



Board Report

File #: 2017-0702, File Type: Program

Agenda Number: 11.

FINANCE, BUDGET AND AUDIT COMMITTEE MAY 16, 2018

SUBJECT: MAJOR CONSTRUCTION UMBRELLA INSURANCE PROGRAM

ACTION: PURCHASE UMBRELLA INSURANCE

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to negotiate and purchase additional construction project umbrella liability insurance policies (also known as a super excess general liability insurance program) for construction of the Metro Westside Purple Line Extension Section 2 Project (the Project) with up to \$300 million in additional limits at a cost not to exceed \$4.9 million for the period effective June 6, 2017 to June 6, 2027 (and products/completed operations coverage to June 6, 2037).

ISSUE

Metro is concerned about the financial implications of an unanticipated loss resulting in major damage to adjacent properties and/or loss of life/injury on our major transit construction projects. Such risk can be mitigated reasonably through the purchase of additional insurance.

BACKGROUND

Existing Liability Insurance Coverage for the Metro Westside Purple Line Extension Section 2 Project

Dedicated limits of insurance coverage for the Metro Westside Purple Line Extension Section 2 Project are provided by the Design Build (DB) contractor, Tutor Perini/O&G, A Joint Venture. The liability insurance on the Project, which covers the negligent injury or death and/or property damage to others, is \$350 million. This coverage also includes products and completed operations for ten years following the revenue service date and will respond to latent defects which cause injury or death, or real property damage to other people. The coverage limits take into account aspects such as concentration of property values near the Project, population density, tunneling, project duration, and other factors. The contract award value of the Project was \$1,376,500,000.

Risk Exposure Above Existing Coverage

Despite using liability insurance limits toward the high end of industry practice in our major construction project contracts, these limits would be insufficient to respond to an extremely unlikely and unanticipated loss resulting in widespread property damage or loss of life.

Metro purchased additional construction project umbrella liability insurance policies for construction of the Metro Westside Purple Line Extension Section 1, Gold Line Foothill Extension Phase 2A, Crenshaw/LAX, Expo II Transit Corridor and Regional Connector Projects in October 2014 as authorized by the Board. The policies are effective for the period October 1, 2014 to January 3, 2023 (with products and completed operations coverage to January 3, 2033) and provide additional liability insurance limits up to \$550 million over the current contractor owned insurance programs. Purchase of this policy will provide a consistent approach to mitigating our risk exposure and provide the same amount of liability limit available on the projects listed above.

DISCUSSION

Proposed Additional Liability Insurance Coverage for the Metro Westside Purple Line Extension Section 2 Project

Metro's construction insurance broker, Aon Risk Services, approached each of the carriers in Metro's current super umbrella program to determine whether they were willing to enroll the Metro Westside Purple Line Extension Section 2 Project into their current policies. However, due to a number of reasons such as market appetite and the fact that reinsurance treaties with all carriers in the first layer allow policy terms to run no longer than eight years, our broker approached the market with a new policy to take the project term out to the required 12 years to include the timeframe for the Westside Purple Line Extension Section 2 Project with a linked limits endorsement to the prior policy. This approach was accepted by the carriers in the first layer of coverage in the amount of \$50 million. A \$250 million limit is provided by the secondary layer carrier for a total coverage, including the DB provided coverage, of \$750 million (the same as the existing super umbrella program). This action brings continuity of coverage for all major Metro construction projects under one program.

Attachment A identifies the insurance carriers and pricing for the proposed program.

DETERMINATION OF SAFETY IMPACT

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

FINANCIAL IMPACT

The funding for this action is included in the FY18 budget, under Project 865522 (Westside Purple Line Extension Section 2), Fund 6012, Cost Center 8510 (Construction Project Management), Account Number 50602 (Insurance Premium for General Liability) and Task Number 4.10.01.03 (General Liability - Non FFGA).

Impact to Budget

The sources of funds for the recommended action are from Measure R 35% and Local Funds. The approved FY18 budget is designated for the Westside Purple Line Extension Section 2 Project and does not have an impact to operations funding sources.

ALTERNATIVES CONSIDERED

Aon Risk Services explored the possibility of a single insurer, Berkshire Hathaway, to provide the full coverage required for the Project. Their estimated premium for doing so was not a viable option.

There are no other viable options as we have exhausted the marketplace to develop the limits recommended in this super excess liability program. There are no more available limits in the insurance industry.

Metro could self-insure this exposure and rely on its indemnities with the DB contractor, however, this approach would leave Metro with an unknown and unknowable risk of an unanticipated loss.

NEXT STEPS

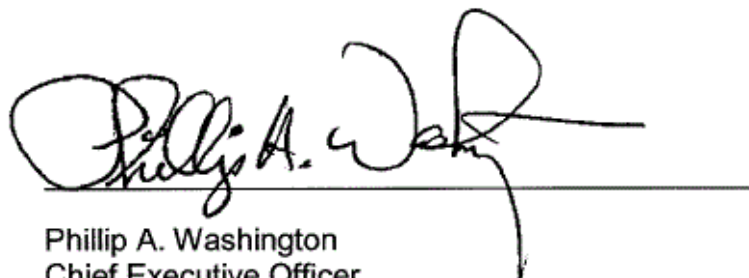
Upon Board approval of this action, we will advise Metro's broker, Aon Risk Services, to proceed with placement of the excess liability insurance program outlined herein effective June 6, 2017.

ATTACHMENTS

Attachment A - Recommended Program Pricing and Carriers

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