



Agenda Item No. 5

To: Finance-Auditing Committee/Committee of the Whole  
Meeting of June 25, 2009

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Subject: **APPROVE RENEWAL OF THE LIABILITY INSURANCE PROGRAM**

**Recommendation**

The Finance-Auditing Committee recommends that the Board of Directors approve the Liability Insurance Program, as follows:

- a. Renew the Excess General and Automobile Liability Insurance Program including Public Officials and Employment Practices Liability, with Everest, AXIS, Hiscox USA, Swiss Re, Arch and RSUI, for a one-year term, with a liability limit of \$100 million each occurrence/annual aggregate in excess of a self-insured retention of \$2 million each occurrence, including legal defense costs within self-insured retention, for a total annual premium of \$1,280,249 effective July 1, 2009;
- b. Renew the Excess Workers' Compensation and Employers' Liability Insurance Program with AIU, for a one-year term, in excess of a self-insured retention of \$1 million each accident, with a liability limit of \$25 million annual aggregate, for an annual premium of \$213,582, effective July 1, 2009;
- c. Purchase Pollution Liability Insurance Program with AIU, for a three-year term, with a \$250,000 deductible and \$5 million limit for a three-year pre-paid premium of \$102,921, effective July 1, 2009;
- d. Renew the Public Officials' Liability Insurance Program, with National Union Fire Insurance Company, for a one-year term, with a liability of \$2 million each occurrence/annual aggregate and a self-insured retention of \$100,000 each claim, including full Employment Practices Liability Coverage, for an annual premium of \$42,318, effective July 1, 2009;
- e. Renew the Fiduciary Liability Insurance Program, for OPEB Trust, with Chubb Insurance Company, for a one-year term, with a liability of \$2 million each occurrence and no deductible, for an annual premium of \$4,080, effective July 1, 2009; and,

- f. Renew the Public Employees' Faithful Performance Bond and Comprehensive Dishonesty, Destruction and Disappearance Bond, with Fidelity and Deposit Company of Maryland, for a one-year term, with a liability limit of \$1 million for employee dishonesty and computer fraud, subject to a \$25,000 deductible and \$5,000 deductible respectively, and a liability limit of \$500,000 for loss of money and securities at the Golden Gate Bridge Toll Plaza, subject to a \$5,000 deductible and \$15,000 limit at all other locations with a deductible of \$5,000, for an annual premium of \$11,320, effective July 1, 2009;

with the understanding that requisite funds will be available in the FY 09/10 Operating Budgets for the Bridge, Bus, Ferry and District divisions.

### **Summary**

This report summarizes the staff recommendation for the yearly renewal of the liability insurance program. The liability insurance program covers the umbrella liability policy and specific policies limiting liability in connection with the workers' compensation claims, actions of public officials and employees, and pollution. All of these policies, except for the pollution policy which is new, expire on June 30, 2009.

All of the recommended renewals are for one year with the exception of the Crime Insurance, which the District renewed for three years in FY 07/08 at a reduced annual premium, and the Pollution Insurance program, which represents a three year program at a premium of \$102,291. If approved, all actions by this Committee can be presented to the Board of Directors at their meeting of June 26<sup>th</sup>.

This report and attachment contain detailed discussions of the renewal recommendations, alternative options, the overall insurance market condition, specifics on the premium cost, coverage limits and the work on the renewals for the liability insurance program performed by Wells Fargo Insurance Services (WFIS), the District's insurance broker.

### ***Market Overview***

As discussed with the Committee at previous meetings, the overall casualty insurance market continues to be soft as insurance carriers have been competitive in attempting to pull business from AIG (AIU Holdings). This year's renewal represents a 7% increase in premiums from last year's renewal premiums.

However, the slightly higher FY 09/10 premiums reflect several substantial coverage improvements including lowering the District's self-insured retention (SIR) from \$3 million to \$2 million with legal defense costs inside the \$2 million SIR. The Liability Insurance Program also includes Employment Practices Liability coverage on the Public Official Liability above the \$2 million SIR.

In addition, the premiums also include the initiation of the Pollution Liability Program to cover the District's environmental exposures. The Pollution Liability Program, as recommended, represents a three-year term policy at substantial savings over a one-year term policy.

***Umbrella Liability Policy***

The Excess Umbrella Liability policies currently provide \$125 million in coverage after \$3 million self-insured retention (SIR) for general liability and \$3 million retention for bus fleet liability, for \$1,140,587 in premium. WFIS conducted, with the District's approval, aggressive marketing on the excess liability insurance markets that would provide competitive pricing, while at the same time reducing the SIR from \$3 million to \$2 million and, if possible, obtain coverage for legal defense costs within the \$2 million SIR.

WFIS was able to obtain a quote for reducing the District's SIR from \$3 million to \$2 million including defense costs inside the \$2 million SIR. This is a very significant change in the District's risk transfer model. Only two years ago, the District's Excess Liability Program had a \$5 million SIR with no defense cost coverage.

It is recommended that the District reduce the excess liability limit from \$125 million to \$100 million in FY 09/10. The \$100 million liability limit coverage is in-line with our exposures and peer public entities. The Excess Liability program includes a stand-alone TRIA coverage of \$25 million with Hiscox USA for a premium of \$75,000. In FY 08/09 this was included in the premium.

The expiring premium for the Excess Liability program is \$1,140,587. The recommended Excess Liability program, with a \$2 million SIR and a decrease of \$25 million in coverage and terrorism coverage to \$25 million for FY 09/10, is \$1,280,249. This is an increase of \$139,662, a 12% increase from FY 08/09.

The table below summarizes the entire FY 09/10 excess liability program premium, which has a \$2 million SIR and \$100 million limits.

<b>Insurer</b>	<b>Limits of Liability</b>	<b>Premium 2009/2010</b>	<b>Taxes/Fees</b>	<b>Total</b>
Everest	\$10 Million	\$646,800	Included	\$646,800
AXIS	\$25 Million	\$342,000	\$11,030	\$353,030
Hiscox (TRIA)	\$25 Million (stand alone)	\$75,000	\$2,419	\$77,419
Swiss Re	\$25 Million	\$110,000	Included	\$110,000
Arch	\$25 million	\$72,000	Included	\$75,000
RSUI	\$15 million	\$21,000	Included	\$21,000
<b>Total</b>	<b>\$100 Million</b>	<b>\$1,266,800</b>	<b>\$13,449</b>	<b>\$1,280,249</b>

### ***Excess Workers' Compensation***

The Excess Workers' Compensation policy provides \$25 million in coverage after retention of \$1 million per workers' compensation occurrence/case.

The Excess Workers' Compensation policy premium is estimated based on District payroll information provided to the insurance markets annually. The FY 08/09 premium cost is estimated at \$267,020, based on FY 08/09 payroll.

The estimated premium cost for Excess Workers Compensation policy, with limits of \$25 million, for FY 09/10 is \$213,582 based on estimated payrolls for FY 09/10. This is a 20% reduction in premium and is reflective of the District's history of no catastrophic workers' compensation losses.

It is recommended that the District remain with the incumbent carrier, AIU, on the Excess Workers' Compensation Policy for an estimated annual premium of \$213,582.

### ***Railroad Liability***

It is recommended that the District non-renew the Railroad Liability policy of the District's Liability Insurance Program for the remaining portions of the Northwestern Pacific Railroad Right-of-Way.

Although the District continues to retain rights to several small sections of the railroad right-of-way, the exposure does not warrant coverage under a stand-alone Railroad Liability policy.

The District's excess liability program will cover any losses from railroad right-of-way exposure. Therefore, the District will insure the potential railroad exposure as similar to other District exposures.

The premium for Railroad Liability in FY 08/09 was \$12,950.

### ***Environmental Pollution Liability***

The District has numerous environmental exposures, including underground and above ground fuel storage, sewage, storm water run-off and water treatment discharge permits. The District's environmental risks are generally well controlled and are frequently audited by local, regional, state and federal agencies.

The District requested WFIS to obtain competitive Environmental Pollution Liability (EPL) quotes with broad coverage. The District also requested that, if available, WFIS obtain a quote for a three year policy with a single premium in order to reduce future costs for this coverage.

WFIS received two competitive EPL quotes from AIU and Chubb. The quotes are for a \$5 million limit with a \$250,000 deductible. The AIU coverage is much broader than the Chubb quote and includes personal injury coverage. The AIU quote for an annual policy is \$63,978 and

AIU's quote for a single premium three-year EPL policy for a \$5 million limit with a \$250,000 deductible is \$102,921. This translates into an annual premium of approximately \$34,000.

It is recommended that the District initiate EPL coverage with a pre-paid three-year EPL policy with AIU for \$102,921.

### ***Public Officials Liability/Employment Practices***

The recommended renewal for Public Officials Liability is with the incumbent, National Union Fire Insurance Co., with reduced limits from \$5 million to \$2 million with a \$100,000 deductible. The recommended Excess Liability Program covers losses over \$2 million for Public Officials Liability and Employment Practices Liability. The premium with the decreased limits for FY 09/10 is \$42,318. This is a \$35,002 decrease in premium from the expiring policy.

### ***Fiduciary Liability***

The Fiduciary Liability policy for the OPEB (Other Public Employee Benefits) Trust was first purchased when the District's OPEB Trust Board was formed in 2008. This is the first year that the Fiduciary Liability policy has been integrated into the District's Liability Insurance Program.

It is recommended that the District renew the Fiduciary Liability policy with Chubb Insurance for a FY 09/10 premium of \$4,080 with a \$2 million limit and no deductible.

### ***Crime/Fidelity Bond***

This is for a \$1 million limit for Employee Dishonesty and a \$25,000 deductible. The incumbent's renewal offer is a premium of \$11,320 paid annually for a three-year policy. The FY 09/10 policy represents the third year of the three-year policy. By purchasing the three-year policy, the District saves approximately 20% per year.

### **Fiscal Impact**

The recommended renewal package for the liability insurance program costs \$1,654,470, a 9% increase over the expiring package. This increase is due to substantially increased insurance coverages, as discussed above. The FY 09/10 Operating Budget includes funds to cover the costs associated with the renewal of the entire liability insurance program.