



January 22, 2020

To: Finance and Administration Committee
From: Darrell E. Johnson, Chief Executive Officer
Subject: 91 Express Lanes Property Insurance Renewal

Overview

The Orange County Transportation Authority currently has a primary property and flood insurance policy for the 91 Express Lanes with Zurich American Insurance Company, and seven earthquake insurance policies with Empire Indemnity Insurance Company, General Security Indemnity Company of Arizona, Hudson Specialty Insurance Company, Everest Indemnity Insurance Company, QBE Specialty Insurance Company, Endurance American Insurance Company, and Princeton Excess and Surplus Lines Insurance Company, which will expire on March 1, 2020.

Recommendation

Authorize the Chief Executive Officer to negotiate and execute Purchase Order No. A44160, in the amount of \$500,000, to Marsh USA, Inc., to purchase the 91 Express Lanes' property, flood, and earthquake insurance on behalf of the Orange County Transportation Authority, for the policy period of March 1, 2020 to March 1, 2021.

Discussion

Insurance companies determine property insurance quotes based upon current insurance market conditions and the total value of property to be insured. Currently, eight insurers provide primary property, flood, and earthquake coverage for the 91 Express Lanes for a premium of \$334,313, for a total policy coverage limit of \$140 million. These policies provide catastrophic protection for the roadway, structures, and business personal property, including business interruption coverage against losses caused by fire, flood, and earthquake. Other coverage includes losses due to civil authority, ingress/egress, debris removal, demolition and increased costs of construction, equipment breakdown, including electronic data processing equipment, valuable papers, earthquake sprinkler leakage, and boiler and machinery.

Policy deductibles for these eight policies vary by category of coverage. The current policies carry a \$50,000 deductible that applies to all perils except:

- \$10,000 deductible for surveillance equipment;
- \$100,000 deductible for flood;
- 12-hour deductible for business interruption; and
- \$1 million deductible for earthquake.

Flood protection is provided in the current policy with a \$50 million coverage limit and a \$100,000 deductible. As with many properties in Orange County, the 91 Express Lanes has structures and buildings that are in areas susceptible to flooding. Flood is defined in the policy to mean “a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the rising or overflow of inland or tidal waters, (2) the unusual and rapid accumulation of run off of surface waters from any source, (3) mudslide (i.e., mud-flow), meaning a river or flow of liquid mud proximately caused by flooding as defined in (1) above or by the accumulation of water under the ground, or (4) water that backs up from a sewer or drain. Each loss by flood shall constitute a single claim hereunder; provided if more than one flood shall occur within any period of 72 hours during the term of the policy, such floods shall be deemed to be a single flood.”

Earthquake protection is provided in the current policy with a \$90 million limit and a \$1 million deductible. Earthquake means “any natural or man-made earth movement (except mudslide or mud-flow caused by accumulation of water on or under the ground) including, but not limited to, earthquake and resultant earthquake sprinkler leakage, volcanic action, landslide, subsidence or tsunami, regardless of any other cause or event contributing concurrently or in any other sequence of loss. Notwithstanding anything in the above to the contrary, to the extent mudslide or mud-flow caused by accumulation of water on or under the ground is caused by or results from a tsunami, it shall be considered to be an earthquake.”

The Orange County Transportation Authority (OCTA) Broker of Record, Marsh USA, Inc. (Marsh), will provide marketing and will purchase the 91 Express Lanes insurance coverage on behalf of OCTA for this renewal. Marsh is paid a flat fee of \$105,000 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.

OCTA will pursue a renewal strategy that will include four possible goals for renewing this policy. The goals are:

1. Market to all viable insurers using a target price marketing approach to determine interest from potential insurers that have not previously provided premium quotes.
2. Attempt to achieve a premium price reduction for the all-risk property coverage.
3. Maintain the current earthquake coverage structure with a \$1 million earthquake deductible and explore opportunities to obtain a reduction or at least a flat premium price renewal.
4. Provide improved policy sub-limits for days, limits, and distance for the current ingress/egress and civil authority provisions of the coverage.

Staff is requesting Board approval to renew the current policy in an amount not to exceed the Board-approved budget of \$500,000, and to fund any enhancements or additional coverage negotiated to improve the insurance protection. Marsh is currently contacting the insurance market for competitive quotes for the renewal of OCTA's 91 Express Lanes' property insurance coverage. Marsh has been directed to seek quotes from property insurance carriers and additional markets and wholesale companies, if needed, to obtain a sufficient number of competitive quotes. Furthermore, Marsh has been instructed not to disclose broker compensation to prospective insurers to avoid having insurers net the broker's commission against the quoted premiums.

The carriers listed below will be approached for proposals and have transit insurance coverage experience and an A.M. Best financial rating of A-7 or better:

ACE American Insurance Company
Affiliated FM
Allianz Global Risks US Insurance Company
Lexington Insurance Company
Liberty Mutual Insurance Company
Lloyd's of London
Westport Insurance Corporation
XL Insurance Company
Zurich American Insurance Company

Since some of these carriers are unable to provide earthquake and flood coverage in a combined program, Marsh will approach the following markets and wholesalers:

Arrowhead General Insurance Agency, Inc.
Empire Indemnity Insurance Company
Endurance American Insurance Company
Everest Indemnity Insurance Company
General Security Indemnity Company of Arizona
Hudson Specialty Insurance Company
Princeton Excess and Surplus Lines Insurance Company
QBE Specialty Insurance Company

Fiscal Impact

The project was approved in OCTA's Fiscal Year 2019-20 Budget, Human Resources and Organizational Development Division, Risk Management Department, Account 0036-7563-A0017-GGN, and is funded through the 91 Express Lanes.

Summary

Based on the information provided, staff recommends the Board authorize the Chief Executive Officer to negotiate and execute Purchase Order No. A44160, in the amount of \$500,000, to Marsh to purchase the 91 Express Lanes' property, flood, and earthquake insurance on behalf of OCTA, for the period of March 1, 2020 to March 1, 2021.

Attachment

None.

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