- **Board of Directors**
  Finance, Audit, Insurance, and Real Property Committee

6/13/2023 Board Meeting

7-3

Subject

Approve up to $1.894 million to purchase insurance coverage for Metropolitan's Property and Casualty Insurance Program for fiscal year 2023/24; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

The Property and Casualty Insurance Policy premiums for fiscal year (FY) 2023/24 will increase by up to $179,000 or approximately 10.4 percent from about $1.715 million for the current fiscal year, to approximately $1.894 million if Metropolitan maintains the same coverage limits and retentions. The cost increase results from the insurance market pricing in a confluence of conditions and trends, including catastrophic storm and wildfire losses, the continued economic fallout of post pandemic supply chain issues, and significant inflation. In addition, a trend of more frequent and expensive liability settlements against municipalities due in part to rising social and political unrest continues to pressure the general liability market. Finally, rising medical costs contribute to rising settlement costs and higher premiums across multiple lines of coverage.

The following insurance coverages within the Property and Casualty Insurance Program will be expiring on June 30, 2023:

1. $75 million general liability coverage in excess of a $25 million self-insured retention.
2. $60 million fiduciary and employee benefits liability coverage in excess of a $25 million self-insured retention.
3. $65 million public officials, directors, and officer's liability coverage in excess of a $25 million self-insured retention.
4. $5 million crime coverage for exposures such as fraud, theft, faithful performance, and employee dishonesty in excess of a $150,000 deductible.
5. $25 million aircraft liability coverage; $10 million Unmanned Aerial Vehicle (UAV) liability coverage; and aircraft hull coverage up to the planes' assessed values.
6. Statutory workers' compensation, and $1 million employer's liability coverage, in excess of a $5 million self-insured retention; and statutory coverage for Washington, D.C. employees.
7. Property damage coverage up to the stated property value, with a $25 million policy limit.

Attachment 1 compares the current coverage and premium costs to those proposed for FY 2023/24

Details

Background

Self-Insured Retention and Excess Limits – For all coverages, staff reviews the self-insured retention levels and excess coverage limits to ensure that coverage is adequate, premium costs are controlled, and to take advantage of market changes that create opportunities to increase coverage limits and decrease premiums or self-insured retention levels. This process is completed with the services of actuarial consultants, Metropolitan's insurance broker, staff review, and comparisons with other like agencies. To limit the expected premium cost increases for excess general liability coverage (catastrophic coverage for claims exceeding Metropolitan's $25 million self-insured retention), we obtained additional premium quotes for the first policy layer of this coverage with self-insured retentions of $35 million and $50 million, versus our current 25 million retention level. For FY 2023/24, the premium cost with the carrier (AEGIS) would be $825,440 for the first layer of excess general liability coverage, with limits of $35 million over the $25 million self-insured retention. The option to purchase this first layer of coverage with a $35 million self-insured retention would be $752,500, a savings of $72,960 versus keeping the self-insured retention at $25 million. Raising the retention to achieve this cost savings would increase the total exposure in the retention by $10 million, or 40%, compared with the current levels. The second option of increasing the retention level to $50 million would net an estimated savings of $225,460 versus the current retention level. There may be additional savings in both scenarios of up to five percent (up to about $20,000) from EIM if we were to select a higher self-insured retention level, but that is not yet a firm quote. Even with the additional $20,000 in possible savings, it is not cost-effective considering the risk reward of increasing the liability exposure by 100 percent resulting from doubling the self-insured retention from $25 million to $50 million. Both options, one very slightly and the second more materially economical, both significantly increase liability exposure.

In addition, at either of these higher self-insured retention levels, the first policy layer provided by AEGIS can only offer a single aggregate instead of its customary double aggregate. The current coverage is $35 million per claim with a $70 million (double the per claim amount) aggregate. The aggregate is the total capacity of all claims in case there are multiple claims. This means that for all claims above the retention, there is a capacity of only the $35 million limit, and not the usual $70 million. There is a consequence of that change to coverage benefits from our second excess carrier Energy Insurance Mutual (EIM). Currently, EIM extends coverage below the $60 million attachment point ($25 self-insured retention plus $35 million AEGIS coverage) if the first layer of coverage from AEGIS is exhausted. From the perspective of both protecting Metropolitan and obtaining value for funds expended, we cannot recommend either option, but will present the $35 million retention level change as an option.

To contrast the value of our current retention level, Metropolitan also received a quote for the first layer of coverage with a self-insured retention of $15 million compared with our present $25 million level. That would increase premium costs from $825,440 to $2.1 million for that coverage. The nearly tripling of costs to reduce the retention by $10 million, compared with the insignificant cost savings to raise the retention by $10 million or even $25 million reflect that the current retention and coverage is cost-effective and appropriate for Metropolitan's current risk profile.

In addition to the usual coverage review such as that described above, staff may investigate other coverage options, such as cyber liability and earthquake insurance, which we have been evaluating over the last couple of years. Due to notable price increases for existing coverages, the operational investment and activities to enhance cyber defenses, and the continuation of the Metropolitan Headquarters Building earthquake retrofit project, it was not timely to pursue those coverage options in recent years. Because of the dramatic rise in cyber-attacks worldwide, and the increasing threat, we have likewise upped our efforts to investigate initiating cyber liability coverage during the past few years. For the FY2022/23 renewal, we sought pricing of a cyber liability policy that would include coverage for business interruption, data loss, system failure, cyber extortion, and other features for up to a premium of $200,000. We were not able to obtain a policy within the allocated budget amount that met our parameters, but we will continue to seek viable coverage options.

While all coverage limits and retentions are reviewed to maintain appropriate protection at cost-effective rates, historically, there have been more changes to Metropolitan's self-insured retention and excess coverage limits for the workers' compensation policies than the other coverages during the last several years due to global events and medical cost trends. Because of the difficult insurance market where coverage has become less available and prices continue to rise, we are not recommending changes to the existing coverage portfolio retentions and limits. Each of the different lines of insurance coverage is described below.

General Liability – The two layers of excess general liability, and public officials, directors, and officer's liability (D&O) policies provide catastrophic coverage for claims exceeding Metropolitan's $25 million self-insured retention level, make up the largest portion of Metropolitan's casualty and specialty insurance premium budget. The projected cost of these coverages in the aggregate will increase by about 13.3 percent, from $1,374,559 in FY 2022/23, to $1,558,684 for FY 2023/24. The quotes this year do not yet include the disclosure of the likely continuity credit (a dividend or rebate for good aggregate claims experience, and remaining with the insurer), which last year lowered the cost of the excess general liability by just over $25,000. Within the aggregate, the premium cost for the two layers of D&O coverage in FY 2022/23 was $320,068, after the initial cost of $346,075 was also reduced by a continuity credit of $26,007. For FY 2023/24, the projected premium cost, without inclusion of a continuity credit, will be $350,812, an increase of $30,744, or about 9.6 percent.

Fiduciary Liability – In FY 2019/20, Metropolitan added coverage to include the deferred compensation program to its existing fiduciary coverage for the first $35 million layer of coverage. Metropolitan also carries a second layer of excess coverage with $40 million in limits. For FY 2022/23, the premium cost for the two layers of coverage was $94,990. For FY 2023/24, the premium cost will increase by about 2.1 percent to $96,989.

Workers' Compensation – Excess workers' compensation insurance protects Metropolitan against the financial exposure of workplace injury and illness claims. This coverage is designed to handle an individual's catastrophic injury, or, for example, an event such as multiple injuries occurring at the Metropolitan Headquarters Building due to a major disaster. Metropolitan is self-insured for the first $5 million in losses, after which the excess coverage with statutory limits goes into effect. Metropolitan also carries a separate first dollar (no deductible) policy to cover employees based in Washington, D.C. Over the last 15 years, Metropolitan has actively adjusted its self-insured retention and coverage limit in reaction to changes in the insurance market in order to maintain cost-efficient and adequate coverage. To control sky-rocketing premium costs during the early 2000s that resulted from the 9/11 terrorist attacks and other global events, Metropolitan incrementally increased the self-insured retention to its current level of $5 million. Since FY 2011/12, premium costs have leveled, and occasionally even declined. Consequently, Metropolitan took advantage of the premium rate reduction and increased the coverage limit from $25 million to $50 million.

In 2015, Metropolitan was again able to take advantage of coverage capacity and market rate changes and obtained statutory excess coverage without increasing costs over the previous year. A stable claims history and claims experience has also contributed to Metropolitan's enhancement of coverage without increasing costs. Metropolitan typically has had an excellent claims history, and its claims experience rating or "Ex Mod," which assesses an organization's claims performance based on payroll and claims history versus other California businesses in the industry. For FY 2022/23, the score decreased from 1.33 to .94. For context, a score below the benchmark of 1.00 trends positive; a score above 1.00 trends more negative. While referenced here to reflect the claims history, the "Ex Mod" is not a weighted factor in the cost of obtaining excess workers' compensation coverage for Metropolitan.

The total premium costs for FY 2023/24 for the excess workers' compensation policy, and the first dollar policy for Washington D.C. employees will increase by about 6.1 percent, from $121,727 in FY 2022/23 to $129,117. Within that total amount, the premium for the first dollar policy for Washington, D.C. employees will decrease slightly, from $1,296 to $1,173.

Property Insurance – In order to have obtained reimbursement of over $500,000 from the Federal Emergency Management Agency for damage resulting from the 2009 fall season fires, Metropolitan maintains a property damage insurance policy to cover the area damaged in that fire. The policy cost $5,193 in FY 2022/23, and will rise by as much as 40 percent to a projected amount of $7,271 For FY 2023/24. Though a small dollar amount, the projected large percentage increase is due to the past three years' historic catastrophic wildfire seasons, and the continuing exposure going forward.

Specialty Coverages – Metropolitan also carries aircraft liability and hull coverage, crime, travel accident, and special contingency policies to complete its insurance portfolio. The aircraft liability and hull policies provide $25 million aircraft liability, hull coverage up to the assessed value of the planes, and UAV liability coverage up to $10 million. For FY 2022/23, policies covering Metropolitan's two planes and eight UAVs cost $81,820. For FY 2023/24, the premium will increase by 7.2 percent to 87,736. The crime policy provides $5 million in coverage with a $150,000 deductible to protect against losses such as fraud, public employee dishonesty, and forgery. The cost to obtain this policy will increase slightly from $10,901 to $11,401 for the coming year. Metropolitan also carries three-year duration special contingency crime, and travel accident policies last purchased in FY 2022/23 for the amounts of $4,442 and $25,450, respectively. These are not up for renewal until FY 2025/26.

The total cost of the insurance renewal for FY 2023/24, with similar limits and retentions, is $1,893,257 without the inclusion of the expected continuity credits, up from approximately $1,715,308 million expended in FY 2022/23.

If Metropolitan chooses to increase the self-insured retention to $35 million from $25 million, the total cost for FY 2023/24 is projected to be $1,820,317

Policy

Metropolitan Water District Administrative Code Section 5201: Restricted Funds

Metropolitan Water District Administrative Code Section 5202: Fund Parameters

Metropolitan Water District Administrative Code Section 6413: Insurance Program

Metropolitan Water District Administrative Code Section 9101: Risk Retention and Procurements of Insurance

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA (Public Resources Code Section 21065, State CEQA Guidelines Section 15378) because the proposed action will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and because it involves continuing administrative activities such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed action is not defined as a project under CEQA because it involves the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (Section 15378(b)(4) of the State CEQA Guidelines).

CEQA determination for Option #2:

None required

Board Options

Option #1

Approve up to $1.894 million to purchase insurance coverage for Metropolitan’s Property and Casualty Insurance Program to renew or replace all the expiring excess liability and specialty insurance policies and maintain the $25 million self-insured retention for general liability coverage.

Fiscal Impact: The anticipated $1.894 million premium cost for FY 2023/24 would result in an approximate $179,000 cost increase compared with the $1.715 million premium cost for FY 2022/23. The $1.894 million is included in the current board-approved budget.
Business Analysis: Protects Metropolitan’s financial position against the risk of catastrophic loss.

Option #2

Approve up to $1.821 million to purchase insurance coverage for Metropolitan’s Property and Casualty Insurance Program to renew or replace all the expiring excess liability and specialty insurance policies for FY 2023/24, and obtain general liability coverage with a $35 million self-insured retention.
Fiscal Impact: The anticipated $1.821 million premium cost for FY 2023/24 would result in an approximate $106,000 increase compared with the $1.715 million premium cost for FY 2022/23. The $1.821 million cost is within the current board-approved Office of the CFO Group budget.
Business Analysis: Saves approximately $73,000 compared with Option 1, protects Metropolitan’s financial position against the risk of catastrophic loss, but significantly increases the financial exposure by $10 million or 40 percent because of taking on the higher retention level.

Staff Recommendation

Option #1

	6/5/2023
Katano Kasaine *Assistant General Manager/* *Chief Financial Officer*	*Date*
	6/5/2023
Adel Hagekhalil *General Manager*	*Date*

Attachment 1 – Metropolitan's Casualty and Property Insurance Program Insurance Premium Comparison in Dollars

Ref# cfo12693094

Metropolitan's Casualty and Property Insurance Program
Insurance Premium Comparison
In Dollars

Insurance Policy Type	Self-Insured Retention (SIR)	Coverage Limits	2022/23 Actual Insurance Premiums	2023/24 Quoted Insurance Premiums	2023/24 Quoted Insurance Premium Cost Change	2023/24 Quoted Insurance Premium % Change
Excess General Liability [1]	$25 million	$75 million	1,054,491	1,207,872	153,380	14.5%
Fiduciary and Employee Benefits Liability [1]	$25 million	$60 million	94,990	96,989	1,999	2.1%
Public Officials Directors and Officers Liability [1]	$25 million	$65 million	320,068	350,812	30,744	9.6%
Crime	$150,000	$5 million	10,901	11,401	500	4.6%
Aircraft Liability and Hull	$7,500	$25 million	81,820	89,736	7,916	9.7%
Excess Workers' Compensation, CA	$5 million	Statutory	120,431	127,944	7,513	6.2%
Excess Workers' Compensation, D.C.	$0	Statutory	1,296	1,173	(123)	(9.5%)
Property [2]	$0	Asset value	5,236	7,331+	2,095	40%
Special Contingency [3]	$0	$5 million	4,442	NA	NA	NA
Travel Accident [3]	$0	$250,000	21,633	NA	NA	NA
Total Insurance Premiums – Option 1	$25 million	NA	**1,715,308**	**1,893,258**	**177,950**	**10.4%**
Total Insurance Premiums – Option 2 [4]	$35 million	NA	**1,715,308**	**1,820,317**	**105,009**	**6.1%**

[1] Premium costs for two layers of General Liability, Fiduciary and Employee Benefits Liability, and Public Officials Directors and Officers Liability.
[2] Premium for 2023/24 is an estimate based upon market indications.
[3] Three-year policies last purchased July 2022, and are up for renewal FY 2025/26.
[4] General Liability Self-Insured Retention increase from $25 million to $35 million.