GOLDEN GATE BRIDGE
HIGHWAY & TRANSPORTATION DISTRICT

Agenda Item No. (7)

To: Finance-Auditing Committee/Committee of the Whole
Meeting of June 25, 2020

From: Kelli Vitale, Director Risk Management and Safety
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Subject: **APPROVE RENEWAL OF THE LIABILITY AND PROPERTY INSURANCE PROGRAMS**

Recommendation

The Finance-Auditing Committee recommends that the Board of Directors approve the Liability Insurance Program, effective July 1, 2020, as follows:

1. Renew the Excess General and Automobile Liability Insurance Program, including Public Officials and Employment Practices Liability with Terrorism Risk Insurance Act (TRIA) coverage, with Allied Public Risk, AWAC, Hiscox, Canopius, Convex, Hamilton Re, Aspen, Sompo, Apollo and Liberty, for a one-year term, with a liability limit of $100 million for each occurrence/annual aggregate in excess of a self-insured retention of $3 million for Auto Liability and $2 million for General Liability, including legal defense costs within the self-insured retention, for a total annual premium of $1,595,614;

2. Renew the Excess Workers' Compensation and Employers' Liability Insurance Program with Safety National, for a one-year term, in excess of a self-insured retention of $1 million for each accident, with $25 million limits, for an annual premium of $380,473;

3. Renew the Public Officials' Liability Insurance Program with AIG, for a one-year term, with a liability of $2 million each occurrence/annual aggregate and a self-insured retention of $500,000 for each claim, including full Employment Practices Liability Coverage, for an annual premium of $165,751;

4. Renew the Fiduciary Liability Insurance Program, for the Other Public Employee Benefits (OPEB) Trust Board, with Chubb Insurance Company, for a one-year term, with $2 million coverage for each occurrence and no deductible, for an annual premium of $6,116;

5. Renew the Crime Insurance with F&D/Zurich Insurance Company, for the second-year of a three-year term (with annual premium installments), with a $25,000 deductible and $1 million limit for an annual premium of $4,725; and,

6. Bind a Cyber Liability Program with At Bay and Corvus for a one-year-term, with a limit of $5 million generally, and a limit of $2M for Social Engineering Fraud, and a $50,000 self -insured retention for an annual premium of $59,050.

The Finance-Auditing Committee recommends that the Board of Directors approve the Property Insurance Program, effective July 1, 2020, as follows:

1. Renew the property insurance program with AIG for buildings and facilities for a premium of $455,000, and the excess earthquake and flood insurance program at a premium of $128,040.

2. Renew the Marin Transit Bus Property Damage Program with Markel, which provides actual cash value basis coverage and a deductible of $50,000 for a premium of $14,159; and,

3. Continue to allocate monies to the Restricted Contingency Reserve, for FY 20/21, in the amount of $1.3 million, as self-insurance for costs associated with Bridge Physical Damage and Loss of Revenue; with the understanding that requisite funds are available in the FY 20/21 approved budget.

These recommendations are made with the understanding that the requisite funds will be available in the FY 20/21 Operating Budget for the Bridge, Bus, Ferry and District divisions.

The matter will be presented to the Board of Directors at its June 26, 2020 meeting for appropriate action.

Summary

The Liability Insurance Program covers the excess liability policy and specific policies limiting liability in connection with workers' compensation claims, actions of public officials and employees, cyber liability, as well as claims for environmental liability. The Property Insurance program covers Golden Gate Bridge, Highway and Transportation District (District) property as well as the Marin Transit buses that the District is required to insure. All policies in this report expire on June 30, 2020, except the Environmental Liability, which has a three-year term and expires on June 30, 2021.

I. Liability Insurance Program

The Golden Gate Bridge, Highway and Transportation District's (District) Liability Insurance Program, which renews on July 1, 2020, is currently comprised of:

- Excess Liability Insurance
- Excess Workers' Compensation & Employers Liability Insurance
- OPEB Fiduciary Liability Insurance
- Public Officials and Employment Practices Liability Insurance
- Crime/ Fidelity Coverage (currently on three-year policy)
- Environmental Pollution Insurance (three-year policy ending on 7/1/21)
- Cyber Liability Insurance

A. Excess Liability Insurance

The excess liability insurance market for Public Entities has been challenging for the last four years, particularly for those entities associated with transit operations, schools, police and fire. The District's Excess Liability program premiums are based largely on the exposure arising from the operation of Golden Gate Transit and take account of the number of buses, ridership levels and losses. This year, the excess liability market is seeing increasing premiums - particularly for risks with heavy auto (bus) liability exposures, and the withdrawal of some insurers from the market due to losses that have doubled, tripled, or even quadrupled over the past year especially in highly litigious states like California.

This year, like last year, some Excess Liability carriers are leaving the market and others are reducing capacity. The District therefore had to replace $20 million in coverage capacity at various levels in its coverage "tower." Given the market, this was a challenge and has resulted in increased premiums for the coming year. The good news is that the insurance industry considers the District a superior risk for its class. Thus, the District attracts those insurance carriers that appreciate the District's excellent loss history and its proactive risk management/safety programs.

The District's current lead excess liability carrier, Allied Public Risk (APR - an Allied World Company) has been an excellent District partner since 2014 and will provide the same $10 million limit in the coming year. While APR could have reduced its limit to $5 million or even increased the District's SIR to $5 million, it instead increased the bus/ auto liability SIR to $3 million and maintained the general liability SIR at $2 million. APR increased its premium by 23% as it anticipates some potential District claims.

In addition, AWAC also has been a long-term District partner, providing insurance since 2009. AWAC has agreed to increase its limits from $10 million to $15 million this year with a resulting premium increase of 14%, which is an excellent result. This likely is a testament to the District's excellent loss experience, attention to risk management and safety, and the long-term relationship with this insurer.

Another current District insurer, Hiscox, reduced its coverage limit from $25 million to $10 million for the coming year. Thus, District staff and its broker attracted new carriers and restructured the program to replace lost capacity for this $25M excess of the $25M layer; pricing increased 56% on this layer in the new markets. While historically lower levels of insurance towers saw larger increases than excess layers, it is now more typical to see excess layers with larger increases given that the sizes of claims are exploding. Therefore, insurers argue that they have not collected adequate premiums on these excess liability layers in the past, so they are increasing premiums to adequately cover expected future claims.

Successive layers account for premium increases of 28% and 20% compared to last year.

The District has carried a coverage limit of at least $100M for quite some time, and while there is no science to determining the appropriate amount of insurance, this large limit is in place as catastrophic coverage. The following table summarizes the history of the District's Excess Liability Program limits, self-insured retention and premiums since FY 05/06:

F/Y	Limits (in millions)	Self-Insured Retention (in millions)	Premium (in thousands)
2005-2006	$75	$5	$1,651
2006-2007	$75	$5	$1,294
2007-2008	$100	$3	$1,298
2008-2009	$125	$3	$1,141
2009-2010	$100	$2 (incl. defense cost)	$1,280
2010-2011	$110	$2 (incl. defense cost)	$1,200
2011-2012	$110	$2 (incl. defense cost)	$1,071
2012-2013	$110	$2 (incl. defense cost)	$1,052
2013-2014	$100	$2 (incl. defense cost)	$934
2014-2015	$100	$2 (incl. defense cost)	$870
2015-2016	$100	$2 (incl. defense cost)	$870
2016-2017	$100	$2 (incl. defense cost)	$869
2017-2018	$100	$2 (incl. defense cost)	$908
2018-2019	$100	$2 (incl. defense cost)	$920
2019-2020	$100	$2 (incl. defense cost)	$1,238
2020-2021	$100	$2 / $3M (incl. defense cost)	$1,596

As shown above, the premiums from 2005 were higher than what the District is currently paying for a lower $75 million limit and a higher $5 million SIR. In 2009, the District increased limits from $75M to $100M, then to $110 million in 2010-2011, and back to $100 million in 2013-2014.

In summary, the limits for the current District's Excess Liability Program will remain at $100 million for General and Bus Fleet Liability, and the District's current $2 million self-insured retention (SIR) for its Excess Liability Program will remain in the coming year, except for Auto Liability claims whose SIR will increase to $3 million. The premium for the District's Excess Liability Program for FY 20/21 is $1,595,614 a 30% increase compared to last year.

B. Excess Workers' Compensation Program

Rising medical costs, increased litigation, and the erosion of the California reforms instituted in 2004 continue to affect the excess and California's workers' compensation insurance markets. The District's Excess Workers' Compensation program has had a Self-Insured Retention (SIR) of $1 million for a single claim and a $25 million limit since 2004, but has never exceeded its SIR during this time.

The FY 20/21 premium is $380,473 which is same as the District paid last year. The premium is based on the District's job classifications and payroll. Despite the District's diverse employee portfolio, its insurer Safety National views the District very positively given its attention to safety and efforts at timely claims closure.

C. 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. The premium for FY 2019/2020 was $6,116 and will remain the same in the coming year..

D. Public Official and Employment Practices Liability

The District has experienced losses on its Public Officials Liability/Employment Practices Liability insurance program over the last several years, with that insurance covering the legal fees necessary to fight challenges to the District's All Electronic Tolling Program. This is typical for USI's public transit clients, and there now are a limited number of insurers offering this coverage. As a result, the District and its peer group experienced premium increases and larger deductibles for this coverage this year.

This policy covers Public Officials and Employment Practices liabilities (EPL) with a limit of up to $2 million for each occurrence/annual aggregate and a SIR of $250,000 for each Directors and Officers claim, and $350,000 for EPL claims. In FY 2019/2020, the premium for this policy was $125,300, but has increased to $165,751 this year, with the EPL deductible increasing to $500,000.

E. Crime/Fidelity Bond

Crime Insurance provides coverage for up to $1 million for Employee Dishonesty with a $25,000 deductible. The District policy premium in FY 2019/2020 was $4,724 for this coverage. This is a part of a three-year Crime policy that commenced on July 1, 2019. The premium for this policy remained flat for the coming year, as the District is in the second year of a three-year program.

F. Environmental Pollution Liability

The District has numerous potential areas of possible environmental exposure, including underground and above ground fuel storage, storm water run-off, and air emissions from its vehicles. The District's environmental risks are well controlled and are frequently audited by local, regional, State and Federal agencies.

The District purchased a pollution liability policy from ACE Insurance Group for a three-year term with a $250,000 deductible and $5 million limit for a three-year premium of $65,448 effective July 1, 2018. The next renewal will not occur until 2021.

G. Cyber Liability

In FY 2019/2020, the District's cyber liability policy was written by AIG Specialty Insurance with a $50,000 SIR and $5 million aggregate liability limit for a premium of $32,443. The District broadened its coverage with the addition of $2M in Social Engineering Fraud coverage, which will protect the District for loss if an employee is misled into sending money or diverting a payment based on fraudulent information. Given the enhanced coverage, the District's new premium will be $59,050 for FY 20/21.

II. Property Insurance Renewal

The District's Property Insurance Program is comprised of:

- District Facilities & Buildings Insurance Program
- Bus Damage/Property Insurance Program for Marin Transit buses operated by the District
- Bridge Self-Insurance Loss Reserve

A. District's Property Insurance Program

On July 1, 2017, the District entered into a three-year Property Insurance policy, renewing each year at a rate of $386,087 until July 1, 2020. The District also purchased excess earthquake and flood insurance for an annual premium of $121,518 for FY 2019/2020.

Insurers are no longer offering multi-year programs, and premiums are increasing due to market conditions, which largely reflect catastrophic events such as hurricanes, earthquakes, fires and floods, either domestic or international. Due to the fires in California and hurricanes in the Gulf, property insurance rates have increased since 2017. Thus, the District expected a significant increase – on the order of 15% to 30% - for this year's property insurance renewals.

In addition, insurers are adding Communicable Disease Exclusions to make clear that there is no coverage for liability arising out of a pandemic. This is not a surprise and merely makes explicit what was implicit before.

Despite these predictions and changes, USI, as the new broker for the District's property program at this renewal, negotiated FY 20/21 premiums that were only 18% higher than last year for $455,000. The excess earthquake and flood insurance increased only 5% to $128,040. USI also substantially improved coverages to benefit the District for no additional premium.

B. Bus Physical Damage Insurance for Marin Transit Buses

The Golden Gate Transit/Marin Transit contract requires the District to purchase bus property damage coverage with a $50,000 deductible for 17 District buses whose titles were transferred to Marin Transit effective July 1, 2015. The District typically does not purchase bus property damage coverage for its own buses. The FY 2020/2021 annual premium for this coverage provided by Evanston is $14,159, which is a slight increase over last year. This is a good result given current market conditions.

C. Bridge Self-Insurance Loss Reserve

The District will continue to fund the Bridge Self-Insurance Loss Reserve at $1.3 million.

Fiscal Impact

The premium for the recommended renewal package for the District's Liability Insurance Program is $2,211,728, a 24% increase over the expiring Liability Insurance Program policies. The premium for the recommended renewal package for the District's Property Insurance Program is

$597,199, a 15% increase over the expiring Property Insurance Program policies covered in this report. The District will continue funding the Restricted Bridge Self-Insurance Reserve Fund with its annual investment of $1.3 million. The allocation of $1.3 million to the restricted contingency reserve will not have a net fiscal impact to the District in FY 20/21. The $1.3 million will be transferred to the Restricted Bridge Self-Insurance Reserve Fund.

The FY 20/21 Operating Budget includes funds to cover the costs associated with the renewal of the District's Liability and Property Insurance Programs, as well as the $1.3 million transfer to the Restricted Bridge Self-Insurance Reserve Fund.

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