



## Legislation Text

**File #: 21-2201, Version: 1**

A Resolution of the City Commission authorizing the renewal of the Property and Casualty Insurance Program which includes, but is not limited to, property, general liability, automobile liability, public officials errors and omissions, excess workers' compensation, crime, cyber liability, terrorism property and liability, pollution liability, active assailant coverage, flood, as well as other ancillary lines of insurance coverage and insurance broker fees through Arthur J. Gallagher Risk Management Services, Inc., for a not to exceed amount of \$2,967,592 for the policy period of May 1, 2021 to May 1, 2022 (Funding Source: Insurance Fund).

The City's Agent of Record, Arthur J. Gallagher Risk Management Services, Inc. ("Gallagher"), has solicited and received quotes from various insurance carriers for the desired insurance policies shown below. The City Commission named Gallagher as the City's Agent of Record awarding Gallagher bid number RFP 2019-041 Risk Management & Insurance Brokerage Services for the Property and Casualty Lines of Insurance Coverage.

In addition to seeking quotes from various insurance carriers in the open market, Gallagher also obtained a quote from Florida Municipal Insurance Trust (FMIT) as a possible option to insure the City's Package, Excess Workers Compensation and Property Programs. FMIT is a self-insurance trust fund that is administered by the Florida League of Cities. FMIT's quote for the property coverage was \$1,616,544, which is \$21,491 less than the quote received from the open market for the City's current property program structure. FMIT's quote for property, the package and the excess workers' compensation programs was \$144,385 less than the quote received from the open market for the City's current program structure if the City stays with its incumbent carrier for the package coverage.

The City conducted a detailed analysis of the two (2) insurance programs (FMIT and the City's current program structure), and after careful consideration is recommending that the City continue with its current insurance program structure in the open market for the following reasons:

- ☐ **Financial Security:**
  - ☐ FMIT is a self-insurance trust fund that is not regulated to the same degree or in the same manner as a standard insurance company and, in addition, FMIT is unrated by AM Best. The City's insurance carriers from the open market all have an AM best rating of A or above and a financial size rating of VI or above with many having a rating of A+ XV.
- ☐ **Property Coverage:**
  - ☐ *Uncovered Property:* FMIT's proposal excludes seawalls and does not consider historical reproduction costs for the City's historical properties.
  - ☐ *Windstorm Limits:* FMIT offered the City \$150 million of windstorm coverage. The City's current program structure in the open market has \$50 million of windstorm coverage. Based on a windstorm analysis conducted to calculate the potential loss of City of Coral Gables, there is a 0.4% annual chance of one hurricane (named storm) event causing \$26,263,144 or more in loss net of the deductible structure. Historically, based upon the results of the windstorm modeling reports and the

City's prior loss experiences, the current windstorm limit of \$50,000,000 has been deemed to be a reasonable and sufficient amount of coverage for the City. Despite the higher limit being offered for windstorm losses, because FMIT does not cover seawalls, the City has deemed there to be a higher likelihood of suffering significant seawall damage from a hurricane than the likelihood of the City suffering total windstorm losses exceeding \$50 million dollars from a single storm.

- ☐ *Limits/Sub-limits:* Many of the other sub limits in the FMIT property program provide significantly less coverage than the City's current open market program. Some of the more notable coverages which are notably less in the FMIT program include: errors and omissions, builder's risk, increased cost of construction (ordinance and law), fungus/mold cleanup costs, miscellaneous unnamed locations, and accounts receivable.

☐ **Package Coverage / Excess Workers' Compensation:**

- ☐ *Questionable Exclusions and Provisions:* There were several exclusions in FMIT's proposal that the City currently has coverage for in the open market that are important that the City continue to cover. Some of these exclusions are as follows.

- ☐ Contractual liability for indemnity agreements except between governments and very limited exceptions. [May be available to purchase on a "per contract" basis]

- ☐ Exclusions for City employee actions:

- ☐ "any act or omission of a Member [i.e., Employee] committed while acting outside the course and scope of employment . . ." This could be troublesome because many of our employees have take-home vehicles and use their vehicles within City boundaries for personal purposes. [Although the policy language is not clear on this issue, FMIT has indicated that the City would be covered, but the individual employee would not be covered for their liability.]
- ☐ "the willful violation of a federal, state or local law, ordinance or regulation committed by or with the knowledge or consent of any Member [i.e., Employee]."
- ☐ "violation of public trust"
- ☐ Property damage from Law Enforcement activities.

- ☐ *Claims-made issues:* FMIT Provides Public Officials, Employment Practices and Employee Benefits Liability on an occurrence bases (these coverages are currently insured on a claims made basis). FMIT did offer an add-on provision to cover prior acts for Public Officials and Employment Practices but no offer was extended for Employee Benefits Liability. Further, if the City leaves FMIT in the future, it would potentially prove difficult to repurchase the City's coverages with the current retroactive dates.

- ☐ *Claim Issues:* Switching to FMIT would represent potential changes to how liability and workers' compensation claims are currently handled by the City. Some differences are:

- ☐ Less freedom to settle claims above sovereign immunity caps.
- ☐ FMIT having ability to force the City to settle claims in their self-insured layers.
- ☐ No ability to support claim bills without FMIT's written permission.

Presented herein is the renewal cost of the City's insurance program in the open market under its current program structure.

- ☐ **Property:** The City's overall property insurance rate increased by 1.68%, which was attributable to a hardening market. The total premium increased by 11% because of the re-indexing of City buildings, the estimated value of properties that are currently being appraised, and the addition at the time of this renewal, of three (3) new buildings to the City's property schedule (Fire Station 2, Trolley

Building and Public Safety Building). These 3 new buildings were added to the current property policy after they were constructed and were not covered on the policy for the entire current policy period.

- **Package/Excess Workers Compensation:** The incumbent quoted an 7% increase with claim history and a hardening market driving the premium increase. Gallagher did offer an alternative proposal from a comparable carrier which, if purchased, would enable the City to reduce the premium from last year by \$2,988. However, even though the terms of the two programs are very similar, there are several potential program differences which need to be favorably resolved or clarified prior to accepting the competing insurer's program.
- **Cyber Liability:** The City's cyber liability insurance premium increased by \$67,065 (314% increase) with the same limits and deductibles as last year. The increase was attributable to the market's increased claim frequency leading to market hardening and coverage changes. The City's incumbent carrier (BRIT) non-renewed the City's policy because BRIT is no longer providing this coverage for municipalities.
- **Sports Liability:** This insurance premium increased by \$59,495 (224%) due to a hardening market.

The City's general terms and conditions for all the other coverages are similar to last year, with some less significant increases to the premiums as set forth below.

The total cost to renew the various insurance policies in the open market and based on the City's updated property schedule (which includes estimated increased values for properties that are being appraised) is \$326,797 more than the cost of these policies in the prior year.

The following is a summary description indicating insurance policies and premiums:

Policy Type	2020-2021 - Expiring	2021-2022 - Renewal
Package	\$720,000	\$767,500
Excess Workers Comp	\$154,955	\$177,506
Property	\$1,328,960	\$1,638,035
Boiler & Machinery	\$8,400	\$10,506
ADD Business Travel	\$360	\$750
ADD Police and Fire	\$12,338	\$12,864
Bond Finance Director	\$1138	\$1,138
Pollution Liability	\$23,500	\$23,900
Crime	\$11,798	\$11,079
Sports Liability	\$26,505	\$86,000
ADD Sports	\$13,306	\$13,306
Cyber Liability	\$21,375	\$88,440
Terrorism Liability	\$8,500	\$10,650

Terrorism Property	\$11,850	\$14,850
Flood adding	\$8794	\$9,234
Active Assailant	\$6,000	\$7,515
<b>EMPA &amp; TRIA</b>	<b>\$4,476</b>	<b>\$4,319</b>
Insurance Brokerage Fee (Gallagher)	\$120,000	\$90,000
Property Schedule Changed	\$158,540	N/A
<b>Total Cost of Program</b>	<b>\$2,640,795</b>	<b>\$2,967,592</b>

During the month of March, we had 2 virtual workshops with the Insurance and Risk Management Advisory Board (the “Board”) that took place on March 5<sup>th</sup> and 10<sup>th</sup> to discuss the insurance renewal. During these meetings, the Board was provided with detailed presentations of the quotes obtained from the different carriers for the various types of insurance coverage. There were also thorough discussions concerning the differences between FMIT’s proposal in terms of pricing and coverage compared to the City’s current program.

There was consensus among the Board members that for this renewal year (May 1, 2021 through May 1, 2022), the City continue with its current program structure (as detailed above) and that the City continue to research and work with FMIT throughout the upcoming year to evaluate whether FMIT represents a viable option for the City for future renewal periods.