



Legislation Text

File #: 2020-695, Version: 1

Report to Mayor and City Council

Tuesday, October 06, 2020

Consent

SUBJECT:

CONSIDER THE RENEWAL OF A BUILDER'S RISK POLICY THROUGH AMERICAN INTERNATIONAL GROUP UK LIMITED, PROCURED THROUGH MARSH/JLT SPECIALTY INSURANCE SERVICES, INC., AT A PREMIUM AMOUNT NOT TO EXCEED \$82,611.30

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 expired in 2018, and were replaced by a comprehensive "wrap" insurance program developed jointly with Macerich, called an Owner Controlled Insurance Program ("OCIP").

The CRA's share of the Builder's Risk policy, which would be renewed by this action, excludes Cell 2, which is the responsibility of CAM under the wrap agreements. This protects the investments the CRA or its predecessors have made in the construction of civil or remedial infrastructure on Cells 1, 3, 4, and 5.

The annual premium is \$82,611.30 (renewal quote attached as Exhibit 1). If one or more cells are going to be developed (such as Cells 3, 4, and 5 under FBD Carson) after the annual premium has been renewed then these cell(s) will come off this annual policy and a new BR policy will be offered for these cells, with values based on their total construction costs and for the entire length of the construction term of the cells to be developed. This was part of the negotiation of the Insurance Administration Agreement with FBD Carson - how those two policies would reconcile in a new BR wrap since there would be new construction value from the vertical development constructed on top of already-existing, CRA-owned infrastructure.

Once that new BR policy is in place a return premium will be due by insurers to the CRA based on i) the actual values spent on these cells until that date and ii) based on the term this annual policy was actually in place. In other words, once a new policy is placed on

Cells 3, 4 and 5 the CRA would expect a return of a portion of this premium from the insurer.

II. RECOMMENDATION

1. APPROVE THE RENEWAL OF A BUILDER'S RISK POLICY THROUGH AMERICAN INTERNATIONAL GROUP UK LIMITED, PROCURED THROUGH JLT SPECIALTY INSURANCE SERVICES, INC., AT A PREMIUM AMOUNT NOT TO EXCEED \$82,611.30
2. DIRECT the Executive Director to bind the policy.

III. ALTERNATIVES

TAKE another action the Board deems appropriate.

IV. BACKGROUND

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 is administered by an affiliate of the broker of record, Marsh/JLT. JLT was purchased by Marsh last year and Marsh now directly services most of the CRA's policies.

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.

CAM and the CRA obtained and maintaining a phased Builder's Risk program for all of the horizontal and vertical construction components at the Project (valued at about \$350,000,000) with a limit equal to 100% of the replacement value of all such horizontal and vertical components. This included all five cells.

The Builder's Risk program was designed to be expanded in the future to cover horizontal work conducted on other cells of the Site and vertical construction work thereon, such as the development of Cells 3, 4, and 5 by a different developer. The Builder's Risk program also contains 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 CAM. The Builder's Risk program is 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 includes coverage with respect to repair of physical damage to work or remedial components arising out of a loss.

V. FISCAL IMPACT

The premium of \$82,611.30 is not covered in the CRA's 2020-21 budget, but there is sufficient capacity in the category of Insurance and Legal to cover the cost. A portion of it will be refunded when a new BR for Cells 3, 4 and 5 is written.

VI. EXHIBITS

1. AIG Endorsement Agreement (pgs. 4-7)

1.

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