



Legislation Text

File #: 2018-636, Version: 1

Report to Carson Reclamation Authority

Tuesday, September 04, 2018

Consent

SUBJECT:

RATIFY THE EXTENSION OF COVERAGE FOR THE PERIOD JUNE 1, 2018 THROUGH JULY 31, 2018 AND APPROVE PAYMENT FOR A BUILDER'S RISK POLICY THROUGH LEXINGTON INSURANCE COMPANY IN THE AMOUNT OF \$4,530.48 FOR PREMIUMS, SURPLUS LINES TAXES, AND STAMPING FEES, AND A GENERAL LIABILITY POLICY THROUGH FIRST SPECIALTY INSURANCE COMPANY IN THE AMOUNT OF \$4,322.02 FOR PREMIUMS, SURPLUS LINES TAXES, AND STAMPING FEES, PROCURED THROUGH JLT SPECIALTY INSURANCE SERVICES; AND, RATIFY THE EXTENSION OF COVERAGE FOR THE PERIOD AUGUST 1, 2018 THROUGH SEPTEMBER 30, 2018 AND APPROVE PAYMENT FOR A BUILDER'S RISK POLICY THROUGH LEXINGTON INSURANCE COMPANY IN THE AMOUNT OF \$4,530.48 FOR PREMIUMS, SURPLUS LINES TAXES, AND STAMPING FEES, AND A GENERAL LIABILITY POLICY THROUGH FIRST SPECIALTY INSURANCE COMPANY IN THE AMOUNT OF \$4,322.02 FOR PREMIUMS, SURPLUS LINES TAXES, AND STAMPING FEES, ALSO PROCURED THROUGH JLT SPECIALTY INSURANCE SERVICES

I. SUMMARY

This matter has been carried over from the August 7, 2018 Carson Reclamation Authority agenda due to no quorum on August 7, 2018.

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"), which replaces the pre-development GL policy, was not expected to be in place until April, once all the other agreements with Macerich were finalized. On February 6, 2018 the Board therefore ratified an extension of coverage of the two policies until April (the BR policy expired 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. On April 3, the Board took a similar action because the effective

binding date for the OCIP was changed to be mid-May, requiring another short-term extension of the two policies until June 1, 2018.

Because there was no Board meeting in June, the Executive Director bound the GL and BR policies until August 1, anticipating the OCIP binding and the start of construction in mid- to late July. The ratification was inadvertently left off the July 3 agenda with all of the agreements related to the CAM-Carson transaction. The combined amount of the premiums, surplus lines taxes and stamping fees was \$8,852.50. Those policies have been paid.

The binding date for the OCIP and the start of construction is now anticipated to be September. As such, this action ratifies the action of the Executive Director to again 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 payments due to JLT Specialty Insurance Services, Inc., the CRA's insurance broker. This would extend the two policies until October 1, 2018 at a similar combined premium and fees of \$8,852.50.

II. RECOMMENDATION

1. RATIFY THE EXTENSION OF COVERAGE FOR THE PERIOD JUNE 1, 2018 THROUGH JULY 31, 2018 AND APPROVE PAYMENT FOR A BUILDER'S RISK POLICY THROUGH LEXINGTON INSURANCE COMPANY IN THE AMOUNT OF \$4,530.48 FOR PREMIUMS, SURPLUS LINES TAXES, AND STAMPING FEES, AND A GENERAL LIABILITY POLICY THROUGH FIRST SPECIALTY INSURANCE COMPANY IN THE AMOUNT OF \$4,322.02 FOR PREMIUMS, SURPLUS LINES TAXES, AND STAMPING FEES, PROCURED THROUGH JLT SPECIALTY INSURANCE SERVICES; AND,
2. RATIFY THE EXTENSION OF COVERAGE FOR THE PERIOD AUGUST 1, 2018 THROUGH SEPTEMBER 30, 2018 AND APPROVE PAYMENT FOR A BUILDER'S RISK POLICY THROUGH LEXINGTON INSURANCE COMPANY IN THE AMOUNT OF \$4,530.48 FOR PREMIUMS, SURPLUS LINES TAXES, AND STAMPING FEES, AND A GENERAL LIABILITY POLICY THROUGH FIRST SPECIALTY INSURANCE COMPANY IN THE AMOUNT OF \$4,322.02 FOR PREMIUMS, SURPLUS LINES TAXES, AND STAMPING FEES, ALSO PROCURED THROUGH JLT SPECIALTY INSURANCE SERVICES
3. Authorize the Executive Director to execute all documents related to the policies

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. The Board approved another extension in April until the end of May, and in late May due to further delays in the project, the Executive Director approved the extension of the two policies until July 31, and now until September 30. This action is to ratify those last two 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 combined payment of the \$8,852.50 for each of the two month extensions.

V. FISCAL IMPACT

The cost of the two extensions is \$17,705.00 due to JLT Specialty Insurance Services, Inc., the CRA's insurance broker.

VI. EXHIBITS

1. Invoice for GL Coverage. pg. 5
2. Invoice for BR Coverage. pg. 6

1.

Prepared by: John S. Raymond, Executive Director