



Legislation Text

File #: 2018-231, Version: 1

Report to Carson Reclamation Authority

Tuesday, April 03, 2018

Consent

SUBJECT:

RATIFY THE EXTENSION OF COVERAGE THROUGH JUNE 1, 2018 AND APPROVE PAYMENT FOR A BUILDER'S RISK POLICY THROUGH LEXINGTON INSURANCE COMPANY IN THE AMOUNT OF \$2,549.00 PLUS \$81.57 IN SURPLUS LINES TAXES AND STAMPING FEES, AND A GENERAL LIABILITY POLICY THROUGH FIRST SPECIALTY INSURANCE COMPANY IN THE AMOUNT OF \$4,174.00 PLUS \$133.57 IN SURPLUS LINES TAXES AND STAMPING FEES, PROCURED THROUGH JLT SPECIALTY INSURANCE SERVICES

I. SUMMARY

In January, 2017 the CRA procured insurance policies in the area of Comprehensive General Liability ("GL") and Builder's Risk ("BR") for the period of one year. These policies are different from the Pollution Legal Liability ("PLL") and Contractor's Pollution Liability ("CPL/PLI"), in that they do not insure the pollution risk, but rather they insure traditional risks that typically occur on a project. The policies were set to expire at the end of January, 2018, and would be replaced by a comprehensive "wrap" insurance program developed jointly with Macerich. However, the wrap, or Owner Controlled Insurance Program ("OCIP") was not expected to be in place until April, once all the other agreements with Macerich were finalized. On February 6, 2018 the Board ratified an extension of coverage of the two policies until April (the BR policy expires April 25, 2018 and the GL policy expired April 1, 2018), when the Macerich agreements were anticipated to be completed and the wrap program (described below) could be placed. That date is now anticipated to be mid-May, requiring another short-term extension of the two policies until June 1, 2018.

This action ratifies the action of the Executive Director to bind the two policies (the GL and BR) for a short period in order to avoid a gap in liability coverage, until the comprehensive program is in place, and to pay the aggregate \$6,938.14 due to JLT Specialty Insurance Services, Inc., the CRA's insurance broker. This would extend the two policies until June 1, 2018.

II. RECOMMENDATION

RATIFY THE EXTENSION OF COVERAGE THROUGH JUNE 1, 2018 AND APPROVE

PAYMENT FOR A BUILDER'S RISK POLICY THROUGH LEXINGTON INSURANCE COMPANY IN THE AMOUNT OF \$2,549.00 PLUS \$81.57 IN SURPLUS LINES TAXES AND STAMPING FEES, AND A GENERAL LIABILITY POLICY THROUGH FIRST SPECIALTY INSURANCE COMPANY IN THE AMOUNT OF \$4,174.00 PLUS \$133.47 IN SURPLUS LINES TAXES AND STAMPING FEES, PROCURED THROUGH JLT SPECIALTY INSURANCE SERVICES

III. ALTERNATIVES

Take another action the Board deems appropriate.

IV. BACKGROUND

In January, 2017 the CRA procured insurance policies in the area of Comprehensive General Liability ("GL") and Builder's Risk ("BR") for the period of one year. These policies are different from the Pollution Legal Liability ("PLL") and Contractor's Pollution Liability ("CPL/PLI"), in that they do not insure the pollution risk, but rather they insure traditional risks that typically occur on a project. The policies were set to expire at the end of January, 2018, and were to be replaced by a comprehensive "wrap" insurance program developed jointly with Macerich. However, the wrap, or Owner Controlled Insurance Program ("OCIP") was not expected to be in place until April, once all the other agreements with Macerich are finalized.

On February 6, 2018 the Board ratified an extension of coverage of the two policies until April (the BR policy expires April 25, 2018 and the GL policy expired April 1, 2018), when the Macerich agreements were anticipated to be completed and the wrap program could be placed. That date is now anticipated to be mid-May, requiring another short-term extension of the two policies until June 1, 2018.

Due to the urgency and small size of the policies, the Executive Director approved the extension of the two policies and this action is to ratify those extensions.

CRA and Macerich are pursuing a joint OCIP insurance program that will include general liability and excess (umbrella) coverage for the Project, as well as a Builder's Risk policy. This program is on an occurrence based, dedicated liability insurance program for all tiers of horizontal and vertical contractors and subcontractors working on the Project, which is placed and controlled by the owner of the property or the project. The OCIP will be administered by Construction Risk Partners, an affiliate of the broker of record, JLT. The GL Wrap will be the primary bodily injury coverage at or on the property during the Project, and will include affirmative coverage for concussive risk, but shall otherwise exclude losses arising out of pollution conditions. The GL Wrap may also be expanded to cover work related to the installation of remedial systems, mitigation measures and related infrastructure on the other cells of the Site, together with vertical construction thereon.

A Builder's Risk insurance policy provides first party property coverage for damage to real property incurred during construction. Once construction is complete, Builder's Risk policies cease providing coverage. Under the Builder's Risk policy, the insured property is the assets that are installed or being built on the property. Macerich and CRA are working on obtaining and maintaining a phased Builder's Risk program for all of the horizontal and

vertical construction components at the Project (currently anticipated to have a premium cost of approximately \$350,000,000) with a limit equal to 100% of the replacement value of all such horizontal and vertical components.

The Builder's Risk program may be expanded in the future to cover horizontal work conducted on other cells of the Site and vertical construction work thereon. The Builder's Risk program will also contain earthquake coverage with a limit of liability of at least \$50,000,000 for the Project, which may be increased or decreased based on the findings of Probable Maximum Loss reports to be conducted annually or at such other frequency as may be agreed to by CRA and Macerich. The Builder's Risk program will be an occurrence based policy and the limits will automatically reinstate upon any loss thereunder at no charge to the insureds; provided, however, that the limit of loss for earthquake and coverage will be expressed as an annual aggregate amount. The Builder's Risk program will be primary with respect to all property damage at, on or under the property during the term of the Project and will also include LEG-3 coverage with respect to repair of physical damage to work or remedial components arising out of a loss.

Because Macerich is an essential part of the OCIP program, the program cannot be procured until the Macerich agreements are finalized and fully executed. While the Conveyancing Agreement and the Cooperation Agreement are on this Board agenda, the City Council also needs to take action on the SEIR, the Specific Plan Amendment, and a Development Agreement; the latter requires a second reading and all three have longer time periods than the CRA agreements. Based on the revised schedule, this could take until mid-May. However, commencement of construction is scheduled to occur May 21, so there is a small window to get all the insurance in place.

This short-term extension of the existing GL and BR policies provides liability coverage to the CRA until the new, more comprehensive program is in place. This action ratifies the action of the Executive Director to bind the two policies (the GL and BR) for a short period, until the comprehensive program is in place, and authorizes the payment of the \$6,938.14 premium and surplus lines taxes due to JLT Specialty Insurance Services, Inc., the CRA's insurance broker.

V. FISCAL IMPACT

The cost of the extensions is \$6,939.17 due to JLT Specialty Insurance Services, Inc., the CRA's insurance broker.

VI. EXHIBITS

1. GL Endorsement (pg. 4)
2. Invoice for GL Policy (pg. 5)

1.

Prepared by: John S. Raymond, Executive Director