOTES OBTAINED

Deadly Weapon Response Program

Alliant has developed this new program which provides certain coverages for third party liability, property damage, 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. LRM Staff believes that the relatively modest premium of \$5,872 makes this a valuable policy to obtain, and recommends its purchase.

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, 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 transparency in all City actions. The report includes all City insurance needs, including smaller policy purchases that are otherwise within staff's purchasing authority.

FISCAL IMPACT:

Sufficient funds to purchase the recommended insurance policies will be included in the Proposed Fiscal Year 2019-2020 operational budgets.

ENVIRONMENTAL ANALYSIS:

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

PREPARED BY: KARA McGEE, RISK MANAGER

REVIEWED BY: DEAN DERLETH, CITY ATTORNEY/LRM DIRECTOR

REVIEWED BY: TOM MOODY, GENERAL MANAGER

REVIEWED BY: KERRY D. EDEN, ASSISTANT CITY MANAGER/ADMINISTRATIVE SERVICES DIRECTOR

REVIEWED BY: MICHELE NISSEN, ASSISTANT CITY MANAGER

SUBMITTED BY: MITCHELL LANSDELL, ACTING CITY MANAGER

Attachments:

- Insurance Renewal (2019-20) - Excess Workers Comp
- Insurance Renewal (2019-20) - Property
- Insurance Renewal (2019-20) - Master Crime
- Insurance Renewal (2019-20) - Airport Liability
- Insurance Renewal (2019-20) - Excess Cyber Liability
- Insurance Proposal (2019-20) - Deadly Weapon Response Program

Not Attached:

- Excess General Liability - Not Yet Available
- Enhanced Pollution Liability - Second of Three Year Term