OCTA

November 11, 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 and Surplus Lines Insurance Company. These policies will expire on December 1, 2020.

Recommendation

Authorize the Chief Executive Officer to fully self-insure for liability claims by allowing the excess liability insurance policies with Gemini Insurance Company and Princeton Excess and Surplus Lines Insurance Company to expire until such time the insurance market pricing is more favorable.

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 catastrophic events and associated 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 currently provided by two insurance carriers, Gemini Insurance Company (Gemini) and Princeton Excess and 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 December 1, 2020. On September 28, 2020, the Board of Directors (Board) approved a $1,500,000 budget to renew the current insurance and recommended staff return to the Finance and Administration Committee for direction to bind coverage.

OCTA's Broker of Record, Marsh Risk and Insurance Services, Inc. (Marsh) assists in purchasing excess liability insurance coverage on behalf of OCTA. Marsh is paid a flat fee of $105,000 for marketing and placing all of OCTA's 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 pays for a 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.

Although OCTA has a very favorable loss history, with an average annual claims payout of $1,828,000, Marsh has identified a market trend of increased premium rates of 20 to 25 percent for insurance policies renewing this year. Marsh solicited premium quotes for the renewal of the policies approaching insurance companies 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. Given the current insurance market, OCTA received only one quote, from incumbent carrier Gemini to provide $5 million in excess liability coverage for a premium of $719,077.40.

Considering this single quote and in order to provide the same level of coverage as is in place today, the current $5 million self-insured retention would need to be increased to $7.5 million, which is more than the largest claim in OCTA's history. Additionally, if OCTA were to increase the self-insured retention to $7.5 million and renew the policy as quoted by Gemini, OCTA would essentially be responsible for paying all expected claims in the next year, which have averaged $1,828,000 per year, while also paying $719,077.40 to Gemini with a strong unlikelihood that Gemini would pay any claims. Additional quotes may be forthcoming but are unlikely to be more favorable than the quote from Gemini.

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 of Directors authorize the Chief Executive Officer to fully self-insure for liability claims by allowing the excess liability insurance policies with Gemini Insurance Company and Princeton Excess and Surplus Lines Insurance Company to expire until such time the insurance market pricing is more favorable.

Attachment

None.

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