

AGENDA REPORT

Resolution: Authority to Renew Port of Oakland Insurance Policies Arranged and Paid Through Prime Insurance Brokers Described Herein in an Amount Not to Exceed \$5,707,000. **(Finance & Admin.)**

MEETING DATE: 4/22/2021

AMOUNT: \$5,707,000 Operating Expense

PARTIES INVOLVED: See Attached List

SUBMITTED BY: Julie Lam, Chief Financial Officer

APPROVED BY: Danny Wan, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

Port of Oakland ("Port") staff is requesting approval from the Board of Port Commissioners ("Board") to renew various property and liability insurance policies (as more specifically listed in the attached Exhibit A – Summary of Expiring Insurance and Proposed Insurance Renewals) that expire between May 20, 2021, and July 1 of 2021, at a cost expected to be approximately \$5,435,000 but not to exceed \$5,707,000. The insurance coverage is materially the same as last year, with the exception of a recommended change in the Cyber Liability Insurance limit, as described more fully below. The total cost for renewal policies listed in Exhibit A is expected to be approximately \$764,000 greater than the amount paid last year. The premiums are projected to increase approximately 16% compared to last year.

PARTIES INVOLVED:

| Corporate Name/Principal | Location |
|--|--|
| Alliant Insurance Services (Prime Broker) | San Francisco, CA |
| Alliant Underwriting Services | Thousand Oaks, CA |
| Alliant Insurance Services (Prime Broker) | Seattle, WA |
| Marsh Risk & Insurance Services (Prime Broker) | San Francisco, CA |
| RT Specialty | San Francisco, CA |
| AIG - National Union Fire Insurance Company of Pittsburgh, PA | (New York, NY – Admin) Harrisburg, PA |
| Starr Aviation - A Division within Starr Companies/Starr Indemnity and Liability Co. (“CV Starr”) | Atlanta, GA |
| XL Insurance – Greenwich Insurance Co. (XL Catlin) | (Stamford, CT – Admin) Wilmington, DE |
| California Association of Port Authorities (“CAPA”) Umbrella Excess includes: (1) Aspen American Insurance Co.; (2) Endurance Risk Solutions Assurance Co.; (3) Liberty Mutual Ins. Co.; (4) Lloyds of London (Various Syndicates); (5) Navigators Ins. Co. (Hartford); (6) Starr Indemnity & Liability Co. and (7) Validus Specialty Underwriting (Stratford/AIG). CAPA program may also include: (1) Ascot Insurance U.S.; (2) Berkley Public Entity; (3) Markel Insurance Co. and (4) United States Fire Insurance Company (Crum & Forster) | (1) (San Francisco, CA – Admin) New York, NY; (2) (San Francisco, CA – Admin) New York, NY; (3) (Chicago, IL - Admin) Boston, MA; (4) London, United Kingdom; (5) (Rye Brook, NY – Admin) New York, NY; (6) (New York, NY – Admin) Dallas, TX; and (7) New York, NY. CAPA program insurer locations may also include: (1) (San Francisco, CA – Admin) Chicago, IL; (2) New York, NY; (3) (San Francisco, CA – Admin) Glen Allen, VA and (4) (San Francisco, CA – Admin) New York, NY |
| Crane Property Program includes: (1) AGCS Marine Insurance Co. (Allianz Ins. Co.); (2) Arch Specialty Insurance Co.; (3) Aspen Specialty Insurance Co.; (4) Everest Indemnity Insurance Company; (5) Lloyd’s of London (Various Syndicates); (6) QBE Specialty Insurance Company; (7) Starr Surplus Lines Ins. Co.; and (8) Zurich American Insurance Company. Crane Property Program may also include: (1) BRIT - Certain Underwriters at Lloyd's London BRIT Syndicate 2987; (2) Endurance American Specialty Insurance Company (Sompo); (3) Ironshore Specialty Insurance Company; and (4) Lexington Insurance Co. | (1) San Francisco, CA; (2) San Francisco, CA; (3) Pasadena, CA; (4) Los Angeles, CA; (5) London, United Kingdom; (6) New York, NY; (7) Los Angeles, CA; and (8) (Schaumburg, IL – Admin) New York, NY. Crane Property Program insurer locations may also include: (1) (Napa, CA – Admin) London, United Kingdom; (2) San Francisco, CA; (3) Boston, MA and (4) Boston, MA |

| Corporate Name/Principal | Location |
|--|---|
| XL Insurance – Indian Harbor Insurance Company (XL Catlin) | Stamford, CT |
| XL Insurance – XL Specialty Co. (XL Catlin) | (Stamford, CT – Admin) Wilmington, DE |
| AIG Worldsource – The Insurance Company of the State of Pennsylvania | New York, NY |
| Ironshore Ins. Co. | Hamilton, Bermuda |
| ACE Ins. Co. - Illinois Union Insurance Co. (Chubb) and ACE American Insurance Co. (Chubb) | (Philadelphia, PA – Admin) Chicago, IL |
| RSUI Indemnity Co. | Atlanta, GA |
| Beazley Insurance (Lloyd's of London) | London, United Kingdom |
| AGCS Marine Ins. Co. (Allianz Ins. Co.) | Chicago, IL |
| Arch Specialty Ins. Co. | (New York, NY – Admin) Omaha, NE |
| AIG - National Union Fire Insurance Company of Pittsburgh, PA | (New York, NY – Admin) Harrisburg, PA |
| Great American Insurance Co. | Cincinnati, OH |
| Federal Insurance Co. (Chubb) | (Warren, NJ – Admin) Indianapolis, IN |
| Alliant Property Insurance Program ("APIP") includes: (1) Aspen Insurance UK Limited; (2) Arch Specialty Ins. Co.; (3) Ategrity Specialty Insurance Company; (4) Chubb European Group Limited; (5) Endurance Worldwide Insurance Ltd.; (6) Evanston Insurance Co.; (7) Everest Indemnity Insurance Company; (8) Fidelis Underwriting Limited; (9) Hallmark Specialty Insurance Co.; (10) Homeland Insurance Company of NY; (11) Interstate Fire and Casualty Ins. Co. (Allianz); (12) Ironshore Europe Designated Activity Company; (13) Lancashire Insurance Co. (UK) Ltd.; (14) Landmark American Insurance Co. (RSUI); (15) Lexington Insurance Co.; (16) Liberty Mutual Fire Insurance Co; (17) Lloyds of London (various syndicates); (18) National Union Fire Insurance Company; (19) PartnerRe Ireland Insurance Ltd.; (20) Princeton Excess & Surplus Lines Ins. Co. (PESLIC); (21) QBE Specialty Insurance Co.; (22) RSUI Indemnity Company (RSUI); (23) Westport Insurance Corporation; and (24) XL Insurance America Inc. (XL Catlin) | (1) London, United Kingdom; (2) (New York, NY – Admin) Omaha, NE; (3) Scottsdale, AZ; (4) London, United Kingdom; (5) London, United Kingdom; (6) Deerfield, IL; (7) Liberty Corner, NJ; (8) London, United Kingdom; (9) Fort Worth, TX; (10) (Minnetonka, MN – Admin) Woodbury, NY; (11) San Francisco, CA; (12) Dublin, Ireland; (13) London, United Kingdom; (14) Atlanta, GA; (15) (Boston, MA – Admin) Wilmington, DE; (16) Boston, MA; (17) London, United Kingdom; (18) (New York, NY – Admin) Harrisburg, PA; (19) Dublin, Ireland; (20) Princeton, NJ; (21) New York, NY; (22) Atlanta, GA; (23) Overland Park, KS; and (24) (Stamford, CT – Admin) Wilmington, DE |
| AGCS Marine Ins. Co. (Allianz Ins. Co.) | Chicago, IL |

In last year's Agenda Report, Port staff identified the possibility that some of the APIP insurance companies could change prior to the July 1, 2020, renewal. As discussed in that prior Agenda Report, here is a listing of the additional insurance companies for the 2020 Policy Year¹. APIP, as a group purchase program, elected to take advantage of quotes from these companies in order to achieve the best possible pricing, which is often made available close to the July 1st renewal date:

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| Expiring APIP included the following additional insurance companies: (1) Fidelis Underwriting Limited; (2) Interstate Fire and Casualty Ins. Co. (Allianz); (3) Princeton Excess & Surplus Lines Ins. Co. (PESLIC); and (4) RSUI Indemnity Company (RSUI) | (1) London, United Kingdom; (2) San Francisco, CA; (3) Princeton, NJ; and (4) Atlanta, GA |
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BACKGROUND

The Port purchases commercial insurance policies to cover catastrophic and other losses that cannot prudently be assumed by the Port. In addition, under the terms of the Master Trust Indentures for the Senior Lien Bonds and Intermediate Lien Bonds, the Board is required to procure and maintain commercial insurance or provide qualified self-insurance with respect to Port facilities and operations, in such amounts and against such risks as are, in the judgment of the Board, prudent and reasonable and subject to the condition that insurance is obtainable at reasonable rates and upon reasonable terms and conditions. The insurance policies purchased by the Port cover airport liability, excess liability, general property including business interruption, automobile physical damage and liability, public officials' errors and omissions including employment practices liability, fiduciary liability, fidelity bond, crane physical damage, war and terrorism, earthquake damage at the Port's Administration Building at 530 Water Street, and excess workers' compensation.

Most of the Port's insurance policies are for a term of one year with a renewal date of May 20, June 1, or July 1. Some of the insurance policies purchased by the Port are under group programs with the California Association of Port Authorities ("CAPA") and the APIP, formerly known as the Public Entity Property Insurance Program "PEPIP"). These group programs will continue to negotiate with insurers leading up to expiration, which may result in substitutions of insurance carriers to obtain the most favorable terms. Staff requests that the Board delegate approval of any such substitutions to the Port Risk Manager. Staff will report any variation from the insurers listed for these group programs in the Agenda Report for the following year's renewal. See Exhibit A for the list of proposed policies including insurance carriers, coverage, expiration dates, and estimated renewal premiums compared to the expiring insurance, all of which are subject to relatively minor adjustments upon final placement.

¹ Policy Year refers to the year in which an insurance policy incepts.

The Port also has a Port-wide pollution insurance policy (expires December 2021), a pollution liability insurance policy for the Port-owned portion of the former Oakland Army Base and related properties (expires August 2023), a contractors' pollution legal liability policy (expires July 2023), an Owner Controlled Insurance Program ("OCIP"), expires February 2023), an Owner Protective Professional Liability Insurance Program ("OPPI") for capital improvement construction projects (expires January 2022), and a Special Events general liability policy (January, not purchased for 2020 due to event cancelation). These policies are not the subject of this Agenda Report.

ANALYSIS

The insurance coverage recommended in this Agenda Report is materially the same as last year. The insurance coverage benchmarks well with other seaports and airports of comparable size to the Port. Through its insurance brokers, the Port obtained multiple competitive insurance quotes (typically 3 quotes per each type of insurance). The overall premiums quoted are approximately \$5,435,000, which is approximately \$764,000 greater than last year. The premiums are projected to increase approximately 16% compared to last year. The expected increase this year continues to be driven by a mixture of real increases in Port exposures such as payroll and property values, and more significantly, current insurance market conditions, with many insurance carriers still seeking to compensate for industrywide losses sustained during recent years, ongoing uncertainty surrounding the impact of COVID-19, and the general trend toward increasing insurance settlements.

The quoted premiums and terms leading up to the renewal dates are subject to change based on global and local events impacting the insurance market up until the insurance policies actually renew (May-July 2021). While no such events are currently known or expected, Board authorization is being requested in an amount not to exceed \$5,707,000.

Cyber Liability Insurance

The insurance market for Cyber Liability Insurance has become extremely volatile this year, with the Port's Broker, Alliant, estimating rate changes from 60% to as much as 300% based on the results of recent insurance placements. Final quotes are not yet in for this coverage, which does not renew until July 1st, 2021. The Port previously purchased this insurance with a \$10 million limit in a combination of primary and excess policies. At the time this limit was selected, this insurance product was new and inexpensive, but as the market has now matured and experienced losses, premiums are shifting significantly upward. Last year this insurance cost the Port \$59,000. This year's broker estimates for the same limit range from \$94,000 to \$235,000. Benchmarking around typical limits for Cyber Liability Insurance is inconclusive, with some of Alliant's clients buying no Cyber Liability Insurances, others only buying \$2 million or \$5 million, and some clients much more. Given this extreme shift, and, in an effort to manage the increased cost, Staff recommends granting the Port Risk Manager authority to select a limit purchasable within

the 60% premium increase range as well as consider reasonable substitutions for the incumbent insurance company.

Coronavirus Exclusion

By the conclusion of last year's renewal process, insurers on the CAPA excess program responded to the pandemic by insisting on a coronavirus exclusion, clarifying lack of coverage under the program for losses directly arising from the transmission or alleged transmission of coronavirus, including clean up costs, loss of revenue and other losses. Such exclusions have become increasingly common across the insurance industry.

Earthquake Coverage

Property insurance policies in California do not cover earthquake damage, unless specific coverage is purchased. Currently, the Port purchases the following earthquake coverage:

- About 1/4 of the total value of the 23 insured Port-owned cranes including crane rail and business interruption;
- About 1/5 of the building and contents value and loss of rents at the Port's Administration Building at 530 Water Street; and
- About 1/2 of the total value of electronic data processing equipment.

Port Insurance Brokers

As described below, the Port uses three prime brokers, as well as small/local sub-brokers, and participates in two group insurance programs: CAPA Umbrella Excess and the APIP.

Prime Insurance Brokers

Alliant Insurance Services, Inc., Seattle: California Association of Port Authorities ("CAPA") Umbrella Excess

Alliant manages the umbrella program for the following CAPA participants: Port of Long Beach, Port of San Diego, Port of Oakland, Port of Sacramento, Port of Redwood City, Port of Stockton, Oxnard Harbor District-Port of Hueneme, and Humboldt Bay & Harbor District. Participation in this group policy results in a lower premium (compared to each port purchasing coverage separately). The policy includes blended liability coverage for bodily injury and property damage arising out of shore-side and marine risks including ship collision.

Alliant Insurance Services, Inc., San Francisco: Alliant Property Insurance Program ("APIP"), formerly known as the Public Entity Property Insurance Program ("PEPIP")

Alliant is the exclusive broker for the United States' largest public agency property program. This group program was created by Alliant in the 1980s in California and currently has participation across the United States. Among the thousands of participants are the City and County of San Francisco (including the San Francisco Airport), John Wayne International Airport (Orange County), Port of Tacoma, and the Pacific Northwest Port Association (8 medium sized ports in Washington State). This group program provides the

Port a broad scope of property damage coverage at a low rate plan. APIP also provides the Port's cyber liability coverage.

Marsh Risk and Insurance Services, San Francisco: All Other Insurance Policies

Marsh is the prime broker for all insurance policies listed in Exhibit A, except for CAPA Umbrella Excess, and APIP coverage described above.

Participation by Small and Local Businesses

20% of the commission received by Marsh (or approximately \$88,266) is returned to the Port and allocated for insurance related services that can be provided by Port certified small and/or local firms. The Port contracts directly with Port certified small and/or local firms based on the Port's highest insurance-related needs, and in compliance with the Port's Purchasing Ordinance. For Policy Year 2021, anticipated needs include: (i) health and safety services and supplies; (ii) support services such as tracking insurance certificates received by tenants, vendors, and contractors to ensure compliance with the Port's insurance requirements, and assisting the Port with maintaining claims and insurance documentation; and (iii) services and supplies in support of the Port's Wellness Program. Staff anticipates a portion of the amount from the Policy Year 2020 returned commission will not be spent by the end of the Policy Year. Any such remaining shall be added to the Policy Year 2021 amount.

The Port's Risk Manager previously informally surveyed the Port of Los Angeles, Los Angeles World Airport, Port of Long Beach, Port of San Diego, Port of Seattle, and Sacramento County (including the Sacramento area airports) with respect to their utilization of small/local brokers for their insurance and risk management needs and found that the Port of Oakland is a leader in this endeavor. With the exception of the Port of Seattle, these ports had not been utilizing small/local brokers due to the unique and complex nature of their insurance needs as an airport and/or seaport. Participation of sub-brokers in the Port of Seattle's insurance program was modeled after the Port's program with the small/local firms working as sub-brokers to the prime broker, but with a lower 10% participation rate.

The following table is a summary of these sub-broker amounts over the past three years:

| | Policy Year 2019 | Policy Year 2020 | Policy Year 2021 |
|--------------------------------|---------------------|---------------------|---------------------|
| Local Broker Commission | \$74,799 | \$79,832 | \$88,266 |
| % of Marsh Gross Commission | 20% | 20% | 20% |

Insurance Broker Compensation

Marsh and Alliant are each compensated solely by commissions paid by the insurance companies. Commissions vary based on the insurance policy and insurance market conditions and typically ranges from 10% to 22% of the premium cost. The estimated insurance brokers' commission/fee can be found in Exhibit A. For comparison purposes, Policy Year 2020 commission/fees are also provided.

For Policy Year 2021, it is estimated that Marsh will receive approximately \$441,331 in commissions from the insurance companies (approximately 14% of the premium costs including taxes/fees) for renewal of the insurance policies it places. Of this amount, the small/local sub-brokers will receive approximately \$88,266 (20% of Marsh's commission). Alliant will receive approximately \$219,880 in commissions (11% of the premium cost including taxes/fees) for the APIP program². Alliant will also receive a \$7,000 fee (about 3% of the premium cost) for the CAPA program.

BUDGET & STAFFING

The insurance premiums are budgeted under the Port's Operating Budget, excluding amounts reimbursed by tenants to pay for a portion of the insurance associated with properties and cranes. Although insurance premiums are subject to change based on global and local events impacting the insurance market up until the insurance policies actually renew (May-July 2021), it is anticipated that the insurance premiums will cost approximately \$5,435,000, an increase of approximately \$764,000 or 16% compared to Policy Year 2020 (FY 2021) premium costs. Approximately \$725,060 is expected to be reimbursed by Port tenants for a net cost to the Port of approximately \$4,709,940³. There will be no impact on current staffing associated with this action.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The matters contained in this Agenda Report do not fall within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan (2018-2022).

<https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

- Grow Net Revenues.
- Modernize and Maintain Infrastructure.

² Alliant Underwriting Services, a subsidiary of Alliant, provides certain other services to the insurance carriers and receives compensation for those services from the insurance carriers.

³ For the insurance policies expiring in May-July 2021, \$623,044 reimbursed by Port tenants for a net cost of approximately \$4.05 million.

LIVING WAGE

Living wage requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the "Living Wage Regulations"), do not apply because the requested action is not an agreement, contract, lease, or request to provide financial assistance within the meaning of the Living Wage Regulations.

SUSTAINABILITY

There are no sustainability opportunities related to this proposed action because it does not involve a development project, purchasing of equipment, or operations that present sustainability opportunities.

ENVIRONMENTAL

CEQA Determination: This action was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA). The CEQA Guidelines, Section 15061(b)(3) ("the general rule") of the states that CEQA applies only to activities that have the potential for causing a significant effect on the environment. Renewing Port insurance policies will not have a significant effect on the environment and therefore is not a project under CEQA. No further environmental review is required.

GENERAL PLAN

This action does not change the use of any existing facility, make alterations to an existing facility, or create a new facility; therefore, a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter is not required.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

This action is not subject to the Port's Owner Controlled Insurance Program (OCIP) as it is not a capital improvement construction project.

OPTIONS

- Authorize the renewal of the insurance policies listed in Exhibit A (subject to relatively minor adjustments upon placement) at a not to exceed amount of \$5,707,000 to be placed and paid through the prime brokers as further described herein and delegate authority to approve substitutions of insurers on the CAPA and APIP group programs including Cyber Liability Insurance, and to determine Cyber Liability Insurance limits, to the Port Risk Manager. This is the recommended option.

- Authorize the renewal of the insurance policies listed in Exhibit A (subject to relatively minor adjustments upon placement) with modifications as the Board may suggest.

RECOMMENDATION

Port staff recommends that the Board authorize the renewal of the insurance policies listed in Exhibit A (subject to relatively minor adjustments upon placement) at a not to exceed amount of \$5,707,000 to be placed and paid through the prime brokers as further described herein and delegate authority to approve reasonable substitutions of insurers on the CAPA and APIP group programs including Cyber Liability Insurance, and to determine Cyber Liability Insurance limits, to the Port Risk Manager. All insurance policies shall be subject to the Port Attorney's review as to form and legality.