Committee Report

Business Item No. 2013-138

Management Committee

For the Metropolitan Council meeting of May 22, 2013

Subject: Authorization to Renew Railroad Liability Insurance for Northstar Operations

Proposed Action

That the Metropolitan Council authorize the renewal of its railroad liability insurance, effective 5/31/13-5/31/14, for the Northstar Commuter Rail Operations in an amount not to exceed $1,200,000

Summary of Committee Discussion / Questions

Staff presented an overview of the contractual requirement to procure and maintain this insurance in the agreement with BNSF. There was discussion about how the insurance is structured and that several insurance companies are utilized to obtain the full limits required.

There was also discussion about how the overall insurance premium is calculated with the different insurance companies and that the recommended insurance program was most advantageous to the Council.

A motion was made, which was seconded, to approve the proposed action. Motion carried

Business Item No. 2013-138

Management Committee

Meeting date: May 8, 2013

For the Metropolitan Council meeting of May 22, 2013

Subject: Authorization to Renew Railroad Liability Insurance for Northstar Operations

District(s), Member(s): All

Policy / Legal Reference:

Staff Prepared / Presented: Phil Walljasper, 651-602-1787

Division / Department: Regional Administration/Risk Management

Proposed Action

That the Metropolitan Council authorize the renewal of its railroad liability insurance, effective 5/31/13-5/31/14, for the Northstar Commuter Rail Operations in an amount not to exceed $1,200,000.

Background

In its Joint Use Agreement (JUA) with the BNSF Railway, the Metropolitan Council is required to procure and maintain a railroad liability insurance program to respond to claims related to Northstar commuter rail. This insurance is to have a limit of $200 million per occurrence and must provide coverage for both the Council and BNSF.

Insurance companies are limited in the amount of insurance they can offer, which is based on the size of the company, underwriting philosophy, reinsurance, and the type of risk. Because of this, when insurance of very high limits is required for a very specialized type of risk, such as railroad liability, it is normal in the industry to have more than one insurance company involved.

When multiple insurance companies are involved in an insurance program, the insurance is structured in such a way that each company provides a “layer” of insurance (e.g. company “A” will provide $10 million, company “B” will provide the next $10 million, etc.), with each company/layer charging a premium. This is often times referred to as a “tower” of insurance. The premium charged with the first layer of a tower, often referred to as the lead layer, has a direct impact on the pricing for the upper layers.

There is also a retention (similar to a deductible) that applies to this insurance and is on a per occurrence basis. With railroad liability insurance, underwriters are generally not willing to provide coverage from the first dollar and will only quote excess of a retained loss. The retention for the Northstar insurance program is $2,000,000.

Rationale

The Northstar program was presented to a total of 17 different insurance companies and was very well received. After the presentations, the first objective was to identify and negotiate the lead layer. Currently, this layer is shared by two different insurance companies, XL US and Gemini (the structure of having more than one company in a layer is referred to as a “quota share”). However, after negotiating with all insurance companies and completing the entire tower, it was most advantageous to have one company, XL US, lead the program, providing $25M of coverage about the $2M retention.. Staff and the Council’s broker then identified and negotiated with insurance companies to cover the excess layers above XL US.

The type of losses covered by a tower of insurance is also dictated by the lead layer. With XL US leading the program, the coverage is consistent with the expiring insurance and is appropriate for the requirements of the Joint Use Agreement with BNSF.

The pricing for the recommended insurance program is below what was budgeted and is 3.5% lower than last year's premium (on an annualized basis), which is a significant reduction in light of the market trend over the last year reflecting increases due to losses.

Funding

The premium with the recommended insurance is below what has been budgeted. Additionally, the self-insured retention is fully funded at $2,000,000.

Known Support / Opposition

Not applicable