



CITY OF CARSON

Legislation Text

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Report to Mayor and City Council

Tuesday, August 01, 2017

Consent

SUBJECT:

APPROVAL TO JOIN THE CSEA EXCESS INSURANCE AUTHORITY AND RENEW GENERAL LIABILITY INSURANCE FOR FY 2017/18 (CITY COUNCIL)

I. SUMMARY

Presented for City Council's consideration is the annual purchase of General Liability Insurance for FY 2017/18. The City's current insurance carrier has declined to provide coverage for this fiscal year due to the City's claims history. As a result, after considering several options, staff has determined that the CSEA Excess Insurance Authority is able to provide coverage. The annual FY 2017/18 insurance cost is estimated at \$619,850 for this policy. This represents an increase of \$141,500 from FY 2016/17 insurance cost of \$478,350 while providing improved insurance coverage and policy limits. The following must also be considered:

1. Their joint powers agreement does not contain a provision stating that the authority's debts, liabilities and obligations are not the debts, liabilities or obligations of its members.
2. There is a multistep appeal process, with litigation being the final step, for any disputes that the City may have with the CSEA Excess Insurance Authority.
3. The City could be required to pay an additional "Development Charge" which represents certain administrative costs of the insurance program.
4. The City may be charged an additional "Premium Surcharge" representing its share of the required funds to fund the program in a year where there is an unusually large number of losses under the excess liability program such that program funds would be exhausted prior to when the next annual premiums are due or where their Board of Directors determines that program funds are insufficient to pay losses, fund known estimated losses, and fund underreported incurred estimated losses. This surcharge is capped at three times the City's annual premium for a given year, unless otherwise determined by the CSEA Excess Insurance Authority's Board of Directors.

Additionally, Exhibit B of the Memorandum of Understanding contains specific underwriting and claims administration standards. The City must ensure that it can

comply with these requirements in addition to ensuring ongoing compliance through monitoring.

However, staff believes that the advantages of joining this JPA outweigh purchasing general liability insurance as a standalone on the open insurance market. Some of the advantages, which are detailed further below, include joining a larger group of public entities (pooling) that will go to the insurance market together for greater purchasing power and access to insurance markets that may not be available to other entities. Moreover, CSAC EIA, which has been in existence for twenty-six years, is very conservatively funded, with a confidence rating generally ranging from 80-90% from year to year. It is held to stringent standards from the state's financial regulators and has been accredited with the California Association of Joint Powers Authorities "CAJPA". Further, the CSAC EIA was the first public entity to receive a certification of excellence from the GOVERNMENT FINANCE OFFICERS ASSOCIATION.

II. RECOMMENDATION

TAKE the following actions:

1. APPROVE becoming a member of the CSEA Excess Insurance Authority ("CSEA EIA") by adopting Resolution No. 2017-108 entitled: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON JOINING THE COUNTY SUPERVISORS ASSOCIATION OF CALIFORNIA EXCESS INSURANCE AUTHORITY."
2. AUTHORIZE the City Manager to execute all documents required and necessary so that the City may become a member of the CSEA Excess Insurance Authority, subject to City Attorney approval as to form.
3. APPROVE CSEA EIA to provide General Liability Insurance coverage for FY 2017/18, at an estimated cost of \$619,850.
4. APPROVE a not-to-exceed amount of \$630,000 to purchase general liability insurance before the August 31, 2017 extension deadline in case the *actual* insurance quote increases.
5. ADOPT Resolution No. 17-107, A RESOLUTION OF THE CITY OF CARSON CITY COUNCIL AMENDING THE FISCAL YEAR 2017-18 BUDGET IN THE GENERAL FUND.

III. ALTERNATIVES

1. SELECT Munich Reinsurance Company to provide standalone general liability insurance coverage at an estimated cost of \$768,634.
2. DO NOT APPROVE the general liability policy. However, if City Council chooses not to approve critical insurance coverage will expire and the city will have 100% exposure for general liability claims and lawsuits.
3. TAKE any other action the City Council deems appropriate.

IV. BACKGROUND

The City traditionally works with an insurance broker to solicit renewal quotations, (“quotes”) for our insurance coverages. In addition to approaching the insurance markets on behalf of the City, insurance brokers also provide free and low cost risk management and loss control services.

At City Management’s direction, H.R./Risk Management retained a Risk Consultant, from December 2016 to February 2017, to evaluate the feasibility of joining a risk-sharing pool in lieu of purchasing standalone commercial liability insurance. Risk-sharing pools are also known as Joint Power Authorities (“JPA”). These JPAs require a three-year commitment and startup fees. Additionally, the premiums were greater than what the City has been paying for standalone insurance coverage. Due to the required startup fees, higher premiums and three-year commitment, City Management determined that it was not feasible to join a JPA at that time.

Once the JPA decision was made in February 2017 and a JPA was not recommended, the City needed to obtain insurance quotes from our insurance broker and purchase commercial liability insurance by July 1, 2017 for FY 2017/18. The insurance renewal process normally starts around February. The former insurance broker’s contract was scheduled to end on June 30, 2017 after five years. After the JPA decision was made, H.R./Risk Management was directed to start the request for proposal process (“RFP”) to test the market and obtain proposals for a new insurance broker. The RFP was opened on March 2, 2017. The City Council approved Alliant Insurance Services, Inc. (“Alliant”) as the new insurance broker on June 6, 2017.

It was anticipated that the former insurance broker would provide insurance quotes by June 2017. The former insurance broker started the insurance marketing process in February 2017, but declined to complete the process and provide insurance quotes for FY 2017/18 due, in part, to difficulty finding general liability insurance carriers that would provide insurance quotes. Finding general liability insurance carriers to provide quotes has been *increasingly* difficult over the last two fiscal years due to the City’s liability claim loss experience.

The late start to the insurance renewal process was due to the JPA analysis, changing insurance brokers during the insurance marketing/quote receipt period (February to June), and the difficulty of our former insurance broker obtaining insurance quotes, particularly general liability insurance quotes, that would be in force as of July 1, 2017.

GENERAL LIABILITY INSURANCE

The former broker, Keenan & Associates, was able to obtain an extension on the city’s general liability insurance policy until August 31, 2017 to allow time to obtain insurance quotes and have the City bind coverage. On July 18, 2017, the City Council approved the \$68,101 premium cost to extend the general liability insurance policy for sixty-two (62) days from July 1, 2017 until August 31, 2017. Staff is very appreciative that Alliant was able

to come in as the new insurance broker and provide insurance quotes for Excess Workers' Compensation, Property, Crime and Volunteer insurance that the City Council approved on July 18, 2017.

The recommendations for general liability insurance coverage approval are being made now because traditionally there is not another City Council meeting after the first City Council Meeting in August, which is August 1, 2017 this year and the general liability insurance extension expires on *August 31, 2017*. If staff waits until the first meeting in September, Alliant will not have enough time to provide staff with a formal general liability insurance quote for the City Council to consider. Alliant provided an estimate, also known as an **indication**, for general liability insurance. The general liability insurance cost indication, *which* is not a formal insurance quote; however, the indication is based on a thorough analysis of the City's liability claims loss experience and operations within the City.

ALLIANT'S MARKETING AND COST ANALYSIS

Exposure Profile/Marketing (History of Losses)

The City currently purchases liability coverage in the open marketplace, on a standalone basis, through Great American Insurance Company. The incumbent carrier is not renewing the placement as they are not comfortable with the liability claim loss history for the City - particularly the frequency of Employment Practices Liability (Discrimination) claims. Seven liability claims have exceeded the city's \$250,000 self-insured retention over a ten year period. The City's loss ratio is high compared to its peers due to a large liability claim loss in 2012. Overall, of the seven large losses for Carson, three are Employment Practices/Discrimination related. Carson's claims, particularly Discrimination, have led to a perception that there is a frequency issue and carriers have struggled to justify the probability of another similar claim from occurring.

As the City's new Insurance Broker, Alliant Insurance Services, Inc. ("Alliant") has conducted a marketing effort on behalf of the City. All viable markets were approached as well as strategic pooling options that may be a good fit for the City. A detailed marketing report outlining what carriers were approached, their applicable responses to the submission and any alternative structures was prepared and presented to the city.

Alliant also analyzed pooling options for purchasing insurance that may make sense for the City. There are a variety of pools in California for municipalities; however, when one narrows down the aspects of each pool, there are not very many that will be a good fit for Carson. CSAC Excess Insurance Authority ("CSAC EIA") is perhaps the best pooling option for Carson based on its pool structure.

CSAC EIA Pool

The General Liability (GL1) program utilizes a combination of pooling and purchasing of excess coverage which gives the City the ability to respond to changing market conditions, and has made it one of the largest and most successful pooling programs in the United States with 115 current members. This member directed insurance pool is the oldest and

largest pooled insurance program in the state and nation. Entities insured through the pool include Cities, Counties and Special Districts throughout the state of California. The basic general liability insurance limit in the GL1 program is \$25,000,000 (“\$25M”) which means that the city will not only benefit from moving coverage from a mixed form to a completely occurrence based form, but, it will significantly increase its coverage limits.

The main difference between the CSAC EIA JPA and a traditional JPA is that there is no three-year commitment and no upfront entrance fees. If the City decides to join this JPA and does not renew after one year, the City will not be able to rejoin until three years have elapsed.

As with any insurance pool, risk exists for the portion of the limit that is not reinsured by an insurance carrier. The GL1 program does not currently reinsure the first \$5M in limit. This means that members could be assessed for additional premium should losses exceed the amounts actuarially projected. Similarly, if the pool is performing better than anticipated, members could receive money back in the form of a dividend.

Cost Analysis

The City was presented with two options for renewal:

Option A: A standalone option with Munich Reinsurance Company, providing coverage similar to that which is expiring - a \$10M insurance policy limit/\$250,000 self-insured retention and included claims made coverage for two coverage agreements within the policy. The annual indicated pricing, *subject to underwriter approval*, is \$768,634. This is an increase of \$290,284 over the expiring policy.

Option B: The CSAC EIA provided a second option to the City. The EIA option includes a \$25M limit inclusive of the city’s \$250,000 self-insured retention for an annual premium of \$619,850. This option would include coverage to convert the claims made coverage to occurrence form for a one time annual cost of \$170,000. This cost is *included* in the \$619,850 total. The CSEA EIA option is a \$141,500 increase over the expiring general liability insurance policy. This option will be prorated to a July 1 renewal date and is an indication only, subject to reinsurance and committee approval.

Since the City is not a current member of the CSAC EIA, the City will need to join the pool by signing the Joint Powers Authority Agreement. It will also need to sign the GL1 program memorandum of coverage and pass a resolution appointing an EIA representative to attend EIA meetings and approve decisions with regard to the City’s EIA coverage.

CITY ATTORNEY ANALYSIS

The City Attorney's Office reviewed the relevant documents and has provided the following analysis with respect to the CSEA Excess Insurance Authority Agreement:

1. There is no provision stating that the CSEA Excess Insurance Authority’s debts, liabilities and obligations are not the debts, liabilities or obligations of its members.
2. Disputes that the City may have with the CSAC Excess Insurance Authority must first

go through a multistep appeal process, with litigation being the final step. This could delay the City's ability to seek recourse against the CSAC Excess Insurance Authority.

3. In addition to the annual premium, the City could be required to pay a "Development Charge" which represents certain administrative costs of the program.
4. In a policy year where there is an unusually large number of losses under the excess liability program where the funds of the program would be exhausted prior to the next annual premiums are due or where the CSAC EIA Board of Directors determines that the joint insurance funds for a program are insufficient to pay losses, fund known estimated losses, and fund unreported incurred estimated losses, the City may be charged a "Premium Surcharge" representing its share of the required funds to fund the program, provided that the surcharge is capped at three times the City's annual premium for a given year, unless otherwise determined by the CSAC EIA's Board of Directors. This is in addition to the annual premium.

With respect Excess Liability JPA Program - Memorandum of Understanding," the City Attorney's Office provided the following analysis:

1. Exhibit B of the Memorandum of Understanding contains specific underwriting and claims administration standards. The City must ensure that it can comply with these requirements in addition to ensuring ongoing compliance through monitoring.

ADVANTAGES OF JOINING THE CSAC EIA

Over the history of the GL1 program, there have been zero *Premium Surcharge* assessments and eighteen dividends. If a Premium Surcharge is considered, it would be voted on by the full board and approved by the full EIA CSEA Board. The CSAC-EIA's financial position is very strong. The \$750 *Development Charge* is included in the general liability quote indication.

The pool, which has been in existence for twenty-six years, is very conservatively funded, with a confidence rating generally ranging from 80-90% from year to year. The pool is held to stringent standards from the state's financial regulators. The CSAC EIA is also accredited with the California Association of Joint Powers Authorities "CAJPA". Further, the CSAC-EIA was the first public entity to receive a certification of excellence from the GOVERNMENT FINANCE OFFICERS ASSOCIATION.

Staff believes the advantages of joining this JPA outweigh purchasing general liability insurance as a standalone on the open insurance market. Some of the advantages, which have been detailed in this staff report, include joining a larger group of public entities (pooling) that will go to the insurance market together for greater purchasing power and access to insurance markets that may not be available to other entities.

By joining CSAC EIA, it is anticipated that the City will receive lower general liability insurance indications than could be received on the open insurance market on a standalone basis (\$619,850 versus \$768,634 for a difference of \$148,784). The City's liability claims loss experience *will not* be pooled and will be considered on its own merits. Additionally, the CSAC EIA program general liability policy limit is significantly higher (\$25M versus \$10M) than our current insurance policy limit. In addition, the CSAC-EIA will allow

the City to convert its coverage from **claims made (which will effectively end coverage 8/31/17 for directors and officers coverage for prior claims)** to an occurrence policy which has no termination to coverage during the City's membership in the EIA programs.

SUMMARY

Alliant approached multiple insurance carriers for general liability insurance coverage, including CSAC EIA. Staff received and reviewed Alliant's General Liability Renewal Proposal on July 20, 2017 and recommends that the City Council approve the CSAC EIA indication for general insurance coverage at an annual cost of \$619,850 representing an increase of \$141,500 over last fiscal year's premium of \$478,350.

The request for a not-to-exceed \$630,000 is being made in case the formal insurance quote comes in a little higher than the indicated cost, *which* is an estimate. If the insurance quote comes back greater than \$630,000, staff will bring back a recommendation for City Council's consideration.

Should the CSEC EIA committee not accept the City's membership; staff will request approval to purchase general liability insurance coverage from Munich Reinsurance Company at an annual premium of \$768,634 representing an increase of \$290,284 over last fiscal year's premium of \$478,350.

V. FISCAL IMPACT

The FY17-18 budget included a placeholder of \$345,000 for general liability insurance. Now that the actual bids have been received, the expenditure is expected to exceed the budget placeholder. The recommendation would require an additional appropriation of \$273,850 from the General Fund balance. The revised estimated General Fund balance at June 30, 2018 is \$14,773,829 (see Exhibit 6).

VI. EXHIBITS

1. Alliant's July 20, 2017 General Liability Proposal and Recommendation (pgs. 8 to 24)
2. Resolution to Join CSEA Excess Insurance Authority (pgs. 25 to 26)
3. Joint Powers Agreement, Creating the CSAC Excess Insurance Authority Memorandum of Understanding and Excess Liability Program (pgs. 27 to 66)
4. Alliant's Excess Liability Insurance Indication and Marketing Report (pgs. 67 to 74)
5. Resolution No. 17-107, A RESOLUTION OF THE CITY OF CARSON CITY COUNCIL AMENDING THE FISCAL YEAR 2017-18 BUDGET IN THE GENERAL FUND (pages 75-76)
6. General Fund Budget Summary - Fiscal Year 2017-18 (page 77)

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