Los Angeles County
Metropolitan Transportation
Authority
One Gateway Plaza
3rd Floor Board Room
Los Angeles, CA

File #: 2020-0350, **File Type:** Program **Agenda Number:** 11.

FINANCE, BUDGET AND AUDIT COMMITTEE
JUNE 17, 2020

SUBJECT: MAJOR CONSTRUCTION UMBRELLA INSURANCE PROGRAM

ACTION: PURCHASE UMBRELLA INSURANCE

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to negotiate and purchase additional construction project umbrella liability insurance policies (also known as a super excess general liability insurance program) for construction of the Metro Westside Purple Line Extension Section 3 Project (Project) with up to $200 million in additional limits at a cost not to exceed $6.5 million for the period effective July 1, 2020 to July 1, 2027 (and products/completed operations coverage to July 1, 2037).

ISSUE

Metro is concerned about the financial implications of an unanticipated loss resulting from major damage to adjacent properties and/or loss of life/injury on our major transit construction projects. Such risk can be mitigated reasonably through the purchase of additional insurance.

BACKGROUND

Existing Liability Insurance Coverage for the Metro Westside Purple Line Extension Section 3 Project

Dedicated limits of insurance coverage for the Project are provided by two Design Build (DB) contractors: Tutor Perini/O&G, Joint Venture (TPOG, JV) for the stations and Frontier-Kemper/Tutor Perini, Joint Venture (FKTP) for the tunnels. The liability insurance on the Project, which covers the negligent injury or death and/or property damage to others, is $350 million for each contract, which are mutually exclusive. The coverage that is the subject of this report will provide an additional $200 million for the project, for a total of $550 million in liability coverage. The coverage will also include products and completed operations insurance for ten years following the revenue service date and will respond to latent defects which cause injury or death, or real property damage to other people. The coverage limits take into account aspects such as concentration of property values near the Project, population density, tunneling risks, project duration, and other factors. The TPOG and FKTP JV's combined contract award value of the Project for both tunnels and stations is $1,773,622,000.

Risk Exposure Above Existing Coverage

Despite using liability insurance limits toward the high end of industry practice in our major

construction project contracts, these limits would be insufficient to respond to a catastrophic, unanticipated loss resulting in widespread property damage or loss of life.

Metro purchased additional construction project umbrella liability insurance policies for construction of the Metro Westside Purple Line Extension Section 1, Gold Line Foothill Extension Phase 2A, Crenshaw/LAX, Expo II Transit Corridor and Regional Connector Projects in October 2014 as authorized by the Board. The policies provide additional liability insurance limits up to $550 million over the contractor owned insurance programs. We also purchased additional construction project umbrella liability insurance policies for construction of the Metro Westside Purple Line Extension Section 2 Project in June 2018 as authorized by the Board. The policies provide additional liability insurance limits up to $300 million over the contractor owned insurance program. Purchase of the proposed policy will provide a consistent approach to mitigating our risk exposure as on the other major construction projects listed above.

DISCUSSION

Proposed Additional Liability Insurance Coverage for the Metro Westside Purple Line Extension Section 3 Project

Metro's insurance broker USI Insurance Services (USI) approached insurance carriers in the major construction sector including some of Metro's current super umbrella program participants. A $200 million limit will be provided by excess carriers in a layered program for a total coverage, including the DB provided coverage, of $550 million. This is the maximum limit that is currently available because the insurance market for major construction projects is tapped out. This action brings continuity of super umbrella coverage for all major Metro construction projects.

Attachment A identifies the insurance carriers and pricing for the proposed program.

DETERMINATION OF SAFETY IMPACT

Approval of this recommendation will not impact the safety of Metro's patrons or employees.

FINANCIAL IMPACT

The funding for this action is included in the FY20 budget, under Project 865523 (Westside Purple Line Extension Section 3), Fund 6012, Cost Center 8510 (Construction Project Management), and Account Number 50602 (Insurance Premium for General Liability). The Life-of-Project Budget includes the excess liability insurance coverage.

Impact to Budget

The sources of funds for the recommended action are from Measure M, Federal New Starts and Local Funds. The approved FY20 budget is designated for the Westside Purple Line Extension Section 3 Project and does not have an impact to operations funding sources.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

Recommendation supports strategic plan goal # 5 “Provide responsive, accountable and trustworthy governance within the LA Metro organization.” The responsible administration of Metro’s insurance programs includes the use of prudent risk management best practices and tools to mitigate large financial risks on Metro’s major construction projects.

ALTERNATIVES CONSIDERED

USI explored the possibility of deferring the insurance purchase for six to eight months. However, this is not recommended given the current hardening of the insurance marketplace. USI believes the action will result in significantly reduced capacity, perhaps only $160 million as the maximum available with a shorter term (five years). The premium costs could also go up by as much as $1.5 to $2 million for the reduced limit.

There are no other viable options as USI exhausted the marketplace to develop the limits recommended in this super excess liability program. There are no more available limits in the insurance industry.

Metro could self-insure this exposure and rely on its indemnities with the DB contractor; however, this approach would leave Metro with an unknown and unknowable risk of an unanticipated loss.

NEXT STEPS

Upon Board approval of this action, we will advise Metro’s broker, USI Insurance Services, to proceed with placement of the excess liability insurance program outlined herein effective July 1, 2020.

ATTACHMENTS

Attachment A - Recommended Program Pricing and Carriers

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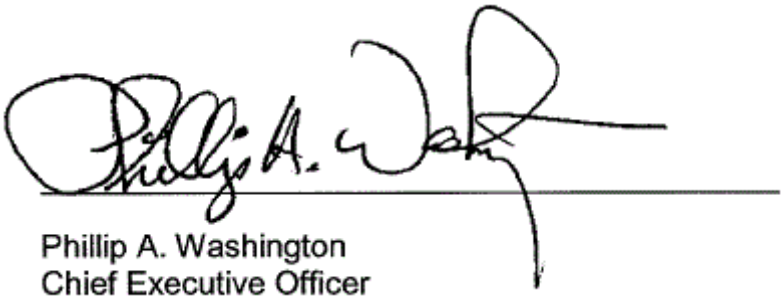

Phillip A. Washington
Chief Executive Officer

ATTACHMENT A

RECOMMENDED PROGRAM PRICING AND CARRIERS

USI Insurance Services
Proposed Super Excess Liability Program | MPLE3
Los Angeles County Metropolitan Transportation Authority

Limit	Excess of	Carrier	Participation ($)	Premium **
$100M	$450MM	Swiss Re	$10,000,000	
		AXA XL	$15,000,000	
		HDI	$10,000,000	
		Markel	$6,250,000	
		Aspen	$5,000,000	
		Chubb	$8,500,000	
		Hiscox	$10,000,000	
		Ascot	$4,500,000	
		PENDING	$30,750,000	
			$100,000,000	**$2,529,625**
$100M	Underlying CCIP Program $350MM	Munich Re	$15,000,000	
		Chubb	$15,000,000	
		Everest	$10,000,000	
		Arch	$5,000,000	
		Aspen	$5,000,000	
		Markel	$6,250,000	
		Ascot	$3,000,000	
		Starr	$15,000,000	
		AXIS	$15,000,000	
		PENDING	$10,750,000	
			$100,000,000	**$2,994,250**

Estimated Program Premiums *	**$5,523,875**
Contingency for carrier premium, tax and fee adjustments	$976,125
Estimated Program Not-To-Exceed Total	**$6,500,000**

*** Subject to finalization of on-going negotiations with carriers. Amounts show are estimates only.**
**** Including taxes and fees.**

Contractor Controlled Insurance Program:

Station Work - Tutor Perini/O&G JV	Tunnel Work - Tutor Perini/Frontier-Kemper
$350m Total Limits	$350m Total Limits
June 7, 2019 - January 7, 2027	December 7, 2018 - June 7, 2023