

# Business Item

Metropolitan Council



Committee Meeting Date: May 25, 2022

For the Metropolitan Council: May 25, 2022

## Business Item: 2022-137

Railroad Liability Insurance for Northstar Operations

**District(s), Member(s):** All  
**Policy/Legal Reference:**  
**Staff Prepared/Presented:** Phil Walljasper, Enterprise Risk Officer, 651-602-1787  
**Division/Department:** Regional Administration / Risk Management

### Proposed Action

That the Metropolitan Council authorize the renewal of its railroad liability insurance, effective 6/1/22-6/1/23, for the Northstar Commuter Rail Operations in an amount not to exceed \$2,480,000.

### 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.

## **Small Business Inclusion**

There are no certified small businesses that provide the level of service required.

