



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Julia H. Cooper

**SUBJECT: APPROVAL OF CITYWIDE  
INSURANCE RENEWALS**

**DATE:** August 29, 2022

Approved

Date

09/08/22

## **RECOMMENDATION**

Adopt a resolution:

- (a) Repealing Resolution No. 60784 and authorizing the purchase of Government Fidelity/Crime insurance to meet the Official Bonds requirements found in Section 905 of the City Charter; and
- (b) Authorizing the Director of Finance to:
  - (1) Select and purchase City property and liability insurance policies for the period of October 1, 2022 to October 1, 2023, at a total cost not to exceed \$3,457,493 as well as an 18.0 percent contingency for additional property or assets scheduled, subject to the appropriation of funds, with the following insurance carriers:
    - (i) Factory Mutual Insurance Company for Property Insurance, including Boiler & Machinery and Terrorism Risk Insurance Act Coverage;
    - (ii) Beazley Syndicate 2623/623 at Lloyd's for Terrorism Insurance;
    - (iii) The Princeton Excess and Surplus Lines Insurance Company and Arch Specialty Insurance Company for \$15 million in excess flood insurance for locations in high and moderate hazard flood zones on a 50/50 quota share basis;
    - (iv) Starr Indemnity & Liability Company for Airport Owners and Operators Liability including War Risks and Extended Perils Coverage (including Excess Automobile);
    - (v) Starr Indemnity & Liability Company for Police Aircraft Hull and Liability including War Risks and Extended Perils Coverage;
    - (vi) Gemini Insurance Company for Auto Liability Insurance for the vehicle fleets at the Norman Y. Mineta San José International Airport and San José – Santa Clara Regional Wastewater Facility;
    - (vii) Hanover Insurance Company for Auto Physical Damage for the Airport shuttle buses;
    - (viii) QBE Specialty Insurance Company for Secondary Employment Law Enforcement Professional Liability;
    - (ix) Arch Insurance Company for Accidental Death, Accidental Dismemberment, and Paralysis Policy for the Police Air Support Unit; and
    - (x) Great American Insurance Company for Government Fidelity/Crime Coverage.
  - (2) Select and purchase Additional Liability Insurance for the period of October 22, 2022 to October 22, 2023 at cost ranging from \$250,000 to \$950,000, subject to the appropriation of funds.

## **OUTCOME**

Approval of this recommendation will ensure the City of San José maintains appropriate insurance coverage to provide financial protection from certain types of catastrophic or financial loss.

## **EXECUTIVE SUMMARY**

Commercial insurance policyholders continue to face challenging market conditions as global commercial insurance prices rose nine percent in the second quarter of 2022, the nineteenth consecutive quarter in which composite pricing rose. The pace of rate increases slowed for the sixth consecutive quarter since increases peaked at 22 percent in the fourth quarter of 2020<sup>1</sup>. Inflationary conditions have also had an impact both in terms of increasing insurer loss costs and increasing the valuation of assets used to produce a schedule of values used for property insurance underwriting.

The City's exposure to natural catastrophes (flood) and loss history also contributed to negative/unfavorable changes in the renewal pricing and terms for property and other liability insurance. Appendix A reflects the best value coverage and insurance carriers presented for fiscal year (FY) 2022-2023. The quoted renewal premiums may change with the addition or deletion of insurable properties prior to binding coverage or during the policy term. Appendix B provides a comparison of insurance premiums by fund and type of insurance. This comparison shows that the aggregate cost of insurance and broker fees is \$4,407,493 which is \$495,811 more than last year's premium and broker fees of \$3,911,682, a 12.68 percent increase in total costs.

## **BACKGROUND**

Each year, the City purchases insurance to protect the City against a catastrophic event or specified perils. The decision on whether or not to purchase insurance is based on many factors including, but not limited to, when the frequency of events cannot be predicted, when the severity of potential loss could seriously hamper operations, and when the cost of the insurance policy is not prohibitive. To secure policies, the Finance Department annually reviews the City's insurance coverage and needs with the City's insurance broker, Alliant Insurance Services (Alliant). This includes analyzing the City's risk exposures, trends in the insurance markets, insurance product line availability, and the City's historical approach to insuring for losses. Alliant presents the City's risk portfolio to insurance carriers to obtain the best value insurance coverage, solicits competitive quotations from major insurance companies for all recommended insurance product lines, and presents the results to the Finance Department for consideration.

Staff compares and evaluates the quotes based on scope of coverage, cost, the insurer's financial strength and reputation for claims payment, and the insurer's availability of resources to provide services such as property appraisals, safety training, and loss prevention engineering services. Based

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<sup>1</sup> [https://www.marsh.com/uk/services/international-placement-services/insights/global\\_insurance\\_market\\_index.html](https://www.marsh.com/uk/services/international-placement-services/insights/global_insurance_market_index.html)

on the information and analysis, the Finance Department determines the appropriate insurance coverage and recommends the most advantageous insurance policies to the City Council.

## **ANALYSIS**

The Finance Department completed the annual insurance renewal process for FY 2022-2023 with Alliant and recommends the insurance coverage described below.

### **A. Insurance Coverage Recommended**

#### **1. All Risk Property including Boiler & Machinery Insurance**

All Risk property insurance provides coverage for City-owned and leased real and personal property including buildings, contents, business interruption, boiler and machinery, electronic data processing equipment, fine arts, loss of rents, expediting expenses, off-premises services interruption, unnamed locations, transit, animals, accounts receivable, valuable papers, data, rebuild with green upgrades, and other coverage as detailed in the policy forms subject to sub-limits as defined in the policy. This includes one property currently owned by the Successor Agency to the Redevelopment Agency (SARA).

Valuation of assets was the marquee issue for property insurance buyers this year due to construction cost inflation. Premium increases for most policyholders are being driven more by inflation raising insurable values than by increases in rate<sup>2</sup>. Four leading construction cost indices indicate a year-over-year change in replacement cost values for buildings ranging from ~15 percent to ~25 percent.

<b>Construction Cost Index</b>	<b>Year-Over-Year Change in Construction Costs Building Total Insured Values</b>
Marshall & Swift	+16% to 24.53%
RS Means	+15.83
Factory Mutual Insurance Company	+18.4
Engineering News Records	+13.94

To address the valuation of assets issue, the City conducted property appraisals to update the replacement cost values of four of its 30 largest insured locations by Total Insured Values, including the San José–Santa Clara Regional Wastewater Facility (RWF). Additionally, staff applied a 14.2 percent inflation factor to existing buildings that were not subject to a property appraisal. The inflation factor reflected the May 2022, Engineering News Record Construction Cost Index for San Francisco, which was used by the Public Works Department to adjust (a) the Major Public Works Contract threshold for FY 2022-2023; (b) the Micro

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<sup>2</sup> Willis Towers Watson Insurance Marketplace Realities 2022 Spring Update

Contract threshold for FY 2022-2023; and (c) the Director's award authority threshold for FY 2022-2023.

Citywide, property values increased by \$977.1 million, or a 21.66 percent increase relative to property values provided for FY 2021-2022 renewal. Increases were driven primarily by:

- Construction cost inflation as described above
- An 87.26 percent increase in the replacement cost valuation of the RWF, which saw its Total Insured Values increase from \$398.0 million to \$745.3 million following the May 2022, property appraisal
- A full year of coverage for the Ice Centre Expansion which added \$114.0 million in Total Insured Values to the property schedule

Rate increases are still the norm; albeit not at the levels seen in earlier quarters. Policyholders with good risk profiles and in desirable industry classes are obtaining flat to low single digit rate increases. By contrast, policyholders with significant loss activity or that have a significant amount of natural catastrophe exposure are often still experiencing high single digit to double digit rate increases, although very rarely at the levels seen in earlier quarters<sup>3</sup>.

Incumbent property insurer Factory Mutual (FM) proposed the most competitive program for this term. The property insurance limit quoted by FM is \$1.0 billion each occurrence with a \$100,000 deductible per occurrence. The FM proposal for flood coverage includes annual aggregate limits of \$10 million with a \$500,000 per location deductible, with certain exceptions<sup>4</sup>. Alliant has confirmed the FM option is the best available to the City in terms of both cost and coverage.

A summary of key changes relative to the expiring program is provided below.

- Premium increase of \$587,517, or 25.56 percent from the previous fiscal year renewal, excluding coverage under the Terrorism Risk Insurance Act of 2002, which contemplates a 3.20 percent rate increase superimposed on a 21.66 percent increase in insurable values.
- The cyber coverage's territory has been updated to exclude property located in Russia, Ukraine, Luhansk People's Republic, and Donetsk People's Republic. Since the change is linked to property damage in the excluded coverage territories, staff does not anticipate any adverse impact to the RWF.
- The Expediting Costs and Extra Expense combined limits have been reduced from \$100.0 million to \$10.0 million, except for \$25.0 million for a loss at the Norman Y. Mineta San José International Airport (Airport).

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<sup>3</sup> [Alliant Insurance Marketplace Trends, Industry Issues and Outlook Q1 2022](#)

<sup>4</sup> The Airport and McEnery Convention Center are subject to a \$10 million per location flood deductible and the RWF is subject to a \$5 million per location flood deductible.

- The base coverage for flood was reduced to \$10 million across all locations Citywide. Previously, the City had \$100 million in flood coverage for locations considered to be in low hazard flood zones.

To mitigate the impact of the increases in premium, FM provided two options to achieve premium savings by increasing the minimum deductible of \$100,000. Increasing the deductible from \$100,000 to \$250,000 would generate a premium credit of \$110,193. Increasing the deductible from \$100,000 to \$500,000 would generate a premium credit of \$303,209. Staff recommends increasing the minimum deductible from \$100,000 to \$500,000 to achieve annualized premium savings of \$303,209.

The FM proposal also includes two one-time credits, a Membership Credit in the amount of \$119,532 and a Resilience Credit also in the amount of \$119,532. In September 2021, FM announced \$600 million in Membership Credits to eligible policyholders who renewed their property insurance policies between January 1, 2022, and December 31, 2022. The Membership Credit provided to eligible policyholders is based on their expiring premium and tenure with FM and applied as an offset against premium at a renewal or anniversary date<sup>5</sup>. This August, FM also announced a \$300 million Resilience Credit applied as a 5 percent offset against FM Global policies with renewals or anniversaries between October 1, 2022 and September 30, 2023. The credit is intended as an incentive for FM policyholders to invest in climate resilience, especially for flood, wind, and wildfire exposures<sup>6</sup>.

FM added a Representation of Risk clause to its policy terms and conditions that became effective October 1, 2021, which outlines its policyholders' obligations to provide accurate replacement cost valuations. The City will continue conducting property appraisals to update the replacement cost valuations and will target eight of its 30 largest insured locations by Total Insured Values in FY 2022-2023, including the Airport.

In addition to the insurance products procured last year, the City utilized risk engineering services to evaluate 10 City-owned properties in 2022. Risk engineering services help identify common risks resulting in damage or destruction of property such as fire, flood, or other operational risks, and are geared to finding solutions aimed to reduce property loss or disruption of use. Based on FM's recommendations, the City has developed or updated 15 flood emergency response plans since 2020.

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<sup>5</sup> <https://newsroom.fmglobal.com/releases/fm-globals-clients-to-benefit-from-a-us-600-million-membership-credit-in-2022-resulting-from-proactive-loss-mitigation-strategies>

<sup>6</sup> <https://www.fmglobal.com/insights-and-impacts/2022/resilience-credit>

Insurance Carrier: Factory Mutual Insurance Company

<b>Policy Period</b>	<b>2022-2023</b>	<b>2021-2022</b>
Annual Premium (Net) <sup>7</sup>	\$2,886,301	\$2,298,784
Membership Credit (5%)	(\$119,532)	\$ 0
Resilience Credit (5%)	(\$119,532)	\$ 0
Credit for Increasing Deductible from \$100,00 to \$500,000	(\$303,209)	\$ 0
Broker Fees <sup>8</sup>	\$55,270	\$59,118
<b>Total Annual Costs</b>	<b>\$2,399,298</b>	<b>\$2,357,902</b>

## **2. Terrorism Risk Insurance Act of 2002 (TRIA) and Terrorism Insurance**

TRIA coverage provides an insurance mechanism, shared by private insurance carriers and the federal government, for losses arising from acts of terrorism as certified by the United States Secretary of the Treasury, in consultation with the Secretary of Homeland Security and Attorney General, and defined by the TRIA. It does not cover liability losses. TRIA has been extended and is set to expire on December 31, 2027. Coverage is currently provided through a federal program for 85 percent of total aggregate loss up to \$100 billion in aggregate losses with total losses being no less than \$5 million. FM has provided a quote for TRIA coverage for an incremental premium of \$123,690 a \$31,836 or 34.66 percent increase over the expiring premium. Drivers for the increase include the increase in insurable values and a rate increase on the TRIA coverage. FM indicated the higher rate reflects the fact that a considerable portion of the Citywide insurable values such as the Airport, the McEnery Convention Center, and the SAP Center are considered targets for a terrorism loss.

The City began purchasing stand-alone terrorism insurance in 2019. Stand-alone terrorism insurance provides a broader definition of terrorism than TRIA and includes third party liability coverage. Staff recommends continuation of a combined property and liability terrorism policy. Incumbent insurer Beazley, a member of Lloyd's of London, provided a renewal quote for \$10 million in aggregate limits for premium and fees of \$24,341, a \$5,711 or 30.65 percent increase over the expiring premium.

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<sup>7</sup> Net refers to gross premiums less broker commissions as broker compensation is provided through a fee agreement between the City and Alliant.

<sup>8</sup> Broker fees include fees allocated for TRIA, Stand-alone Terrorism and Excess Flood coverages.

Insurance Carrier: Factory Mutual Insurance Company (TRIA)

<b>Policy Period</b>	<b>2022-2023</b>	<b>2021-2022</b>
Annual Premium (Net)	\$123,690	\$91,854

Insurance Carrier: Beazley Syndicate 2623/623 at Lloyd's

<b>Policy Period</b>	<b>2022-2023</b>	<b>2021-2022</b>
Annual Premium (Net)	\$23,575	\$18,044
Surplus Lines Tax & Fees	\$ 766	\$ 586
<b>Total Annual Premiums</b>	<b>\$24,341</b>	<b>\$18,630</b>

### 3. Excess Flood

To mitigate the impact of reduction to the base flood coverage from \$25,000,000 to \$10,000,000 from the 2019 renewal<sup>9</sup>, the City obtained an excess policy for locations in high and moderate hazard flood zones. The excess policy provides \$15,000,000 in limits excess of the primary property policy on a 50/50 quota share basis, where the City and excess insurers share the financing of losses on a 50/50 basis. Because of the change in the flood coverage provided by FM, the City added locations previously considered low hazard to the excess flood coverage.

Insurance Carriers: The Princeton Excess and Surplus Lines Insurance Company and Arch Specialty Insurance Company

<b>Policy Period</b>	<b>2022-2023</b>	<b>2021-2022</b>
Annual Premium (Net)	\$239,619	\$177,834
Surplus Lines Tax	\$ 7,788	\$ 5,780
<b>Total Annual Premiums</b>	<b>\$247,407</b>	<b>\$183,614</b>

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<sup>9</sup> <http://sanjose.legistar.com/gateway.aspx?M=F&ID=900243f1-bcb3-4649-a2df-49f2bdc7921a.pdf>

#### **4. Automobile Liability for Airport Fleet and Shuttle Bus Fleet Physical Damage**

Automobile liability insurance provides coverage for bodily injury, property damage, and personal injury for claims arising out of vehicle operations at the Airport. Airport Shuttle Bus Physical Damage insurance provides comprehensive physical damage, i.e., fire, theft, vandalism, malicious mischief, coverage for the owned and leased airport shuttle buses, including the 10 high-value zero emissions shuttle buses purchased from Proterra in 2019.

There is a limited commercial insurance marketplace for stand-alone auto liability and auto physical damage coverage, and the pricing environment in the auto liability market remains challenging as automobile liability remains an unprofitable insurance product line with continued rate pressure in 2022<sup>10</sup>. Despite this environment, the Airport premium and fees for auto liability and auto physical damage coverage decreased by \$2,821 or 1.23 percent relative to the expiring program. The main driver for the decrease was the reduction in the insurable values of the zero emissions shuttle buses.

Insurance Carrier: Gemini Insurance Company (Auto Liability)

<b>Policy Period</b>	<b>2022-2023</b>	<b>2021-2022</b>
Annual Premium (Net)	\$163,816	\$154,014
Surplus Lines Tax	\$ 5,324	\$ 5,005
<b>Total Annual Premiums</b>	<b>\$169,140</b>	<b>\$159,019</b>
Broker Fees	\$ 3,333	\$ 4,987
<b>Total Annual Costs</b>	<b>\$172,473</b>	<b>\$164,006</b>

Insurance Carrier: Hanover Insurance Company (Auto Physical Damage)

<b>Policy Period</b>	<b>2022-2023</b>	<b>2021-2022</b>
Annual Premium (Net)	\$55,314	\$67,909
TRIA Coverage	\$ 1,521	\$ 1,867
<b>Total Annual Premiums</b>	<b>\$56,835</b>	<b>\$69,777</b>
Broker Fees	\$ 1,487	\$ 1,735
<b>Total Annual Costs</b>	<b>\$58,322</b>	<b>\$71,512</b>

#### **5. Automobile Liability for RWF Fleet**

Automobile liability provides coverage for bodily injury, property damage, and personal injury for claims arising out of the operation at the RWF.

Despite a reduction in the RWF's vehicle count, annual premiums, taxes, and fees are up \$10,226 or 7.54 percent over the expiring program. Alliant approached four carriers and only

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<sup>10</sup> [Alliant Insurance Marketplace Trends, Industry Issues and Outlook Q1 2022](#)



the incumbent carrier offered a quote as there is a limited marketplace for stand-alone public entity auto liability coverage.

Insurance Carrier: Gemini Insurance Company (Auto Liability)

<b>Policy Period</b>	<b>2022-2023</b>	<b>2021-2022</b>
Annual Premium (Net)	\$141,185	\$131,281
Surplus Lines Tax	\$ 4,588	\$ 4,267
<b>Total Annual Premiums</b>	<b>\$145,773</b>	<b>\$135,547</b>
Broker Fees	\$ 2,889	\$ 1,721
<b>Total Annual Costs</b>	<b>\$148,662</b>	<b>\$137,268</b>

**6. Airport Owners and Operators Liability including War Risks and Extended Perils Coverage**

The Airport Owners and Operators Liability program provides coverage for damages that the City becomes legally obligated to pay because of bodily injury, property damage, and personal injury resulting from airport operations. The program provides coverage for bodily injury and property damage caused by war and other perils such as strikes, riots, civil commotion, and malicious mischief. Additionally, the policy provides \$25 million in excess auto liability insurance coverage beyond the Airport's primary auto liability insurance program.

Airport liability coverage is provided by carriers that participate in the larger aviation market with airport policyholders seeing rate increases in the range of five percent to 15 percent<sup>11</sup>. This year, the City received competitive quote from the incumbent carrier National Union Fire Insurance Company of Pittsburgh, PA (AIG) in addition to a quote from Starr Indemnity & Liability Company (Starr), the carrier providing airport liability coverage for the Alliant National Airport Liability Insurance Program, a group purchasing program open to public entities with liability exposure for municipal airports. The program is proprietary to Alliant and available to the City so long as Alliant remains the City's insurance broker.

Staff is recommending the Starr quote for a 12-month premium of \$61,863, which is \$40,482 less than the AIG proposal of \$102,345. The Starr program contemplates renewal of the program every June 30<sup>th</sup> so the first year of coverage contemplates a nine-month policy period for a pro-rata premium estimated at \$46,088.

Insurance Carrier: Starr Indemnity & Liability Company

<b>Policy Period</b>	<b>2022-2023</b>	<b>2021-2022</b>
Annual Premium (Net)	\$61,863	\$72,035
War/Extended Coverage	Included	\$ 6,530

<sup>11</sup> [Alliant Insurance Marketplace Trends, Industry Issues and Outlook Q1 2022](#)

TRIA Coverage	Included	\$13,720
<b>Total Annual Premiums</b>	<b>\$61,863</b>	<b>\$92,285</b>
Broker Fees	\$ 1,967	\$ 2,149
<b>Total Annual Costs</b>	<b>\$63,830</b>	<b>\$94,434</b>

**7. Police Aircraft Hull and Liability including War Risks and Extended Perils Coverage**

Police aircraft hull and liability insurance provides coverage for those amounts that the City becomes legally obligated to pay as damages due to bodily injury including bodily injury to passengers, or property damage, as well as physical damage to the scheduled aircraft. The program provides up to \$50 million in aggregate liability coverage for bodily injury or property damage caused by war and other perils. Presently, City aircraft consists of an Airbus H125 with a current hull value of \$5,700,000. The City also purchases liability and physical damage coverage for Unmanned Aerial Systems to support the San José Police and Fire Departments' Unmanned Aerial Systems programs through a separate program with Old Republic Insurance Company that renews in June.

The City received renewal quotes from the incumbent carrier Old Republic Insurance Company and Starr, the carrier providing aircraft hull and liability coverage for the Alliant National Aircraft Municipal Program, a group purchasing program that provides aircraft hull and liability for public entities. The program is also proprietary to Alliant and available to the City so long as Alliant remains the City's insurance broker.

Staff is recommending the Starr quote for a 12-month premium of \$60,539, which is \$23,136 less than the Old Republic proposal of \$83,675. The Starr program contemplates renewal of the program every June 30<sup>th</sup> so the first year of coverage contemplates a nine-month policy period for a pro-rata premium estimated at \$45,102.

The City's renewal premium increased by 36.17 percent from \$44,458 to \$60,539. Drivers for the significant cost increase include:

- The war in Ukraine which is driving pricing changes on this line due to physical damage losses that occurred when the Russian government nationalized aircraft assets.
- The overall cost of materials is increasing for aircraft which impacts the physical damage component of the coverage.

Insurance Carrier: Starr Indemnity & Liability Company

<b>Policy Period</b>	<b>2022-2023</b>	<b>2021-2022</b>
Annual Premium (Net)	\$60,539	\$39,553
War/Extended Coverage	Included	Included
TRIA Coverage	Included	\$ 4,905
<b>Total Annual Premiums</b>	<b>\$60,539</b>	<b>\$44,458</b>
Broker Fees	\$ 948	\$ 1,190
<b>Total Annual Costs</b>	<b>\$61,487</b>	<b>\$45,648</b>

#### **8. Life/Accidental Death and Dismemberment Policy for Police Air Support Unit**

This program provides an accidental death, accidental dismemberment, and paralysis benefit of \$250,000 per person for accident or injury of any member of the Police Air Support Unit as defined in Section 5.5.8 of the San José Police Officer's Association Memorandum of Agreement subject to an aggregate limit of \$1,250,000 per accident. The City added this insurance product line to its portfolio in 2016.

In 2019, the City placed the policy with Hartford Life & Accident Insurance Company (Hartford) with a three-year rate guarantee at an annual cost of \$9,263 that expires on October 1, 2022. Alliant received renewal quotes from Hartford and Arch Insurance Company. Hartford's renewal quote provided pricing and terms and conditions, including a three-year rate guarantee consistent with the expiring program. Arch Insurance Company's proposal provided terms and conditions, including a three-year rate guarantee, consistent with the expiring program but for a premium of \$7,157 per year.

Insurance Carrier: Arch Insurance Company

<b>Policy Period</b>	<b>2022-2023</b>	<b>2021-2022</b>
Annual Premium (Net) <sup>12</sup>	\$7,157	\$9,263
Broker Fees	\$ 197	\$ 246
<b>Total Annual Costs</b>	<b>\$7,354</b>	<b>\$9,509</b>

<sup>12</sup> The recommended policy contains a rate guarantee through September 30, 2025, with an annual installment premium, and the policy is subject to termination based on annual appropriation of funds and the City having the ongoing obligation to procure coverage per Section 5.5.8 of the San José Police Officer's Association Memorandum of Agreement.

## **9. Secondary Employment Law Enforcement Professional Liability**

The Secondary Employment Law Enforcement Professional Liability program provides coverage for an actual or alleged error or omission, negligent act, or breach of duty that results in bodily injury, property damage, or personal injury by City police officers who have been approved to participate in the Secondary Employment program (Participating Officers) while conducting law enforcement activities on behalf of approved third-party secondary employers. The projected number of Participating Officers increased by 5.24 percent from 668 to 703 officers.

The City renewal rate is \$162.98 per Participating Officer<sup>13</sup>, who contribute \$110 per year to obtain coverage.

Insurance Carrier: QBE Specialty Insurance Company

<b>Policy Period</b>	<b>2022-2023</b>	<b>2021-2022</b>
Annual Premium (Net)	\$108,863	\$ 97,815
Surplus Lines Tax	\$ 3,538	\$ 3,540
<b>Total Annual Premiums</b>	<b>\$112,401</b>	<b>\$101,355</b>
Broker Fees	\$ 2,174	\$ 2,468
<b>Total Annual Costs</b>	<b>\$114,575</b>	<b>\$103,823</b>

Total Officer Cost (Est.): \$77,330  
Total City Cost: \$37,245

## **10. Government Crime Insurance**

Government Crime insurance provides coverage to the City for financial losses arising from employee theft, forgery or alteration, robbery or safe burglary, computer fraud, funds transfer fraud, or money orders and counterfeit money fraud. Section 905 (Official Bonds) of the City Charter provides that all officers and employees having custody or control of public funds are required to be bonded. City Council memorialized the Official Bonds requirement via Resolution No. 60784 adopted by the City Council on August 2, 1988. A Government Crime policy affords equal or greater scope of coverage than a bond and has the added benefit of not having to continually remove and add employees as would be required by a bond. For this reason, staff recommends repealing and replacing Resolution No. 60784 to recognize Government Crime insurance as meeting the requirements of Section 905.

The incumbent carrier Berkley Insurance Company advised the City that it would not be renewing the Government Crime policy in July as the insurer has made a decision not to sell crime insurance to public entity accounts. The City obtained a renewal quote from Great American Insurance Company at a \$3,400 or 17.78 percent increase over the expiring policy.

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<sup>13</sup> Participating Officers include Sworn Officers and Reserve Officers

Terms and conditions are consistent with the expiring policy except that the per occurrence deductible has been increased from \$100,000 to \$250,000.

Insurance Carrier: Great American Insurance Company

<b>Policy Period</b>	<b>2022-2023</b>	<b>2021-2022</b>
Annual Premium (Net)	\$22,525	\$19,125
Broker Fees	\$ 408	\$ 394
<b>Total Annual Costs</b>	<b>\$22,933</b>	<b>\$19,519</b>

## **B. Insurance Coverage Not Recommended**

The insurance coverage listed below was again reviewed by staff with the assistance of Alliant. The market conditions remain consistent with last year's renewal decisions. Staff does not recommend purchasing additional coverage now. The recommendation is based on multiple factors including, but not limited to, the products being cost prohibitive, the scope of coverage being too narrow considering the City's risk exposure, or that the coverage was unavailable, limits too low, or excessive in cost due to the nature of the risk. Staff, in consultation with Alliant, will continue to review the market on an annual basis and make the appropriate recommendations to City Council should circumstances change.

### **1. Earthquake**

Earthquake coverage is provided through a separate insurance product line. Coverage is limited to direct damages caused by earth movement, which is excluded on the All Risk property coverage policy. Coverage for sprinkler damage and fire resulting from an earthquake is covered by the All Risk property policy. In previous years, staff has inquired into the total cost of earthquake insurance for the entire property schedule and found coverage to be cost prohibitive.

The City's insurance broker confirmed rates have not improved for FY 2022-2023, and market conditions have deteriorated slightly since earthquake coverage was evaluated last year. The insurance markets that underwrite catastrophic coverage (flood, wind, and earthquake) have reduced available capacity and continue increasing insurance rates. Purchasing only \$25.0 million in earthquake coverage is estimated to double the City's property insurance premiums. This pricing level, the minimum deductible of five percent of the values at risk, the relatively low limits of coverage available, and potential concerns about solvency (ability to pay) of the insurers make it uneconomical to purchase coverage Citywide. FM provided a quote for \$5.0 million in limits for an additional premium of \$997,875.

## **CONCLUSION**

Approval of this recommendation will ensure the City maintains appropriate property and casualty insurance coverage to provide financial protection from certain types of catastrophic or financial losses.

## **EVALUATION AND FOLLOW-UP**

The memorandum will not require any follow-up from staff.

## **CLIMATE SMART SAN JOSE**

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

## **COORDINATION**

This memorandum has been coordinated with the Airport Department, the Department of Transportation, the Police Department, the Housing Department, the Environmental Services Department, the City Manager's Office of Economic Development and Cultural Affairs, the Public Works Department, as well as the City Manager's Budget Office and the City Attorney's Office.

## **COMMISSION RECOMMENDATION/INPUT**

The insurance renewals for the San José-Santa Clara Regional Wastewater Facility is scheduled to be heard at the September 8, 2022 Treatment Plant Advisory Committee meeting. A supplemental memorandum with the Treatment Plant Advisory Committee's recommendation will be included in the amended September 20, 2022 City Council meeting agenda.

## **COST SUMMARY/IMPLICATIONS**

The estimated funding to pay for various insurance premiums in 2022-2023 was included in the 2022-2023 Adopted Operating Budget approved by the City Council on June 14, 2022 and adopted on June 21, 2022. Accordingly, the Administration will recommend a future minor budget adjustments to the General Fund appropriation in the amount of \$500 as part of the 2021-2022 Annual Report scheduled for City Council review and approval on October 18, 2022. The recommend action also includes authorization for an additional 18.0 percent contingency to schedule additional property or assets as required, subject to the appropriation of funds.

## **BUDGET REFERENCE**

The table below identifies the fund and appropriations recommended to fund the insurance premiums identified. In addition, costs associated with insuring the remaining SARA asset is estimated to be \$680 in FY 2022-2023. The anticipated payment of these costs associated with asset management for the SARA is reflected on line 85 of the Recognized Obligation Payment Schedule as an enforceable obligation to maintain and protect the assets of the SARA allowed under the dissolution law.

<b>Fund #</b>	<b>Appn #</b>	<b>Appn. Name</b>	<b>Total Appn.</b>	<b>Recommended Amount for Premium and Broker Fees <sup>1</sup></b>	<b>2022-2023 Proposed Budget Page <sup>2</sup></b>	<b>Last Budget Action (Date, Ord. No.)</b>
001	2001	Insurance Premiums	\$2,292,830	\$2,122,886	803	06/21/2022 30790
001	2864	Police Officers' Professional Liability Insurance <sup>3</sup>	\$114,367	\$114,575	803	06/21/2022 30790
001	0502	Non-Personal/Equipment (Police Department)	\$35,909,933	\$61,487	676	06/21/2022 30790
523	0802	Non-Personal/Equipment (Airport Department)	\$ 51,142,505	\$974,246	836	06/21/2022 30790
536	3405	Insurance Expenses (Convention Center)	\$450,000	\$434,369	867	06/21/2022 30790
533	0512	Non-Personal/Equipment (Department of Transportation)	\$7,793,897	\$123,023	883	06/21/2022 30790
513	0762	Non-Personal/Equipment (Environmental Services Department)	\$37,280,941	\$524,899	927	06/21/2022 30790
515	0762	Non-Personal/Equipment (Environmental Services Department)	\$43,799,019	\$10,202	940	06/21/2022 30790
423	0762	Non-Personal/Equipment (Environmental Services Department)	\$ 3,926,270	\$9,079	894	06/21/2022 30790
346	0109	Asset Management Services (Housing Department)	\$1,750,000	\$32,047	896	06/21/2022 30790

<sup>1</sup> The amount for premium is subject to change up until the beginning date of the new insurance policy. SARA is billed separately for its share of broker fees and premium costs.

<sup>2</sup> The 2021-2022 Adopted Operating Budget was approved by City Council on June 14, 2022 and the Annual Appropriation Ordinance and Funding Sources Resolution implementing the 2022-2023 Operating and Capital Budgets was adopted on June 21, 2022.

<sup>3</sup> Administration will recommend an increase to the General Fund Police Officers' Professional Liability Insurance appropriation of \$500 as part of the 2021-2022 Annual Report scheduled for City Council review and approval on October 18, 2022. Insurance premiums are paid within 30 days of the policy effective date.

HONORABLE MAYOR AND CITY COUNCIL

August 29, 2022

**Subject: Approval of Citywide Insurance Renewals**

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**CEQA**

Not a Project, File No. PP17 003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/

JULIA H. COOPER

Director of Finance

For questions, please contact Miguel Bernal, Risk Manager, at [miguel.bernal@sanjoseca.gov](mailto:miguel.bernal@sanjoseca.gov).

Attachments: Appendix A  
Appendix B



## APPENDIX A

### 1. ALL RISK PROPERTY AND BOILER & MACHINERY INSURANCE

	CURRENT PROGRAM	RENEWAL PROGRAM
	10/01/2021-10/01/2022	10/01/2022-10/01/2023
Carrier	Factory Mutual Insurance Company (FM)	Factory Mutual Insurance Company (FM)
Total Insurable Values	\$4,510,242,904	\$5,487,362,678
Limit of Liability	\$1,000,000,000 Property Damage and \$300,000,000 Business Interruption subject to a \$100,000 Deductible per Occurrence	\$1,000,000,000 Property Damage and \$300,000,000 Business Interruption subject to a \$500,000 Deductible per Occurrence
Boiler & Machinery	Included	Included
Earthquake	Excluded. Relatively low limits available 5% deductible, high premium-not recommended.	Excluded. Relatively low limits available 5% deductible, high premium-not recommended.
Flood	\$10,000,000 but not to exceed \$100,000,000 in low hazard exposed flood zones. Deductible is \$100,000 per location of loss except for locations in high and moderate exposure flood zones. Deductible is \$500,000 per location for locations in high and moderate exposed flood zones except the Airport, Convention Center, and RWF are given a flat \$10,000,000 (Airport & Convention Center) and \$5,000,000 (RWF) per location flood deductible.	\$10,000,000 for all locations. Deductible is \$500,000 per location for all locations except the Airport, Convention Center, and RWF are given a flat \$10,000,000 (Airport & Convention Center) and \$5,000,000 (RWF) per location flood deductible.
Other Sub-limits	Other sub-limits as outlined in the insurance policy on file in Risk Management	Other sub-limits as outlined in the insurance policy on file in Risk Management
Terrorism and Non-Certified Act of Terrorism	Included for additional premium	Included for additional premium
Engineering Services	Included in coverage	Included in coverage
Multiyear	Not Available	Not Available

## 2. AIRPORT OWNERS AND OPERATORS LIABILITY

	<b>CURRENT PROGRAM 10/01/2021-10/01/2022</b>	<b>RENEWAL PROGRAM 10/01/2021-10/01/2022</b>
Carrier	National Union Fire Insurance Company of Pittsburgh, PA (AIG)	Starr Indemnity & Liability Company
Coverage and Deductible	Airport Liability - \$200,000,000 each occurrence combined single limit for bodily injury and property damage with a \$50,000,000 each occurrence limit for personal injury, war risk liability at \$200,000,000 each occurrence and in the annual aggregate and \$25,000,000 Excess Automobile, and \$5,000,000 Excess Employers Liability, and \$5,000,000 Garage-keepers Liability.  Deductible: \$0 each occurrence	Airport Liability - \$200,000,000 each occurrence combined single limit for bodily injury and property damage with a \$50,000,000 each occurrence limit for personal injury, war risk liability at \$200,000,000 each occurrence and in the annual aggregate and \$25,000,000 Excess Automobile, and \$5,000,000 Excess Employers Liability, and \$5,000,000 Garage-keepers Liability.  Deductible: \$0 each occurrence

## 3. SECONDARY EMPLOYMENT LAW ENFORCEMENT PROFESSIONAL LIABILITY

	<b>CURRENT PROGRAM 10/01/2021-10/01/2022</b>	<b>RENEWAL PROGRAM 10/01/2022-10/01/2023</b>
Carrier	QBE Specialty Insurance Co. New York, New York	QBE Specialty Insurance Co. New York, New York
Limits of Insurance and Deductibles	\$2,000,000 Each Occurrence \$2,000,000 Annual Aggregate \$250,000 Annual Aggregate Line of Duty Death Coverage Subject to a \$100,000 Deductible including Loss Adjustment Expense <sup>1</sup>	\$2,000,000 Each Occurrence \$2,000,000 Annual Aggregate \$250,000 Annual Aggregate Line of Duty Death Coverage Subject to a \$100,000 Deductible including Loss Adjustment Expense <sup>2</sup>
Average Rate per Officer	\$155.42 (668 Participating Officers estimated at policy inception)	\$162.98 (703 Participating Officers estimated at policy inception)

<sup>1</sup> Loss Adjustment Expense includes costs for investigation and defense of claims.

<sup>2</sup> Loss Adjustment Expense includes costs for investigation and defense of claims.

**4. AUTOMOBILE LIABILITY FOR THE AIRPORT FLEET & AIRPORT SHUTTLE BUS FLEET  
PHYSICAL DAMAGE**

	<b>CURRENT PROGRAM 10/01/2021-10/01/2022</b>	<b>RENEWAL PROGRAM 10/01/2022-10/01/2023</b>
Carriers	Gemini Insurance Company (Auto Liability) Hanover Insurance Company (Physical Damage)	Gemini Insurance Company (Auto Liability) Hanover Insurance Company (Physical Damage)
Coverage and Deductibles	Auto Liability-Fleet Only \$1,000,000 Combined Single Limit (Any Auto) Retention \$250,000 each Accident  Physical Damage-Buses Only Per Schedule Subject to \$10,000 Comp/\$10,000 Coll. except New Flyer Buses \$5,000 Com/\$5,000 Coll.	Auto Liability-Fleet Only \$1,000,000 Combined Single Limit (Any Auto) Retention \$250,000 each Accident  Physical Damage-Buses Only Per Schedule Subject to \$10,000 Comp/\$10,000 Coll. except New Flyer Buses \$5,000 Com/\$5,000 Coll.
Exposure	Number of Vehicles: 87	Number of Vehicles: 86

**5. AUTOMOBILE LIABILITY-RWF FLEET**

	<b>CURRENT PROGRAM 10/01/2021-10/01/2022</b>	<b>RENEWAL PROGRAM 10/01/2022-10/01/2023</b>
Carrier	Gemini Insurance Company (Auto Liability)	Gemini Insurance Company (Auto Liability)
Coverage	Auto Liability-Fleet Only \$1,000,000 Combined Single Limit (Any Auto) Retention \$250,000 each Accident	Auto Liability-Fleet Only \$1,000,000 Combined Single Limit (Any Auto) Retention \$250,000 each Accident
Exposure	Number of Units: 57	Number of Units: 55

**6. POLICE AIRCRAFT HULL AND LIABILITY**

	<b>CURRENT PROGRAM 10/01/2021-10/01/2022</b>	<b>RENEWAL PROGRAM 10/01/2022-10/01/2023</b>
Carrier	Old Republic Insurance Company	Starr Indemnity & Liability Company
Coverage	Aircraft Hull and Liability-\$50,000,000 each occurrence for liability. Hull coverage: Airbus H125 \$5,700,000  Deductibles: Liability – NIL Hull - NIL Extended Engine Physical Damage: \$10,000 per occurrence	Aircraft Hull and Liability-\$50,000,000 each occurrence for liability. Hull coverage: Airbus H125 \$5,700,000  Deductibles: Liability – NIL Hull - NIL Extended Engine Physical Damage: \$10,000 per occurrence

## 7. GOVERNMENT CRIME

	<b>CURRENT PROGRAM 10/01/2021-10/01/2022</b>	<b>RENEWAL PROGRAM 10/01/2022-10/01/2023</b>
Carrier	Berkley Insurance Company	Great American Insurance Company
Limits of Insurance and Deductibles	Employee Theft, Forgery, or Alteration and Inside the Premises- Theft of Money and Securities-\$5,000,000 per occurrence subject to a \$100,000 deductible per occurrence.	Employee Theft, Forgery, or Alteration and Inside the Premises- Theft of Money and Securities-\$5,000,000 per occurrence subject to a \$250,000 deductible per occurrence.
Sublimits of Insurance	Computer Fraud, Funds Transfer Fraud, and Money Orders and Counterfeit Money-\$1,000,000 per occurrence subject to a \$100,000 deductible per occurrence.  Government Deception Fraud-\$100,000 per occurrence subject to a \$100,000 deductible per occurrence.	Computer Fraud, Funds Transfer Fraud, and Money Orders and Counterfeit Money-\$1,000,000 per occurrence subject to a \$250,000 deductible per occurrence.  Government Deception Fraud-\$250,000 per occurrence subject to a \$250,000 deductible per occurrence.

## 8. LIFE AND ACCIDENTAL DEATH AND DISMEMBERMENT

	<b>CURRENT PROGRAM 10/01/2021-10/01/2022</b>	<b>RENEWAL PROGRAM 10/01/2021-10/01/2022</b>
Carrier	Hartford Life and Accident Insurance Company	Arch Insurance Company
Limits of Insurance and Deductibles	Blanket Accident & Health Policy (Accident Only; Injury Only) Principal Sum (loss of Life): \$250,000; subject to an aggregate limit of \$1,250,000 per accident	Blanket Accident & Health Policy (Accident Only; Injury Only) Principal Sum (loss of Life): \$250,000; subject to an aggregate limit of \$1,250,000 per accident

**APPENDIX B**

**Allocation of Insurance Premiums by Fund & Type of Insurance**

	<b>2021-22 Premiums</b>	<b>2022-23 Premiums Est.</b>	<b>Percentage Increase / Decrease</b>
	<b>12 Month</b>	<b>12 Month</b>	
<b><u>General Fund-Fund 001</u></b>			
Property Insurance <sup>1</sup>	\$1,073,319	\$1,106,601	3.10%
Government Crime	19,125	22,525	17.78%
Other Liability	607,898	950,000	56.28%
AD&D	9,263	7,157	-22.74%
Police Secondary <sup>2</sup>	101,994	112,401	10.20%
Police Air Support (Hull & Liability)	44,458	60,539	36.17%
Broker Fee	36,000	39,724	10.35%
<b>Subtotal</b>	<b>\$1,892,057</b>	<b>\$2,298,948</b>	<b>21.51%</b>
<b><u>Airport-Fund 523</u></b>			
Property Insurance	\$692,615	\$664,859	-4.01%
Liability Insurance	92,285	61,863	-32.97%
Auto Liability / Physical Damage	226,168	225,975	-0.09%
Broker Fee	24,746	21,549	-12.92%
<b>Subtotal</b>	<b>\$1,035,815</b>	<b>\$974,246</b>	<b>-5.94%</b>
<b><u>ESD-Fund 513 (RWF)</u></b>			
Property Insurance	\$229,592	\$371,344	61.74%
Auto Liability Insurance	135,547	145,773	7.54%
Broker Fee	7,016	7,782	10.93%
<b>Subtotal</b>	<b>\$372,155</b>	<b>\$524,899</b>	<b>41.04%</b>
<b><u>ESD-Fund 515 (Municipal Water)</u></b>			
Property Insurance	\$10,296	\$9,982	-3.05%
Broker Fee	221	219	-0.70%
<b>Subtotal</b>	<b>\$10,517</b>	<b>\$10,202</b>	<b>-3.00%</b>
<b><u>ESD-Fund 423</u></b>			
Property Insurance	\$9,044	\$8,886	-1.75%
Broker Fee	248	193	-22.28%
<b>Subtotal</b>	<b>\$9,292</b>	<b>\$9,079</b>	<b>-2.29%</b>
<b><u>Convention &amp; Cultural Affairs-Fund 536</u></b>			
Property Insurance	\$428,716	\$425,232	-0.81%
Broker Fee	10,228	9,137	-10.66%
<b>Subtotal</b>	<b>\$438,944</b>	<b>\$434,369</b>	<b>-1.04%</b>
<b><u>General Purpose Parking-Fund 533</u></b>			
Property Insurance	\$117,420	\$120,521	2.64%
Broker Fee	2,617	2,503	-4.37%
<b>Subtotal</b>	<b>\$120,037</b>	<b>\$123,023</b>	<b>2.49%</b>
<b><u>Successor Agency (SARA) <sup>3</sup></u></b>			
Property Insurance	\$674	\$665	-1.30%
Broker Fee	16	14	-10.16%
<b>Subtotal</b>	<b>\$690</b>	<b>\$680</b>	<b>-1.50%</b>
<b><u>Housing-Fund 346</u></b>			
Property Insurance	\$31,506	\$31,375	-0.41%
Broker Fees	669	672	0.37%
<b>Subtotal</b>	<b>\$32,175</b>	<b>\$32,047</b>	<b>-0.40%</b>
<b>Total</b>	<b>\$3,911,682</b>	<b>\$4,407,493</b>	<b>12.68%</b>

<sup>1</sup> TRIA/Terrorism and excess flood costs are included in the total costs in Appendix B

<sup>2</sup> Each Police Officer participating in secondary employment program pays \$110 towards the premium cost

<sup>3</sup> Allocated premium will be directly invoiced by the City to the Successor Agency (SARA)