OCTA

May 28, 2024

To: Members of the Board of Directors

From: Darrell E. Johnson, Chief Executive Officer

Subject: Annual Insurance Program Renewal

Overview

The Orange County Transportation Authority holds an excess workers' compensation insurance policy with Arch Insurance Company and a base property insurance policy with Zurich Insurance Company. The policies are scheduled to expire on June 30, 2024, and renewals are necessary to maintain coverage.

Recommendations

A. Authorize the Chief Executive Officer to negotiate and execute Purchase Order No. A57294, in an amount not to exceed $650,000, to Marsh Risk and Insurance Services, Inc., to purchase excess workers' compensation insurance on behalf of the Orange County Transportation Authority for the policy period of July 1, 2024, to June 30, 2025.

B. Authorize the Chief Executive Officer to negotiate and execute Purchase Order No. A57293, in an amount not to exceed $850,000, to Marsh Risk and Insurance Services, Inc., to purchase base property insurance on behalf of the Orange County Transportation Authority for the renewal of the coverage for the period of July 1, 2024, to June 30, 2025.

Discussion

The Orange County Transportation Authority (OCTA) purchases insurance to protect OCTA property, including buildings, contents, buses and the Express Lanes from accidental loss, Excess Workers' Compensation coverage and Accidental Death and Disability to cover employees, and Cyber and Crime polices to protect OCTA against malicious acts.

Historically, OCTA has renewed its insurance policies at various times throughout the year as the policies expired. Beginning in calendar year 2023, the Board of Directors (Board) approved a new approach to achieve efficiency and consistency. Rather than procure insurance policies at various times throughout the year, all policy renewals were moved to a fiscal year (FY) renewal basis beginning July 1, 2024. There are several advantages to OCTA with this approach:

- Ties insurance premium budgeting to the FY budget planning cycle.
- Enables OCTA to review and procure all policies at one time with a July 1 effective date for the following FY.
- Ties any claims made to the fiscal year in which it occurred.

The current excess workers' compensation and base property insurance policies will expire on June 30, 2024, and Board approval is required to renew them and maintain coverage for FY 2025.

Excess Workers' Compensation

Workers' compensation coverage is designed to provide medical, temporary disability, and permanent disability benefits to injured workers. Employer's liability is additional coverage provided as part of the excess workers' compensation insurance policy. Employer's liability insurance covers claim expenses, such as legal defense costs and damages, that fall outside of workers' compensation coverage if an employee were to file a claim asserting other damages. For example, if an injured worker felt that the workers' compensation benefits they received were not adequate, or that the employer's negligence caused their injury, they could sue the employer for punitive damages.

OCTA's current excess workers' compensation insurance policy with Arch Insurance Company (Arch) provides coverage to OCTA for any claim that exceeds OCTA's self-insured retention of $750,000, meaning OCTA is responsible for the first $750,000 of every claim and excess insurance will cover all costs over that. Employer's liability limits are $1,000,000 per occurrence/annual aggregate for a combined premium of $455,980.

For the coming year's renewal, Marsh Risk and Insurance Services, Inc. (Marsh), OCTA's Broker of Record, reports the excess workers' compensation market continues to be stable due to a profitable, competitive market with high capacity. This is primarily a result of a more predictable post-pandemic work environment, with a safety-focused culture and risk mitigation reducing claim frequency in the workplace. Consequently, OCTA's premium rate increase is not anticipated to exceed five percent. Any year-over-year increase or decrease to OCTA payroll will have a corresponding impact on the premium.

Property Insurance – Bus Bases

OCTA purchases insurance to protect OCTA property, including buildings, contents, and buses from accidental loss. OCTA is currently insured with Zurich Insurance Company (Zurich) with a term premium of $485,239 (December 2023 to June 2024) net of commission, which is based on property values of $637,670,242, and includes all OCTA-owned property except the OCTA Express Lanes, which are insured under a separate policy.

Insurance companies determine property insurance quotes based upon current insurance market conditions affecting rates per $100 in property values. The renewal of this policy is based on updated property values of $637,670,242, which include real and business personal property, information system equipment, and directly operated revenue and non-revenue vehicles. Due to the large number of buses included in this policy, there is a special insurance condition that OCTA buses are only insured while parked at the bus base. 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.

A $50,000 per occurrence deductible applies 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 TransDev as required by Agreement No. C-0-2150, approved by the Board on September 13, 2021. OCTA's fixed-route buses operated and insured by Keolis Transit Services, LLC, as required by Agreement No. C-2-2578, approved by the Board on March 13, 2023, are also not included in OCTA's insurable values.

The property insurance policy limit is currently $235,000,000, which provides catastrophic protection equivalent to a total loss just above the current insurable values at OCTA's single largest property value location, the Santa Ana Bus Base. This insurance provides protection for real and business personal property, improvements, rolling stock, and extra expense incurred after a loss. Other coverage includes fire, flood, terrorism, civil authority, ingress/egress, leaks to fire sprinkler pipes caused by earthquakes, valuable papers, and boiler and machinery. Policy deductibles for this policy vary by category of coverage. The policy has a $50,000 deductible that applies to all losses except:

- $100,000 deductible for flood, except Flood Zone A
- $500,000 deductible for flood in Flood Zone A

Flood protection is also provided in the policy. Flood is defined in the policy as "surface water, underground water, waves, tides, tidal waves, tsunamis, overflow of any body of water or their spray, all whether driven by wind or not." As with many properties in Orange County, OCTA has buildings that are in areas susceptible to flooding. Flood zones are identified by the National Flood Insurance Program and classified as a special flood hazard area if the area is within a 100-year flood boundary. A "100-year flood" does not refer to a flood that occurs once every 100 years but to a flood level with a one percent or less chance of being equaled or exceeded in any given year. OCTA has flood protection included in the current policy with a limit of $10,000,000. "High hazard flood zone areas" with increased risk of flooding has a $500,000 deductible. OCTA's Garden Grove Maintenance, Operations, General Services warehouse, and Annex buildings are in "high hazard flood zone area." Each of OCTA's other locations have been identified as moderate flood areas.

Earthquake coverage is included in the current property insurance policy. The policy has a $15,000,000 limit subject to a five percent deductible of the insurable value per location, with a minimum deductible of $250,000.

Property rates in Marsh's 2023 Fourth Quarter Market Report, United States portfolio, increased by an average of 10.5 percent year-over-year. Marsh expects rate increases to continue, but at a slower pace and in a more competitive market environment in 2024. Per Marsh's benchmark information, OCTA's program has been very stable, and with no claim losses in the last ten years, Marsh expects favorable results and projects a small single-digit rate increase.

OCTA's broker, Marsh, is paid a flat annual fee of $110,000 for marketing and placement of all property and casualty insurance policies per Agreement No. C-2-2257, which was approved by the Board on June 13, 2022. This fee is not part of the premium OCTA anticipates paying to the selected insurers for these policy renewals. Per this 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.

Fiscal Impact

Excess Workers' Compensation Insurance

This expenditure is anticipated to be approved in OCTA's Proposed FY 2024-25 Budget, People and Community Engagement Division, Risk Management Department. Funding of the $650,000 was approved budget for Excess Workers'

Compensation, Account No. 0041-7552-A2311-DSG, and is funded through the Workers' Compensation Internal Service Fund.

Property Insurance – Bus Bases

This expenditure is anticipated to be approved in OCTA's FY 2024-25 Budget, People and Community Engagement Division, Risk Management Department. Funding of the $828,000 for the Base Property Insurance, Account No. 0040-7563-A0017-DTS, and is funded through the Internal Service Fund.

Summary

Staff recommends that the Board of Directors authorize the Chief Executive Officer to negotiate and execute Purchase Order No. A57294 and Purchase Order No. A57293, in the amount not to exceed $650,000 and $850,000 respectively, to Marsh Risk and Insurance Services, Inc., for the purchase of excess workers' compensation and base property insurance renewals on behalf of the Orange County Transportation Authority for the policy period of July 1, 2024 to June 30, 2025.

Attachment

None.

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