

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> September 9, 2014		<b>DATE SUBMITTED:</b> August 22, 2014	
<b>DEPARTMENT OF ORIGIN:</b> Risk Management		<b>SUBMITTED BY:</b> Cindy Kirk	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input checked="" type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input checked="" type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input checked="" type="checkbox"/> INFRASTRUCTURE
			<input type="checkbox"/> QUALITY OF LIFE
<b>AGENDA ITEM DESCRIPTION:</b> Consider awarding the City's Workers' Compensation excess insurance to Midwest Employers Casualty in the amount of \$150,990 for Fiscal Year 2015.			
<b>SUMMARY STATEMENT:</b> The City of Bryan is self-insured for liability and workers' compensation claims and purchases excess insurance to protect against catastrophic losses. The City of Bryan, currently and in the past, has been able to purchase an Excess Public Entity Liability insurance policy, a 'package' policy, which includes excess coverage for general liability, auto liability, law enforcement liability, public official liability, employee benefits liability, and workers' compensation.			
<p>The current Excess Public Entity Liability policy provides excess liability coverage with limits of \$5,000,000 per occurrence/\$10,000,000 aggregate, except for public official liability at \$2,500,000 per occurrence/\$4,000,000 aggregate and excess workers' compensation coverage with limits of \$10,000,000 per person/\$25,000,000 aggregate. The current self-insured retention is \$500,000. That is, if a claim exceeds \$500,000, which is the amount up to what the City will cover, the Excess Public Entity Liability insurance begins and covers the excess over \$500,000 up to the listed maximums per occurrence and aggregate.</p>			
<p>The current Excess Public Entity policy was awarded by the City Council to Associated Industries Insurance Company at an annual premium \$194,164 for the period beginning October 1, 2013, and ending September 30, 2014, with the option to renew for up to three (3) additional years after a competitive Request for Proposals (RFP) was conducted in the summer of 2013. Associated Industries submitted the only excess 'package' policy (combined liability and workers' compensation). Other submissions were stand-alone policies requiring the City to purchase separate policies for excess liability and excess workers' compensation at a cost greater than the 'package' policy premium. A comparison of the 2013-2014 proposals is attached.</p>			
<p>Associated Industries Insurance, the current Excess Public Entity Liability insurance carrier, notified the City in July that it would not renew the excess 'package' policy effective October 1, 2014. As a reminder, the City experienced several significant workers' compensation and liability claims in the immediate five year loss period typically reviewed in the insurance market: one employee fatality as a result of an auto collision (FY2010), a police officer involved shooting (FY2011), two firefighter fatalities (FY2013), two significant firefighter injuries (FY2013), and the recent BTU employee fatality (FY2014). The City's claims and premium history for the past ten years is attached.</p>			
<p>City staff and the City's Sole Broker of Record again conducted a competitive Request for Proposals (RFP) for excess liability and excess worker's compensation programs. The City did not receive any 'package' policy proposals, only stand-alone proposals. This Council Action Form (CAF) is for consideration of the Excess Workers' Compensation insurance program. Consideration of the Excess Liability is in a separate Council Action Form for</p>			

September 9, 2014.

The current workers' compensation market conditions for entities with police and fire employees and the City's multiple large workers' compensation losses significantly impacted the response to the RFP. Typically the insurance carriers consider the most recent five (5) years loss history, at times ten (10) years. The City has had four (4) large workers' compensation losses occur in the most recent five (5) years. Of the six (6) global insurance markets approached, Midwest Employers provided the sole proposal. Their proposal requires a significant increase from the City's current self-insured retention of \$500,000. Midwest Employers Casualty offered two self-insured retention options: \$2,500,000 per occurrence/disease with premium of \$150,990 or \$3,000,000 per occurrence/disease with premium of \$131,983. Both quotes have a \$20,000,000 Specific Loss Limit (per occurrence). While the City's current policy allows a \$25,000,000 annual limit (per occurrence and/or all occurrences), this Specific Loss Limit is not expected to impact the City as the City has not incurred an occurrence loss greater than \$11,000,000. The following is a comparison of the current retentions and limits to the two quotes received from Midwest Casualty:

	Current	Proposal 1 - Recommended	Proposal 2
Self-insured Retention	\$500,000 per occurrence/disease	\$2,500,000 per occurrence/disease	\$3,000,000 per occurrence/disease
Policy Limit	\$10,000,000 per person \$25,000,000 annual aggregate	\$20,000,000 Specific (per occurrence)	\$20,000,000 Specific (per occurrence)
Premium Quote	Included in package policy	\$150,990	\$131,983

Responses to the 2013 RFP indicated the City would most likely face an increase in its workers' compensation self-insured retention, especially given another large loss in 2014. Anticipating that increase, optional programs to reduce the exposure of a greater self-insured retention were requested. An Excess Liability carrier submitted a potential buffer layer of insurance on the Excess Workers' Compensation retention. A buffer layer of insurance is a layer of insurance beneath the Excess Workers' Compensation to lower the City's financial exposure. As an example, Midwest Employers Casualty requires a self-insured retention of \$2,500,000. Purchasing a \$500,000 buffer layer would lower the City's financial exposure to \$2,000,000. The City did receive a proposal from Certain Underwriters at Lloyd's with two (2) quotes to provide a buffer layer of insurance: a premium of \$187,219 for a buffer layer of \$500,000 or a premium of \$315,826 for a buffer layer of \$750,000. Staff and the City's Broker do not recommend purchasing the buffer layer of insurance as the cost is excessive compared to the insurance coverage provided.

Side Note: The City contracts for Sole Broker of Record for its property and casualty programs. The City's Sole Broker of Record is paid on a fee basis by the City – rather than by insurance carrier commissions – to review, market, and negotiate insurance programs on the City's behalf. By using a Sole Broker of Record, the City is independently represented to the property/casualty insurance market worldwide, which maximizes obtaining the most favorable coverage and price for the City of Bryan.

**STAFF ANALYSIS AND RECOMMENDATION:** Staff and the City's Sole Broker of Record respectfully recommend the City Council award Excess Workers' Compensation insurance to Midwest Employers Casualty for the policy period beginning October 1, 2014, and ending September 30, 2015, at an annual premium of \$150,990 with self-insured retention limit at \$2,500,000 per occurrence/disease and a \$20,000,000 Specific Policy Limit (per occurrence) and with the option to renew for three (3) additional years. This is a significant self-insured retention increase; however, it is important for the City to continue to carry excess workers' compensation insurance considering its exposure and experience.

Although the City did receive an option for a buffer layer of insurance, City staff and the City's Sole Broker of Record believe the cost is excessive compared to the expense and, therefore, do not recommend purchasing; premium costs equal about 40% of the maximum exposure covered.

The City purchases Excess Liability and Excess Workers' Compensation insurance to provide coverage in excess of its self-insured retention for general liability, auto liability, law enforcement liability, public official liability, employee benefits liability, and workers' compensation. This insurance reduces the City's financial exposure.

**OPTIONS (In Suggested Order of Staff Preference):**

(Note: Except for Option #1, options may require consideration at a future City Council meeting. The current policy will be cancelled on October 1, 2014.)

1. Award Excess Workers' Compensation insurance to Midwest Employers for the policy period beginning October 1, 2014, and ending September 30, 2015, at an annual premium of \$150,990 with self-insured retention limit at \$2,500,000 per occurrence/disease and a \$20,000,000 Specific Policy Limit (per occurrence) and with the option to renew for three (3) additional years.
2. Award Excess Workers' Compensation insurance to Midwest Employers for the policy period beginning October 1, 2014, and ending September 30, 2015, at an annual premium of \$131,983 with self-insured retention limit at \$3,000,000 per occurrence/disease and a \$20,000,000 Specific Policy Limit (per occurrence) and with the option to renew for three (3) additional years.
3. Do not award Excess Workers' Compensation insurance, reject all proposals, and provide direction to staff.

**ATTACHMENTS:**

1. Workers' Compensation and Liability Claims and Premium History (attached to this Council Action Form)
2. Letter of Recommendation from City's Sole Broker of Record with Market Responses and 2014 - 2015 Proposal Comparisons (pdf document)
3. 2013 -2014 Excess Casualty Worker's Compensation Coverage Comparison (pdf document)

**FUNDING SOURCE:** FY2015 Budget – Self-Insurance Fund

**APPROVALS:** Hugh R. Walker, 08/25/2014

**APPROVED FOR SUBMITTAL: CITY MANAGER** Kean Register, 08/28/2014

**APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 08/29/2014**

**City of Bryan**  
**Workers' Compensation/Liability Claims & Premium History**

	Workers' Comp Total Claims (paid + reserves)	Liability Total Claims (paid + reserves)	Excess Insurance Expected Payout	Excess Insurance Premium
FY2004	\$212,737	\$87,645	\$0	\$157,500
FY2005	\$236,717	\$379,500	\$0	\$163,000
FY2006	\$298,834	\$309,820	\$0	\$168,720
FY2007	\$228,397	\$206,104	\$0	\$151,694
FY2008	\$478,177	\$560,502	\$0	\$162,312
FY2009	\$117,378	\$335,018	\$0	\$173,673
FY2010	\$1,292,432	\$355,540	\$837,499	\$183,399
FY2011	\$228,846	\$648,070	\$194,928	\$183,399
FY2012	\$245,587	\$200,800	\$0	\$185,233
FY2013	\$10,841,247	\$200,800	\$10,447,474	\$185,233
FY2014	\$1,423,938	\$66,129	\$686,035	\$194,164

Expected Excess Insurance Payout – Liability: \$194,928 (FY2011)

Expected Excess Insurance Payout – Workers' Comp: \$11,971,008 (FY2010, FY2013, and FY2014)