2011-0027 Informational Update on the City's Request for Proposal related to Property and Liability Protection Insurance

Attachments: Agenda Summary.pdf
Pros and Cons for MMRMA.pdf
Pros and Cons for MML.pdf
Pros and Cons for Nickel & Saph.pdf
Add'l Questions to Proposers.pdf
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Mr. Webber *stated that as he is employed by one of the firms involved in the bid process, he will recuse himself from discussion and any decision on this matter in the interest to avoid any appearance of impropriety or conflict of interest.*

Keith Sawdon, *Director of Finance, stated that in February of 2010, City Council requested that an open bid process be conducted prior to the next renewal of Liability Protection Insurance. He stated that the Request for Proposal (RFP) was issued in 2010 with the intent of duplicating the coverage levels of the current provider, the Michigan Municipal Risk Management Authority (MMRMA). On November 1, 2010, four proposals were received and a review committee was formed consisting of himself, Jean Farris, Supervisor of Procurement, Alan Buckenmeyer, Parks Operations Manager, Helen Sultana-Kelly, HR Analyst/Program Coordinator, and Deborah Hoyle, Financial Analyst.*

He explained that one of the four proposals received did not complete the required questions, and the committee determined that this proposal would be deemed nonresponsive. He noted that one proposal met the specifications of the RFP entirely while the other two deviated somewhat from the specifications. He pointed out that in the purchase of a tangible product such as a water meter, price is the main consideration; however, in the risk business, one cannot make a determination by premium alone. He stated that the committee completed a process of premium reconciliation to arrive at a common denominator, noting that while one premium may be lower, there might be exclusions, deductibles and aggregate caps that apply. The committee members completed a pro and con evaluation of the firms. A situational-based evaluation was also undertaken with a list of eight hypothetical events that could happen at the City, to allow the committee to better understand what the premium means and what is covered for that premium by each firm. The evaluation committee also contacted the three references that the responding firms were required to submit. He stated that the Administration requests guidance from City Council as to their tolerance for risk. He questioned whether Council would prefer to avoid losing money at all costs; or, if opting for a lower premium, Council will tolerate the accompanying risk.

He noted that the bids represent two pool and one pure insurance concept. He explained that in a pool, risk is shared among all members; while with pure insurance, the risk is between only the City and the insurance company. In the event of a year with high claims, pure insurance does not share risk with those that have a good year. Likewise, in a good year, risk is shared with those in the pool that might have had a bad year. He noted that back in 1984, insurance companies cancelled municipalities in Michigan. He commented that it is quite unusual to not be accepted in a pool.

Mr. Sawdon reviewed the proposals, noting that the City has had generally good experience with MMRMA, the current provider. He stated that MMRMA's premium proposal was the highest, had a limited ability to select legal counsel, and required a 90-day termination notice. He mentioned that because of this 90-day notice, the RFP was issued in October in order to allow enough time for proposal review and notice to be provided for MMRMA's termination for the July renewal date. He stated that many of the private firms would not commit to a proposal that far in advance.

He noted that the Michigan Municipal League's (MML) bid is also pool-based. He reviewed their proposal, noting that their claim adjusters are located within the county, the MML's administration is located in Lansing, a 60-day termination notice is required, and their premium was the second-highest. He mentioned that the City has no experience with them and does not know if claims processing is efficient.

He highlighted Nickel & Saph's (N&S) proposal, explaining it is a pure insurance program which is related to the City's experience and claim history. The City would have flexibility in picking legal defense and could save the City money. N&S's premium was the lowest. N&S's proposal is a pure insurance program underwritten by an insurance company that has an "A" rating. As it is not a pool program, should the City have an excessively bad year, there would be a risk of cancellation. The City would not receive a return of premium paid should it have a good year; however, the City's experience would affect future rates. He noted that it is not known where the claims adjusters are actually located, commenting that it is easier to deal with adjusters that are relatively close. He commented that the City has no experience with the firm.

Mr. Sawdon reviewed the eight events that were posed to the bidders and highlighted their varied responses, noting the coverage and costs to the City for each scenario. Scenarios included the City's denial of a demolition permit because a property was designated historic, landlord-tenant coverage with a long-term lease arrangement of a City building to a non-profit, acts of omission of the Oakland County Sheriff's Department (OCSD), injury to a volunteer at a City-sponsored community event, destruction of a City fire truck with a need for replacement and rental coverage, sewer backups, alleged EMT malpractice, and a crash resulting from a high-speed police chase.

He noted that all three qualified bidders were given the opportunity to review the City's contract with the OCSD. The current provider noted that it is familiar with the contract and the City would be covered. MML's response was not clear as to coverage under their program. While N&S's response appears to state that the City would be covered, they also suggested that the City would have the ability to purchase a Law Enforcement add-on. N&S also noted that a volunteer policy could be purchased. He mentioned that N&S's proposal has an aggregate cap of $15 million.

Public Comment:

Steven Saph Jr., *representing Nickel & Saph, 68 Clinton Street, Mount Clemens, introduced himself as a Principal of the agency, and explained that the agency has been in existence since 1929, with current management in place since 1970.*

He reported that N&S insures over 35 public entities in Michigan. The Trident Program operates nationally and has 2,500 clients. He commented that the program has a substantially lower deductible for liability claims and is not a dividend program. He stated that rates are developed from the collective experience of the pool of their client base. He mentioned that N&S is located in downtown Mount Clemens and is the first-responder for loss control, and claims adjusters are within the state. He noted that N&S has an extremely-sophisticated web-based system and physical inspections are provided by Trident. N&S provides seminars for safety-training to clients in the areas of playground safety, employment-related practices, collective bargaining, claim investigations, Michigan Occupational Safety and Health Administration (MIOSHA) concerns, and additional-insureds in contracts and what those insurance certificates should include. He commented that this was the first time in twenty years that a community requested a claims scenario and stated that he is proud of his firm's responses noting that N&S had the lowest out-of-pocket expenses based on the scenarios presented.

<u>Council Discussion:</u>

President Hooper *questioned whether July 1 is the anniversary date for the policy, if the rates quoted in the proposals are annual rates, what MMRMA's rate trend has been, and what the liability cap would be for the different proposals.*

Mr. Sawdon *responded that July 1 is the renewal date, the premiums quoted were annual, and a list of the City's buildings was provided for the quote. He noted that MMRMA's price has been creeping upward with a recent increase of nine percent. He mentioned that there is a $15 million cap per event for MMRMA and MML and noted that N&S's quote included a $15 million aggregate cap for liability coverage.*

Mr. Yalamanchi *questioned whether members of the City's Boards, Commissions and Committees were considered volunteers and how much additional coverage for these individuals would cost.*

Mr. Sawdon *responded that in certain situations, Board, Commission or Committee members would be covered under the Public Officials section and stated that those individuals that volunteer at events such as the Fireworks Festival would be considered volunteers. He commented that he could obtain additional information for coverage costs for a volunteer policy.*

Mr. Yalamanchi *stated that he would not consider MML's proposal any further and commented that the Administration should continue with a review of the MMRMA and N&S proposals. He requested Mr. Sawdon explain MMRMA's stop-loss cap.*

Mr. Sawdon *responded that the City chose to cap the amount of exposure of the Self-Insurance portion. If five events occur in a year that tap the Self-Insurance Retention fund for $150,000 each, once the losses hit $458,000, the City stops paying and the stop-loss policy takes over.*

Mr. Yalamanchi *noted that with N&S, it would be $25,000 no matter what. He questioned whether the City's experience has taken it close to the caps.*

Mr. Sawdon *responded that the City has not come close to the cap amounts, commenting that a $2 million payment was the largest to date. He cautioned, however, that this could change.*

Mr. Yalamanchi *suggested the City consider opting for the lower cost policy and use the difference in premium to set up an insurance losses fund.*

Mr. Sawdon *mentioned that MMRMA's proposal did provide the City with a two-year premium, if it chose to stay with MMRMA.*

Mr. Klomp *commented that both pool-based programs required longer notices of termination. He stated that N&S makes the most sense, but acknowledged that there are many factors to consider including the fact that N&S's program is not pool-based.*

Mr. Sawdon *responded that typically with a pool-concept, the City would remain in until it chooses to leave; and at that time, it would have to render a notice of termination. In the instance of a pure premium program, at renewal time, either the policy is renewed or it is not. He commented that he wished that there were other pure insurance quotes for comparison, but noted that with the long lead-time required, there were no others responding.*

Mr. Pixley *stated that he would concur with considering MMRMA and N&S further. He questioned whether the City could return to a pool-based system if it was cancelled from a pure insurance program.*

Mr. Sawdon *responded that it could, however, a down-side to leaving the MMRMA pool is that the City would lose its advantage as one of the founding members of the pool with a high stake in equity. As such, the City receives a higher level of distribution than newcomers to the pool. If the City leaves the pool and returns, it would move down in status.*

Mr. Pixley *questioned whether the City's last two years of actual events could be re-cast with MMRMA and N&S.*

Mr. Sawdon *stated that it could.*

Mr. Brennan *concurred with continuing review with MMRMA and N&S and questioned whether N&S would provide a two-year premium amount.*

Mr. Yalamanchi *questioned whether N&S could raise the aggregate liability to $25 million.*

Mr. Sawdon *responded that N&S was asked if it was possible to uncap the aggregate, and they responded that it was not, as the program quoted has an aggregate of $15 million.*

President Hooper *questioned whether one bad year after five good years could trigger termination and how premiums would be affected.*

Mr. Saph *responded that the insurance industry survived the shock of the events of 9-11, noting that the crisis impacted all communities. He stated that he was very proud that the traditional insurance programs have maintained their position and posture to provide coverage to communities. He noted that he has been in the industry since 1983 and has not handed a notice of cancellation from this carrier to any of his public clients. He commented that there would be adverse impact and repercussions to cancel someone and that decision would be made with deep thought and review. He stated that premiums could go up or down based on experience. He explained that there are two types of claims in the industry: frequency and severity. He commented that if an insured experiences 15 claims all related to employment practices, such as harassment, the premium would be impacted. The shock-loss type of claim is something that the carriers can absorb. He noted that their cover letter committed to a guarantee of pricing for the second and third years. He pointed out that volunteers are covered for liability in the event that someone sues them; however, if a volunteer is injured and has a medical bill, no reimbursement would be provided. He mentioned that a policy covering accidental death and dismemberment could be added to address medical expenses for volunteers. He noted that N&S covers five lines of liability; each of those lines of liability has a dedicated occurrence limit of $15 million and an aggregate limit of $15 million. Each of those liability limits are dedicated to damages; the payment of defense expenses are outside of those damages. If a litigated matter goes on for many months, by the time the case is resolved, whether the City is deemed at fault or not, several hundred thousand dollars of litigation expenses could be realized. Those expenses are outside of the limits of liability and will not reduce the available limits to pay damages. That is another buffer to protect those limits of liability. He commented that while limits in excess of $15 million could be explored, he does not have a community that buys up to limits over $15 million. He mentioned the various communities covered by the firm.*

President Hooper *questioned whether the claims adjusters are locally-based and whether the policy includes any Workman's Compensation insurance.*

Mr. Saph *responded that the physical adjusters are local, however, processing is done out of the state. He commented that he is available during daytime hours at his office to answer questions.*

Mr. Sawdon *responded that Workman's Compensation insurance is separate and not a part of this proposal.*

Mr. Rosen *concurred with continuing review with MMRMA and N&S and with reviewing the last three to five years of actual experience. He questioned whether the difference in premium cost is actually reflective of differences in risk.*

Mr. Sawdon *responded that when reviewing the eight scenarios of events, the differences in risk could be better understood. He commented that after reviewing the risk scenarios, he feels more comfortable with the lower quote. He noted that the pool concept causes those with lower risk to help support those with higher risk.*

Mr. Rosen *commented that for further review, it would also be prudent to determine the longevity benefit in staying with the MMRMA.*

Discussed.