



City of Grand Island

Tuesday, September 11, 2012

Council Session

Item G7

#2012-242 - Approving Boiler, Machinery and Terrorism Insurance for the Utilities Department for 2012 - 2013

Staff Contact: Tim Luchsinger, Jason Eley

Council Agenda Memo

From: Tim Luchsinger, Utilities Director
Jason Eley, Assistant City Attorney

Meeting: September 11, 2012

Subject: Boiler and Machinery Insurance – Utilities Department

Item #'s: G-7

Presenter(s): Tim Luchsinger, Utilities Director

Background

The Utilities Department Boiler and Machinery Property Peril and Fire insurance expires October 1, 2012. This insurance is specifically designed for Electric Utilities and is readily adaptable to the Water Utility, which is also included in the coverage. The standard policy excludes losses due to acts of terrorism unless the optional Terrorism Insurance is accepted. The Utilities Department's insurance provider, FM Global, provided the attached proposal for renewal of the present coverage.

The complete policy is available in the Utilities office for review, along with a Policy Holder Disclosure form for execution by the City, either accepting or rejecting terrorism coverage. The renewal proposal and proposed policy have been reviewed by the Legal Department.

Discussion

Key provisions included in the proposed renewal are an increase in the insured valuation from \$479,159,578.00, to \$500,873,124.00; a premium increase of \$23,221.00, which results in an annual premium change from \$382,936.00 for the current year to \$406,157.00, for the 2012-2013 year; and a premium increase of \$1,311.00 for Terrorism Insurance, which results in an annual premium change from \$22,372.00 for the current year to \$23,683.00 for the 2012-2013 year.

The increase in insured valuation of assets was reviewed by Utility staff and is in line with replacement costs seen in the utility industry, as well as the resulting policy premium increase.

The annual premium to add terrorism coverage is \$23,683.00. The probability that a relatively remote location in the central part of the nation would be targeted for a terrorist attack may be very unlikely, but the determination of a terrorist attack is not clearly defined, such as an attack similar to the Oklahoma City Federal Building. Regardless of the cause, the loss of a high valued asset as the Platte Generating Station must be protected from risk, and the acceptance of Terrorism Insurance is recommended.

The premium for the renewal of the Boiler and Machinery, Property Peril, and Fire coverage is \$429,840.00, which includes Terrorism Insurance, and is recommended by the Utilities Department for approval.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve renewal of the Utilities Department's Boiler and Machinery, Property and Peril, and Fire Insurance with FM Global, and execution of the Notice of Terrorism Insurance Coverage form to accept that coverage.

Sample Motion

Move to approve acceptance of the FM Global Insurance for the Utilities Department, with authorization to accept the Terrorism Coverage.

Proposal

City of Grand Island
August 8, 2012



Overview

FM Global's promise is to protect the value created by our clients business. We do that by providing engineering services, risk transfer capacity and contract certainty with an industry leading policy. For the 2012 renewal our goal is to broaden the existing coverages offered with the new Power Gen policy. The FM Global team wants to thank you for your business and we look forward to continuing our long term relationship.

Client Service Plan /Accomplishments

As a result of the continued collaboration it is anticipated only one recommendation will remain starting around January 2013.

FM Global will review plans for and assist with the installation of Substation J. Construction will begin the fall of 2012.

The renewal policy is revised for the 2012 renewal and will provide additional coverages

Insurance

FM Global continually looks for ways to improve our policy forms, either by enhancing coverage, making modifications that result in greater clarification, or improving the policy design for ease of use in identifying coverage terms and conditions. We strive to be a leader in contract certainty.

We are excited to introduce an FM Global **PowerGen** Advantage form tailored to specifically address exposures and meet the unique needs of the Power Generation industry. For your convenience, we have grouped the changes into two categories: Coverage Enhancements and Contract Certainty Improvements.

Coverage Enhancements

To help protect your business success, we are continually looking to provide meaningful coverage enhancements. With the new policy form we have introduced numerous enhancements which will be incorporated into your policy at renewal at ***no additional cost***.

In addition, we are introducing a new, market leading approach available for customers desiring Time Element coverage. Should you not currently purchase Gross Earnings or Replacement Power coverage, we want you to be aware of POWER INCOME coverage, designed to better protect both your revenue streams and address the wide gamut of issues associated with power purchase agreements.

PROPERTY DAMAGE

- **Automatic Coverage**
 - This cover has been expanded to “wrap around” any existing insurance cover on a newly acquired location, rather than fully excluding cover under our policy if there is other insurance in place.

- **Demolition and Increased Cost of Construction**
 - Previously, coverage applied only to buildings and structures. Now it includes your machinery and equipment that is subject to code requirements (except for codes involving contamination or pollution).

- **Expediting Costs**
 - In order to expand coverage for additional costs incurred in support of your efforts to resume operations quickly after a loss, this now applies not just to costs for temporary repair or to expedite permanent replacement, but also for temporary replacement of insured equipment. This may be a significant advantage for costs previously covered under Time Element, as Property Damage is normally subject to a lesser deductible. We will discuss a loss example.

- **Fill Beneath Defined Property**
 - An exception has been made to the Property Excluded clause to cover fill beneath defined property. Fill beneath roadways and pavements was previously excluded.
 - Covers fill beneath roadways and pavements as well as fill beneath parking lots, walkways, railways, transformer enclosures, and buildings and structures.

- **Machinery or Equipment Startup Option**
 - With this coverage, we’ve added flexibility to the application of property damage deductibles for loss during startup of machinery or equipment, following the original loss. For example, if a machine is damaged and sent out for repairs, and then after being reinstalled, suffers another loss, we would typically consider that a separate occurrence subject to a new deductible. Now you can choose to treat this as one occurrence if doing so provides the best recovery. We will discuss a loss example.

- **Off Premises Storage For Property Under Construction**
 - Expanded to cover such property not only at a storage site, but also while in transit from one storage site to another, or to a construction project at your insured location.

- **Personal Property Not At A Location**
 - Covers incidental personal property exposures that are not at a “location” and are not covered elsewhere under the policy.

- **Reduced Deductible for Fire Protection Equipment**
 - Reinforces FM Global's business model and belief in the effectiveness of automatic protection by providing a 50 percent deductible reduction for loss or damage to fire protection equipment or caused by accidental discharge from such equipment.
- **Valuation – Repair/Replace Time**
 - Provides the flexibility to extend beyond two years the time required for the policy to allow loss settlement on a repair or replacement basis.

TIME ELEMENT Enhancements –

- **Civil or Military Authority**
 - Previously, this coverage responded to an order of civil authority prohibiting access to an insured location. Recognizing that the distinction between civil and military authority can often become ambiguous, we have expanded this coverage to include military authority.

In total, these enhancements to your policy underscore our commitment to providing coverage that meets your most current, and most critical, business needs.

Contract Certainty Improvements

None of the new language will in any way change coverage intent or the manner in which claims are adjusted.

Construction/Design

- **Definitions**
 - All words that have a specific meaning within the form appear lowercased and in bold, and have been consolidated in one place in the General Provisions section of the policy.
 - Earth movement and flood are now found in the Definitions clause, not in Additional Coverages. This being an All Risk form, with no specific exclusion for either, they are already covered perils.
 - We have taken measures to avoid using the same word in different contexts, and to improve consistency of common phraseology and streamline the language.
- **Exclusions**
 - Instead of having two sets of exclusions at opposite ends of the Property Damage section, we repositioned them consecutively near the front of the section for a more efficient structure.
 - Similarly, the Time Element Exclusions, along with the Period of Liability, have been moved up from the back of the Time Element section.

- **Limits of Liability and Deductibles**
 - Reformatted into tabular form for ease of matching coverages to their respective limits and deductibles.
 - Alphabetized to be consistent with the manner in which coverages appear in the policy.
 - Application of percent deductibles is described once, in the newly organized Deductible General Provisions, rather than repetitively with the actual deductibles, in order to more concisely present the deductibles.
- **Valuation**
 - Previously appearing in the Loss Adjustment and Settlement section, this clause has been moved into the Property Damage section.
 - Coverage-specific valuations now appear within their respective coverages.
- **Waiting Periods**
 - The Waiting Period clause has been removed from the Declarations section, and the waiting periods have been placed into their respective coverages.
 - Along with the placement of coverage-specific valuations, this change signals a move toward providing as much information as possible about a particular coverage within the coverage itself, to reduce the amount of cross-referencing required.

Modifications/Clarifications

- **Combining of Similar Clauses**
 - To further streamline the policy, we have combined coverages that are similar in nature. For example:
 - Loss Adjustment/Payable and Additional Insurable Interests/Certificates of Insurance: These two clauses, previously located in the Loss Adjustment and Settlement and General Provisions sections respectively, have been combined and moved up into the Declarations section.
 - Fine Arts and Valuable Papers and Records: In combining these two coverages we have also expanded both.
 - Loss Payment Increased Tax Liability: A combination of Non-Admitted Increased Tax Liability and Tax Treatment of Profits.
- **Insuring Agreement**
 - Our insuring agreement language, which affirms that the policy covers all risks of physical loss or damage, previously appeared only on the Declarations Page. Now it is repeated at the beginning of the first section of the form.
 -
- **Professional Fees**
 - In order to be more consistent with commonly used international terminology, and to more accurately reflect the purpose of its language, this coverage has been renamed Claims Preparation Costs.

We believe the best time to discuss policy coverage is before the loss. I would be pleased to review any of these changes in more detail as needed.

Note: The above does not replace or modify any of the actual terms and conditions stated in the policy. For the actual terms and conditions of your coverage, please refer to your FM Global policy.

Additional changes from the current Policy include:

- Correct the policy limit from \$580M to \$510M
- Reminder – Renewal Policy includes \$3,000,000 limit for All – Risk coverage to coal pile

Contract Certainty – FM Global strives to continue to be a leader in contract certainty. Another new resource available is the FM Global Advantage Policy Commentary, available on MyRisk to help you better understand the full scope of the FM Global Advantage policy. The commentary takes language directly from the policy and offers simple explanations of the clauses and definitions, plus realistic loss examples. It is structured to make it quick and easy to find a specific term, clause or definition. This is unique in the marketplace, and demonstrates our commitment to policy transparency.

We continue to pride ourselves on ensuring that documentation reflecting our agreements is provided in a timely manner. With agreement to all renewal terms, if an order to bind coverage as outlined herein is confirmed at least five business days prior to renewal, FM Global will guarantee that the Master Policy will be delivered prior to the renewal date.

Financial Strength and Business Model

Financial Strength and Stability

Despite the tumultuous economy, FM Global maintains a solid balance sheet with ample liquidity to meet policyholder obligations. As of 31 December 2011, Policyholders' Surplus was nearly US \$6.9 billion and Gross Premium in force was nearly US \$5.1 billion.

FM Global's ability to provide stable capacity and meet its obligations to policyholders has been confirmed by major industry rating agencies, principally:

In September 2011 A.M. Best affirmed FM Global's A+ (Superior) rating and Stable rating outlook, citing FM Global's "solid operating performance" and "very strong capitalization". An A+ rating is assigned to those insurers with "a very strong ability to meet their ongoing obligations to policyholders", according to A.M. Best, who also noted FM Global as a "market leader" as a result of its "stable capacity, unmatched engineering, global reach, loss prevention technology and shared commitment to property preservation . . ." for its policyholders.

In February 2012 Fitch Ratings affirmed FM Global's AA (Very Strong) rating and Stable rating outlook. Fitch views FM Global's engineering capabilities and property loss prevention services as "key advantages that are difficult for competitors to replicate", and believes "this expertise will result in underwriting results that are consistently better than peers."

Mutual Ownership

As a mutual company, our clients are our owners. Our difference is the ability to absorb and tolerate volatility. The value to our clients is large, stable capacity and the ability to focus on understanding the risk.

Our philosophy as a mutual company is that to meet our customers' needs we must maintain open lines of communication. Through our Board of Directors, Regional Advisory Boards and Risk Management Executive Councils, FM Global senior management receives input from a representation of policyholders. Many positive changes in our operations including the development of new products have been made as a result of these interactions.

As a mutual company, FM Global is able to share our positive results with clients instead of returning money to shareholders. We have been able to deliver this benefit in a number of ways including:

Membership Credits - we have distributed five Membership Credits with a total of nearly US \$1.65 billion returned to our policyholders since 2001. A Membership Credit was not declared by the Board of Directors that would affect this renewal. The 2010 – 2011 renewal invoice provided a Membership Credit in the amount of USD54,073.

Expanded Capacity - as our capital grows we have an obligation as a mutual insurer to make available corresponding additional capacity to our clients.

Increased Program Stability - as our capacity expands we are less reliant on facultative reinsurance and therefore certain market conditions.

Sustainability Select

"**Sustainability Select**" is an optional two-part coverage enhancement which provides a unique avenue toward developing sound, sustainable risk improvement strategies—and one that will assimilate nicely with your overall sustainability initiatives. The first part provides for risk improvement following a loss, and the other for providing funds to repair or replace physically damaged portions of a facility with materials that qualify as "green." These coverages are available either separately or together, and both are available on a location specific basis, giving you maximum flexibility to concentrate your sustainability efforts where you feel they are needed most.

These covers offer a prudent choice for companies in search of creative financing solutions for maintaining sustainable and environmentally sound facilities.

- **Risk Improvement Coverage** provides for risk improvement following a loss. It allows you to spend additional funds to complete physical protection recommendations published in the FM Global Property Loss Prevention Data Sheets current at the time of the loss.
 - No other carrier offers any coverage like this, nor do they have the ability to do so effectively.
 - This allows you to transfer some of the risk expense for improving the risk quality at a given location to FM Global *after* a loss occurs!
 - The payment is not limited to the physically damaged property – it can be used to satisfy any recommendation within the location affected by the loss, whether or not that portion of the location experienced any damage.
 - There is a two-year timeframe in which to make the improvements.
 - Coverage also applies to loss or damage to production equipment.
 - Pays for 10% of the property damage loss at the location, up to USD500,000 per occurrence.

- **Green Coverage** provides you with the opportunity to more easily upgrade physically damaged portions of your facility using more efficient and environmentally accommodating building materials and practices.
 - Damaged portions of the facility can be repaired or replaced to any recognized “green” standard. By not tying this coverage to any one specific “green” authority (for example, LEED), you are given the flexibility to use locally recognized certification authorities/professionals.
 - Time Element coverage is included.
 - Pays up to 25% of the loss amount to the damaged property, up to USD5,000,000 per occurrence.

Schedule of Locations and Values

Loc. No.	Address	100% Values	
	See Policy for schedule of locations		
		Building	USD 73,986,017
		<u>Machinery and Equipment</u>	<u>USD 423,887,107</u>
		Total Property	USD 500,873,124

Total Insurable Value:

2011	2012	(Overall summary)
USD 479,159,578	USD 500,873,124	4.53% Increase in Value

Premium

2011	2012	
USD 382,936 All Risk	USD 406,157 All Risk	
<u>USD 22,372 Terrorism</u>	<u>USD 23,683 Terrorism</u>	1.52% Increase in Rate
USD 405,308 Total	USD 429,840 Total	6.05% Total Increase

Sustainability Select Coverage

Coverage	Limit	Premium
A	USD100,000	Quote Available
	USD500,000	Quote Available
B	USD500,000	Quote Available
	USD5,000,000	Quote Available

Payment is due upon receipt of invoice or on the date coverage begins, whichever is later. Policies will be subject to cancellation for non-payment of premium bills.

Premium does not include various fees, taxes or surcharges.

Premium does not include the quote for Certified Terrorism. See the optional Terrorism quote detailed elsewhere.

U. S. Terrorism

The Terrorism Risk Insurance Act of 2002 as amended and extended in 2005 and again in 2007, requires that insurers advise clients, prior to the renewal date of their current policy, of their option to elect or reject terrorism coverage under the act as part of their property renewal policy. It also requires insurers to disclose the cost of such coverage for the policy term. As a brief reminder, the act provides licensed, admitted carriers with a substantial federal reinsurance backstop for terrorism acts that are certified by the Secretary of the Treasury of the United States as covered events (known as certified losses). Generally speaking, the act responds strictly to events that take place within the United States, its protectorates, territories, and possessions. The Act has been extended to expire on 31 December 2014.

Attached is the Policyholder Disclosure Notice of Terrorism Insurance Coverage document and the applicable certified terrorism endorsement. **Please note the following important conditions that require your action:**

The Disclosure form must be completed, signed and returned to Patrick Belding prior to the renewal policy effective date of October 1, 2012 indicating your choice to accept or decline certified coverage as part of your renewal policy.

The premium for certified coverage is USD23,683 for the term of October 1, 2012 to October 1, 2013. This premium corresponds with the annual premium stated on the Policyholder Disclosure Notice of Terrorism Insurance Coverage and does not include applicable taxes or surcharges.

POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM INSURANCE COVERAGE

Date: August 8, 2012

Insured Name: The City of Grand Island
Account Number: 05249

Insurer Name: Factory Mutual Insurance Company

The Terrorism Risk Insurance Act of 2002, as amended and extended in 2005 and again in 2007, gives you the right as part of your property renewal policy to elect or reject insurance coverage for locations within the United States or any territory or possession of the United States for losses arising out of acts of terrorism, as defined and certified in accordance with the provisions of the act.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. UNDER THIS FORMULA, THE UNITED STATES GOVERNMENT GENERALLY PAYS 85% OF COVERED TERRORISM LOSSES EXCEEDING A STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURER REFERENCED ABOVE.

YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A \$100 BILLION CAP THAT LIMITS THE U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS' LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE PROGRAM YEAR EXCEEDS \$100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED \$100 BILLION, YOUR COVERAGE MAY BE REDUCED.

THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

ACCEPTANCE OR REJECTION OF TERRORISM INSURANCE COVERAGE: UNDER FEDERAL LAW, YOU HAVE THE RIGHT TO ACCEPT OR REJECT THIS OFFER OF COVERAGE FOR TERRORIST ACTS COVERED BY THE ACT AS PART OF YOUR RENEWAL POLICY. IF WE DO NOT RECEIVE THIS SIGNED DISCLOSURE FORM PRIOR TO THE RENEWAL POLICY EFFECTIVE DATE OF October 1, 2012 THEN YOUR RENEWAL POLICY WILL REFLECT YOUR DECISION NOT TO PURCHASE THE TERRORISM COVERAGE PROVIDED BY THE ACT.

_____ I hereby elect to purchase coverage for terrorist acts covered by the act for an annual premium of \$23,683. This premium does not include applicable taxes or surcharges.

_____ I hereby decline this offer of coverage for terrorist acts covered by the act.

Policyholder / Applicant Signature

Print Name

Date

**SUPPLEMENTAL UNITED STATES
CERTIFIED ACT OF TERRORISM ENDORSEMENT**

This Endorsement is applicable to all insured Locations in the United States, its territories and possessions and the Commonwealth of Puerto Rico.

Coverage for “Certified Act of Terrorism” Under The Terrorism Risk Insurance Act of 2002, as amended.

In consideration of a premium charged of USD23,683 this Policy, subject to the terms and conditions therein and in this Endorsement, covers direct physical loss or damage to insured property and any resulting TIME ELEMENT loss, as provided in the TIME ELEMENT section of the Policy, caused by or resulting from a Certified Act of Terrorism as defined herein.

Notwithstanding anything contained elsewhere in this Policy, any exclusion or limitation of terrorism in this Policy and any endorsement attached to and made a part of this Policy, is hereby amended to the effect that such exclusion or limitation does not apply to a “Certified Act of Terrorism” as defined herein. This amendment does not apply to any limit of liability for a Certified Act of Terrorism, if any, stated under the LIMITS OF LIABILITY clause of the DECLARATIONS section of this Policy.

With respect to any one or more Certified Act(s) of Terrorism, this Company will not pay any amounts for which the Company is not responsible under the terms of the Terrorism Risk Insurance Act of 2002 (including subsequent action of Congress pursuant to the Act) which includes a provision stating that if the aggregate insured losses exceed USD100,000,000,000 during any program year, neither the United States Government nor any insurer that has met its insurer deductible shall be liable for the payment of any portion of the amount of such losses that exceed USD100,000,000,000. If the aggregate insured losses for all insurers exceed USD100,000,000,000, your coverage may be reduced.

The coverage provided under this Endorsement for “Certified” losses caused by acts of terrorism will be partially reimbursed by the United States Government under a formula established by Federal Law. Under this formula, the United States pays 85% of covered terrorism losses exceeding a statutorily established retention by the insurer referenced in this Policy. The premium charged for this coverage is provided above.

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss which would otherwise be excluded under this Endorsement or the Policy.

The coverage provided by this Endorsement only applies to a Certified Act of Terrorism.

Reference and Application: The following term(s) means:

Certified Act of Terrorism:

A “Certified Act of Terrorism” means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State, and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002 as amended and extended in 2005 and in 2007. The criteria contained in that Act for a “Certified Act of Terrorism” include the following:

- a. The act resulted in aggregate losses in excess of USD5,000,000; and
- b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

RESOLUTION 2011-242

WHEREAS, the City's Utility Department subscribes to insurance for boiler and machinery, property, peril and fire coverage; and

WHEREAS, the boiler and machinery, property, peril and fire coverage insurance term expires October 1, 2012; and

WHEREAS, the insurance of electric and water utilities facilities is a specialized market with a limited number of potential providers; and

WHEREAS, valuation adjustments resulted in an increased total insured value of property from the present amount of \$479,159,578.00 to \$500,873,124.00; and

WHEREAS, a proposal to renew insurance for the 2012 – 2013 fiscal year was received from the current provider, Factory Mutual Insurance Company of St. Louis, Missouri, for a renewal premium of \$429,840.00, including the terrorism coverage; and

WHEREAS, the City has opted to accept the optional Terrorism Insurance Coverage; and

WHEREAS, the insurance provider requires that the City either accept or reject Terrorism Insurance Coverage by executing the form provided.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the proposal of Factory Mutual Insurance Company of St. Louis, Missouri, with premium in the amount of \$406,157.00, is hereby approved, and to execute the form to accept Terrorism Insurance Coverage, with a premium in the amount of \$23,683.00 for a total of \$429,840.00.

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Adopted by the City Council of the City of Grand Island, Nebraska, September 11, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
September 7, 2012	☐ City Attorney