



Agenda Item No. (6)

To: Finance-Auditing Committee/Committee of the Whole  
Meeting of June 27, 2024

From: Kelli Vitale, Director Risk Management and Safety  
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Subject: **APPROVE RENEWAL OF THE LIABILITY AND PROPERTY INSURANCE PROGRAMS**

### **Recommendation**

The Finance-Auditing Committee recommends that the Board of Directors:

1. Approve the Liability Insurance Program, effective July 1, 2024, as follows:
  - a. Renew the Excess General and Automobile Liability Insurance including Public Officials and Employment Practices Liability with Terrorism Risk Insurance Act (TRIA) coverage, in the amount of \$4,116,983 for a one-year term. The Golden Gate Bridge, Highway and Transportation District's (District) insurance brokers have negotiated with various potential insurers (some of which currently provide coverage to the District) including Safety National, Inigo, MAP, AWAC, Westchester, Westfield, Hiscox, Canopus, Convex, Hamilton Re, Aspen, Sompco, Apollo, Liberty, Genesis, Everest, Munich Re, and others to secure the best coverage options available.  
  
The expiring program has a \$85 million limit and a self-insured retention of \$7.5 million for Auto Liability and \$3 million for General Liability, including legal defense costs within the self-insured retention. The annual premium for this policy is \$4,116,983.
  - b. Renew the Excess Workers' Compensation and Employers' Liability Insurance Program with Safety National, for a one-year term, in excess of a Self-Insured Retention of \$1,250,000 for each accident, with a \$25 million limit, for an annual premium of \$405,621.
  - c. Renew the Public Officials'/Employment Practices Liability Insurance Program with Ironshore, for a one-year term, with a liability limit of \$2 million for each occurrence/annual aggregate. The program has a Self-Insured Retention of \$250,000 for each Director's and Officer's claim, and \$250,000 for Employment Practices

- Liability claims – the only exception being a \$1,000,000 self-insured retention for claims concerning Class Actions or Layoffs. The annual premium for this policy is \$155,189.
- d. Renew the Fiduciary Liability Insurance Program for the Other Public Employee Benefits (OPEB) Trust Board with Chubb Insurance Company for a one-year term, with a \$5 million limit for each occurrence, and a \$25,000 deductible, for an annual premium of \$15,105;
  - e. Renew the Crime Insurance Program with F&D/Zurich Insurance Company, for the second year of a three-year term with a \$25,000 deductible and \$1 million limit for an annual premium of \$3,597;
  - f. Renew the three-year Environmental Liability Insurance Program with Chubb Insurance Company, with a \$5 million limit and a \$250,000 Self-Insured Retention for a pre-paid three-year premium of \$73,419; and,
  - g. Renew the Cyber Liability Program with Resilience for a one-year-term. The program has a \$5 million limit and \$250,000 for Social Engineering Fraud. The coverage has a \$50,000 Self -Insured Retention for a premium of \$57,399.

The Finance-Auditing Committee also recommends that the Board of Directors:

2. Approve the Property Insurance Program, effective July 1, 2024 as follows:

- a. Renew the property insurance program with AIG for buildings and facilities with a \$250,000 deductible for a premium of \$905,317, and the excess earthquake and flood insurance program for a premium of \$209,032.
- b. Renew authority to purchase the Marin Transit Bus Property Damage Program with actual cash value basis and a deductible of \$50,000 with Markel for a premium of \$42,460, and,
- c. Continue to allocate monies to the Restricted Contingency Reserve, for FY 24/25, in the amount of \$1.3 million, as self-insurance for costs associated with Bridge Physical Damage and Loss of Revenue.

These recommendations are made with the understanding that the requisite funds will be available in the Adopted FY 24/25 Operating Budget for the Bridge, Bus, Ferry, and District divisions.

This matter will be presented to the Board of Directors at its June 28, 2024, meeting for appropriate action.

**Summary**

This report summarizes the staff recommendation for the annual renewal of the Liability Insurance and Property Insurance Programs. The Liability Insurance Program includes the Excess Liability program and specific policies limiting liability in connection with workers' compensation claims, actions of public officials and employees, crime, fiduciary liability, environmental liability and

cyber liability. The Property Insurance program covers District buildings and facilities, as well as the Marin Transit buses that the District must insure and includes the allocation of monies to the Restricted Contingency Reserve. All policies in this report expire on June 30, 2024.

This report contains discussions of the renewal recommendations and overall insurance market conditions and includes specifics on premium costs and coverage limits for the Liability and Property Insurance Programs performed by USI Insurance Services (USI), the District's insurance broker.

As in the past, this renewal cycle has been fraught with unprecedented difficulties in negotiating renewals for the District's program at similar prices, terms and conditions. In several cases, insurance coverage simply is not available.

## **I. Liability Insurance Program**

The Golden Gate Bridge, Highway and Transportation District's (District) Liability Insurance Program, which renews on July 1, 2024, is currently comprised of:

- Excess Liability Insurance
- Excess Workers' Compensation & Employers Liability Insurance
- OPEB Fiduciary Liability Insurance
- Public Officials and Employment Practices Liability Insurance
- Crime/ Fidelity Coverage
- Environmental Pollution Liability Insurance
- Cyber Liability Insurance

### ***A. Excess Liability Insurance***

The Excess Liability insurance program provides liability insurance for bodily injury or property damage to third parties from bus and bridge operations. This insurance also provides coverage for employment practices liability, and public officials' liability claims.

The current limits for the current District's Excess Liability Program are \$85 million. The Self-Insured Retentions (SIRs) are \$5 million for Bus Liability and \$3 million for General Liability/ Law Enforcement Liability / Public Officials and Employment Practices Liability. The current premiums for the expiring program are \$3,588,419.

The current Excess Liability insurance market for Public Entities remains extremely challenging, particularly for those entities in California with bus transit operations and a law enforcement component. Many insurers that had traditionally insured these types of risks have withdrawn from the market due to losses that have doubled, tripled, or even quadrupled over the past year especially in highly litigious states like California. The District is well-aware of the potential for large losses, most notably its \$4 million claim from 2013 and a more recent \$18.5 million claim from 2019 – both of which arose from very serious bus/pedestrian accidents. These two large claims in the past 10 years have had a significant impact on how insurance companies view the District.

The reasons some insurance companies have discontinued providing liability insurance for bus operations as follows:

- Recent large settlements
- California locale
- Overall poor experience with auto/bus risks
- Nuclear verdicts/social inflation (a.k.a. exceptionally high jury awards)

The lead or “primary” insurance layer is particularly difficult to place for the District given the certainty of large losses in that layer and the District’s large \$18.5 million claim that was paid a few years ago. There are only a few insurers that may consider writing insurance at the lower layers, and most have provided very high premium numbers. The District’s lead Excess Liability carrier, Allied Public Risk (APR), has decided not to renew this lead layer, given internal changes, and withdrawal from writing Transit risks in California. USI therefore has replaced APR with Safety National, an insurance carrier that is well acquainted with the District given its long-term relationship in writing the Excess Workers’ Compensation insurance for the District. In addition, Safety National will only offer to write this Excess Liability insurance for those clients that it also writes the Excess Workers’ Compensation insurance, such as the District.

Safety National offered the most competitive premiums to the District, and while it represented a significant increase over last year’s premiums, USI has been able to negotiate competitive premiums on the excess layers above Safety National with smaller increases. Taken together, this process has allowed Safety National to control costs such that the overall premium increase is in line with projected expectations. Safety National and the insurance carriers in the insurance tower will offer the same terms and conditions as the expiring program, while also maintaining the Self-Insured Retention structure of \$7.5 million for Auto Liability losses and \$3 million for all other losses.

The District’s broker has contacted every possible insurance carrier that has expressed a willingness and/or interest in writing insurance for the District, to complete the rest of the insurance tower up to \$85 million in policy limits, at the current limits and Self-Insured Retention structure.

The premium for the \$85 million tower policy will cost the District a premium of \$4,116,983, which is about 15% more than last year's premium.

***B. Excess Workers' Compensation Program***

While the District self-insures its workers' compensation claims, it purchases Excess Workers' Compensation insurance to cover potentially catastrophic claims. The District self-insures the first \$1.25 million of a single claim and purchases a \$25 million layer of protection above that retention.

The insurance market for Excess Workers' Compensation insurance is limited, and insurers have been quoting increases of between 5% to 10%. This is a result of increasing claims expenses for public entities from rising medical costs and increased litigation.

The District's insurer, Safety National views the District very positively given its attention to safety and efforts of timely claims closure. We therefore achieved better than market results. The expiring FY 23/24 premium was \$390,504, based on the District's job classifications and payroll of \$74,141,651. For the upcoming 7/1/24-6/30/25 insurance renewal, the renewal premium is \$405,621 based on a payroll of \$79,799,600. This represents a 3% reduction in the insurance policy's rate.

***C. OPEB Fiduciary Liability***

The OPEB (Other Post-Employment Benefits) Fiduciary program was created in response to the District's creation of the OPEB Trust Board to oversee the assets and liabilities of the OPEB Trust. The District currently purchases a \$5 million limit for this insurance, and the policy has a \$25,000 self-insured retention (SIR). The premium for FY 23/24 was \$15,105 and the premiums are the same this year at \$15,105.

***D. Public Officials and Employment Practices Liability***

This insurance policy pays claims for the District arising from employment practices for coverage of discrimination, harassment, and wrongful termination claims. In addition, the public official's liability insurance covers potential claims made against the Board Members for alleged wrongful acts.

This policy covers Public Officials and Employment Practices liabilities (EPL) with a limit of up to \$2 million for each occurrence/annual aggregate. The self-insured retention (SIR) is \$250,000 for each Directors and Officers claim, \$250,000 for EPL claims, and \$1 million for Class Actions or Layoffs. The District's insurance carrier is Ironshore, and the expiring premium is \$182,400. For the renewal, Ironshore quoted at the same \$2 million limit and Self-Insured Retentions \$250,000 for D&O and EPL claims at a 15% lower premium of \$155,189. This improvement was due to a competitive option from another insurance carrier which provided some negotiating leverage with the incumbent (Ironshore), and the District's good loss experience.

The District's Excess Liability program described above also includes this coverage as well, subject to a much higher \$3 million Self-Insured Retention. The District decided to procure a separate Public Officials/EPL policy described in this section D, to cover claims at this lower Self-Insured Retention amount. The District is also aware that there is a \$1 million gap in coverage between the \$2 million policy limit on this policy, and the coverage provided in the Excess Liability program described above that has a \$3 million SIR with insurance coverage above \$3 million. In other words, the District would self-insure claims in excess of \$2 million, up until \$3

million. The District has reviewed quotes for a higher \$3 million policy three years ago, and the additional premium costs were deemed cost prohibitive.

***E. Crime/Fidelity Bond***

The District has a Crime Insurance policy that provides coverage for up to \$1 million for Employee Dishonesty with a \$25,000 deductible, which covers theft of money, securities, and other property by employees. The District policy premium in FY 2023/2024 was \$3,597 for this coverage and was written by Zurich Insurance. For the renewal, the premium is flat at \$3,597, which is an annual premium and is part of a three-year Crime policy that commenced on July 1, 2022.

***F. Environmental Pollution Liability***

The District has numerous environmental exposures, including underground and above ground fuel storage, storm water run-off, and air emissions from our vehicles. The District's environmental risks are well controlled and are frequently audited by local, regional, State and Federal agencies.

The District will purchase a pollution liability policy from Chubb Insurance Company for a three-year term with a \$250,000 deductible and \$5 million limit for a three-year premium of \$73,419 effective July 1, 2024.

***G. Cyber Liability***

The Cyber Liability Insurance market was very difficult two years ago, with insurance companies re-underwriting their insurance offerings, reducing capacity, increasing retentions, and increasing Information Security (IS) requirements. Based on the claims these insurance carriers were paying, they perceived public entities as highly targeted high-exposure industries, due to the potential for bad actors causing huge disruptions from ransomware attacks (i.e., Colonial Pipeline) and the perceived IS deficiencies in public entities as a class of businesses. As a result, many insurance carriers stopped writing Cyber insurance for public entities.

The Cyber Liability insurance market significantly improved the last two years, especially for those organizations with strong cyber security controls, such as the District. The District's expiring insurance program with Resilience has a \$5 million limit, which also includes some coverage for Social Engineering Fraud insurance at a \$250,000 limit. The Self-Insured Retention was \$50,000 and an annual premium of \$71,749.

Given the District's focus on robust cyber security, Resilience offered competitive July 1, 2024, insurance renewal option; for a \$5 million limit with a \$50,000 Self-Insured Retention, the premium is \$57,399, which is a 20% decrease.

## **II. Property Insurance Renewal**

The District's Property Insurance Program is comprised of:

- District Facilities & Buildings Insurance Program
- Bus Damage/Property Insurance Program for Marin Transit buses operated by the District
- Bridge Self-Insurance Loss Reserve

### ***A. District's Property Insurance Program***

The District's Property Insurance policy, written by AIG, covers buildings, equipment and other property at SF Toll Plaza, Ferry Terminals, and Bus facilities. The District's Property insurance program also includes Earthquake insurance at a \$10 million limit. This policy has a \$10 million limit for Flood insurance except for a \$5 million Flood limit at High Hazard locations including the San Rafael Bus Facility, the San Rafael Transit Center, and the Larkspur Ferry Terminal. The District then purchases a separate \$10 million policy that provides Excess Earthquake insurance, plus Flood insurance at all but the High Hazard locations.

The property insurance market is still suffering from past catastrophic (i.e., hurricane/earthquake/flood/wildfire) losses that are occurring with increasing frequency. The result of these losses are increases in property renewal rates of between 15% to 30%.

The District's current insurer, AIG, paid a large loss of \$1.4 million two years ago. For its exposure profile, the District has unique assets including piers, wharves, and docks in addition to buildings and other assets at bus facilities, the toll plaza, etc., which limits the number of insurance carriers willing to quote this coverage for the District.

The District's total insurable values have increased 3% from \$195 million to \$201 million given some appreciation in the replacement cost values. The District is seeing only a 3% rate increase, which is exceptional given the rising costs within the property insurance market. Therefore, the Property premium for FY 24/25 is \$905,317.

The District's Excess Earthquake and Flood insurance coverages will renew on July 1, 2024 for a premium of \$209,032, which is about a 5% rate increase. This is also an exceptional result given the continuing difficult property insurance market – again due to catastrophic risks and losses.

### ***B. Bus Physical Damage Insurance for Marin Transit Buses***

The contract that was negotiated between Golden Gate Transit and Marin Transit requires the District to purchase bus property damage coverage on an actual cash value basis with a \$50,000 deductible for 25 District buses whose titles were transferred to Marin Transit effective July 1, 2015. The value for these buses is \$14,189,935. The FY 23/24 annual premium for this coverage provided by Markel was \$39,531. For July 1, 2024, Markel premiums are \$42,460, which is a \$2,929 increase in premium.

**C. Bridge Self-Insurance Loss Reserve**

The District will continue to fund the Bridge Self-Insurance Loss Reserve at \$1.3 million.

**Fiscal Impact-Liability and Property Programs**

The Fiscal Impact of renewal of the Liability and Property insurance programs for FY 24/25 is estimated to be \$5.9 million, or approximately a 12% increase from last year. The significant increase is in the Excess Liability insurance category with an increase of \$528,564 for a total renewal premium of \$4,116,983. In addition to the \$5.9 million, the District will continue funding the Restricted Bridge Self-Insurance Reserve Fund, with an investment of \$1.3 million which will be transferred to the Restricted Bridge Self-Insurance Reserve Fund. Any additional funds needed will be included in the FY 24/25 Adopted Budget.

**Premium Summary**

Premiums	2023	2024	% Change
GL/AL Excess Liability	\$3,588,419	\$4,116,983	15%
Excess WC	\$390,504	\$405,621	4%
Public Officials/EPL	\$182,400	\$155,189	-15%
Crime	\$3,597	\$3,597	0%
Cyber	\$71,749	\$57,399	-20%
Fiduciary Liability	\$15,105	\$15,105	0%
Environmental Liability	3-Year Pre-Paid in 2021	\$73,419	N/A
<b>Subtotal Liability</b>	<b>\$4,251,773</b>	<b>\$4,827,313</b>	14%
Property	\$855,907	\$905,317	6%
Excess EQ and Flood	\$192,792	\$209,032	8%
Bus Physical Damage	\$39,531	\$42,460	7%
<b>Subtotal Property</b>	<b>\$1,088,230</b>	<b>\$1,156,809</b>	6%
<b>Total Program Premium</b>	<b>\$5,340,003</b>	<b>\$5,984,121</b>	12%