



## Legislation Text

File #: 2021-881, Version: 1

### Report to Mayor and City Council

Tuesday, December 07, 2021

Consent

#### SUBJECT:

**CONSIDER: (1) APPROVAL OF PURCHASE OF TRANSIT LIABILITY INSURANCE FROM CALTIP; (2) ADOPTION OF A RESOLUTION AMENDING THE FISCAL YEAR 2021-22 BUDGET IN THE TRANSPORTATION SERVICE DIVISION PROPOSITION A FUND FOR THE PURCHASE OF TRANSIT INSURANCE; AND (3) ADOPTION OF A RESOLUTION AMENDING THE FISCAL YEAR 2021-22 BUDGET IN THE TRANSPORTATION SERVICES DIVISION PROPOSITION C FUND TO ALLOCATE FUNDS THAT WERE NOT INCLUDED DURING THE PREPARATION OF THE PROPOSED FISCAL YEAR 2021-22 BUDGET (CITY COUNCIL)**

#### **I. SUMMARY**

Staff is seeking the approval of the City Council to procure transit liability insurance and make budget appropriations in support of the Transportation Services Division's programming for Fiscal Year (FY) 2021-22. The appropriations would be made internally within the City's Proposition A and C funds. There is no fiscal impact to the City's General Fund accounts.

The procurement and first appropriation request pertains to binding liability insurance coverage for the City's transit operations for an annual premium of \$112,931, prorated for the remaining seven (7) months of FY 2021-22, or \$65,877. The proposed insurance would cover City's liabilities associated with operating Carson Circuit, the City's staff-operated fixed-route service, as well as the City's contingent liabilities associated with the fixed-route service provided by Long Beach Transit (LBT).

The second request is being made to rectify a miscalculation that was made during staff's preparation of the proposed FY 2021-22 budget. Prior to submitting the proposed Proposition C budget, the subtotals of two accounts were absent in the calculation of the grand total. This error should have been identified and corrected prior to submitting the proposed budget to the Finance Department. As a result, these amounts were not included in the adopted FY 2021-22 budget. Staff is requesting to add these respective amounts to the current FY budget.

## **II. RECOMMENDATION**

TAKE the following actions:

1. APPROVE the purchase of transit liability insurance from CalTIP with a limit of \$25,000,000 and self-insured retention (deductible) of \$250,000, at an annual premium of \$112,931. The initial premium will be prorated for the remaining term of CalTIP's policy period through April 30, 2022 (Exhibit No. 1, p. 11) (the "Insurance Coverage"); and
2. APPROVE the CalTIP joint powers agreement (Exhibit No. 1, pp. 1-10); and AUTHORIZE the City Manager to execute same and any related documents as necessary to bind the Insurance Coverage, following approval as to form by the City Attorney; and
3. WAIVE further reading and ADOPT Resolution No. 21-155, "A RESOLUTION OF THE CARSON CITY COUNCIL AMENDING THE FISCAL YEAR 2021-22 BUDGET IN THE TRANSPORTATION SERVICE DIVISION PROPOSITION A FUND FOR THE PURCHASE OF TRANSIT INSURANCE" (Exhibit No. 2); and
4. WAIVE further reading and ADOPT Resolution No. 21-162, "A RESOLUTION OF THE CARSON CITY COUNCIL AMENDING THE FISCAL YEAR 2021-22 BUDGET IN THE TRANSPORTATION SERVICES DIVISION PROPOSITION C FUND TO ALLOCATE FUNDS THAT WERE NOT INCLUDED DURING THE PREPARATION OF THE PROPOSED FISCAL YEAR 2021-22 BUDGET" (Exhibit No. 3).

## **III. ALTERNATIVES**

TAKE the following actions:

1. APPROVE the proposed purchase of a transit liability insurance policy from CalTIP less contingent liability coverage over LBT fixed-route service, at an annual premium of \$29,972 prorated for the remaining term of CalTIP's policy period through April 30, 2022;

Or

2. TAKE another action the City Council deems appropriate.

## **IV. BACKGROUND**

### Transit Insurance Policy

In response to the outbreak of the COVID-19 pandemic, the Disaster Council suspended the City's local fixed-route bus service, the Carson Circuit, effective March 28, 2020. As COVID-19 cases continued to climb, staff did not anticipate reinstating the service before the contract end date, or December 31, 2020. With that in mind, the City ended its fixed-route bus service agreement with MV Transportation, Inc. effective November 8, 2020.

Prior to the declared pandemic, with the aim of improving regional travel to and from the city, staff had engaged Long Beach Transit (LBT) in discussions to provide fixed-route bus service in Carson. Through a series of meetings and planning efforts, the City Council approved a service agreement with LBT at the September 7, 2021 meeting. As of September 27, 2021, LBT began operating three new routes in Carson.

In conjunction with this new service from LBT, the City Council approved staff's recommendation on October 19, 2021 to reestablish the Carson Circuit as a City-operated service, utilizing City-owned minibuses. The intention is to help connect residents to LBT bus stops in the form of two (2) new neighborhood-serving routes, thereby bridging the travel gap between Torrance Transit and Metro bus lines as well.

During contract negotiations, LBT did not agree to include in the parties' contract the minimum insurance limits required by City's excess insurance carrier, PRISM. This resulted in PRISM declining to cover the City's transit liability for the Carson Circuit service, as well as contingent liabilities associated with the contracted LBT lines.

To obtain the insurance necessary to operate the Carson Circuit, staff worked with the City's insurance broker, Alliant, to obtain stand-alone transit insurance quotes to cover such risks. Quotes were obtained from the open insurance market, as well as from the California Transit Systems Joint Powers Authority (CalTIP), a Joint Powers Authority that insures local transit lines. Without this coverage, the City would be subject and liable for all transit-related claims from passengers and/or third parties.

The quotes from the open insurance market were extremely expensive, with premium indications of \$281,591 for \$1,000,000 limit and \$500,000 deductible. Increasing the limit to \$5,000,000, or \$10,000,000, would increase the premium to \$955,813 and \$1,380,813 respectively.

Staff received more favorable quotes from CalTIP. CalTIP provides liability coverage to over 30 California transit operators, including Gardena, Culver City, El Monte, Torrance and Whittier.

To cover the liability risks associated with Carson Circuit and contingent liabilities associated with fixed-route service provided by LBT, CalTIP's annual premium quote is \$112,931. This premium is based on 389,247 total projected revenue miles (349,247 from LBT and 40,000 from Carson Circuit). The quoted insurance includes \$25,000,000 limit and a self-insured retention (SIR, or deductible) of \$250,000. (Exhibit No. 1, p. 11).

CalTIP offered an alternative quote of \$29,972 to cover Carson Circuit only, without coverage over LBT-operated lines.

LBT agreed to the City's full standard service provider indemnification provisions in the parties' contract, which includes LBT indemnifying and defending the City for claims arising out of or in connection with (i) LBT's negligent performance of services, (ii) LBT's reckless or willful misconduct, or (iii) LBT's negligent performance of or failure to perform any provision of the parties' contract. However, the City may be subject to third party

claims where there is no negligence by LBT. Examples of such claims may include traffic accidents where there is no fault on the part of LBT; passenger slip and falls while boarding and alighting the bus, etc. In other possible situations, LBT's \$8,000,000 combination of self-insurance and excess insurance may be insufficient to cover claims. CalTIP's proposed coverage of Carson Circuit and LBT lines will cover the City's financial exposures in these cases and will also carry higher limits.

After consulting with the City Attorney's Office, staff is recommending that the City purchase CalTIP's proposed insurance covering both the Carson Circuit and the LBT routes. The alternative, Carson Circuit-only insurance, would leave the City without insurance to cover any contingent liabilities arising from the LBT routes in the event that LBT declines or is unable to defend or indemnify the City for a given claim.

Procuring the CalTIP transit insurance (whether for Carson Circuit only or for both Carson Circuit and LBT contingent liabilities) will require the City becoming a party to the CalTIP joint powers agreement (Exhibit No. 1, pp. 1-10). CalTIP, like other insurers, is not open to negotiating terms of the joint powers agreement.

The City Attorney's office has reviewed the agreement and wishes to call the Council's attention to the fact that the joint powers agreement includes a clause requiring that parties submit to mandatory arbitration to resolve disputes. Additionally, CalTIP like other JPA or pool insurance arrangements, is considered a long-term partnership for members. The JPA Agreement requires the City to remain in the program for a period of at least three full program years. After that, the City may only withdraw prior to the beginning of a program year if a six-month notice of intent to withdraw has been provided.

Per CMC Section 2611(i)(4) of the City's purchasing ordinance, purchases of insurance and related services are exempt from the City's bidding requirement.

Notwithstanding the above, the City's insurance broker worked with staff to market the coverage, obtain alternative quotes, and provide feedback on the recommended insurance policy.

CalTIP's premiums are based on projected annual revenue miles and are subject to adjustments based upon actual revenue miles operated. Additionally, CalTIP's insurance policy period is from May 1, 2021 to April 30, 2022. Therefore, the premium budget for the last two months of FY 2021-22 are estimates based on current term premium and may need to be adjusted.

#### Appropriations to the Proposition C fund

During staff's preparation of the proposed FY 2021-22 budget, the proposed subtotals of \$375,000.00 in Account No. 219-90-940-180-6009 (Supplies) and \$960,000.00 in Account No. 219-90-940-180-6010 (Bus Contract) were absent in the calculation of the proposed Proposition C budget. This error should have been identified and corrected prior to submitting the proposed budget to the Finance Department. As a result, these amounts

were not included in the adopted FY 2021-22 budget. There are sufficient funds available in the City's Proposition A and C undesignated fund balances, as these amounts were allocated to the City of Carson as part of an annual appropriation from LA Metro. Staff is requesting to add these respective amounts to the current FY budget.

## **V. FISCAL IMPACT**

There is no fiscal impact to the City's General Fund accounts.

Should the City Council approve the annual premium of \$112,931, the budget appropriation for Proposition A account number 218-90-940-101-6004 would be \$65,877, prorated for the remaining seven (7) months of Fiscal Year (FY) 2021-22 (Exhibit No. 2; Resolution No. 21-155).

Should the City Council approve an appropriation to add the subtotals missing from the adopted FY 2021-22 Proposition C budget, the amounts would be \$375,000.00 for Account No. 219-90-940-180-6009 (Supplies) and \$960,000.00 in Account No. 219-90-940-180-6010 (Bus Contract) (Exhibit No. 3; Resolution No. 21-162).

## **VI. EXHIBITS**

1. CalTIP JPA Agreement and Quote (pgs. 6-16).
2. Resolution No. 21-155 (pgs 17-18).
3. Resolution No. 21-162 (pgs 19-20).

Prepared by: Jason Jo, Transportation Supervisor; Roobik Galoosian; Sr. Risk Management Analyst; Robert Lennox, Community Services Director; City Attorney's Office