



Agenda Date: 12/20/2005
Agenda Placement: 9A

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Michael Stoltz for Robert Peterson - Director
Public Works
REPORT BY: Michael Stoltz, Deputy Director of Public Works, 299-1365
SUBJECT: Risk Management Requirements regarding balloon launching facility at Public Works' Corporate Yard

RECOMMENDATION

Director of Public Works requests discussion and potential direction from the Board regarding the insurance requirements for balloon operators contained in the present non-exclusive license agreement for temporary use of a portion of the County of Napa Corporate Yard Facility on Silverado Trail. (Supervisor Dodd)

EXECUTIVE SUMMARY

At the December 13 meeting of the Board, Supervisor Dodd requested that this issue be brought back for Board discussion and potential action.

The Board adopted a resolution on November 15 that approved the non-exclusive license agreement for temporary use of a portion of the County of Napa Corporate Yard Facility on Silverado Trail. Included within the non-exclusive license agreement were the Risk Manager's recommendation as to the minimum insurance requirements pertaining to qualifications of the insurance carrier. This included provisions that the insurance company have an A.M. Best rating of A:VII or better.

At the present time, three of the six balloon companies currently operating within the County are provided insurance coverage by a carrier that does not meet the A.M. Best minimum qualifications.

At least one balloon company has represented that the costs to acquire insurance from another provider that meets the A.M. Best criteria are prohibitive. It has also represented that it may not be able to utilize the County site if this requirement is not changed.

Board discussion and direction is being requested to focus on the following three issues:

1. Does the Board wish to revise insurance requirements to allow a non-rated company to provide the minimum insurance coverage?

2. Does the Board wish to revise insurance requirements to allow a company not licensed or admitted to practice in California to provide the minimum insurance coverage?
3. If the Board wishes to lower the requirements to accept a non-rated company not licensed by the State of California, does it wish to raise the supplemental Owners', Landlords' and Tenant insurance for the balloon port site from a Five Million Dollar policy coverage for a premium of \$8,000 to a Ten Million Dollar policy coverage for a premium of approximately \$12,500 with the understanding that this cost is paid by the balloon operators who utilize the county site?

If the Board provides direction to make changes to the risk management requirements, staff will return at the first Board meeting in January with an appropriate resolution that includes a revised non-exclusive license agreement for temporary use of a portion of the County of Napa Corporate Yard Facility on Silverado Trail.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

The Board adopted a resolution on November 15 that approved the non-exclusive license agreement for temporary use of a portion of the County of Napa Corporate Yard Facility on Silverado Trail. Included within the non-exclusive license agreement were the Risk Manager's recommendation as to the minimum insurance requirements pertaining to coverage amount and qualifications of the insurance carrier. This included provisions that the insurance company have an A.M. Best rating of A:VII or better in the amount of One Million Dollars for the operation of balloons carrying up to ten (10) passengers with an additional \$100,000 for each passenger for any balloon carrying more than ten.

At present, three of the current six balloon companies operating within the County are provided insurance coverage by a carrier that does not meet the A.M. Best minimum qualifications. For these three companies, insurance coverage is provided by an offshore company, the International Pacific Assurance Association (IPAA). The IPAA has been in operation for ten years and is administered by a trust company licensed in the Marshall Islands and located in St. Marteen. While the IPAA is not rated by A. M. Best or Standard & Poor's, a representative indicated that the trust company has assets of \$27 Million with \$3 Million liquid assets. The IPAA does not release financial statements or audits for review.

The IPAA is also not licensed or admitted in California. Companies licensed in jurisdictions other than California can apply for admittance in California. If approved by the office of the California Insurance Commissioner, they are then backed by the state insurance fund should they become insolvent and unable to pay claims.

At least one balloon company has represented that the costs to acquire insurance from another provider that meets the A.M. Best criteria are prohibitive. It has also represented that it may not be able to utilize the County site if this requirement is not changed.

The Risk Manager has previously opined that "While the balloon industry within the County of Napa has been relatively accident free, with one major exception, there are inherent risks associated with any type of air travel. Therefore, it is critical that the County do whatever is possible to protect itself in the event the Board of Supervisors decides to make a launching site available on county-owned property."

The Risk Manager has previously reviewed this specific issue as to what insurance carriers are acceptable to the County and can provide this specialized insurance coverage. Based upon this review, the Risk Manager stated as part of the November 15 agenda item that "it is the recommendation of this office that any balloon company utilizing County property for launching, provide evidence of coverage by a company with an A.M. Best rating of A:VII or better in the amount of One Million Dollars for the operation of balloons carrying up to ten (10) passengers with an additional \$100,000 for each passenger for any balloon carrying more than ten. In the event a company only has One Million Dollars of commercial coverage, the County could accept a Letter of Credit or a Certificate on Deposit for the additional coverage. This will provide County with the maximum protection while still complying with AB 2430, the 2004 urgency legislation that made changes to requirements for balloon insurance." A copy of the Risk Manager's analysis of available insurance coverage that was provided to the Board in November is attached.

Based on the Risk Manager's analysis, staff is recommending that the previous action of the Board on November 15, remain in effect.

SUPPORTING DOCUMENTS

A . Insurance Review

CEO Recommendation: Approve

Reviewed By: Andrew Carey