Los Angeles County
Metropolitan Transportation
Authority
One Gateway Plaza
3rd Floor Board Room
Los Angeles, CA

File #: 2019-0182, **File Type:** Program **Agenda Number:** 13.

FINANCE, BUDGET AND AUDIT COMMITTEE
JUNE 19, 2019

SUBJECT: EXCESS LIABILITY INSURANCE PROGRAM

ACTION: APPROVE RECOMMENDATION

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to negotiate and purchase Public Entity excess liability policies with up to $300 million in limits with an $8 million self-insured retention at a cost not to exceed $6.9 million for the 12-month period effective August 1, 2019 to August 1, 2020.

ISSUE

The Public Entity (which includes transit rail and bus operations) excess liability insurance policies expire August 1, 2019. Insurance underwriters will not commit to final pricing until roughly six weeks before our current program expires on August 1st. Consequently, we are requesting a not-to-exceed amount for this renewal pending final pricing and carrier selection. Without this insurance, Metro would be subject to unlimited liability for bodily injury and property damage claims resulting from, primarily, bus and rail operations.

DISCUSSION

Our insurance broker, USI Insurance Services (“USI”), is responsible for marketing the excess liability insurance programs to qualified insurance carriers. Quotes are in the process of being received for our Public Entity program by our broker from carriers with A.M. Best ratings indicative of acceptable financial soundness and ability to pay claims.

Staff and USI developed a 2019 - 2020 Public Entity excess liability insurance renewal strategy with the following objectives. First, our insurance underwriter marketing presentations emphasized the low risk of light rail and bus rapid transit services in addition to safety enhancements and pilot programs added over the past years in order to mitigate insurer’s concerns with increased operating exposures. Second, we desired to maintain a continuing diversified mix of international and domestic insurers to maintain competition and reduce our dependence on any single insurance carrier. Third, we desired to maintain total limits of $300 million while maintaining an $8 million self-insured retention but were open to increasing our self-insured retention if needed to retain reasonable premium pricing. The 2015 Fixing America’s Surface Transportation (FAST) Act raised the liability cap for commuter rail transit providers for passenger liability to $295 million. Metro’s total limits of $300 million meet the FAST minimum requirements.

USI is presenting Metro's submission to competing insurers in order to create competition in the layers of our insurance program. Our broker communicated with principals in the markets in April, May and June. Insurance executives both nationally and internationally expressed continuing increased underwriting discipline particularly for transportation risks. Insurers asked for detailed loss information on Metro risks and perform detailed actuarial valuations on our book of business to establish their premiums. We are awaiting final insurance quotes from carriers for the Public Entity policies from our broker.

Since Metro has a newer rail system, implemented industry leading safety enhancements before other transit agencies, and a robust claims management process, we benefit from favorable acceptance of our risk in the marketplace which differentiates us from other transit risk profiles. Last year, we obtained $300 million in Public Entity coverage with $8 million retention for $4.1 million. We have enjoyed a relatively calm market for over 16 years; however, substantial loss development specifically related to auto liability, has caused the market to "harden" significantly in the past year. "Commercial insurance buyers are facing upward pricing pressure across most lines of business in 2019, driven in part by escalating losses in the casualty insurance market", according to a report released by Willis Towers Watson (Marketplace Realities 2019). Consequently, we are anticipating a significant rate increase in our Public Entity general liability program premiums given the present state of the insurance marketplace.

To put the insurance marketplace in perspective, our insurance broker's recent Market Update describes the current marketplace succinctly-- "Following a relatively subdued January 1st renewal season, the property and casualty insurance market's push for rate increases has shifted into high gear. Under the weight of back-to-back years of loss accumulation and despite the abundant capacity, property insurers are questioning the adequacy of rates. Similarly, casualty insurers are reevaluating their book of business, driven by the protracted soft market and adverse loss trends. The primary carriers are not only demanding higher rates but tightening underwriting guidelines and exiting specific classes of businesses in certain cases." (USI Property & Casualty Insurance Market Update | Q1 2019)

One person accidents that previously would have settled for $3 million to $8 million, are now settling for $30 million to $45 million in California and upwards of $75 million in New York. Carrier results from public agencies, particularly in California, have been significantly worse than other states and carriers have been leaving this niche consistently for the past 8-10 years. A very limited pool of carriers is willing to even consider writing public entity policies including Metro. This is primarily due to the size of our system and the fact that we are in Los Angeles County (widely considered to be the most plaintiff-friendly jurisdiction in the country). The loss development the carriers are experiencing on their accounts this year resulted in many of the carriers ceasing operations entirely in California, with some of them pulling out of the U.S. entirely.

Metro's August 1st insurance placement will reflect higher insurance premiums resulting from tightened underwriting guidelines, the need to replace carriers who exited our class of business and negative developments in auto liability losses. Metro is not alone in facing rate increases. Douglas O'Brien, USI National Practice Division Manager, Casualty and Alternative Risk, said, "Since January 1st a bigger percentage of large risk management and upper middle market companies across

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different industries have faced rate increases and capacity reduction. This cuts across industry classifications and is regardless of loss history or tenure with their insurance carriers. A handful of companies have also been non-renewed," O'Brien said. (USI Property & Casualty Insurance Market Update | Q1 2019)

Attachment A provides an overview of the current Public Entity program, renewal options and estimated associated premiums, and the agency's loss history. The Recommended Program, Option A, includes total limits of $300 million with $8 million retention and provides terrorism coverage at all levels. Attachment B shows the tentative Public Entity program carriers selected and program structure.

DETERMINATION OF SAFETY IMPACT

Approval of this recommendation will not impact the safety of Metro's patrons or employees.

FINANCIAL IMPACT

Funding for eleven months of $6.3 million for this action is included in the FY20 budget in cost center 0531, Risk Management - Non Departmental Costs, under projects 300022 - Rail Operations - Blue Line, 300033 - Rail Operations - Green Line, 300044 - Rail Operations - Red Line, 300055 - Gold Line, 300066 - Rail Operations - Expo Line, 301012 - Metro Orange Line, 306001 - Operations Transportation, 320011 - Union Station, and 405533 - Commuter Rail in account 50602 (Ins Prem For Gen Liability). Additional funds required to cover premium costs beyond FY20 budgeted amounts will be addressed by fund reallocations during the year.

The remaining month of premiums will be included in the FY21 budget request, cost center 0531, Risk Management - Non Departmental Costs, under projects under projects 300022 - Rail Operations - Blue Line, 300033 - Rail Operations - Green Line, 300044 - Rail Operations - Red Line, 300055 - Gold Line, 300066 - Rail Operations - Expo Line, 301012 - Metro Orange Line, 306001 - Operations Transportation, 320011 - Union Station, and 405533 - Commuter Rail in account 50602 (Ins Prem For Gen Liability). In FY19, an estimated $4.5 million will be expensed for excess liability insurance.

Impact to Budget

The current fiscal year funding for this action will come from the Enterprise, General and Internal Service funds paralleling funding for the actual benefiting projects charged. No other sources of funds were considered because these are the activities that benefit from the insurance coverage. This activity will result in an increase to operating costs from the prior fiscal year.

ALTERNATIVES CONSIDERED

Various deductibles and limits of coverage options were considered as outlined in Attachment A for the Public Entity program of insurance. Option A maintains $300 million limits and maintains the current self-insured retention (SIR) at $8 million. Option B maintains $300 million limits but increases the SIR to $10 million. Option A is recommended to maintain the current SIR. Option B is not recommended because the estimated cost savings of retaining a loss exceeds the cost benefit of decreasing the total premium.

NEXT STEPS

Upon Board approval of this action, we will advise USI to proceed with placement of the excess liability insurance program outlined herein effective August 1, 2019.

ATTACHMENTS

Attachment A - Options, Premiums and Loss History
Attachment B - Proposed Public Entity Carriers and Program Structure

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