OCTA

November 10, 2021

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Excess Liability Insurance Pricing Update

Overview

The Orange County Transportation Authority has been fully self-insured for operational liability exposures since December 1, 2020, due to recent unfavorable premium pricing in the excess liability insurance market. Staff has reviewed the current insurance market and pricing remains unfavorable to procure excess liability insurance. Board of Directors approval is necessary to remain self-insured.

Recommendation

Authorize the Chief Executive Officer to continue to fully self-insure for liability claims 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 has historically purchased excess liability insurance above a self-insured retention (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.

OCTA's Broker of Record, Marsh Risk and Insurance Services, Inc. (Marsh) provides marketing and assists OCTA in purchasing excess liability insurance coverage on behalf of OCTA. Marsh is paid a flat fee of $110,000 for marketing and placing all of OCTA's 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 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.

On December 1, 2019, OCTA purchased $7 million in excess liability insurance provided by two insurance carriers, Gemini Insurance Company (Gemini) and Princeton Excess and Surplus Lines Insurance Company (Princeton). Gemini provided coverage of $5 million in excess of OCTA's $5 million SIR, for an annual premium of $528,234. Princeton provided an additional $2 million in coverage to OCTA beyond the Gemini policy, for an annual premium of $206,400. The annual premiums for the two policies including taxes and fees totaled $734,634. These policies were scheduled to expire on December 1, 2020. On September 28, 2020, the Board approved a $1,500,000 budget to renew the current insurance and provided direction for staff to return to the Finance and Administration Committee for direction to bind coverage.

Although OCTA has a very favorable loss history, with an average annual claims payout of $1,828,000, Marsh identified a market trend of increased premium rates of 15 to 45 percent for insurance policies renewing in 2020. Marsh solicited premium quotes for the renewal of the policies approaching insurance companies that provide public transportation excess liability insurance policies. OCTA received only one quote from incumbent carrier, Gemini, for $719,077.40 to provide $5 million in coverage provided that OCTA would carry a self-insured retention of $7.5 million.

On November 11, 2020, the Finance and Administration Committee approved staff's recommendation to fully self-insure, and handle liability claims internally instead of expending $719,077.40 to purchase commercial insurance that would only provide protection for historically unlikely claims above $7.5 million. In addition, staff was directed to track the insurance market to readdress fully self-insuring liability claims if the market were to trend in a 40 percent reduction in premium pricing. Marsh has confirmed that the insurance market has continued to "normalize" increased premium rates of 15 to 45 percent in 2021.

Staff is recommending that OCTA continue to fully self-insure based on a historically low $648,951 in pandemic-era claims and as the insurance market premium pricing continues to be unfavorable in 2021. Staff will continue to monitor the insurance market throughout the year and will provide an annual update to the Board or recommend purchasing excess liability coverage earlier if the market pricing becomes more favorable to OCTA.

Fiscal Impact

Self-insured claims will be expended per OCTA's Fiscal Year 2021-22 Budget, Human Resources and Organizational Development Division, Risk Management Department, Account No. 0040-7561-A0017-DTR, through the Internal Service Fund.

Summary

Based on the information provided, staff recommends the Board Authorize the Chief Executive Officer to fully self-insure for liability claims until such time the insurance market pricing is more favorable.

Attachment

None.

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