

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT



STAFF REPORT

MEETING DATE: 4/14/2021

Staff Report No. 21-235

TO: AC Transit Board of Directors
FROM: Michael A. Hursh, General Manager
SUBJECT: 2021-2022 District Transit Operations Insurance Program Renewal

ACTION ITEM

RECOMMENDED ACTION(S):

Consider authorizing the General Manager to approve and execute the renewal of the District's 2021-2022 Transit Operations Insurance Program under the terms and conditions recommended by Staff.

STRATEGIC IMPORTANCE:

Goal - Financial Stability and Resiliency
Initiative - Financial Efficiency and Revenue Maximization

Authorizing the General Manager to bind the proposed Transit Operations Insurance Program will allow the District to continue to maintain its risk transfer and risk retention program at optimum levels for the 2021-2022 policy period.

BUDGETARY/FISCAL IMPACT:

The current estimated increase for 2021-22 insurance program is a reasonable 6%. This year's budgetary impact will not exceed \$12,704,000 if the Board authorizes binding the 2021-22 insurance program as recommended by staff at the current self-insured retentions (SIR) in the automobile and general liability coverage lines and elects to include terrorism coverage. If the Board chooses to maintain the current self-insured retentions but declines the terrorism coverage the total budgetary impact will not exceed \$12,607,000.

BACKGROUND/RATIONALE:

The District's insurance program is renewed on a yearly basis. The District's current insurance program, except for property insurance, will expire at 12:01 a.m., April 26, 2021. Staff requests that the Board authorize the General Manager to bind the District's policies as recommended below.

In January 2021, staff began the process of renewing the District's Transit Operations Insurance Program with the District's insurance broker, Alliant Insurance Services. Due to the size and nature of the District's fleet, the District's loss history, industry-wide increases in bus accidents, limited financial capacity, and many carriers' decisions to withdraw from the California market, the most challenging part of the District's insurance program continues to be the excess automobile liability line of coverage.

Following discussions with the District's Budget Department, staff commissioned an actuarial study of the District's financial capacity to retain additional risk by increasing its self-insured retention (SIR) from \$2 million on the automobile liability line of coverage and \$1 million on the general liability line of coverage to \$3 million for both lines. The self-insured retention is the amount of money the District is required to pay on a claim before the excess insurance is activated. Staff also directed Alliant Insurance services to obtain renewal premium quotes inclusive of the higher self-insured retentions to evaluate the possible premium savings against the financial impact of higher risk retentions.

Staff does not recommend increasing the SIR at this time, as this would result in only modest premium cost savings and would substantially increase the District's claim and litigation cost exposure and reserve funding. In addition, there is uncertainty around the claims exposure from the newly opened Tempo line. More experience with Tempo line stations will help inform the future analysis of SIR levels.

Staff recommends the following options for the 2021-2022 Transit Operations Insurance Program renewal to the Board for consideration:

Excess Automobile and General Liability: Liability Insurance typically provides insurance coverage for, among other things, third-party bodily injuries, and medical payments. The proposal to renew the excess liability insurance program at its expiring limits and retention will not exceed \$12,005,000 or an approximate 5.32% increase over last year's premiums. For reference, the expiring 2020-21 premium was \$11,398,825. The coverage specifications are provided as Attachment 1 (Pending).

Excess Workers' Compensation: During the 2020-2021 renewal, the Board approved a two-year policy contract. The expiring 2020-2021 premium was \$421,976; the 2021-2022 premium will not exceed \$445,641. The 5.61% premium increase is due to increased payroll. The coverage specifications are provided as Attachment 2.

Commercial Crime: Commercial crime insurance covers money, securities, or other tangible property belonging to the District or for which the District becomes legally liable, for covered events such as employee theft, funds transfer fraud, etc. The expiring 2020-21 premium was \$14,695; the 2021-22 proposed premium is \$15,430 and represents a 5% increase over the expiring premium. The coverage specifications are provided as Attachment 3.

Cyber-Liability/Data Breach: This insurance provides coverage for the District's liability for a data breach in which its customers' personal information or credit card number is exposed or stolen as the result of a hacker or other criminal gaining access to the District's network. The policy also provides coverage for a variety of expenses associated with data breaches, ransomware, and other cyber-attacks including, but not limited to, notification costs, credit monitoring, costs to defend claims by state regulators, fines and penalties, business interruption, and cyber extortion.

2019 saw a 105% increase in ransomware, social engineering, and e-mail compromise attacks against public entities, healthcare facilities, and businesses when compared with the first quarter of 2018, and a 93% increase in the dollar value of ransom demanded over the same period.

In light of the forgoing, and compounded by the cyber-attack against the District that resulted in a significant cyber-breach response claim, the District's current Cyber-Liability carrier, Beazley, presented a renewal option that reduced the policy aggregate limits from \$5 million to \$1 million, increased the District's deductible from \$50,000 to \$250,000, and increased the premium 297% from \$34,605 to \$133,216. Considering this development, Alliant Insurance Services obtained renewal quotes from alternate carriers. Although still a substantial increase over last year's premium, the proposal recommended by staff, in consultation with the District's IS Department, provides an operationally critical \$3 million in aggregate coverage with a \$100,000, per occurrence/claim retention.

The expiring 2020-21 premium was \$34,605; the 2021-22 proposed premium will not exceed \$206,000 and represents an estimated 493% increase over the expiring premium. The coverage specifications are provided as Attachment 4 (Pending).

Fiduciary Liability: This coverage protects board officials, trustees, and professional administrator(s) of the District's pension plan and the plan itself with respect to Errors and Omissions (E&O) in the administration of the employee benefits programs. The policy under consideration also provides for a waiver of recourse provision to protect the board members' personal assets. The expiring 2020-21 premium was \$29,832; the 2021-22 proposed premium will not exceed \$34,000 and represents an estimated 7.27% increase over the expiring premium. The coverage specifications are provided as Attachment 5 (Pending).

ADVANTAGES/DISADVANTAGES:

Advantage(s): The program being recommended by Staff renews the 2020-2021 insurance coverage lines at levels that provide coverage consistent with prior policy terms and falls within the District's risk-bearing capacity. Authorizing the General Manager to bind the proposed Transit Operations Insurance Program will allow the District to continue to maintain its risk retention and transfer strategy for the 2021-2022 policy period.

Disadvantage(s): Renewing the District's insurance program will result in an increase in premiums, albeit at a much lower rate than last year's premium increase.

ALTERNATIVES ANALYSIS:

The District could increase its SIR, but staff does not recommend doing so at this time for the reasons stated above. Nor would staff recommend non-renewal of any of these policies as an alternative given the risk exposure to the District.

PRIOR RELEVANT BOARD ACTION/POLICIES:

SR-20-183 - Consider Authorizing the Renewal of the 2020-2021 Insurance Program

SR-20-166 - Independent Risk Bearing Analysis Briefing

SR-19-118 - Consider Authorizing the Renewal of the 2019-2020 Insurance Program

ATTACHMENTS:

1. Excess Liability Insurance Renewal Proposal

2. Excess Workers' Compensation Renewal Proposal
3. Commercial Crime Insurance Renewal Proposal
4. Cyber-Liability/Data Breach Renewal Proposal
5. Fiduciary Liability Coverage Proposal

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