



Memorandum

TO: TREATMENT PLANT
ADVISORY COMMITTEE

FROM: Rick Bruneau

SUBJECT: See Below

DATE: August 28, 2024

Approved

Date:

SUBJECT: Recommendation to the City Council on Insurance Renewals for San José – Santa Clara Regional Wastewater Facility

RECOMMENDATION

Recommend that the City Council authorize the Director of Finance or designee to:

- (a) Select and purchase City property and liability insurance for the San José – Santa Clara Regional Wastewater Facility (RWF) for the period October 1, 2024 to October 1, 2025, at a total cost not-to-exceed \$418,664 as well as an 18.0 percent contingency for additional property or assets scheduled, subject to the appropriation of funds with the following carriers:
 - (1) Factory Mutual Insurance Company for Property Insurance, including Boiler & Machinery and Terrorism Risk Insurance Act Coverage; and
 - (2) Beazley Syndicate 2623/623 at Lloyd's for Terrorism Insurance.
- (b) Select and purchase up to \$15 million in Excess Flood insurance on a 50/50 quota share basis for the period October 1, 2024 to October 1, 2025, for a cost not-to-exceed \$47,021, as well as an 18.0 percent contingency for additional property scheduled, subject to the appropriation of funds.
- (c) Select and purchase Regional Wastewater Facility Auto Liability insurance for the period October 1, 2024, to October 1, 2025, for a cost not-to-exceed \$191,803, as well as an 18.0 percent contingency for additional assets scheduled, subject to the appropriation of funds.

BACKGROUND

Each year, the City of San José (City) purchases insurance to protect against a catastrophic event or specified perils. The decision on whether 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.

Property insurance coverage for the RWF is part of a larger pool of assets covered under the City's insurance program totaling roughly \$6.6 billion. Bundling the RWF property exposure with the rest of the Citywide program creates a strategic advantage, allowing for economies of scale and spread of risk exposure which results in a lower overall cost of insurance for all facilities under the policies. The RWF continues to benefit from being marketed along with other City occupancies that are considered lower risk. As a standalone account, the RWF would be underwritten by different property insurance marketplace because of the power generating exposure arising from the Cogeneration Facility, making it more difficult to secure adequate property insurance and likely resulting in less coverage at a higher cost. Premiums for property, terrorism, and Excess Flood Insurance are allocated to the RWF based on the RWF's percentage share (13.62 percent in 2024) of the Citywide total insured values.

To secure policies, the Finance Department reviews the City's insurance coverage and needs with the City's insurance broker, Alliant Insurance Services (Alliant). The review includes analyzing the City's risk exposures, trends in the insurance markets, product line availability, and the City's historical philosophy 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 where applicable, 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 on the information and analysis, the Finance Department determines the appropriate insurance coverage and makes a recommendation on the most advantageous insurance policies to City Council.

ANALYSIS

The Finance Department has completed the annual insurance renewal process for fiscal year (FY) 2024-2025 with Alliant and recommends the insurance coverage described below. This memorandum covers the insurance programs that apply to the RWF. Staff will be taking its complete set of recommendations for the Citywide insurance program to City Council for approval on September 17, 2024.

The broader insurance market has experienced its first profitability in years following a relatively clean loss year in 2023 as many insurance companies are reporting record net

incomes and substantial growth in gross written premiums¹. However, current market conditions across all insurance product lines continue to push premium increases for public entity policyholders². The commercial property insurance market has shown signs of improvement as the pace of rate increases has continued to slow for most policyholders, including public entities. The property and casualty underwriting environment in North America is particularly favorable, with pricing exceeding loss costs that have remained steady³.

Despite historical challenges and ongoing global issues such as political unrest and environmental concerns, the insurance industry is well-capitalized, with a trillion-dollar-plus surplus and increasing investment yields⁴. This financial strength positions the industry to bring stability to broader markets.

The commercial auto liability market continues to experience a challenging environment with significant rate increases anticipated throughout 2024. These pressures are largely driven by rising repair costs, the increasing severity of claims and the effects of advanced vehicle technologies, which have escalated the cost of physical damage claims. Despite a reduction in the frequency of accidents, the severity of those that do occur remains high, further exacerbating the financial strain on insurers⁵.

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 and media, 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. Despite the site having nearly 250 separate structures, the RWF is considered one location under the policy.

The property insurance market has shown signs of improvement as the pace of rate increases has continued to slow for most policyholders, including public entities⁶. The dominant driver of losses in 2023 was the severe connective storm peril, which accounted for a record \$71 billion in insured losses. Six of the top ten

¹ [2024 Commercial Market Outlook Executive Summary](#)

² [Alliant Insurance Marketplace Insights and Observations 2024 Mid-Year Report](#)

³ [Alliant Insurance Marketplace Insights and Observations 2024 Mid-Year Report](#)

⁴ [Insurance Marketplace Realities 2024 Spring update](#)

⁵ [Insurance Marketplace Realities 2024 Spring update](#)

⁶ [Alliant Insurance Marketplace Insights and Observations 2024 Mid-Year Report](#)

most expensive insured events in 2023 were severe connective storm events in the United States⁷. Policyholders with significant amount of natural catastrophe exposure and a history of losses are experiencing rate increases ranging from 10.0 to 20.0 percent⁸.

The second half of 2023 indicated cooling of inflation and 2024 has seen a leveling off of inflationary pressures and rebuilding costs. Nevertheless, property underwriters, especially in the public entity space, still have major concerns about whether the insurable values provided by commercial policyholders accurately reflects the exposure. Policyholders must continue to substantiate their valuation process with third-party appraisals, value trending, or favorable benchmark comparisons to avoid restrictive terms and conditions⁹.

To address the valuation of assets issue, the City conducted a property appraisal of the RWF in 2022. In 2024, staff added \$33.3 million in total insured values to the RWF for the Filter Rehabilitation project which is now expected to be completed by the end of 2024. This renewal term, staff also applied a flat (0.0 percent) inflation factor to existing buildings not subject to a property appraisal. The inflation factor reflected a mid-point between the May 2024 Engineering News Record Construction Cost Index for San Francisco of -1.1 percent¹⁰ and the Bureau of Labor Statistics Construction Cost Index of 1.0 percent.

Incumbent property insurer Factory Mutual Insurance Company (FM) has provided a proposal for the renewal term. The property insurance limit quoted by FM is \$1.0 billion each occurrence with a \$500,000 minimum 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 exceptions¹¹. Coverage terms and conditions are consistent with the current program.

The proposal contemplates a 1.0 percent rate increase superimposed on the 1.1 percent increase in insurable values, offset by a one-time Membership Credit in the amount of \$415,242. In May 2024, FM announced approximately \$1.4 billion in Membership Credits to eligible policyholders who renewed their property insurance policies between June 30, 2024, and June 29, 2025. The Membership Credit provided to eligible policyholders is based on their expiring premium and

⁷ [Alliant Insurance Marketplace Insights and Observations 2024 Mid-Year Report](#)

⁸ 2024 USI Insurance Commercial Property & Casualty Market Outlook Mid-Year Addendum

⁹ [Alliant Insurance Marketplace Insights and Observations 2024 Mid-Year Report](#)

¹⁰ The Engineering News Record Construction Cost Index for San Francisco was used by the Public Works Department to adjust (a) the Major Public Works Contract threshold for FY 2024-2025; (b) the Micro Contract threshold for FY 2024-2025; and (c) the Director's award authority threshold for FY 2024-2025

¹¹ The Regional Wastewater Facility is subject to a \$5 million per location flood deductible.

tenure with FM and applied as an offset against premium at a renewal or anniversary date¹².

FM's renewal quote for the citywide program proposes an annual premium of \$2,794,475 inclusive of a onetime Membership Credit in the amount of \$415,242 or 12.5 percent of the insurance premiums for the October 1, 2023, to October 1, 2024, policy period. The RWF will receive a premium allocation of \$380,649 based on its contribution to the citywide total insured values (13.62 percent in 2024)

Insurance Carrier: Factory Mutual Insurance Company

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 Secretary of Treasury, in consultation with the Secretary of Homeland Security and Attorney General and defined by the TRIA. It does not cover liability losses. 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 \$188,372, an \$8,638 or 4.81 percent increase over the expiring premium. The RWF will receive a premium allocation of \$25,659. FM participates in a pooled reinsurance program for TRIA and the rate increase reflects the increase in the cost of reinsurance.

The City began purchasing stand-alone terrorism insurance in 2019. Stand-alone terrorism insurance provides a broader definition of terrorism than TRIA, does not require certification by the federal government, and includes third party liability coverage. Staff is recommending continuation of a combined property and liability terrorism policy. Beazley provided a renewal quote for \$10 million in aggregate limits for a premium and fees of \$29,050, a \$325 or 1.13 percent increase over the expiring premium with the RWF's allocation of \$3,957.

Insurance Carriers: Factory Mutual Insurance Company (TRIA) and Beazley Syndicate 2623/623 (Terrorism)

3. Excess Flood Insurance

To mitigate the impact of reduction to the base flood coverage from \$25,000,000 to \$10,000,000 from the 2019 renewal¹³, the City obtained an Excess Flood policy that provides \$15,000,000 in limits excess of the primary property policy on

¹² [FM Global Announces Record US\\$1.4 Billion Membership Credit for FM Global's Client Owners](#)

¹³ [Approval of Citywide Insurance Renewals City Council Memorandum 9-5-19](#)

a 50/50 quota share basis, where the City and excess insurers share the financing of losses on a 50/50 basis. The incumbent Excess Flood insurers provided a renewal indication for premium and fees of \$345,197; however, Staff anticipates competitive quotes from other markets. The RWF will receive a premium allocation not-to-exceed \$47,021 for Excess Flood coverage.

Insurance Carriers: TBD

Policy Period	2024-2025	2023-2024
Annual Premium (Net) ¹⁴	\$437,212	\$424,386
Membership Credit ¹⁵	(\$56,562)	(\$36,558)
Resilience Credit	\$0	\$0
TRIA Annual Premiums (Net)	\$25,659	\$24,275
Terrorism Annual Premiums (Net)	\$3,957	\$3,880
Excess Flood Annual Premiums (Net)	\$47,021	\$45,058
Total Annual Premiums	\$457,287	\$461,041
Broker Fees ¹⁶	\$8,398	\$5,314
Total Annual Costs	\$465,685	\$466,355

4. Automobile Liability for RWF Fleet

Automobile liability provides coverage for bodily injury, property damage, and personal injury for claims arising out of Regional Wastewater Facility vehicle operations. The City has received a competitive quote from the incumbent auto liability insurer Gemini Insurance Company; however, Staff anticipates competitive quotes from other markets. Based on the current quote, Regional Wastewater Facility total premiums increased by \$24,085 or 14.63 percent over the expiring program. A large loss from 2017 continues to have a negative impact on the pricing of the Regional Wastewater Facility auto liability program.

Insurance Carrier: TBD (Auto Liability)

Policy Period	2024-2025	2023-2024
Annual Premium (Net)	\$182,866	\$159,523
Surplus Lines Tax	\$5,815	\$5,073
Total Annual Premiums and Taxes	\$188,681	\$164,596
Broker Fees	\$3,122	\$2,937
Total Annual Costs	\$191,803	\$167,533

¹⁴ Net refers to gross premiums less broker commissions as broker compensation is provided through a fee agreement between the City and Alliant.

¹⁵ The 2024-2025 Membership Credit on the FM Global proposal is based on 12.5% of the eligible in-force premium.

¹⁶ Broker fees include fees allocated for TRIA, Stand-alone Terrorism and Excess Flood coverages.

B. Insurance Coverage Not Recommended

The insurance coverage listed below was 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 a periodic basis and make the appropriate recommendations to Committee 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 damage from sprinkler leakage caused by an earthquake, and damage resulting from fire following 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.

Alliant confirmed rates have not improved for FY 2024-2025 and estimated that a \$100 million earthquake limit would cost approximately \$8.0 million and be subject to a minimum deductible of five percent of the values at risk.

EVALUATION AND FOLLOW-UP

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

COST SUMMARY/IMPLICATIONS

The estimated funding to pay for various insurance premiums in FY 2024-2025 was included in the 2024-2025 Adopted Operating Budget approved by the City Council on June 11, 2024 and adopted on June 18, 2024. The recommended action includes authorization for an 18.0% contingency to schedule additional property or assets as required.

BUDGET REFERENCE

The table below identifies the fund and appropriations recommended to fund the insurance premiums identified.

Fund #	Appn #	Appn. Name	Total Appn.	Amount for Premium ^a	2024-2025 Proposed Budget Page ^b	Last Budget Action (Date, Ord. No.)
513	0762	Non-Personal/Equipment (Environmental Services Department)	\$52,566,166	\$657,487	903	06/18/2024, 31102

^a The amount for premium is subject to change up until the beginning date of the new insurance policy.

^b The 2024-2025 Adopted Operating Budget was approved by City Council on June 11, 2024 and the Annual Appropriation Ordinance and Funding Sources Resolution implementing the 2024-2025 Operating and Capital Budgets were adopted on June 18, 2024.

COORDINATION

This memo has been coordinated with the Environmental Services Department as well as the City Manager’s Budget Office and the City Attorney’s Office.

PUBLIC OUTREACH

This memorandum will be posted on the City of San José Agenda website for the September 12, 2024 Treatment Plant Advisory Board meeting.

CEQA

Not a Project, File No. PP 10-066 (a) Agreements and Contracts for purchase of insurance.

TREATMENT PLANT ADVISORY COMMITTEE

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PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

RICK BRUNEAU
Director of Finance

For questions, please contact Miguel Bernal, Risk Manager, at Miguel.bernal@sanjoseca.gov or (408) 975-1438.

ATTACHMENTS: Appendix A

APPENDIX A**1. ALL RISK PROPERTY AND BOILER & MACHINERY INSURANCE**

	Current Program	Renewal Program
	10/01/2023-10/01/2024	10/01/2024-10/01/2025
Carrier	Factory Mutual Insurance Company (FM)	Factory Mutual Insurance Company (FM)
RWF Total Insured Values	\$860,880,639	\$897,810,094
Limit of Liability	\$1,000,000,000 Property Damage and \$300,000,000 Business Interruption Other sub-limits as outlined in the insurance policy on file in Risk Management.	\$1,000,000,000 Property Damage and \$300,000,000 Business Interruption Other sub-limits as outlined in the insurance policy on file in Risk Management.
	\$500,000 Deductible Per Occurrence	\$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 annual aggregate, deductible is \$100,000 per location of loss except for locations in high and moderate exposure flood zones. Deductible is \$5,000,000 per location for the RWF.	\$10,000,000 annual aggregate, deductible is \$100,000 per location of loss except for locations in high and moderate exposure flood zones. Deductible is \$5,000,000 per location for the RWF.
Excess Flood	\$15,000,000 in excess limits on a 50/50 quota share basis for all City locations.	\$15,000,000 in excess limits on a 50/50 quota share basis for all City locations.
Other Sub-limits	Other sub-limits as outlined in the insurance policy on file with Risk Management.	Other sub-limits as outlined in the insurance policy on file with 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. AUTOMOBILE LIABILITY-RWF FLEET

	Renewal Program 10/01/2023-10/01/2024	Renewal Program 10/01/2024-10/01/2025
Carrier	Gemini Insurance Company (Auto Liability)	TBD (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: 59	Number of Units: 58
Average Rate Per Unit ¹⁶	\$2,789.76	\$3,253.12

¹⁶ Total Annual Premiums and Taxes divided by the Number of Units.