



August 28, 2019

To: Finance and Administration Committee
From: Darrell E. Johnson, Chief Executive Officer
Subject: Excess Workers' Compensation Insurance Policy

Overview

The Orange County Transportation Authority currently has an excess workers' compensation insurance policy with Arch Insurance Company. This policy will expire on October 1, 2019.

Recommendation

Authorize the Chief Executive Officer to negotiate and execute Purchase Order No. A43072, in an amount not to exceed \$500,000, to Marsh Risk and Insurance Services, Inc., to purchase excess workers' compensation insurance from Arch Insurance Company on behalf of the Orange County Transportation Authority for the policy period of October 1, 2019 to October 1, 2020.

Discussion

Workers' compensation coverage is designed to provide medical, temporary disability, and permanent disability benefits to injured workers. Employer's liability is an additional coverage provided as part of the excess workers' compensation insurance policy. Employer's liability insurance covers claims presented to an employer on behalf of employees seeking damages caused by job-related activities that result in bodily injury or disease. For example, if a claim was filed against the Orange County Transportation Authority (OCTA) due to a serious and willful action resulting from an uncorrected yet known safety hazard that caused injury to an employee, OCTA may be liable for the costs of the claim as it would fall outside of the normal workers' compensation coverage. The employer's liability coverage would pay for the cost of legal defense for these types of claims. Fortunately, OCTA has not had any claims that would trigger the employer's liability coverage. However, retention of employer's liability insurance remains a prudent risk mitigation action.

OCTA's current excess workers' compensation insurance policy (October 1, 2018 to October 1, 2019) with Arch Insurance Company has a self-insured retention of \$750,000 each accident, as well as coverage to statutory limits, with a rate of \$0.3933 per \$100 of payroll, for a premium of \$405,306. The current policy also includes an option for OCTA to renew the policy on October 1, 2019, for a guaranteed flat rate of \$0.3933 per \$100 of payroll. OCTA payroll for this policy period is projected to increase, which will increase the actual premium.

OCTA's Broker of Record is Marsh Risk and Insurance Services, Inc. (Marsh). Marsh is paid a flat fee of \$100,000 for marketing and placing all property and casualty insurance per Agreement No. C-7-1585 approved by the Board of Directors (Board) on May 22, 2017. This flat fee paid to Marsh is not part of the premium OCTA anticipates paying to the selected insurers for the renewal of this policy. By agreement, Marsh does not earn any additional compensation or commission for its services. The contract further requires that any commissions offered by insurers will offset OCTA's premiums.

Based on their experience of providing insurance marketing to other clients, Marsh has informed OCTA that California workers' compensation premium rates have generally increased between five and ten percent this year due to higher medical costs and increased claims activity. Their experience with other clients renewing their insurance policies found that many are staying with their incumbent insurers to avoid expected rate increases or exercising options for guaranteed rates if they exist in their current policies. Insurance market quotes to OCTA in the past four years have revealed a limited insurance market that was unable to provide competitive quotes or match the favorable terms of the current policy provided by Arch Insurance Company. Therefore, staff is requesting Board approval to renew this policy for the guaranteed flat rate of \$0.3933 per \$100 of payroll, with a self-insured retention of \$750,000 each accident and coverage to statutory limits, not to exceed \$500,000.

Fiscal Impact

This project was approved in OCTA's Fiscal Year 2019-20 Budget, Human Resources and Organizational Development Division, Risk Management Department, Account No. 0041-7552-A2311-DSG, and is funded through the Workers' Compensation Internal Service Fund.

Summary

Based on the information provided, staff recommends authorizing the Chief Executive Officer to negotiate and execute Purchase Order No. A43072, for the renewal of the excess workers' compensation insurance policy, with Arch Insurance Company for an annual premium not to exceed \$500,000, for the policy period of October 1, 2019 to October 1, 2020.

Attachment

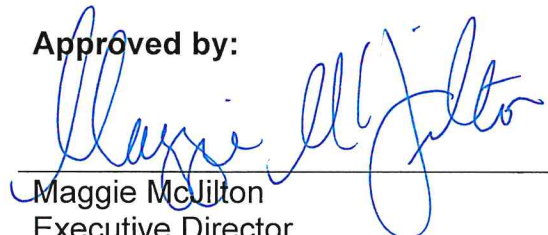
None.

Prepared by:

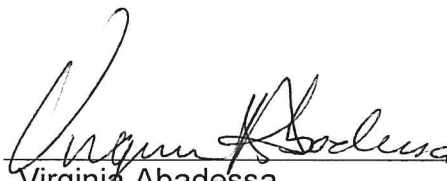


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