



## Legislation Text

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File #: 2023-0943, Version: 1

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### Report to Carson Reclamation Authority

Thursday, December 28, 2023

Discussion

#### **SUBJECT:**

**CONSIDER AUTHORIZING EXECUTIVE DIRECTOR TO APPROVE AND BIND COVERAGE ON A POLLUTION LEGAL LIABILITY ("PLL") BRIDGE POLICY WITH A LIMIT OF \$50,000,000, ADDING AN ADDITIONAL SIX YEARS TO THE EXISTING POLICY, FROM BEAZLEY ECLIPSE (LLOYDS SYNDICATES 623 AND 2623) PROCURED THROUGH MARSH USA, INC. IN AN AGGREGATE PREMIUM AMOUNT NOT TO EXCEED \$2,000,000, PLUS APPLICABLE SURPLUS LINES TAXES AND BROKERAGE FEES**

#### **I. SUMMARY**

Pollution Legal Liability ("PLL") is site specific pollution coverage (typically defined as discharge, dispersal, release, escape, migration, emanation of a pollutant or waste from or through an insured location) for third party bodily injury and property damage claims and first party claims for cleanup costs. In 2017, the CRA obtained a PLL program for the Site with \$200,000,000 limits of liability per incident and in the aggregate, a Self-Insured Retention (the SIR, or deductible) of \$250,000 per incident and a term of 10 years from December 31, 2017 to December 31, 2027 (the "Existing PLL Program"). The Existing PLL Program includes coverage for pre-existing and new pollution conditions.

The Existing PLL Program lists the CRA, the City of Carson, RES, Macerich (CAM-Carson, LLC) and future developer partners of CRA as insureds with the unrestricted ability to make a claim under the Existing PLL Program. It does not extend coverage to contractors or subcontractors working on the Project. CAM has a dedicated sublimit of \$50,000,000 and any future developer partners of CRA, such as Carson Goose Owner, LLC ("CGO"), will have dedicated sublimits in amounts to be determined and negotiated under their respective Insurance Administration Agreements. The Existing PLL Program is primary and non-contributory to any other insurance carried by CAM, or any other future developers.

For financing purposes, CGO will require 10 years of PLL coverage from when it closes on the property. Since the Existing PLL Program expires on December 31, 2027 only 4 years of coverage remains on the Existing PLL Program. Rather than canceling and rewriting the entire existing \$200,000,000 PLL tower, CRA has requested that Beazley issue a separate,

stand-alone 10-year policy for the CRA (the “Bridge PLL Policy”) with a \$1.00 limit of liability until the Existing PLL Program expires, at which point the Bridge PLL Policy’s limits of liability would “step-up” to \$50,000,000 for the remaining 6 year term of the policy (through December 31, 2033).

The Bridge PLL Policy would cover the entire 157-acre site in the same manner as the Existing PLL Program but would only list CGO and CRA as Named Insureds. The Bridge PLL Policy includes dedicated and reserved limits of liability allocated between CRA and CGO.

## **II. RECOMMENDATION**

1. AUTHORIZE the Executive Director to bind coverage on behalf of the Carson Reclamation Authority on a Pollution Legal Liability Policy offered through Beazley Eclipse, Lloyd's of London Syndicates 623 and 2623 (“Beazley”) with a limit of liability in the aggregate amount of \$50,000,000 (\$1.00 from December 31, 2023 to December 31, 2027, with automatic step-up to \$50,000,000 on December 31, 2027), procured through Marsh USA, Inc. having a term of ten years.
2. AUTHORIZE the Executive Director to bind coverage and execute any necessary documents related to the policies described in Section 1.

## **III. ALTERNATIVES**

TAKE another action the Board deems appropriate.

## **IV. BACKGROUND**

CRA obtained through a Beazley-led consortium of Lloyd’s of London syndicates (the “Beazley Consortium”), PLL Policy No. B0901CO1602022000, effective September 29, 2016 (the “Pre-Development PLL”) and in 2017, prior to commencement of significant site grading and field work on the Covered Location, CRA cancelled the Pre-Development PLL (with a pro-rata return or credit of premium to CRA) and procure a new “Development PLL”, which (i) had a higher limit of liability, (ii) provided coverage for the various remedial and development activities on the Covered Location, and (iii) included a distinction for the “subsurface lots” and “surface lots.” The Development PLL was acquired before the end of 2017.

Beazley is the primary market in CRA’s existing \$200,000,000 PLL tower at the former Cal Compact Landfill. Beazley provides \$50,000,000 primary limits of liability, with an effective date of December 31, 2017 to December 31, 2027 and there are a number of other insurers in the policy tower.

CAM paid a pro-rated share of the PLL, with future developers anticipated to come into the policy on a pro rata basis as well. CGO will join the policy as well, but CGO also requires 10 years of PLL coverage when it closes on the property, but six years of term has been used up. Rather than canceling and rewriting the entire existing \$200,000,000 PLL tower,

CRA has requested that Beazley issue a separate, stand-alone policy for CRA (the Bridge Policy) with a \$1.00 limit of liability until the Existing PLL Policy expires, at which point the Bridge Policy's limits of liability would "step-up" to \$50,000,000 for the remaining six years.

The Bridge Policy would cover the entire 157-acre site in the same manner as the Existing PLL Policy but would only list CGO and CRA as Named Insureds and will include dedicated/reserved limits of liability allocated between CRA and Carson Goose.

Contractors working on the project will be required to maintain CPL coverage, and CRA is evaluating a stand-alone, project specific CPL program to sit excess the contractor policies.

## **V. FISCAL IMPACT**

The total cost of this policy is \$1,915,152 plus surplus lines tax. CGO will cover 100% of this cost.

## **VI. EXHIBITS**

1. Proposal Summary from Marsh (pgs. 4-6)

1.

Prepared by: John S. Raymond, Executive Director