



Legislation Text

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File #: 2018-298, Version: 1

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**Report to Carson Reclamation Authority**

Tuesday, May 08, 2018

Discussion

**SUBJECT:**

**AUTHORIZE EXECUTIVE DIRECTOR TO APPROVE AND BIND COVERAGE ON A GENERAL LIABILITY OWNER CONTROLLED INSURANCE PROGRAM (OCIP) LED BY TOKIO MARINE/HCC WITH FOUR LAYERS OF EXCESS COVERAGE WITH A \$200,000,000 LIMIT OF LIABILITY, AT AN ESTIMATED TOTAL COST OF \$2,060,240 INCLUDING BROKER COMMISSION AND SURPLUS LINES TAXES, TO BE SHARED WITH CAM-CARSON, LLC BASED ON CONSTRUCTION VALUE; AND A TERRORISM LIABILITY (GL AND PLL) POLICY LED BY LLOYD'S-TALBOT AS THE SYNDICATE LEADER WITH A \$100,000,000 LIMIT OF LIABILITY AT A TOTAL COST OF \$123,840 AND A TERRORISM PROPERTY DAMAGE/SABOTAGE (BR) POLICY WITH A LIMIT OF LIABILITY EQUAL TO 100% OF THE REPLACEMENT VALUE OF ALL HORIZONTAL AND VERTICAL CONSTRUCTION COMPONENTS (\$392,649,316) AT A TOTAL PREMIUM OF \$110,444, BOTH TO BE SHARED WITH CAM-CARSON, LLC BASED ON CONSTRUCTION VALUES, ALL PROCURED THROUGH JLT SPECIALTY INSURANCE SERVICES, INC.**

**I. SUMMARY**

This action authorizes the Executive Director to bind the above-described policies procured through JLT Specialty Insurances Services, Inc.: a General Liability Owner Controlled Insurance Program (OCIP) with a limit of liability of \$200,000,000; and two terrorism policies - one general liability and one property damage - in an aggregate amount of nearly \$500,000,000. The premiums on all three policies are to be shared with CAM-Carson, LLC, the Cell 2 developer, based on construction values. In this case the Developer pays more than the CRA. A table is included with the premiums and cost share of all the policies.

**II. RECOMMENDATION**

TAKE the following actions:

1. AUTHORIZE the Executive Director to bind coverage on behalf of the Carson Reclamation Authority on a General Liability Owner Controlled Insurance Program (OCIP) with a limit of liability of \$200,000,000, procured through JLT Specialty Insurance Services,

Inc. having a term of five years and an aggregate limit of liability of \$200,000,000, with a total cost of \$2,060,240 including broker commission and surplus lines taxes.

2. AUTHORIZE the Executive Director to bind coverage on behalf of the Carson Reclamation Authority on a Terrorism Liability (GL and PLL) policy with a limit of liability of \$100,000,000 and a Terrorism Property Damage/Sabotage (BR) with a limit of liability equal to 100% of the replacement value of all horizontal and vertical construction components, procured through JLT Specialty Insurance Services, Inc. each having a term of three years, with a total cost of \$234,284 including broker commission and surplus lines taxes.

### **III. ALTERNATIVES**

TAKE any other action the Reclamation Authority Board deems appropriate.

### **IV. BACKGROUND**

Construction Risk Partners (CRP) and JLT have developed this insurance proposal. CRP and JLT have worked with the CRA since August 2017 to discuss and agree on a strategy plan for execution of a General Liability Owners Controlled Insurance Program (OCIP). With a project as complex as the Cal Compact Landfill, it was desirable to access both the US and London based markets for proposals.

Meeting with the major underwriters, both in the US and London, was necessary in order to ensure that underwriting community understood the various moving parts and unique characteristics of the project. The CRA and Macerich participated in meetings that were held both in London and New York in September and October 2017. The attention to the detail of our presentation and effort to engage with the underwriters very much helped in obtaining the competitive terms that we have obtained.

In marketing this OCIP, CRP approached the entire OCIP marketplace to solicit proposals. Due to the challenging exposure at the site related to the former landfill, and the fact that they were not including Workers Compensation as part of this OCIP program (each contractor is required to provide its own Workers Comp policy), a number of markets could not offer terms and others had difficulty offering competitive terms. In the end CRP received three competitive proposals provided by COVE Programs, Berkshire Hathaway Insurance, and Tokio Marine/HCC.

Throughout the marketing process there have been extensive discussions of limits and aggregates. During the marketing process it was JLT's goal to provide annual reinstating aggregates that applied "per cell" that would allow developers to enjoy their own set of limits on their respective cell. We were able to accomplish this structure with Berkshire Hathaway Specialty Insurance but the cost competitiveness of the program did not warrant the surplus limit structure.

CRP recommended an OCIP program led by Tokio Marine/HCC for a variety of reasons:

- Tokio Marine is already the primary CPL/PLI carrier. Having Tokio Marine/HCC on the GL and CPL/PLI policies reduces confusion and coverage issues on a claim that could impact multiple policies.
- Tokio Marine/HCC is providing an aggregate reinstatement after the initial phase of the Macerich work is complete (we're calling this "Phase 1, Cell 2").
- Tokio Marine/HCC had agreed to provide coverage for "concussive risk" bodily injury (BI) and property damage (PD) as a result of a landfill gas explosion (manuscript endorsement).
- Tokio Marine/HCC is the most cost competitive proposal received.

Named Insured:

Carson Reclamation Authority, 701 East Carson Street, Carson, CA 90745

Additional Named Insureds:

RE | Solutions 1525 Raleigh Street, Suite 240 Denver, CO 80214

CAM-CARSON, LLC 401 Wilshire Boulevard, Suite 700 Santa Monica, CA 90401

Anticipated Policy Effective Date: May 18, 2018/Anticipated Policy Expiration Date: May 18, 2023

## General Liability Overview

### General Liability

This coverage protects your business from claims arising from alleged bodily injury, personal injury or property damage liability. It includes protection for services you render or products sold by the Named Insured(s). Coverage payments can include judgments, attorney fees, court costs, or other related expenses.

### Personal and Advertising Injury Liability

This coverage is used to insure against claims of libel, slander, product disparagement, piracy, infringement of copyrights, etc. that arise out of the advertising of a Named Insured's goods, products, or services.

### Premises/Operations

This coverage is used to insure against claims arising out of a Named Insured's ownership, maintenance or use of premises including any operations that are in progress.

### Products/Completed Operations

This coverage is used to insure against claims arising out of bodily injury and property

damage that result from work performed at the designated project site.

## PRIMARY CASUALTY SUMMARY

### Limits of Liability

Each Occurrence	\$2,000,000
Personal & Advertising Injury	\$4,000,000
General Aggregate Limit	\$2,000,000
Products-Completed Operations/ Aggregate Limit	\$4,000,000
Fire Legal Liability (Any One Fire)	\$300,000
Est. Contract Value	\$277,913,288
Deductible (Each Occurrence)	\$ 50,000
Rate / \$1,000 of CV	\$ 2.22
Minimum Earned	35%
Policy Premium	\$ 616,967

Total Estimated Premium	\$ 616,967
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## UMBRELLA LIABILITY (EXCESS COVERAGE)

Layer #1 - Insurance Company	Axis
Layer #1 - Policy Limits	\$8M x Primary
Layer #1 - Premium	\$ 416,957
Layer #2 - Insurance Company	Markel
Layer #2 - Policy Limits	\$15M x \$10M
Layer #2 - Premium	\$ 202,064
Layer #3 - Insurance Company	Navagators
Layer #3 - Policy Limits	\$25M x \$25M
Layer #3 - Premium	\$ 160,368
Layer #4 - Insurance Company	Quota Share
Layer #4 - Policy Limits	\$150M x \$50M
Layer #4 - Premium	\$ 600,000
TOTAL UMBRELLA	\$ 1,379,389

## PRIMARY PROGRAM HIGHLIGHTS

- Coverage applies to Land Development at all Cells and Vertical development at Cell 2 only
- Comprehensive Coverage Package
- Covers eligible enrolled parties under one comprehensive program

- General Aggregate Limits reinstate one time - mid term
- Products/Completed Operations limit
- One limit will apply to the construction term plus completed operations tail
- Ten (10) years of Extended Completed Operations or the applicable Statute of Repose, whichever is less
- Contract Value based rates
- Total Pollution Exclusion amended to not apply to bodily injury or property damage arising out of combustion or explosion caused, in whole or in part, by "Landfill Gas" at the project site

Key policy exclusions (not complete list) include:

- Asbestos
- Arsenic
- Lead
- Sulfates
- EIFS
- Worker's Compensation
- Automobile Liability
- Employment Practices
- Silica & Silica Related Dust
- Contractor's Professional Liability (construction means and methods exception included)

#### CARRIER RATINGS

<b>Carrier</b>	<b>A.M. Best Rating</b>	<b>Per Occurrence Limit</b>	<b>General Aggregate Limit</b>	<b>Products- Completed Operations Aggregate</b>
Axis Surplus Lines Insurance Company	A+ XV	\$8,000,000	\$8,000,000	\$8,000,000

Evanston Insurance Company	A XV	\$15,000,000	\$15,000,000	\$15,000,000
Navigators Specialty Insurance Company	A XII	\$25,000,000	\$25,000,000	\$25,000,000
6 Carrier Quota Share	Varies	\$150,000,000	\$150,000,000	\$150,000,000

## SUBJECTIVITIES

### Prior to Binding

- Provide a completed and signed Acord and Supplemental Application.
- Provide signed Policyholder Disclosure Notice of Terrorism selection form.
- Provide a completed and signed Surplus Lines Filing Confirmation.
- Provide currently valued company loss runs for the last five years for the GC awarded the contract.
- If the Earth Movement Exclusion is removed from the proposal, prior to binding, a signed letter from the general contractor stating that they will comply with all the written recommendations of the geotechnical engineer.
- Provide a copy of Insured's internal quality control program.
- Forward insured safety program with name of safety director.
- Signed letter on CRP letterhead CRP retailer will provide TMHCC with ALL enrollment documents when requested and 30 days after project completion.
- Provide copies of the site pollution policy and CPL policy.

### Post Binding

- A Risk Review must be conducted within 90 days of binding coverage. The Risk Review will contain two site safety visits:
  - 1st visit is during initial stages of construction to verify perimeter fencing, signage, security, and traffic control and
  - 2nd visit is during framing stage to verify insured is OSHA compliant.
- If safety reports reveal critical life safety violations, insured will be assessed \$800.00 each visit by TMHCC for additional site safety visits.

## TERRORISM SUMMARY

### **Carrier, Limits and Premium**

Stand-Alone Policy:	Terrorism Liability (GL and PLL)
Carrier	Lloyd's-Talbot Syndicate Leader
Limit of Liability:	\$100,000,000
Total Premium	\$123,840
CRA Share	\$47,403

Stand-Alone Policy	Terrorism Property Damage/Sabotage (BR)
Carrier	Lloyd's-XL Caitlin Syndicate Leader

Limit of Liability: Limit equal to 100% of the replacement value of all horizontal and vertical construction components \$392,649,316 (estimated)

Total Premium \$110,444

CRA Share \$42,844

Total Premiums \$234,284/

CRA Share \$90,247

1. **Self-Insured Retention (Deductible)**: \$50,000 per occurrence for Terrorism Liability (GL/PLL); \$50,000 per occurrence for Terrorism Property Damage and Sabotage (BR) and 7 days for delay-in-start-up.
2. **Premium Allocation**: See above.
3. **Term**: 3 years
4. **Insureds**:
  - Carson Reclamation Authority, the City of Carson, RE|Solutions, LLC, CAM-Carson, LLC and any subsidiary, associated, allied or affiliated company or individual whether wholly or partially controlled by the foregoing are the "Named Insureds".
  - Any party that any Named Insured is required to provide insurance pursuant to a contract or agreement.
5. **Additional Insureds/Other Insureds**:
  - All contractors and sub-contractors of any tier and/or its subsidiary and/or its parent company
  - Independent engineer, vendors and manufacturers of every tier

## V. **FISCAL IMPACT**

The total of the premiums for all three policies is \$2,294,524. The CRA's share of these premiums is \$878,856; the remainder is to be paid by CAM-Carson, LLC based on the relative construction values.

## VI. **EXHIBITS**

Table of Premiums, Taxes and JLT Commission by Line of Coverage (pg. 8)

Prepared by: John S. Raymond, Executive Director