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DEPARTMENT OF
ADMINISTRATIVE SERVICES

CITY OF SACRAMENTO
CALIFORNIA

921 TENTH STREET
ROOM 401
SACRAMENTO, CA
95814-2713

ADMINISTRATION
DIVISION

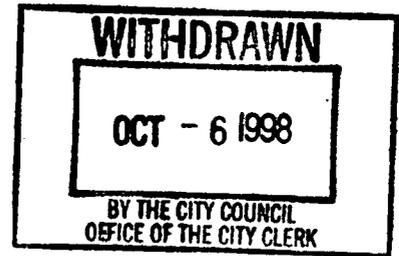
916-264-5270

September 28, 1998

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: EXCESS LIABILITY INSURANCE PLACEMENT



LOCATION & COUNCIL DISTRICT: City

STAFF RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution authorizing and directing the City Manager to place the City's Excess Liability insurance coverage with the California Municipal Excess Liability (CAMEL) program through Robert F. Driver Associates in the amount of \$289,818.

CONTACT PERSON:

Greg Norton, Administrative Services Manager, 264-7728

FOR COUNCIL MEETING OF: October 6, 1998

SUMMARY:

This report back is in response to Council's direction to rebid the City's Excess Liability Insurance coverage. The City performed the rebid process with the assistance of a contracted consultant, American Risk Management Techniques, Inc. (ARM Tech)

COMMITTEE/COMMISSION ACTION:

None

BACKGROUND INFORMATION:

On June 30, 1998, staff brought a report to Council recommending the placement of the City's insurance coverages for FY 99 along with information regarding the process utilized to select brokers, assign insurance markets and place the insurance lines. At that meeting, Council approved placement of the All Risk Property, Excess Workers' Compensation, Aircraft Hull & Liability and Crime & Public Officials Bonds coverages through Robert F. Driver Associates. Additionally, Council directed staff to rebid the City's Excess Liability Insurance coverage.

The rebid process was completed with all three of the Brokers utilized as finalists in the previous bid process. With the assistance of ARM Tech, the bid specifications and process were clarified to ensure fairness and avoid issues and/or conflicts in the bid process. The bid process was completed with submission of proposals from all three brokers received on or before September 16, 1998 as required in the bid specifications.

ARM Tech performed a comparison and evaluation of the three proposals received. Following their review, ARM Tech submitted their recommendation for placement of the Excess Liability Insurance coverage along with a comparison of the proposals, see **ATTACHMENT A**.

ARM Tech recommended placement of the Excess Liability coverage through Robert F. Driver Associates based on coverage advantages that are worth slightly more than the \$7,218 in lower premium proposed by Aon Risk Services over the 3 policy years.

FINANCIAL CONSIDERATIONS:

As a result of the rebid process, the City has received bids below those received in the previous process as well as below the premium paid for FY 98. A comparison of the actual FY 98 premium, previous recommended placement and current recommended placement is illustrated in the table below.

COVERAGE	FY 1998 ACTUAL PREMIUM	INITIAL PREMIUM RECOMMENDED	REBID PREMIUM RECOMMENDED
Excess Liability	\$307,785	\$347,529	\$289,819

Funding to pay the \$289,819 premium is included in the 1998-99 Risk Management budget.

ENVIRONMENTAL CONSIDERATIONS:

The subject of this report does not involve a project that requires compliance with the California Environmental Quality Act (CEQA), inasmuch as it does not involve an activity which may cause a direct or indirect change in the environment (Public Resources Code Section 21065)

POLICY CONSIDERATIONS:

Acquisition of this insurance is consistent with the City's policy to purchase protection for the City against catastrophic losses.

The City is not required by state statute, as a public agency, to call for bids in the purchasing of insurance. Additionally, there are no requirements or steps for this process included in the City Charter or any City ordinances.

MBE/ WBE EFFORTS:

Robert F. Driver Associates is not an MBE/WBE Insurance Broker, however, the insurer to be utilized for the issuance of the policy and to provide excess capacity, Sable Insurance Company, is a minority business enterprise registered with the City and County of San Francisco.

Respectfully submitted,


Greg Norton
Administrative Services Manager

Recommendation Approved:



Betty Masuoka
Deputy City Manager

Approved:



Ken Nishimoto
Director Administrative Services



ADVANCED RISK MANAGEMENT TECHNIQUES, INC.

September 29, 1998

710-001

Mr. Greg Norton
Administrative Services Manager
City of Sacramento
921 Tenth Street, Room 401
Sacramento, California 95814-2713

EXCESS LIABILITY PROPOSALS

Dear Mr. Norton:

We have reviewed the three proposals offering excess liability coverage and questioned the brokers on the questions raised in our analysis and in discussions with the City. Exhibit 1 compares the costs and major coverage features of each proposal. Our recommendation and analysis are presented below.

Recommendation

We recommend the City accept the Robert F. Driver & Associates (Driver) proposal.

Discussion

Each proposer offered competitive pricing. The Alburger Basso De Grosz (ABD) proposal offers a limit of \$18 million excess a \$2 million retention for a one-year premium of \$250,000. ABD did not offer a three-year program as the City requested.

The Aon proposal offers a limit of \$20 million excess a \$1 million retention for an annual premium of \$284,200 for each of the three years.

The Driver proposal provides a \$20 million excess of a \$1 million limit for an annual premium of \$347,529 the first year and \$285,000 for each of the next two years. The initial Driver premium is reduced to \$289,819 by a \$57,711 dividend that is payable only if the City renews with the Driver program. No dividends apply in the second or third year of the Driver proposal.

The ABD Proposal

The ABD proposal has a number of coverage disadvantages compared to the other two proposals. The ABD proposal:

1. Only offers an \$18 million limit and offers a higher \$2 million retention. Although the ABD proposal is \$34,200 less than the next lowest premium, the other two proposals offer a limit that is \$2 million higher and a retention that is \$1 million lower than the ABD option. The cost to reduce the ABD retention to \$1 million would likely be more than \$34,200.
2. Does not provide a three-year premium. As such, the cost in the second and third year are unknown and would be open to change by the insurer.
3. Provides claims made employee benefits liability with a retrospective date of October 10, 1998 (policy inception). Other proposers provide occurrence coverage for employee benefits liability. (The City's current employment benefit coverage is provided on an occurrence basis.)
4. Does not afford garagekeepers liability coverage. The ABD proposal excludes all property damage to property in the care, custody or control of the insured. Other proposals provide coverage for vehicles in City custody.
5. Excludes sexual misconduct, sexual abuse and sexual molestation. The other proposals do not have this exclusion.
6. Excludes claims for past wages or salaries. This can limit coverage for damages claimed by an employee in an employment practices liability (EPL) claim. The other proposals do not have this exclusion.
7. Excludes claims between insureds in the public officials liability coverage. The City, its officials and its employees are each insureds. If an employee claimed a City official violated civil rights laws and discriminated against the employee in failing to offer a promotion, the claim would not be covered as each is an insured. (This is likely a policy flaw and could be corrected to provide proper EPL coverage.)

As a result of these deficits, we narrowed the selection to Aon and Driver.

Comparison of Driver and Aon Proposals

The Driver and Aon proposals are very close in terms of coverage and cost. Both programs are reasonable and provide favorable coverage to the City. Either program would provide the City broad coverage at a favorable cost.

The three-year premium for the Aon proposal totals \$852,600. The three-year premium for the Driver proposal totals \$859,818 (including the dividend). The \$7,218 difference is negligible (less than 1%).

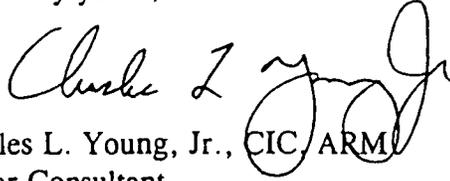
The coverage offered by the two proposals is very close in scope. The major differences are:

Comparison Point	Aon Risk Services	Robert F. Driver & Assoc.
Coverage Features:		
1. Defense costs are paid in addition to the limit of liability	Yes	No
2. Insureds include entities providing mutual aid	No	Yes
3. Covers watercraft	Yes (if under 26 feet)	Yes (if owned and under 51 feet or not owned and under 125 feet)
4. Covers inverse condemnation	Yes (up to \$2 million)	Yes (if caused by the insured's negligence)
Exclusions: ("Yes" means the exclusion applies)		
5. Excludes loss under Blue Skies Statutes or from security sales	Yes	No

Of the five items shown, in all but Item 1, Driver offers a coverage advantage. The Driver proposal is \$7,218 higher in cost. However, the coverage advantages are worth slightly more than \$7,218. On that basis and based on the fact the City has enjoyed a favorable past relationship with Driver, we recommend the Driver proposal.

If you have any questions, please call on us. We look forward to discussing this with you.

Very truly yours,



Charles L. Young, Jr., CIC, ARM
Senior Consultant

CLY:arm

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CITY OF SACRAMENTO
Excess Liability
Cost and Coverage Comparison

Broker	Alburger Basso De Grosz	Aon Risk Services	Robert F. Driver & Assoc.
Insurer	TIG Insurance Company	Insurance Company of The West	(CAMEL) 1. Reliance National Insurance Company, or 2. Sable Insurance Company ¹
A. M. Best's Rating	A XII	A VIII	A- XIII ²
Comparison Points:			
Limit	\$18 million per occurrence (\$18 million aggregate for personal injury, products & completed operations & public officials liability)	\$20 million per occurrence (\$20 million aggregate for public officials liability)	\$20 million per occurrence (\$20 million aggregate for public officials liability)
Retention	\$2 million per occurrence	\$1 million per occurrence	\$1 million per occurrence
Premium			
Year 1 (1998/99)	\$250,000	\$284,200 ³	\$347,529 ⁴ (no dividend) \$289,818 (with dividend)
Year 2 (1999/00)	Not Quoted	\$284,200	\$285,000
Year 3 (2000/01)	Not Quoted	\$284,200	\$285,000

Broker	Alburger Basso De Grosz	Aon Risk Services	Robert F. Driver & Assoc.
Coverage Points:			
General Liability	Yes	Yes	Yes
Employee Benefits Liability	Yes (Claims Made) (Retro Date - Inception)	Yes	Yes ⁵
Employment Practices Liability	Yes	Yes	Yes
Public Officials Liability	Yes	Yes	Yes
Athletic Participates Liability	Yes	Yes	Yes
Subsidence Coverage	No	Yes	Yes
Firefighters Professional Liability	Yes	Yes	Yes
Law Enforcement Liability	Yes	Yes	Yes
Miscellaneous Professional Liability	Excludes medical malpractice, engineers & architects E&O & surveyors E&O & all other services not provided by City employees	Excludes hospital, clinic or medical malpractice	Excludes hospital, clinic, pharmacy or medical malpractice
Automobile Liability	Yes	Yes	Yes
Garagekeepers Liability	No	Yes	Yes
Incidental Pollution Liability	Yes	Yes	Yes

Broker	Alburger Basso De Grosz	Aon Risk Services	Robert F. Driver & Assoc.
Defense costs are included within the limit of liability	Yes	No	Yes
City Attorney authorized may act as claims administrator	Yes (per broker ⁶)	Yes (per broker ⁷)	Yes ⁸
Insureds Include:			
City	Yes	Yes	Yes
Elected & Appointed Officials	Yes	Yes (past or present)	Yes
Committees, Trustees, Boards & Commissions	Yes	Yes	Yes
Employees	Yes (except employees are not insureds for use of an auto owned by the employee)	Yes (past or present)	Yes (including past or present employees)
Volunteers	Yes (except for use of an auto owned by the volunteer)	Yes (past or present)	Yes
Governed Special Districts	Yes (excluding schools, airports, ports, public transportation, housing, hospitals, or gas or electric utilities)	Yes	Yes
Entities Providing Mutual Aid	Yes (except for use of an auto owned by the entity)	Silent	Yes
Major Exclusions: ("Yes" means the exclusion applies)			
Use, loading, unloading,	Yes	Yes	Yes

Broker	Alburger Basso De Grosz	Aon Risk Services	Robert F. Driver & Assoc.
Use, loading, unloading, ownership, maintenance or operation of watercraft owned, rented, operated by or loaned to the insured	Yes (except watercraft under 75 feet)	Yes (except watercraft under 26 feet)	Yes (except owned watercraft under 51 feet or non-owned watercraft under 125 feet)
Pollution (except "incidental pollution" caused by fire, explosion, vandalism & malicious mischief (V&MM), lightning, windstorm, upset or overturn of a vehicle, chlorine leaks, pesticide or herbicide application, flood, earthquake, riot or civil commotion or collapse)	Yes (except "incidental pollution" if known within 7 days & reported to the insurer within 21 days. Coverage does not apply to pollution of a body of water, pollution from an underground storage tank, or pollution caused by explosion, V&MM, lightning, collapse, windstorm, chlorine leaks, herbicide or pesticide application.)	Yes (except "incidental pollution" if known to insured within 7 days & reported within 30 days. "Incidental pollution" coverage does not apply to fire unless a hostile fire, to chlorine leaks or water pollution caused by oil products.)	Yes (except incidental pollution if known to the insured within 10 days & reported to insurer within 31 days. "Incidental pollution" coverage does not apply to collapse or use of mace.)
Contamination of water supplies or by handling of wastewater	Yes (except as provided in the sudden & accidental exception to the pollution exclusion)	No	No
Medical Malpractice	Yes (except for EMTs, paramedics, nurses, or a medical practitioner performing emergency medical services)	Yes (except for EMTs, paramedics & nurses)	Yes (except for EMTs, paramedics & nurses)
Subsidence	Yes (excludes all earth movement)	No	No

Broker	Alburger Basso De Grosz	Aon Risk Services	Robert F. Driver & Assoc.
Employment Practices Liability (wrongful termination, failure to hire, discrimination & sexual harassment)	No (but excludes sexual misconduct. See sexual molestation exclusion.)	No	No
Claims for past wages/salaries	Yes	No	No
Failure to supply gas, water, fuel, or electricity	Yes (except does not apply to water if failure arises from sudden & accidental damage to property)	Yes (except does not apply to water if failure arises from sudden & accidental damage to property)	Yes (except does not apply unless loss results from a City decision in obtaining or supplying utility services)
Dam failure, bursting overtopping, accidental discharge, or rupture	Yes (also excludes levee failure or failure of any artificial barrier designed to divert water)	Yes ("Dam" is not defined by the policy)	Yes (if over 25 feet in height or has an impound capacity over 50 acre feet)
Asbestos	Yes	Yes	Yes
Operation of any school district, port authority, or any gas or electric utility	Yes	No	No
Eminent domain, condemnation proceedings, inverse condemnation	Yes	Yes (except covers inverse condemnation up to \$2 million)	Yes (except covers inverse condemnation caused by the insured's negligence)
Employers Liability	Yes	Excludes employee bodily injury	No
Insured vs. Insured Claims	Excluded under public officials liability only	No	No

Broker	Alburger Basso De Grosz	Aon Risk Services	Robert F. Driver & Assoc.
Sexual Molestation, Abuse, Misconduct	Yes (also excludes any negligent employment, supervision, investigation or reporting of anyone committing such acts)	No	No
Uninsured Motorists	Yes	No	No
Blue Skies or Security Sales	No	Yes	No

Notes:

- 1 Sable is rated as a Reliance-owned entity per the 1998 A. M. Best's manual. The Sable option uses American Re-Insurance Corp. (rated A++ XV) to reinsure Sable under the CAMEL program.
- 2 Sable is rated as a Reliance-owned entity per the 1998 A. M. Best's manual. The Sable option uses American Re-Insurance Corp. (rated A++ XV) to reinsure Sable under the CAMEL program.
- 3 An added \$10 million limit is available for an added \$25,000 premium.
- 4 Dividend payable to the City based on 1995/96 premium and loss ratio. Dividend is only payable under the CAMEL program if the City renews with CAMEL in 1998/99.
- 5 Employee benefits liability is included in the public officials E&O coverage.
- 6 Insurer must first review claims handling procedures with City Attorney.
- 7 Policy requires a claims administration service, but broker advises insurer will allow City Attorney to serve in this capacity.
- 8 Insured must report losses reserved at 50% of the retention or with a verdict potential of 75% of the retention and must report all injuries resulting in: paraplegia, quadriplegia, brain damage, severe burns, fatalities, amputation of a major member, loss of sight, hearing or smell, disability over 6 months or significant psycho-neurotic involvement.

RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

RESOLUTION AUTHORIZING PURCHASE OF THE CITY'S EXCESS LIABILITY INSURANCE COVERAGE

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

1. That the City Manager is hereby authorized and directed to place the City's Excess Liability Insurance Coverage through Robert F. Driver Associates, Insurance Broker, as follows:
 - Excess Liability \$20 million, excess of \$1 million to the CAMEL program.

2. That the Department of Administrative Services is authorized and directed to pay the premium for said coverage from the Risk Management & Insurance Program Budget as follows:
 - Excess Liability Premium \$289,819 421-150-1546-4291

MAYOR

ATTEST:

City Clerk

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____