



September 23, 2020

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Excess Liability Insurance Renewal

Overview

The Orange County Transportation Authority currently has excess liability insurance policies with Gemini Insurance Company and Princeton Excess & Surplus Lines Insurance Company. These policies will expire on November 1, 2020, and a renewal is necessary to maintain coverage.

Recommendation

Authorize the Chief Executive Officer to negotiate and execute Purchase Order No. A45739, in the amount of \$1,500,000, to Marsh Risk and Insurance Services, Inc., to purchase excess liability insurance on behalf of the Orange County Transportation Authority for the policy period of November 1, 2020 to November 1, 2021.

Discussion

The Orange County Transportation Authority (OCTA) has been self-insured for liability claims since 1977 and currently maintains a self-insured retention (SIR) of \$5 million per claim. In addition, OCTA currently purchases \$7 million in excess liability insurance limits above the current SIR to provide financial protection against potentially high-exposure liability losses.

Excess liability insurance is a type of insurance policy purchased by OCTA to protect against liability claims for bodily injury and property damage arising out of premises, all operations (including the 91 Express Lanes), products and completed operations, advertising and personal injury liability, errors and omissions liability (including public official's coverage), employment practices, and employee benefit liability.

The \$7 million in excess liability insurance is provided by two insurance carriers, Gemini Insurance Company (Gemini) and Princeton Excess & Surplus Lines Insurance Company (Princeton).

Gemini provides coverage of \$5 million in excess of OCTA's \$5 million SIR, for an annual premium of \$528,234. Princeton provides an additional \$2 million in coverage to OCTA beyond the Gemini policy, for an annual premium of \$206,400. The total annual premiums for the two policies including taxes and fees is \$734,634. These policies are scheduled to expire on November 1, 2020.

OCTA's approved budget for this renewal exceeds the current premium but allows for potential variances in the overall insurance market. Potential variances could include increases which might occur as a result of any policy enhancements necessary to protect OCTA assets, pending litigation results, and expected premium rate increases due to recent overall insurance market losses. Staff requests Board of Directors' (Board) approval for the budgeted amount of \$1,500,000 to renew this policy.

OCTA's Broker of Record, Marsh Risk and Insurance Services, Inc. (Marsh) will provide marketing and will purchase the excess liability 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 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. This requirement in the contract resulted in a savings of \$317,634 from the \$1,052,380 premium quote for the expiring policies.

Marsh has identified a market trend of increased premium rates of 15 to 20 percent for insurance policies renewing this year. Although OCTA has a very favorable loss history, a premium rate increase is expected. Marsh has been directed to approach carriers that currently write public transportation excess liability insurance policies and that also have the financial capacity to hold an AM Best financial rating of A-7 or better. The qualified companies include:

- ACE American Insurance Company
- Allied World Assurance Company, LTD.
- Arch Specialty Insurance Company
- AXIS Surplus Insurance Company
- Argonaut Insurance Company
- Berkley National Insurance Company
- Endurance American Insurance Company
- Evanston Insurance Company
- General Star Insurance Company
- Great American Insurance Company
- Insurance Company of the State of Pennsylvania
- Ironshore Indemnity Company
- Munich Reinsurance Company
- Old Republic Insurance Company
- RSUI Indemnity Company
- Scottsdale Insurance Company
- Travelers Insurance Company

OCTA will pursue five possible goals for renewing the excess liability policies. The goals are:

- Obtain a flat premium rate renewal at the current SIR level.
- Obtain quotes for \$3 million, \$4 million, and \$5 million SIR to evaluate the best blend of risk assumption and risk transfer.
- Revise coverage limit levels for cost-effectiveness.
- Consider a multiple-year program.
- Conduct a review of the current level of coverage.

Fiscal Impact

The project was approved in OCTA's Fiscal Year 2020-21 Budget, Human Resources and Organizational Development Division, Risk Management Department, Account No. 0040-7562-A0017-DTN, and is funded through the Internal Service Fund.

Summary

Based on the information provided, staff recommends the Board authorize the Chief Executive Officer to negotiate and execute Purchase Order No. A45739, for the renewal of the excess liability insurance, for an annual premium not to exceed \$1,500,000 for the policy period of November 1, 2020 to November 1, 2021.

Attachment

None.

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