

City Council – Action Request Form

Date: May 11, 2020

To: Mayor, Mayor Pro Tempore, and Members of the City Council

From: Lisa M. Saunders, Chief Financial Officer

Council Action Requested:

Resolution Approving the Fiscal Year 2020-2021 Operating Memorandum Between the City of Winston-Salem and the Risk Acceptance Management Corporation

Strategic Focus Area: Service Excellence

Strategic Objective: No

Strategic Plan Action Item: No

Key Work Item: No



Summary of Information:

Background

On July 18, 1988, the City Council approved a long-term contract, subject to annual renewal, between the City and the Risk Acceptance Management Corporation (RAMCO). The contract and Operating Memorandum authorizes RAMCO to administer and settle auto and general liability (including public officials' liability) claims subject to a \$1 million limit per occurrence or annual aggregate filed against the City. The City has established reserves with RAMCO which are available for payment of an individual auto and general liability claim or annual aggregate claims exceeding \$1 million but less than \$3 million.

RAMCO has accumulated a cash reserve of \$36 million. In 2015, an actuarial study was completed, and the results reported RAMCO financially sound and in a strong position to pursue opportunities to benefit the City and still be safely protected from extremely adverse and rare events. Effective July 1, 2016, the Operating Memorandum was revised to provide payments to the City for excess coverage for workers' compensation and health care claims over \$250,000.

Fiscal Year 2020-2021 Basic Payment for Auto, General, Excess Workers Compensation and Excess Health Care Liability Risks

According to the Operating Memorandum, RAMCO is to notify the City by March 31, preceding each renewal term as to the basic payment and any additional payment needed to provide sufficient funding of the program for the upcoming year. The basic payment for Fiscal Year 2020-2021 will be \$1,130,735, which is two percent higher than last fiscal year and is in accordance with the original contract. The Budget Office will include this amount in the proposed budget for Fiscal Year 2020-2021.

Committee Action:

Committee	<u>Finance 5/11/2020</u>	Action	<u>Approval</u>
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For	<u>Unanimous</u>	Against	<u></u>
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Remarks:

Administration and Payment Process Claims

Under the Operating Memorandum, RAMCO may settle claims, either for property damage or bodily injury. The City's Risk Management Director has the authority to settle claims \$20,000 or less. If a claim exceeds \$20,000, approval by the Board of Directors of RAMCO is required. If a claim exceeds \$100,000, approval of the City Council is also required. The Operating Memorandum considers claims for property damage and bodily injury separately for approval and payment.

As of March 31, 2020, RAMCO has adjusted 9,375 auto and general liability claims filed against the City since the inception of the program. These claims have resulted in payments of \$16,366,825 during the thirty-one and one-half year period. For the current fiscal year, 153 claims have been adjusted through March 31, 2020. During this period, payments to claimants totaled \$200,976 and payments to attorneys totaled \$104,865.

The Operating Memorandum allows RAMCO to use any and all defenses available to a municipality that does not have commercial liability insurance coverage including governmental immunity in administering the City's claims. Governmental immunity is a defense which may be raised in court proceedings. RAMCO makes every effort to reach settlement of claims for actual and reasonable damages before considering using the defense of governmental immunity. It is important to note that the Operating Memorandum is for claims administration services and is not to be construed as a contract for insurance.

RAMCO pays the costs of administration, investigation, and adjusting services of claims provided by personnel of the City and 50% of the net costs of the City's employee safety program. RAMCO will reimburse the City for expenditures incurred by the Risk Management Division related to these activities which is estimated to be \$663,470 for Fiscal Year 2020-2021. RAMCO pays the costs of claims administration, investigation, and adjusting services provided by the Workers' Compensation staff of the Financial Management Services Department. For the Fiscal Year 2020-2021, RAMCO will reimburse the City \$373,900 for the estimated annual personnel budget of the Workers' Compensation Fund.

Excess Claim Administration

The City transferred in August 1994, the balance of its reserve for excess liability claims (\$1,254,226) to RAMCO for investment which, together with any investment earnings thereon, shall be used to partially pay claims in excess of \$1 million but less than \$3 million. The balance of this reserve at March 31, 2020, was \$4,147,002. Should there be a claim or aggregate annual claims in excess of \$1 million, the payment will be made by RAMCO from the excess claim reserve and repaid by the City over a period of not more than five years. The Operating Memorandum allows the City the option of not repaying the reserve for the claim payment if the reserve balance at March 31 of the prior fiscal year (after the excess claim payment) exceeds \$3 million. The City may request the return of the unexpended excess liability reserve prior to the adoption of any future fiscal year Operating Memorandum, and the ability of RAMCO to continue to provide excess claims payment will be reviewed at that time. As of March 31, 2020, there has been one claim in excess of \$1 million which was paid from the excess claim reserve. The claim payment was \$1.65 million in Fiscal Year 2007 of which \$650,000 was paid from the excess claim reserve.

Excess Workers' Compensation Claims Administration

Effective July 1, 2016, RAMCO will provide payment for individual workers' compensation claims that exceed \$250,000. As of March 31, 2020, these claims have resulted in payments of \$749,676.

Excess Health Care Claims Administration

Effective July 1, 2016, RAMCO will provide payment for health care individual claims that exceed \$250,000. As of March 31, 2020, these claims have resulted in payments of \$2,036,389.

We recommend approval of this resolution.