



**AGENDA REPORT**

**PROPOSED ACTION:** **Resolution:** Approve and Authorize the Port Risk Manager to Renew the Port of Oakland's Contractors Pollution Liability Insurance Policy with Navigators Specialty Insurance Company, Arranged and Paid Through Alliant Insurance Services, for an Amount Not to Exceed \$232,000, and Delegate Authority to the Port Risk Manager to Execute any Necessary Documents. **(Finance and Administration)**

**Submitted By:** Julie Lam, Chief Financial Officer; Danny Wan, Executive Director

**Parties Involved:**

Alliant Insurance Services, Insurance Broker, Los Angeles, CA

Navigators Specialty Insurance Company, Insurance Company, New York, NY

**Amount:** Not to Exceed \$232,000 (Capital Expense)

**EXECUTIVE SUMMARY:**

Contractors pollution liability (CPL) is part of the Port's Owner Controlled Insurance Program (OCIP), which the Port has had since 1999, and provides protection to the Port and the Port's contractors in the event such contractor releases pollutants or exacerbates existing pollution conditions during the construction of a Port capital improvement project and thereby causes bodily injury, property damage, or environmental damage. The proposed CPL insurance policy is expected to cost approximately \$184,110 but not to exceed \$232,000.

**BACKGROUND & ANALYSIS**

The Port's capital construction contracts require the Port to provide CPL insurance. The Port's existing CPL insurance, placed with Navigators Specialty Insurance Company (Navigators), is due to expire on July 14, 2023. The Port's OCIP also provides workers compensation, general liability and excess liability insurance protection for enrolled contractors and sub-contractors working on Port capital construction projects. These other policies expire in February of 2026. The CPL is presented separately because renewal details are not available when the Board considers these other policies.

Port staff asked the Port's prime broker of construction insurance, Alliant Insurance Services (Alliant), to explore options for renewing the CPL coverage effective July 14, 2023.

The following Table 1 compares the proposed Navigators CPL policy with the expiring policy. Although premium is increasing due to an increased construction forecast, the premium rate has decreased by 19%. Coverage under the two policies is substantially the same, except for a notable improvement in the coverage for defense costs. The

expiring policy provided coverage for \$5,000,000 in defense costs, while the proposed policy provides coverage for full defense costs, without eroding the policy limit.

**Table 1: Comparison to Expiring Policy**

	<b>Current CPL Policy (3 Year Policy Term)</b>	<b>Proposed CPL Policy (3 Year Policy Term)</b>
Primary Insurance Carrier:	Navigators	Navigators
Expiration Date:	July 14, 2023	July 14, 2026
Limit:	\$20,000,000	\$20,000,000
Term:	3 Years	3 Years
Defense Expense Outside Limit:	\$5,000,000	Full Defense Outside Limit
Deductible per Occurrence:	\$100,000	\$100,000
Estimated Construction Spend:	\$156,001,000	\$253,206,000
Premium Rate/\$1000: <i>incl. Fees/Taxes</i>	\$0.892391715	\$0.727115471
Premium incl. Fees/Taxes:	\$139,214	\$184,110

### **Insurance Broker Compensation**

Alliant will be compensated solely by commission paid by the insurance company. Such commission is retained from premiums paid and is expected to be 12.5% of the premium cost (net of taxes/fees), or about \$22,305.

### **On-Going Work to Finalize CPL Renewal**

As is customary in the insurance market, terms, conditions, and pricing are not locked-in until very close to the insurance policy effective date. As a result, it is important to note that through the insurance carrier's on-going review or changes to the global insurance market, pricing and scope of coverage may become more or less favorable than summarized here.

Insurance policy shall be subject to the Port Attorney's review as to form and legality.

## **OTHER FINDINGS AND PROVISIONS**

### **ENVIRONMENTAL REVIEW**

The proposed action was analyzed under the California Environmental Quality Act (CEQA) and was found to be:

- ☐ Categorically exempt under the following CEQA Guidelines Section:

Choose an item.

- ☒ Not a "Project" under CEQA, as defined in Public Resources Code § 21065.
- ☒ Other/Notes: This action, authorizing an expenditure of up to \$232,000 to renew a Port of Oakland insurance policy, is not a "Project" under CEQA Guidelines Section 15378(b)(4). Specifically, Section 15378(b)(4) states that "government fiscal activities which do not involve any commitment to any specific project" are not considered a project.

### **BUDGET**

- ☐ Administrative (No Impact to Operating, Non-Operating, or Capital Budgets); OR

☐ Operating

☐ Non-Operating

☒ Capital

Analysis: The insurance premium along with taxes and fees for the proposed Navigators CPL insurance policy as described in this Agenda Report is included in the FY 2024 Capital Budget and 5-Year Capital Improvement Plan awaiting approval by the Board of Port Commissioners anticipated for the July 13<sup>th</sup> session, as part of project-specific budgets. There will be no impact on current staffing associated with this action.

### **STAFFING**

- ☒ No Anticipated Staffing Impact.
- ☐ Anticipated Change to Budgeted Headcount.
- Reason:
- ☐ Other Anticipated Staffing Impact (e.g., Temp Help).

Reason:

<p><b><u>MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA):</u></b></p> <p><u>Applies?</u> No (Not Aviation or Maritime CIP Project) – proposed action is not covered work on Port's Capital Improvement Program in Aviation or Maritime areas above the threshold cost.</p> <p><input type="checkbox"/> <u>Additional Notes:</u></p>	<p><b><u>LIVING WAGE</u></b> (City Charter § 728):</p> <p><u>Applies?</u></p> <p>No (No Covered Agreement) – proposed action is not an agreement, contract, lease, or request to provide financial assistance within the meaning of the Living Wage requirements.</p> <p><input type="checkbox"/> <u>Additional Notes:</u></p>								
<p><b><u>SUSTAINABLE OPPORTUNITIES:</u></b></p> <p><u>Applies?</u> <b>No.</b></p> <p><u>Reason:</u> Port staff have reviewed the Port's 2000 Sustainability Policy and did not complete the Sustainability Opportunities Assessment Form. There are no sustainability opportunities related to this proposed action because it does not involve a development project, purchasing of equipment, or operations that presents sustainability opportunities.</p>	<p><b><u>GENERAL PLAN</u></b> (City Charter § 727):</p> <p><u>Conformity Determination:</u></p> <p>No Project – conformity determination not required because proposed action does not change use of or make alterations to an existing facility or create a new facility.</p>								
<p><b><u>STRATEGIC PLAN.</u></b> The proposed action would help the Port achieve the following goal(s) and objective(s) in the Port's Strategic Business Plan:</p> <table border="0"> <tr> <td><input checked="" type="checkbox"/> Grow Net Revenues</td> <td><input checked="" type="checkbox"/> Modernize and Maintain Infrastructure</td> </tr> <tr> <td><input type="checkbox"/> Improve Customer Service</td> <td><input type="checkbox"/> Pursue Employee Excellence</td> </tr> <tr> <td><input type="checkbox"/> Strengthen Safety and Security</td> <td><input type="checkbox"/> Serve Our Community</td> </tr> <tr> <td><input type="checkbox"/> Care for Our Environment</td> <td></td> </tr> </table>		<input checked="" type="checkbox"/> Grow Net Revenues	<input checked="" type="checkbox"/> Modernize and Maintain Infrastructure	<input type="checkbox"/> Improve Customer Service	<input type="checkbox"/> Pursue Employee Excellence	<input type="checkbox"/> Strengthen Safety and Security	<input type="checkbox"/> Serve Our Community	<input type="checkbox"/> Care for Our Environment	
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