



Legislation Text

File #: 2018-299, Version: 1

Report to Carson Reclamation Authority

Tuesday, May 08, 2018

Discussion

SUBJECT:

AUTHORIZE EXECUTIVE DIRECTOR TO APPROVE AND BIND COVERAGE ON AN OWNER PROTECTIVE PROFESSIONAL INDEMNITY PROGRAM (OPPI) WITH BERKLEY ASSURANCE COMPANY WITH A \$25,000,000 LIMIT OF LIABILITY, AT AN ESTIMATED TOTAL COST OF UP TO \$407,679 PLUS BROKER COMMISSION AND SURPLUS LINES TAXES, TO BE SHARED WITH CAM-CARSON, LLC BASED ON A 60/40 SPLIT, 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.: an Owner's Protective Professional Insurance Policy ("OPPI") with a limit of liability of \$25,000,000. The premium and costs is to be shared with CAM-Carson, LLC, the Cell 2 developer, based on the negotiated 60/40 split.

II. RECOMMENDATION

TAKE the following actions:

1. AUTHORIZE the Executive Director to bind coverage on behalf of the Carson Reclamation Authority on an Owner Protective Professional Indemnity Program (OPPI) with a limit of liability of \$25,000,000, procured through JLT Specialty Insurance Services, Inc. having a term of five years plus ten years of extended operations coverage, with a total cost of \$407,649 plus broker commission and surplus lines taxes, to be shared with CAM-Carson, LLC based on a 60/40 split.

III. ALTERNATIVES

TAKE any other action the Reclamation Authority Board deems appropriate.

IV. BACKGROUND

OPPI policies have 2 distinct coverage parts:

1. Protective Professional Indemnity - Indemnifies Insureds for their loss resulting from a protective professional claim excess the underlying insurance policies provided by the professional services firms on the project. This is a first-party coverage for the Insureds on the policy, and is designed to cover economic damages to owners/developers that result from professional errors or omissions. Economic damages may be in the form of additional design costs, demolition costs, repair costs, additional construction costs, loss of revenue due to project delays, etc.

In order to trigger this coverage, the policy requires that an Insured makes a claim against the entity (allegedly) responsible for the negligence. An example of a definition of a protective professional claim from an OPPI policy is below:

Protective Professional Claim means a written demand, formal demand for arbitration or mediation or a suit instituted by you against the Responsible Professional Entity seeking a remedy and alleging liability or responsibility on the part of such Responsible Professional Entity arising from an act, error or omission in the rendering of or failure to render Professional Services. Protective Professional Claim does not include a demand or proceeding for non-monetary or injunctive relief.

This coverage also is meant to be excess coverage to the Professional Insurance policies provided by members of the design and construction team, and this coverage requires that indemnity is sought from those policies first. The OPPI will be designed to respond if the underlying Professional Insurance policies are not available or if the limits on those policies otherwise have been exhausted, thereby not penalizing the owner/developer for failure to maintain the required underlying limits.

2. Third-Party Claim Liability and Defense - Provides defense and indemnity for damages Insureds are legally obligated to pay for third-party claims that result from actual or alleged negligence by professional services firms on the project.

V. FISCAL IMPACT

The total cost of the policy is expected to be approximately \$464,000, with the CRA bearing 60% of the cost and CAM-Carson, LLC (Macerich) bearing 40% of the cost.

VI. EXHIBITS

1. OPPI Summary (pgs. 3-5)

Prepared by: John S. Raymond, Executive Director