



# ***Agenda Report***

## ***Fullerton City Council***

**MEETING DATE:** JUNE 1, 2021

**TO:** CITY COUNCIL / SUCCESSOR AGENCY

**SUBMITTED BY:** STEVE DANLEY, ACTING CITY MANAGER

**PREPARED BY:** CHRISTA JOHNSON, DEPUTY CITY MANAGER  
PAMELA MACKIE, HR / RISK MANAGEMENT ANALYST  
OLGA VELLANOWETH, RISK MGMT SPECIALIST

**SUBJECT:** INSURANCE PROGRAM REPORT AND  
RECOMMENDATIONS

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### **SUMMARY**

Approve recommendations contained in the Fiscal Year (FY) 2021-22 City of Fullerton property and casualty insurance programs report.

### **RECOMMENDATION**

1. Authorize City Manager, or designee, to bind excess workers' compensation insurance with maximum limit set to statutory benefit maximums and \$750,000 lower limit for non-safety employees and \$1 million for safety employees with Safety National Insurance Company at a \$214,412 premium cost.
2. Authorize City Manager, or designee, to bind excess liability insurance with \$4 million to \$8 million limit per occurrence with Princeton Excess & Surplus Lines Insurance Company and Gemini Insurance Company at a \$2,234,809 premium cost.
3. Authorize City Manager, or designee, to bind airport liability insurance with \$75 million per loss limit with Ace Insurance Company and a three-year rate guarantee at a \$19,842 premium per year, billed annually.
4. Authorize City Manager, or designee, to bind underground storage tank liability with \$1 million per storage tank incident limit with Ace Insurance Company at \$7,026 premium cost.
5. Authorize City Manager, or designee, to bind CNG general liability with \$3 million aggregate limit with Nautilus Insurance Company at \$2,186 premium cost.
6. Receive and file City's insurance programs report including information regarding insurance coverage purchased through City's participation in Independent Cities

Risk Management Authority including the purchase of excess liability insurance above \$8 million per occurrence, All Risk Property coverage, Auto Physical Damage Insurance, Crime Insurance, Cyber Liability Insurance and Terrorism Insurance.

#### PRIORITY POLICY STATEMENT

This item matches the following Priority Policy Statement:

- Fiscal and Organizational Stability
- Infrastructure and City Assets.

#### FISCAL IMPACT

The projected cost of the various property and casualty insurance coverages funded by the City's Liability Program totals \$3,218,788. This is \$543,276 more than the amount projected and included in the proposed FY 2021-22 budget. At the time the budget was prepared, insurance premiums were unknown and the City's insurance applications were being reviewed by various carriers. The budget allocation shortfall will be covered with available funds from the liability program fund balance. This figure includes the now known cost of those policies renewing on July 1, 2021, that the City purchases directly, as well as the anticipated cost of coverage through the Independent Cities Risk Management Authority.

The premium for excess workers' compensation insurance totals \$214,412. The proposed FY 2021-22 budget has sufficient funding to cover these costs.

#### DISCUSSION

The City of Fullerton's risk financing strategy combines self-insurance with commercial insurance and reinsurance policies to protect against exposure due to financial or property losses and for employee workers' compensation losses. Self-insured retention (SIR) covers the portion of losses paid from City funds. Staff recommendations for funding of this self-insured layer is based on projections performed annually by an independent actuary retained by the City.

The City has been a member of and has obtained excess liability coverage and other group purchase coverages through the Independent Cities Risk Management Authority (ICRMA) since 1993. ICRMA is a joint powers authority with member cities including Adelanto, Bell, Downey, El Monte, El Segundo, Fullerton, Glendora, Hawthorne, Hermosa Beach, Huntington Park, Inglewood, Lynwood, Monterey Park, San Fernando, Santa Ana and South Gate. City staff based all ICRMA costs referenced in this agenda report on the proposed ICRMA budget, scheduled for consideration by the ICRMA Governing Board on June 10, 2021.

The City secures insurance purchased outside the ICRMA programs; Airport Liability, Earthquake Insurance/Flood Insurance, Underground Storage Tanks, CNG Station and Unmanned Aircraft System/Drone Insurance through broker Arthur J Gallagher & Co. This broker services the ICRMA account as well as the City of Fullerton. Broker commissions for the various lines of coverage range from 5% to 17.5%. The commission earnings represent the total compensation for procuring coverage

quotations, negotiating premiums and coverage details and providing a wide range of support services throughout the year.

#### Workers' Compensation Insurance

The SIR for the workers' compensation program covers \$750,000 per occurrence for non-safety employees and \$1 million per occurrence for safety employees. The City purchases excess insurance to protect against losses above the SIR. Safety National Insurance Company, an A+ XV rated company currently provides this coverage. The market for excess workers' compensation has historically been soft. However, as we move through the COVID-19 pandemic, rates have begun increasing. Safety National remains a market leader. The premium this year totals \$214,412. This policy has a 15% broker commission which is reasonable and in line with the coverage.

#### Airport Liability Insurance

The City directly purchases insurance to protect against airport liability exposures. ACE Property and Casualty Insurance Company, an A+ XV rated company, currently provides our Airport Liability Insurance. Although Aviation Liability Insurance Premiums are on the rise and with carriers restricting coverage terms, the City's liability limits did not change from the prior three-year policy term. The City had a three-year rate guarantee from July 1, 2018 - June 30, 2021. The renewal premium for the same limit for the next three-year period (July 1, 2021 – June 30, 2024) is \$19,842 per annual installment, up from \$18,182. This policy has a 17.5% broker commission.

#### Earthquake Insurance / Flood Insurance

In FY 2018-19, City Council approved the purchase of Earthquake and Flood insurance for the first time in more than a decade. City Council approved earth movement and flood insurance at a cost of \$608,509 on April 20, 2021.

#### Excess Liability Insurance

In June 2020, City Council received staff's recommendation to increase the SIR to \$2 million per occurrence for FY 2020-21, due in part to an increase in City claim activity as well as the deterioration of the insurance market, with carriers reducing coverage limits and substantially increasing premiums; at 100% – 200% increases. In October 2020, the City's insurance carrier issued a notice of cancellation effective December 24, 2020, due to the need to reprice the account to reflect the current claim activity. As a result, on December 21, 2020, City Council authorized increasing the SIR to \$4 million and authorized the City Manager to bind two excess general liability insurance policies – 1) \$3 million policy issued by Gemini Insurance Company and 2) \$1 million policy with Princeton Excess & Surplus Lines Insurance Company. The market for public entity liability continues to deteriorate with many additional insurers withdrawing from the marketplace due to corporate mandates. The annual premium totals for the City's Excess Liability Insurance is \$2,234,809.

Above the City's primary insurance layer of \$8 million as discussed above, is an additional \$27 million coverage limit purchased through ICRMA. The projected cost of the ICRMA layer of coverage is \$671,130. In addition, ICRMA now provides third party administrator (TPA) claims adjusting services as a component of membership. Carl Warren & Company works closely with City staff and attorneys to bring claims to

resolution. ICRMA projects a \$97,826 charge for FY 2021-22, consistent with the costs of contracting directly with the TPA.

#### Property Insurance / Auto Physical Damage Insurance

Beginning in FY 2017-18, ICRMA offered a group purchase program that combined All Risk Property, Boiler and Machinery and Auto Physical Damage Insurance into one group purchase program with a \$250,000 pool deductible and a \$500,000 aggregate deductible with layers of commercial coverage combining coverage limits. The program provides a \$250 million limit per loss with a \$10,000 per member deductible.

In Fiscal Year 2021-22, the All Risk Property and Boiler and Machinery coverage will be separate from the Auto Physical Damage coverage. The City's projected cost for the All Risk Property and Boiler and Machinery coverage totals \$225,069 and \$43,885 for the Auto Physical Damage coverage. These costs represent a slight increase compared to the 2020-21 premium of \$258,502 for the combined coverages.

#### Crime Insurance

This policy protects the City against the risk of loss due to employee acts of dishonesty or theft by an outside party. In July of 2016, the City joined the ICRMA crime protection group purchase program. The per loss limit totals \$5 million. Staff anticipates the City's 2021-22 premium cost to total \$6,255, a slight increase from last year.

#### Cyber Risk Liability Insurance

In 2012-13, the City began purchasing cyber risk liability coverage, insurance for failure to protect or unauthorized release of personal information of employees or customers. ICRMA began offering this coverage as group coverage in 2014-15 at a much lower cost than the City's individual coverage. The City's FY 2019-20 cost remained flat from 2018-19 due to market reassessment of the risk and broker strategy. With increased Ransomware claims, remote workforce Cyber Risk claims have increased over 200%, with public sector losses higher than all other industries. Only Chubb has offered the same carrier terms to ICRMA and continues to offer the best coverage terms and pricing. Due to the City's large payout, the renewal pricing is similar to that seen by other municipal insurance pools. The City's expected 2021-22 premium cost totals \$21,311, a 159.6% increase.

#### Underground Storage Tank Insurance

The City purchases coverage compliant with the Environmental Protection Agency and State Water Resources Control Board requirements for owners and operators of underground storage tanks. The City currently has five underground storage tanks; two at the Public Works Basque Yard, two at the Police Department and one at City Hall. This coverage provides \$1 million limits per "Storage Tank Incident" with a \$2 million aggregate limit per incident, a \$2 million legal defense expense aggregate limit and an overall \$4 million policy aggregate. The policy has a \$10,000 deductible, written on a "claims made" form. The City will renew this policy at the end of July with a \$7,026 premium.

#### CNG Station - Commercial General Liability Insurance

The City purchases commercial general liability protection for the CNG Station. The current policy with Nautilus Insurance provides \$2 million per occurrence limits with a \$3

million aggregate and \$500 deductible. This policy will renew at the same limits and deductible at a \$2,186 rate.

#### Terrorism Coverage

The Terrorism program provides coverage for property and liability claims in connection with a terrorist event. The coverage with Lloyd's Syndicate #2623/623 (Beazley) will provide a \$10 million per occurrence limit and a \$10 million annual program aggregate limit. The ICRMA Board will discuss this coverage at its June 10, 2021 meeting. Fullerton's projected cost totals \$6,230.

#### The Unmanned Aircraft System / Drone Insurance Policy

The City began purchasing unmanned aircraft system / drone liability insurance in 2019 when the police department launched their drone operations. The current policy with United States Aircraft Insurance Group pays \$2 million per occurrence. This policy will expire August 28, 2021. Staff anticipates renewing for a premium at, or near, the expiring \$2,319 premium.