

MILWAUKEE COUNTY
INTEROFFICE COMMUNICATION

DATE: November 9, 2017

TO: Supervisor Theodore Lipscomb, Chairman, County Board of Supervisors

FROM: Amy Pechacek, Director of Risk Management

SUBJECT: Request for Approval to Bind Milwaukee County's 2018 Property and Casualty Insurance Program

REQUEST

The Director of the Risk Management Division of the Department of Administrative Services requests approval to authorize Aon Risk Services to bind the 2018 property and casualty insurance program for Milwaukee County by purchasing the following insurance policies with an effective date of January 1, 2018:

- Public Entity Liability: Wisconsin County Mutual Insurance Corporation - \$753,848
- Property: Travelers Insurance - \$1,663,068
- Energy Systems: Liberty Mutual - \$61,523
- Airport Liability: AIG - \$120,643
- Fidelity / Crime: Great American - \$39,437
- Fiduciary: AIG (primary) - \$149,243
 - Chubb (1st XS) - \$65,000
 - Axis (2nd XS) - \$32,000
- Fine Arts: AXA - \$77,750

Insurance program premium total: **\$2,962,512**

BACKGROUND

Risk Management is responsible for procuring the property and casualty insurance program that protects the County against unexpected losses, damages, claims, and lawsuits. The current insurance coverages in place expire December 31, 2017. Prior to the 2016 policy year renewals, Risk Management procured the liability insurance program for Milwaukee County by issuing six separate Requests for Proposals (RFPs) for the following exposures:

- Public Entity Liability
- Property Insurance
- Airport Liability
- Fiduciary (*Employees' Retirement System*)
- Energy Systems / Boiler & Machinery
- Crime / Fidelity

The insurance industry has advanced in recent decades to a regulated market only accessible to licensed brokers. Using the RFP process to procure insurance was ineffective for Milwaukee County. Insurance carriers do not bid directly on accounts, and as such a variety of local brokers would respond to the RFPs, resulting in no market power for the County, no ability to negotiate terms, and no advocacy in the marketplace. In addition, the individual brokers earned commission from the carriers on the backend for placing the coverage, and therefore were incentivized to work solely in their best interest to place coverages with the highest commission rates with no regard for the interests of the County. The outcome of this process had been a disjointed insurance program at Milwaukee County wherein the County has been forced to concede to policy exclusions, conditions, premium amounts, and limits that the insurers chose to provide to the broker responding to the RFP without negotiation or direct representation for Milwaukee County. In addition, procuring six policies separate from each other has resulted in program gaps with uninsured exposures in certain areas as well as double coverage in other areas.

Resolution File No. 15-405, approved by the Committee on Finance, Personnel, and Audit and adopted by the County Board at its June 25, 2015 meeting, granted the Risk Management Division of the Department of Administrative Services authority to renew the liability insurance program for Milwaukee County with the assistance of Aon Risk Services (Aon), a broker that was selected through a formal bid process. This initiative also specified that Risk Management will prepare a report to the Committee on Finance, Personnel, and Audit establishing a schedule of all insurance policies, and obtain County Board approval before any insurance coverage is bound.

The 2016 and 2017 property and casualty program renewals under the appointment of a single broker resulted in more comprehensive coverage, higher insurance coverage limits, lower deductibles, and lower premiums. Several gaps in coverage were eliminated and other benefits were realized from Aon, including assistance in contract reviews and claims management practices. In the third year of this partnership, Aon was able to competitively market the County's 2018 renewal at an overall average 2% rate increase, lower than the projected overall global market rate increases of 5%. The 2018 property and casualty insurance program recommendations are as follows:

PUBLIC ENTITY LIABILITY

The Public Entity Liability (PEL) policy covers the County in areas of general liability, employment practices liability, auto liability, law enforcement liability, errors and omissions, public officials liability, and cyber liability. Milwaukee County has obtained this coverage through an ownership agreement with Wisconsin County Mutual Insurance Corporation (WCMIC) since 1997. In addition to providing the public entity liability coverage, WCMIC also provides full third party claim administration services (TPA), loss control, on-demand reporting, and allows Milwaukee County's Corporation Counsel the opportunity to defend certain claims. The current coverage limits are \$10,000,000 per claim, with a \$1,000,000 each occurrence deductible, and \$3,000,000 aggregate deductible. For policy year 2017, WCMIC increased sub-limits of \$1,000,000 to the Cyber Liability Endorsement. These enhancements were added at no additional cost and the premium in 2017 was \$717,950.

WCMIC offered static policy terms for the 2018 policy year, however, there is a 5% premium increase, or \$35,898, on the policy issued to Milwaukee County. This brings the annual premium, inclusive of full claims handling and loss control, up to \$753,848. Milwaukee County has experienced only two changes in premium on this policy since 1997, one increase and one reduction. The first change was in 2003 as a result of an increase in operating expenditures and a

reduction, in 2014, as a result of the increase in the aggregate retention. This premium adjustment reflects loss activity related to losses in the 2016 policy year.

With regards to the Cyber Liability Endorsement, Risk Management has requested a review of increasing Cyber Liability coverage amounts to the Annual Policy Aggregate, and will continue to work with WCMIC on exploring options to provide more coverage for our Cyber Liability exposures. WCMIC is exploring what is available to Milwaukee County through the re-insurance market.

Aon approached the commercial marketplace for the 2016 renewal to determine any viable PEL alternatives for the County's consideration. A quote was obtained from Argonaut Insurance Company. The quote offered \$10,000,000 in coverage for all current PEL exposures with sublimits of \$2,000,000 on the employment practices coverage and a \$1,000,000 self-insured retention. The annual premium was quoted at \$500,540, which is lower than that offered by WCMIC. However, Argonaut would not provide any TPA services, loss control, or guarantee the right to defense, and this quote predates the high exposure loss year of 2016. TPA and loss control services in addition to this premium amount would likely greatly exceed the bundled program cost offered by WCMIC.

However, given recent coverage issues and concerns over the actions of WCMIC, Risk Management will be issuing a request for proposal for all lines of claims handling and loss control services in the first quarter of 2018 to better determine other options available for Milwaukee County. As WCMIC provides a bundled scope of services that is not solely insurance coverage related, the recommendation is to continue with this partnership in 2018 until a full menu of alternate options along with a strategic operational plan can be provided to the Board that not only addresses insurance, but also loss control, claims handling, and a transition strategy if the Board decides to discontinue this relationship moving forward.

PROPERTY / ENERGY SYSTEMS

Property insurance provides coverage for our buildings, scheduled equipment, animals, and property out in the open. Milwaukee County was formerly a member of the Local Government Property Insurance Fund (LGPIF), operated by the State. In 2015, Governor Walker proposed dissolution of LGPIF, which is in a tenuous financial position, as part of the State's biennial budget. As of November, 2017, LGPIF owes the County over \$2,000,000 in unpaid claim reimbursements from previous policy years.

Given Milwaukee County's property asset portfolio of nearly \$3 billion dollars, Aon approached 50 insurers to market the property program for the 2016 policy year. The carrier that presented the most comprehensive coverage for the least amount of premium in 2016 was Travelers Insurance, which has an A++ Superior financial rating. Travelers Insurance offered renewal coverage in 2017 for slightly less premium than in 2016. For 2018, there is a 2% premium increase, with the renewal cost of \$1,663,068, up \$36,988 over last year's premium of \$1,626,080. The coverage limits remain at \$500,000,000 per occurrence and provide coverage for the MCTS fleet, valued at over \$145,000,000. Various deductibles apply to different categories of property, and the Mitchell Parks Domes remain covered solely at actual cash value versus replacement cost in the event of a loss. This change in coverage occurred during the 2017 policy year and was the result of the information developed in 2016 surrounding the current condition of the Domes and the publicly advertised large cost estimates associated with rebuilding the structures.

Energy Systems coverage, also known as Boiler and Machinery or Equipment Breakdown coverage, insures the machinery systems in buildings, such as electrical transformers, boilers, and

heating, ventilation and air conditioning. In 2016, Milwaukee County moved this coverage from Cincinnati Insurance to Liberty Mutual for more comprehensive coverage terms. For the 2018 renewal, Liberty Mutual raised the policy premium 3%, from \$59,505 to \$61,523. This is the result of two significant claims filed in 2016 and 2017 due to electrical issues in the Safety Building.

AIRPORT LIABILITY

The Airport Liability policy specifically protects General Mitchell International Airport and Timmerman Airport for operational liabilities. The County was previously insured with Ace for a primary layer and had excess coverage with Lloyd's of London for total limits of \$500,000,000 with a \$50,000 per claim deductible. Aon shopped the coverage for 2016 and was able to consolidate the primary and excess layers for the same total coverage of \$500,000,000 with matching policy terms, including the \$50,000 deductible, for a reduced premium compared to the Ace and Lloyd renewal quote. In 2016 and 2017, the Airport Liability coverage was moved to AIG for a total premium savings of \$126,240 between 2016 and 2017 over the 2015 program. For 2018, AIG offered renewal terms as expiring and the recommendation is to renew with AIG for a third year at a flat rate of \$120,643.

FIDUCIARY

Fiduciary coverage affords protection for legal liabilities arising out of specified errors and omissions resulting from the County's operation of the Employee Retirement Systems pension benefit. Milwaukee County has a layered program with three separate carriers providing a total of \$30,000,000 in coverage per occurrence with a \$150,000 deductible. Aon approached the 2015 incumbent carriers; AIG, Chubb, and Axis, and negotiated premium reductions from all three carriers in 2016. For the 2017 program, Aon negotiated flat premium renewals with the excess carriers and obtained a \$302 premium savings on the primary layer. In 2017 there was an increase in claims activity against ERS, including extensive media attention related to calculation errors and Voluntary Correction Plans with the Internal Revenue Service. As a result, the primary layer incumbent carrier offered renewal terms at a 6% increase, up from a premium of \$140,398 to \$149,243, for an increase of \$8,845. The secondary and third layers offered flat rate renewals. It is recommended that the County renew under the same program structure with the incumbent carriers for a total of \$246,243.

CRIME / FIDELITY

Crime coverage, also known as Fidelity coverage, protects the County against employee theft, forgery or alteration, robbery, and safe burglary. This coverage is especially important for any operations dealing with cash, such as our Parks, Recreation, and Culture Department, the County Clerk, and the Milwaukee County Zoo. There is \$10,000,000 in coverage presently with a \$100,000 deductible. For the 2017 program, an additional endorsement, called a Social Engineering Endorsement, was offered to the County to expand the current coverage to reflect a trend in current crime schemes. This endorsement offers coverage to the County in the event an employee is a victim of a "phishing" scam, where an imposter claiming to be a client or a vendor is able to obtain sensitive information that results in loss of funds. The additional coverage had a premium of \$3,500. For the 2018 program the incumbent carrier offered a flat rate renewal with matching terms. It is recommended that the County maintain coverage with Great American at \$39,437.

FINE ARTS

Fine arts coverage protects the County's arts, collections, and museum contents. Fine arts coverage was historically obtained via a limited endorsement to the LGPIF policy, which left large exposures in the County program. Milwaukee County has incomplete schedules of artifacts and art, which is potentially a barrier in the marketplace. Aon approached the global fine art market and obtained three competitive quotes for the 2016 programs, with the best option for coverage offered by AXA Insurance. This coverage remained in place for the 2017 program at a flat rate, despite two claims. The largest benefit of the AXA policy is that this carrier blanket insures all fine arts at any location owned, operated, or occupied by Milwaukee County with coverage of \$150,000,000. This provides coverage for items that may not be individually listed on a current statement of values. There is no deductible on this policy and AXA provided renewal terms identical to those terms and costs that are expiring in 2017. The cost of this coverage is \$77,750.

MEDICAL MALPRACTICE

Medical malpractice is insurance that responds to professional liabilities that may arise from healthcare operations at the Behavioral Health Division (BHD). This exposure area is one of three operational areas where the County is fully self-insured and may benefit from insurance. Risk Management has been exploring medical malpractice coverage over the past several years in this area with Aon, however, there has been several barriers to obtaining coverage. Specifically, recent press about potentially outsourcing the operations makes it difficult for underwriters to evaluate the account as there is a possibility that there will not be longevity in the insured relationship, which is a risk for carriers who rely on multiple years of premium to balance out potential large claim payouts. In addition, lack of historical standardized data on prior claims presented an uncertainty for many carriers. Finally, press coverage and the existence of high-exposure litigation surrounding claims at BHD also presents challenges for underwriting. This year, Aon approached seven carriers to quote the account. Six carriers declined to provide a coverage option; Ironshore, Cap Specialty, OneBeacon, James River, Kinsale, and Huntershore. Axis provided a quote for \$1,000,000 per claim, \$3,000,000 per aggregate, with a \$10,000 deductible for a premium of \$700,000. BHD has not had a new claim filed in the past three years, and therefore this premium is cost prohibitive and not recommended. Risk Management will continue to explore the market in future years for any reasonable coverage opportunities. In the meantime, Risk Management will continue to work with the Comptroller's Office and the Office of Corporation Counsel to maintain a self-insurance reserve account to properly fund claims and expenses for the pending medical malpractice losses at BHD.

WORKERS' COMPENSATION

Another area where the County is fully self-insured that could potentially benefit from excess insurance coverage is workers' compensation. Workers' compensation covers liabilities associated with employee injuries. The County has been fully self-insured in this area for decades, and currently maintains full reserves to cover all associated liabilities. Coverage that may be beneficial is catastrophic excess coverage that would act as a stop gap in the event of a large scale disaster.

Aon approached the market for workers' compensation excess insurance for the 2016 renewal, however, it was determined to be premature to bind coverage for this exposures at the present. Due to whole scale program changes implemented by Risk Management, Milwaukee County's workers' compensation claims experience in 2015, 2016, and 2017 improved dramatically compared to the historical averages, however, carriers typically analyze five year averages when developing rates. As the market would respond more favorably to repeated years of positive experience, Aon will continue to monitor the potential to secure this coverage in future renewals.

ENVIRONMENTAL

Another gap in the existing program that was identified in prior years is environmental coverage. Environmental Legal Liability policies pay for third-party claims for cleanup, bodily injury and property damage caused by pre-existing or new pollution conditions emanating from specified sites. Coverage includes the costs related to investigate pollution conditions and to defend claims. The largest gap in this program was addressed through the recent sale of the Crystal Ridge property. Negotiations with the carriers and coverage conversations for this exposure are on-going as it relates to the development of Ballpark Commons.

RECOMMENDATION

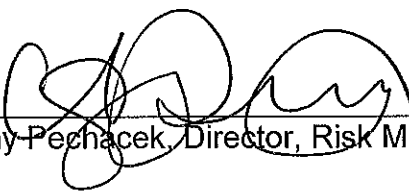
The Director of Risk Management recommends approval of the attached resolution authorizing Aon Risk Services and the Risk Management Division of the Department of Administrative Services to bind the 2018 property and casualty insurance program for Milwaukee County as follows:

- Public Entity Liability: Wisconsin County Mutual Insurance Corporation - \$753,848
- Property: Travelers Insurance - \$1,663,068
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FISCAL NOTE

The premium totals for the property and casualty insurance program equal \$2,962,512. The premiums for the fiduciary policies covering the pension are budgeted within the Employee Retirement Services Division of the Department of Human Resources. The insurance coverage premiums presented above paid from the Risk Management budget total \$2,716,269. The new 2018 liability insurance program falls within the 2018 insurance budget projection of \$4,373,941. The remainder of the funding in this projection is required to fund the associated deductibles and loss fund accounts.



Amy Pechacek, Director, Risk Management

cc: Chris Abele, County Executive
Raisa Koltun, Chief of Staff, County Executive's Office
Teig Whaley-Smith, Director of Administrative Services
Margaret Daun, Corporation Counsel
Scott Manske, Comptroller