

CITY COUNCIL
COMMUNICATION:

03-308

AGENDA:

JUNE 23, 2003

SUBJECT:

ANNUAL INSURANCE
RENEWAL FOR
JULY 1, 2003 –
AIRPORT LIABILITY
INSURANCE

TYPE:

RESOLUTION
ORDINANCE
RECEIVE/FILE

SUBMITTED BY:

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ITEM 59B

**OFFICE OF THE CITY MANAGER
CITY OF DES MOINES, IOWA**

SYNOPSIS —

The City aggressively markets about one-third of its insurance coverages annually. Two years ago, the City marketed its Airport Liability Insurance which included, at no additional cost, an endorsement extending coverage for War and Terrorism.

Shortly following the terrorist attack of September 11, 2001, all carriers cancelled this endorsement and reissued it in December 2001, but at an additional cost. However, the endorsement retained its seven-day cancellation provision. To protect the City's compliance with the insurance requirements of its Airport Revenue Bond covenants, the City purchased this endorsement and continued to do so at its July 1, 2002 renewal.

In March of 2003, the carrier issued another endorsement (TRIA, or Terrorism Risk Insurance Act) financially backed by the federal government and with no cancellation allowed unless all federal funds were exhausted. Because of the seven-day cancellation provision in the carrier's endorsement and the fear that a war with Iraq would trigger its cancellation and then place the City in a non-compliant position with its bond covenants, the City also purchased this endorsement.

Now that airports have had some experience with this coverage and have taken significant steps to increase security, a large number of airports have chosen not to carry any terrorism coverage. They have made this decision, in part, because the scope of coverage is so narrow compared to the premium charged.

In light of this trend, it has been determined that the City no longer needs to carry terrorism coverage in order to be compliant with the insurance requirements of the Airport Revenue Bonds. Therefore, staff recommends that the City renew its Airport Liability Insurance without the terrorism endorsements. The total renewal premium without terrorism coverage is \$159,400. This represents a 61 percent decrease from last year's renewal of \$261,055 and a budget savings of \$119,262.

FISCAL IMPACT —

The premium costs for this coverage is included in the City's 2003/2004 Operating Budget: Aviation, pp. 4-9.

RECOMMENDATION —

Approval.

BACKGROUND —

The following is a detailed explanation of why staff has determined that the City no longer needs to carry terrorism coverage in order to protect its compliance with the insurance requirements included in its Airport Revenue Bond covenants.

AIRPORT LIABILITY

The renewal coverage for July 1, 2003 has changed. While the City maintains its total limit of \$200,000,000, the primary carrier is now providing \$30,000,000 in limits rather than the current \$50,000,000, and the umbrella carrier is providing \$170,000,000 rather than \$150,000,000. The premium for this coverage is \$159,400. However, under the current policy, the City has purchased additional terrorism coverage on the primary policy amount of \$50,000,000. The new allocation of limits between the primary carrier and the umbrella carrier has also reduced the terrorism coverage available on the primary coverage to \$30,000,000, but at a reduced premium. Whereas the premium charged for the current endorsement is \$96,538, the premium for the lowered limit is \$79,010. To purchase terrorism limits above \$30,000,000, the City would have to purchase an additional endorsement for the full limit of the umbrella policy at an additional premium of \$165,000.

When the City purchased the terrorism coverage after its post-September 11, 2001 cancellation, the most compelling reason for doing so was to avoid the possibility of becoming non-compliant with the insurance provisions included in the Airport Revenue Bond covenants. The bond covenants state, in part, that the City is to “purchase and maintain comprehensive general liability insurance on the Airport System . . . as is customarily carried by enterprises of a similar nature.” Those covenants also state that, “If the Insurance Advisor and the City certify that the amount of insurance coverage required . . . is not available on reasonable terms and conditions, the insurance coverage required . . . may be modified . . .”

In order to determine if the City should continue to purchase terrorism coverage, staff has asked the following questions: (1) if it appears that most airports in the U.S.A. are not purchasing terrorism coverage as part of their liability insurance program, can the City reasonably assume that it is no longer customary of airports to do so; (2) if the Des Moines International Airport’s exposure to terrorist attack is minimal compared to many others, and since the scope of the TRIA endorsement is very narrow and only covers a portion of whatever exposure does exist and the carrier’s own terrorism endorsement can be cancelled with seven days’ written notice upon there being a qualifying event anywhere in the world, can it be said that the terrorism coverage offered is not available on reasonable terms and conditions; and (3) if the premium charged to carry such coverage up to the

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full limits of the primary and umbrella policies is one and one-half times that of the base premium for both, can it be further said that the terrorism coverage offered is not available on reasonable terms and conditions, then (4) if the answer to questions 1, 2 and 3 is "yes", should the City discontinue purchasing terrorism coverage since it can still be considered to be in compliance with its revenue bond covenants even though there does exist some minimal, non-quantifiable exposure to an act of terrorism?

Research conducted by Jester Insurance Services, Inc. indicates that 50 percent of airports covered by ACE USA have opted to not carry the federally-backed TRIA terrorism endorsement, and 90 percent of the airports covered by Phoenix Aviation Managers, Inc. have opted to not carry either the TRIA nor the carrier's own terrorism endorsement. As a result, Jester Insurance Services, Inc. has concluded "that war and terrorism coverage is not customarily being purchased by Airports around the United States as a part of their Liability Insurance program." In addition, a report by Airport Council International – North America (ACI-NA) states that those airports covered by ACE USA have opted to discontinue coverage because the scope of coverage does not appear to be commensurate with the premium being charged.

Based on research conducted by Jester Insurance, one can conclude that the answer to question 1 is "yes — it is no longer customary for airports to include terrorism coverage as part of their liability insurance program. From the ACI-NA report, one may conclude that the answer to questions 2 and 3 is "yes" because the reason such coverage is no longer customary is because it is not being offered on reasonable terms and conditions, meaning the benefit of the narrow scope of coverage or ability to be cancelled does not rise to the level of the premium being charged. However, while Jester Insurance has indicated that this conclusion appears to be reasonable, this is a question that each airport has to decide for itself. Therefore, a special Airport Board meeting has been scheduled for the morning of Monday, June 23, 2003. The purpose of this meeting is to review whether or not the Board believes that the coverage offered is commensurate to the premium being charged, and if it is the Board's advisory opinion that the City discontinue the purchase of terrorism coverage. The Board's resolution will be provided to the Council prior to the Council Meeting on the same day.

After consulting with the City's bond counsel and its Insurance Advisor, staff concludes that the answer to question 4 must be addressed in two parts: Part one answers the question as to whether or not terrorism coverage is customarily provided by airports, and part two answers the question as to whether the City and its Insurance Advisor can certify that the coverage being offered is not available on reasonable terms and conditions. Only if the answer to both parts one and two is "yes," can the City discontinue providing terrorism coverage.

Staff concludes that the answer to part one is "yes" based on the professional opinion of and research conducted by Jester Insurance.

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However, because Jester Insurance considers the answer to part two to be as much a local business decision as a professional insurance opinion, staff has determined that part two cannot be answered until input from the Airport Board is received after it has thoroughly discussed it from the Airport's perspective. Subject to modification upon reviewing the Board's recommendation, it is staff's position that the City will be compliant with its Airport Revenue Bond covenants if it discontinues providing terrorism coverage since it is no longer customary among airports to do so, and because the premium charged appears to exceed the level of coverage offered considering the Airport's risk exposure level to the type of terrorist act covered by the TRIA endorsement and the cancellation clause of the carrier's own endorsement. It is staff's recommendation to both the Airport Board and the City Council that the City discontinue purchasing terrorism coverage as part of the Airport Liability Insurance policy.

If the City discontinues all terrorism coverage, the premium savings compared to last year's premium will be \$101,655, and the savings for this year's budget will be \$119,262. If the City were to continue to purchase only the federally-backed TRIA coverage on the \$30,000,000 primary policy, the premium savings compared to last year will be \$22,645, and the budgetary savings will be \$40,252. If the City were to purchase TRIA coverage on the full \$200,000,000 limit, the premium increase compared to last year's premium would be \$142,355, and this year's budget would be exceeded by \$124,748. If Council decides that the City should continue terrorism coverage, staff recommends only doing so on the primary policy of \$30,000,000.

Of the options noted above, staff recommends that Council approve the following:

Current carrier: Phoenix Aviation Managers, Inc.

	<u>Premium FY 02-03</u>	<u>Premium FY 03-04</u>	<u>Budget FY 03-04</u>
Airport Liability Insurance w/o Terrorism Coverage	\$135,680	\$159,400	\$278,662

