



March 24, 2021

To: Finance and Administration Committee
From: Darrell E. Johnson, Chief Executive Officer
Subject: Annual Insurance Program Review

Overview

The Orange County Transportation Authority purchases various insurance coverage protection including workers' compensation, liability, property, business interruption, and cyber losses. The Orange County Transportation Authority contracts with insurance brokers for the marketing and placement of these coverages. This staff report provides an annual review of all major Orange County Transportation Authority insurance policies, including coverage and marketing strategies used to protect its assets.

Recommendation

Receive and file as an information item.

Background

On November 11, 2020, the Finance and Administration Committee directed staff to conduct an annual review of all insurance coverages held by the Orange County Transportation Authority (OCTA). This report includes renewal dates, areas of liability, coverage amounts, and insurance carrier information.

To assist with the renewal of insurance policies, OCTA's Risk Management Department works with a Broker of Record, Marsh Risk and Insurance Services (Marsh), for the marketing and placement of property and casualty coverage. Marsh is paid a flat fee of \$105,000 annually for marketing and placing various insurance policies such as workers' compensation, liability, property, terrorism, and business interruption insurance per Agreement No. C-7-1585 approved by the Board of Directors (Board) on May 22, 2017. This contract will expire on June 30, 2022. The flat fee paid to Marsh does not include any of the premiums OCTA anticipates paying to the selected insurers for any policy renewals. 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.

Discussion

Commercial insurance prices have been steadily rising since 2017 with the largest increases in premiums occurring in the third quarter of 2020. Overall, insureds in the United States experienced an average of 10.7 percent increase in premium while the transportation industry paid the highest premium average increase of 11.5 percent. Demonstrative of these trends, OCTA has experienced higher premiums and fewer insurance premium proposals when attempting to renew insurance policies.

OCTA purchases the following insurance coverage:

Workers' Compensation

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 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 with Arch Insurance Company has a self-insured retention of \$750,000 per each accident, as well as coverage to statutory limits, with a rate of \$0.3933 per \$100 of payroll, for a premium of \$445,589. The current policy period is in effect from October 1, 2020 to October 1, 2021.

Excess Liability

Excess liability insurance protects 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.

OCTA has been self-insured for liability claims since 1977. Prior to December 1, 2020, OCTA purchased commercial excess liability insurance above a predetermined self-insured retention to provide financial protection against catastrophic events and associated losses. Although OCTA has a very favorable loss history, with a 28-year average annual claims payout of \$1,828,000, Marsh identified a market trend of significantly higher premium rates that OCTA would likely pay for insurance policies renewing in late 2020. On November 23, 2020, the Board approved staff's recommendation to fully self-insure instead of purchasing commercial liability insurance. As directed by the Board, staff has continued to monitor the insurance market trends and will present the Board with future insurance options in November 2021 or sooner should the insurance market trend show a 40 percent reduction in likely premiums. The excess liability market pricing has remained unfavorable to date.

Property

Property insurance is designed to protect OCTA property, including buildings, contents, and buses from perils of fire, flood earthquake, and accidental loss. Insurance companies determine property insurance quotes based upon current insurance market conditions affecting rates per \$100 in property values. The coverage of this policy is based on current property values of \$580,397,366, which includes real and business personal property, information system equipment, and directly operated revenue and non-revenue vehicles. Included in the current policy, OCTA is also insured for active shooter and malicious attack coverage, which covers damage to property and additional post event expenses not provided for in a traditional property insurance policy.

Due to the large number of insured buses included in this policy, there is a special insurance condition that OCTA buses are only insured while parked at the bus base. Currently, a \$50,000 deductible is applied per occurrence for fire loss or damage to OCTA's bus fleet in this policy. Revenue vehicles are self-insured for property damage while in operation. OCTA's paratransit vehicles are not included in OCTA's insurable values since these vehicles are insured by MV Transportation, Inc., as required in Agreement No. C-2-1865, approved by the Board on March 25, 2013. In addition, fixed-route buses operated and insured by First Transit, Inc., as required in Agreement No. C-4-1737, approved by the Board on March 23, 2015, are also not included in OCTA's insurable values.

OCTA is currently insured with Zurich Insurance Company for an annual net of commission premium of \$629,269, which is based on property values of \$580,397,366. The current policy is in effect from December 1, 2020 to December 1, 2021. The 91 Express Lanes property is insured under a separate insurance policy.

91 Express Lanes Property

OCTA purchases multiple property, earthquake, flood, and terrorism insurance policies for the 91 Express Lanes. 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.

Zurich American Insurance Company provides property and flood coverage and Lexington Insurance Company, QBE Specialty Insurance Company, General Security Indemnity Company of Arizona, and Steadfast Insurance Company provide earthquake coverage. Insurance companies determine property insurance quotes based upon current insurance market conditions and the total value of property to be insured. Currently, these five insurers provide primary property, flood, and earthquake coverage for the 91 Express Lanes for an annual net of commission premium of \$460,332, for a total policy coverage limit of \$157,422,249.

Some insurance premiums for this policy are equally shared with the Riverside County Transportation Commission for their use of the administrative business personal property only at the Riverview Drive location in the City of Anaheim. The current property insurance policy is in effect from March 1, 2021 to March 1, 2022.

Privacy and Security (Cyber)

OCTA purchases three cyber-related policies that provide insurance protection for losses involving network interruption, data asset loss, data breach, cyber extortion, privacy liability, network security liability, regulatory defense, and media liability events.

Currently, OCTA carries \$5 million in primary layer of coverage from AIG, an additional \$5 million second layer from Chubb and a third layer excess policy for an additional \$5 million from AXA XL for a net of commission cost of

\$139,215.55. These policies are in effect from November 1, 2020 to November 1, 2021.

Summary

OCTA purchases various insurance coverage protection for including workers' compensation, liability, property, business interruption and cyber losses. OCTA contracts with insurance brokers for the marketing and placement of these coverages. All necessary insurance policies were renewed on time and with Board approval within the approved budgets.

The Risk Management staff will continue to work with OCTA's brokers on strategies for future renewals in order to obtain the best possible insurance coverage at the lowest policy premium rates.

Attachment

None.

Prepared by:

Al Gorski
Department Manager,
Risk Management
(714) 560-5817

Approved by:

Maggie McJilton
Executive Director, Human Resources
and Organizational Development
(714) 560-5824