

Management Committee

For the Metropolitan Council meeting of May 26, 2021

Subject: Railroad Liability Insurance for Northstar Operations

Proposed Action

That the Metropolitan Council authorize the renewal of its railroad liability insurance, effective 6/1/21-6/1/22, for the Northstar Commuter Rail Operations in an amount not to exceed \$2,500,000.

Summary of Committee Discussion/Questions

Staff presented an overview of the contractual requirement to procure and maintain this insurance in the agreements with BNSF. Staff then outlined how the insurance is structured and that several insurance companies are utilized to obtain the full limits required.

The Committee asked a question about how this premium compared to previous years. Staff stated the premium is slightly higher when compared to last year, but the increase is related to higher insurance limits, which is a result of an increase with the federal cap on passenger rail liability.

A motion was made by Council Member Gonzalez, which was seconded by Council Member Lee, to approve the proposed action. Motion carried.

Management Committee

Meeting date: May 12, 2021

For the Metropolitan Council meeting of May 26, 2021

Subject: 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 6/1/21-6/1/22, for the Northstar Commuter Rail Operations in an amount not to exceed \$2,500,000.

Background

There are several agreements between the Metropolitan Council and BNSF relating to Northstar operations. Pursuant to these agreements, the Council is required to procure and maintain railroad liability insurance in an amount consistent with 49 U.S. Code § 28103, which is currently approximately \$323M. This insurance is to provide defense and coverage for losses related to commuter rail.

With the required level of insurance, several different insurance companies must be utilized, with each providing a layer of coverage (the multiple layers are referred to as a “tower” of insurance). Working with its insurance broker, staff presented the Northstar operations and need for insurance to several different insurance underwriters, with the initial focus of establishing the lead layer. This lead layer establishes the coverage and pricing that is used throughout the rest of the tower. Underwriters expressed a strong interest in participating on the program, but many had internal restrictions of what could be offered in terms of pricing and coverage.

AXA XL continued to be the most viable option to provide the lead layer of coverage, offering competitive pricing, along with the contractually required coverages. This was then used to negotiate the other layers, building out the full tower of required insurance.

Rationale

The recommended insurance provides the required coverage outlined in the various agreements with BNSF, at the most cost-effective price. It also continues with the self-insured retention of \$2 million,

Thrive Lens Analysis

Authorization of the Northstar insurance renewal supports the Thrive principle of Stewardship by securing the required insurance in the most cost effective manner.

Funding

The premium with the recommended insurance is included within the Metro Transit operating budget. Additionally, the self-insured retention is fully funded at \$2 million.

Known Support / Opposition

Not applicable