



Agenda Item No. 3

To: Finance-Auditing Committee/Committee of the Whole  
Meeting of June 11, 2009

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Subject: **STATUS REPORT ON THE RENEWAL OF THE LIABILITY  
INSURANCE PROGRAM**

### **Recommendation**

No recommendations are being made at this time. Recommendations for renewal of the Liability Insurance Program will be made at the Finance-Auditing Committee meeting on June 25, 2009.

### **Summary**

#### ***Liability Insurance Programs***

The District's Liability Insurance Program, which renews on July 1, 2009, will be comprised of:

- Excess Liability Insurance
- Excess Workers Compensation & Employers Liability Insurance
- OPEB Fiduciary Liability
- Public Officials and Employment Practices Liability
- Crime Insurance
- Environmental Pollution Insurance (to be determined)

#### ***Liability Market Conditions***

The 2009/2010 Liability Insurance Program renewal represents the first year that the District's new casualty insurance broker, Wells Fargo Insurance Services (WFIS), has marketed the District's program. The transition from Marsh Risk and Insurance Services to WFIS has been successful. The District's WFIS team has several other key regional transportation accounts, i.e., BART, SamTrans and the recent addition of the Metropolitan Transportation Commission (MTC). Because of these relationships, the District's Liability Insurance Program is benefiting from expanded marketing to the carrier community this year.

Over the last two renewal cycles the District has made some significant changes in the Liability Insurance Programs including:

- 12% lower premiums over the entire Liability Insurance Program
- A reduction in the self-insured retention (SIR) on the Excess Liability program from \$5 million to \$3 million
- Increased Excess Liability limits from \$100 million to \$125 million, and Excess Workers' Compensation limits from \$10 million to \$25 million
- Secured Employment Practices Liability Insurance at a nominal price increase as part of the Public Officials policy
- Reduced premiums on Crime policy by purchasing a 3-year program

The District continues to have an excellent loss history with the insurance carriers in the Liability Insurance Program. There have been no losses in excess of the District's SIR limits in any part of the District's Liability Insurance Program in over 5 years.

The insurance market has reportedly been quoting moderate price increases primarily as a result of significant decreases in investment income and several years of lowering premiums, leading to increased loss ratios.

The District has not yet received premium quotations for the 2009/2010 renewal. However, with the District's excellent loss history, premiums are expected to remain unchanged with the possibility of some minimal increase, based on current terms and conditions.

The goals of the 2009/2010 renewal are:

- Maintain overall premium levels at or near current levels
- Make a recommendation to eliminate Railroad Protective Liability
- Explore premium impact of lowering SIR on Excess Liability from \$3 million to \$2 million
- Make recommendation to purchase, if cost-effective, Environmental Pollution Liability coverage

The final marketing results for the District's Liability Insurance Program are expected on June 12, 2009.

### ***Umbrella Liability Insurance Policy***

The limits for the current District's Excess Liability Program are set at \$125 million for General and Bus Fleet Liability. Currently, the District has a \$3 million SIR on the Excess Liability Program. The current premium for the District's Excess Liability Program is \$1,141,368.

The District has requested that WFIS obtain premium quotations for a \$2 million SIR. A formal recommendation on this program will be made at the meeting of the Finance-Auditing Committee on June 25, 2009.

Currently, AIG Commercial Insurance, now known as AIU, is the incumbent carrier on the first two layers of the District's Excess Liability Program, with \$55 million in limits above the

District's \$3 million SIR. AIG is in the process of "spinning off" AIU as a stand-alone company. AIU is a well-capitalized insurance organization with strong financial ratings and is expected to retain the appropriate ratings that the District requires of our insurance carrier partners.

***Excess Workers' Compensation Policy***

The Excess Workers' Compensation policy currently provides \$25 million in coverage after retention of \$1 million per Workers' Compensation occurrence/case. The 2008/2009 estimated premium cost was \$267,020. The premium is based on the District's job classifications and payroll.

The loss experience of the District's Workers' Compensation Program has been trending slightly upward reflecting a trend being experienced by most California employers. The increase is due primarily to increased medical costs. The increase in medical costs may be reflected in increased premiums for the District's Excess Workers' Compensation policy in 2009/2010.

***Railroad Liability***

The Railroad Liability program premium in 2008/2009 was \$13,354.

The District continues to retain rights to several small sections of the former Northwestern Pacific Railroad right-of-way. This includes several crossings south of the Larkspur Ferry Terminal, an overflow parking lot near the Marin Airpoter site, as well as a 200-foot section that runs through the San Rafael Transit Center.

The District has considered self-insuring this exposure in the last several years, but because of the relatively low premium and low deductible of \$10,000, it was decided to continue with this coverage.

The District, with the assistance of WFIS, conducted a risk analysis of our Railroad Liability exposure. The analysis indicated the probability of a loss to be extremely low due to the very small amount of track and the location of the track. Therefore, staff will recommend that the exposure is best covered under our Excess Liability program. WFIS did not market the Railroad Liability program for the 2009/2010 renewal.

***Public Officials and Employment Practices Liability Policy***

This policy covers Public Officials and Employment Practices liabilities up to \$5 million each occurrence/annual aggregate and a SIR of \$100,000 each claim. In 2008/2009 the premium for this policy was \$77,320. Initial market indications are that this policy's premium will remain relatively flat in 2009/2010.

***Crime/Fidelity Bond***

Crime Insurance consists of a \$1 million limit for Employee Dishonesty with a \$25,000 deductible. The District elected to purchase a 3-year policy in 2007/2008 for an annual premium of \$11,320. The 2009/2010 renewal represents the third year of this policy.

***OPEB Fiduciary Liability***

The OPEB (Other Post-Employment Benefits) Fiduciary program was created in response to the District's creation of the OPEB Trust Board to oversee the assets and liabilities of the OPEB Trust. A Labor Management Trust Fiduciary Liability policy with Chubb insurance was purchased on March 1, 2008, for \$2,400. The policy was extended on March 1, 2009, to coincide with the renewal of the District's entire Liability Insurance Program. The premium is expected to increase slightly due to the increased assets in the OPEB Trust.

***Environmental Pollution Liability***

The District has asked WFIS to market the coverage for Environmental Pollution Liability (EPL). The District has provided detailed information on the District's environmental programs and exposures for use by the insurance underwriters. The District has never had a specific coverage for pollution-related events, other than fuel spills directly from our Ferry vessels. Although the District has excellent controls and is routinely inspected by a wide variety of local, regional, state and federal environmental agencies, the District has a number of large fuel storage sites, diesel generators and sewage generation exposures that would warrant an EPL policy.

Depending on the premium of the EPL policy, the terms and conditions and the impact of the program on the entire cost of the Liability Insurance Program, the District may recommend the purchase of the coverage at the Finance-Auditing Committee meeting on June 25, 2009.

**Fiscal Impact**

As this report is advisory, there is no fiscal impact at this time.