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Metropolitan Transportation Authority

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Metro

FINANCE AND BUDGET COMMITTEE
JULY 15, 2009

SUBJECT: EXCESS LIABILITY INSURANCE PROGRAM FOR OPERATIONS

ACTION: PURCHASE EXCESS LIABILITY INSURANCE

RECOMMENDATION

Authorize the Chief Executive Officer to negotiate and award Excess Liability Insurance policies with $200 million in limits at a cost not to exceed $3.85 million for the 12-month period effective August 1, 2009 through July 31, 2010 (Attachment A, Option A).

RATIONALE

Our excess liability insurance policies expire July 31, 2009. Our insurance broker, Aon Risk Services, is responsible for marketing the excess liability insurance program renewal to qualified insurance carriers. Quotes have been finalized from carriers with A.M. Best ratings indicative of acceptable financial soundness and ability to pay claims. Staff has reviewed these quotes to ensure that the policy has been adequately marketed. A Receive and File Report on Excess Liability Insurance was previously submitted to the Finance and Budget Committee June 17, 2009. The Committee suggested that we pursue additional limits in light of recent Metrolink accidents.

BACKGROUND

Excess liability coverage insures against losses resulting from bus and rail accidents, including bodily injury and property damage to third parties and passengers. The excess liability coverage also includes limited employment practices liability insurance, and errors and omissions coverage. Without this insurance, we would be exposed to catastrophic operating losses from bus and rail accidents. We would also be violating certain contracts and agreements, such as sale/leaseback agreements, that require us to carry excess liability insurance.

Staff and Aon Risk Services developed an excess liability insurance renewal strategy with several objectives. The first objective is to diversify our insurance carriers to add international participants, including the second and third largest markets for U.S. risks, Bermuda and London. Increasing the number of insurers will tend to lower our risk of carrier insolvency by decreasing the capacity provided to us by any single carrier. We also anticipate more competitive pricing as we market the program within an expanded pool of international underwriters.

Our second objective is to obtain terrorism coverage throughout the entire tower of insurance. Currently, several insurance companies were unwilling to provide terrorism coverage except at very high prices. For example, last year Great American charged 100% of the base premium for insurance coverage, which we declined.

Our third objective is to explore adding up to $100 million in limits, for a total of $200 million. From the documentation still available to us, we believe that the currently purchased limits of $100 million have been our purchased limits for at least 20 years. Due to inflation, the effective coverage we purchase has declined by more than 50% over this period. Unlike commuter rail, MTA is afforded no statutory limits in liability for economic and general damages. Given the severe incidents that have occurred at Metrolink, other transits, including MTA, are taking a very hard look at expanding coverage.

Our marketing efforts this year highlighted the bright spots in Metro's risk profile to underwriters. Specifically, the following elements were discussed with interested markets: a) MTA has no commuter rail exposure, b) our rail right of way is dedicated track, c) MTA has no law enforcement exposure, d) our rail lines are afforded design immunities by the California Public Utilities Commission (CPUC), and e) our bus and rail systems employ the latest electronic technologies (closed circuit surveillance cameras, SCADA, and incident based vehicle surveillance systems). Our marketing efforts allowed us to achieve our stated objectives of greater diversification, broader terrorism protection, exceptionally affordable increased limits and net savings over last year's renewal price with the recommended program.

Greater diversification is realized as a result of marketing our program of insurance to targeted carriers (both domestic and overseas) that have superior financial ratings performance and claims paying ability. Six new carriers will participate in the proposed program, while AIG companies will have substantially reduced capacity. The program will also now cover acts of terrorism throughout the entire coverage tower.

The successful marketing of our program renewal has presented an opportunity to afford additional limits of coverage that provides greater protections to the Agency in the event of catastrophic loss. The proposed program of insurance increases liability coverage to $200 million which is double the amount of prior years (see Attachment A), although still lower in real terms than the limits purchased in 1990. Predicting losses in these higher layers is impossible because we have not approached these limits with any single incident. Even after adding this extra $100 million in limits, we will still achieve a premium reduction of more than $480,000 below last year's premium.

FINANCIAL IMPACT

Funding for eleven months of this $3.85 million in premiums is included in the FY10 budget. The remaining month of premiums will be included in the FY11 budget in Cost Center 0531 Risk Management – Non Departmental under various projects. In FY09, $4.3 million will be expensed on this item.

Impact to Bus and Rail Operating Budget

The funding for this action is a combination of bus and rail operating funds. No other sources of funds were considered for this activity because the insurance covers predominately losses related to bus or rail operations. This activity will impact ongoing operating costs by a reduction of over $480,000, or over 11% in FY10.

ALTERNATIVES CONSIDERED

Various deductibles and limits of coverage options were considered (see Attachment A). Our estimated penetration of the excess layer and premium history is also shown in this attachment. The recommended Option A secures a self-insurance retention (SIR) at $4.5 million per occurrence with $200 million in coverage excess of this retention. Option A includes a $250 thousand excess of the SIR "loss corridor" that we would need to pay before receiving recovery from our insurers. Effectively, the loss corridor increases the SIR by $250 thousand for the first claim, but saves us in premiums, a clear net benefit even in years in which the loss corridor needs to be paid.

Attachment B shows the final carriers selected and pricing. Attachment C details carriers contacted regarding participation in our program.

ATTACHMENTS

A. OPTIONS, PREMIUMS AND LOSS HISTORY
B. FINAL PRICING AND CARRIERS
C. CARRIERS CONTACTED

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ATTACHMENT A

OPTIONS, PREMIUMS AND LOSS HISTORY

	CURRENT PROGRAM	OPTIONS		
		A	B	C
Self-Insured Retention ($ millions)	4.5	4.5	4.5	4.5
Limit of Coverage ($ millions)	100	200	150	100
Not to Exceed Premium ($ millions)	4.3	3.8	3.5	3.2

	HISTORY OF POLICIES FOR THE FOLLOWING FISCAL YEARS						
	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007	2007/2008	2008/2009
Self-Insured Retention ($ millions)	4.5	4.5	4.5	4.5	4.5	4.5	4.5
Premium ($ millions)	4.1	5.4	5.4	5.1	5.0	4.9	4.3
Claims in Excess of Retention	-	2	1	-	-	0 (est.)	0 (est.)
Estimated Amount in Excess of Retention ($ millions)	-	2.3	8.6	-	-	unknown	unknown

ATTACHMENT B

FINAL PRICING AND CARRIERS

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
PRIMARY/EXCESS LIABILITY
POLICY TERM: August 1, 2009 to July 31, 2010

Excess Limit		Layer(s)	Participation	Carrier	Premium Total	AM Best Rating
$200M	Excess Liability	$50M xs $150M	$ 50,000,000	Caitlin $10M Aspen $20M Argo $20M (London)	$20,600 $165,160 $72,258	A XV for all
			$ 50,000,000	**Layer Total**	**$ 258,018**	
$150M	Excess Liability	$50M xs $100M	$ 50,000,000	Caitlin $10M Aspen $20M Argo $20M (London)	$72,100 $144,515 $144,515	A XV for all
			$ 50,000,000	**Layer Total**	**$ 361,130**	
$100M	Excess Liability	$25M xs $75M	$ 25,000,000	Iron-Starr (Bermuda)	$ 260,000	A- XI
			$ 25,000,000	**Layer Total**	**$ 260,000**	
$75M	Excess Liability	$25M xs $50M	$ 25,000,000	Canopius $12.5M Endurance $12.5M (Bermuda)	$161,289 $162,500	A- X A XV
			$ 25,000,000	**Layer Total**	**$ 323,789**	
$50M	Excess Liability	$10M xs $40M	$ 10,000,000	XL Insurance (Domestic)	$ 160,000	A XV
			$ 10,000,000	**Layer Total**	**$ 160,000**	
$40M	Excess Liability	$10M xs $30M	$ 10,000,000	Great American (Domestic)	$ 185,000	A XIII
			$ 10,000,000	**Layer Total**	**$ 185,000**	
$30M	Excess Liability	$20M xs $10M	$ 10,000,000	Lexington Insurance (Domestic)	$ 593,543	A XV
			$ 10,000,000	**Layer Total**	**$ 593,543**	
$10M	Primary Liability	$10M Primary	$ 10,000,000	Everest (Domestic)	$ 1,670,423	A+ XV
			$ 10,000,000	**Layer Total**	**$ 1,670,423**	
		Total Limits	**$ 200,000,000**	**Total Premiums**	**$3,811,903**	

ATTACHMENT C

EXCESS LIABILITY INSURANCE PROGRAM
POTENTIAL PARTICIPANTS
August 1, 2009 through July 31, 2010

COMPANY	A.M. BEST RATING
CV Starr – Everest Reinsurance Company	A+ XV
Insurance Company of the State of PA (AIG)	A XV
Liberty International Insurance Company	A XV
Lexington Insurance Company (AIG)	A XV
ACE American Insurance Company	A+ XV
Admiral Insurance Company	A+ XII
Chubb Custom Insurance Company	A++ XV
Scottsdale Insurance Company	A+ XV
XL America Group	A XV
Arch Insurance Company	A XV
Axis Insurance Company	A XV
RLI Insurance Company	A+ X
AIG Cat Excess (AIG)	A XV
Lloyd's of London (multiple syndicates)	A XV
Genesis Insurance Company	A++ XV
Zurich American Insurance Company	A XV
Great American Insurance Company	A XIII
Allied World Assurance Company	A XV
Argo Re Ltd.	A XII
Torus Specialty Insurance Company	A- X
Canopius Managing Agents Limited	A- X
Endurance Specialty Insurance	A XV
Iron-Starr (Ironshore) Insurance Limited	A- XI
Catlin Insurance Company	A XV
Aspen Insurance Limited	A XV
Argo Underwriting Agency Limited	A XV

The minimum rating required is A- VII