

STAFF REPORT

DATE: June 13, 2022

TO: Sacramento Regional Transit Board of Directors

FROM: Jamie Adelman, Acting VP, Finance/CFO

SUBJ: APPROVAL OF THE RENEWAL OF THE EXCESS GENERAL LIABILITY, EMPLOYMENT PRACTICES LIABILITY, PROPERTY, BOILER AND MACHINERY, EXCESS WORKERS' COMPENSATION, CRIME, CYBER PRIVACY AND NETWORK LIABILITY, POLLUTION LIABILITY - UNDERGROUND TANKS, POLLUTION LIABILITY - ELK GROVE, AND FLOOD INSURANCE FOR THE PERIOD OF JULY 1, 2022, THROUGH JUNE 30, 2023.

RECOMMENDATION

Adopt the Attached Resolution.

RESULT OF RECOMMENDED ACTION

Approval of the renewal of the Excess General Liability, Employment Practices Liability, Property, Boiler & Machinery, Excess Workers' Compensation, Crime, Cyber Privacy & Network Liability, Underground Storage Tank Pollution Liability, Elk Grove Pollution Liability, and Flood Insurances for the period of July 1, 2022, through June 30, 2023.

Authorize the General Manager/CEO to negotiate the renewal of the excess general liability insurance at a not to exceed amount of \$8,977,044.00 for the period of July 1, 2022, through June 30, 2023.

FISCAL IMPACT

FY22-23 Insurance Policy Renewal Coverages and costs are summarized below and attached for easy reference as Attachment 1. Attachment 1 includes a fiscal year historical comparison of insurance policy renewal premium costs by coverage type.

FY22-23 Insurance Renewal Premium Summary						Attachment 1
Policy Coverage Type	FY2022-23	FY2021-22	FY2020-21	FY2019-20	FY2018-19	FY2017-18
	Premium	Premium	Premium	Premium	Premium	Premium
Excess General Liability	\$ 8,977,044	\$ 8,420,507	\$ 5,650,899	\$ 2,480,000	\$ 2,095,799	\$ 2,095,799
Employment Practices	79,379	75,524	73,321	73,154	70,163	70,163
Property, Buses, LRVs, Equip,	2,600,647	2,523,616	1,500,000	716,777	564,711	537,883
Boiler & Machinery	14,239	11,999	10,817	11,205	10,632	10,158
Excess Workers' Compensation	242,000	217,692	184,632	159,087	150,139	150,902
Crime, Errors & Omissions	15,454	16,266	17,123	18,024	8,664	8,664
Cyber Privacy & Network	93,529	93,529	25,080	23,690	23,690	15,996
Pollution Liability -Tanks	6,017	5,527	5,025	4,876	4,798	5,329
Pollution Liability -EG	3,614	3,614	3,606	3,612	n/a	n/a
Flood	12,345	12,345	12,346	12,500	12,338	14,735
Total Premium	\$ 12,044,268	\$ 11,380,618	\$ 7,482,849	\$ 3,502,925	\$ 2,940,934	\$ 2,909,629

Attachment 1 represents estimated not to exceed amounts that are included in the proposed FY23 Operating Budget. Once all coverages are finalized, if the actual premium amounts, including any applicable taxes, fees, and rebates, are greater than the amounts included in the approved budget, a budget amendment will be submitted to the Board for approval during FY22-23.

FY22-23 Fiscal Impact: \$12,044,268.00

DISCUSSION

Alliant Insurance Services, Inc. has been Sacramento Regional Transit District's ("SacRT") insurance broker since 2017. With direction from SacRT, Alliant continues to thoroughly examine the district's insurance coverage needs, contractual obligations, and risk exposures. Alliant Insurance Services conducts extensive marketing of SacRT's insurance placements to current and prospective insurers. This results in more competitive proposals and options both from a coverage and pricing standpoint.

The following is a summary of the significant changes, coverages and premiums for SacRT's FY 22-23 insurance placements.

Excess General Liability Insurance:

SacRT annually purchases commercial general liability coverage inclusive of auto and professional liability coverages. SacRT is required to maintain a per occurrence general liability limit up to the Federal FAST Act rail passenger transportation liability cap (inclusive of the \$2,000,000 Self-Insured Retention), with no less than a double aggregate limit to comply with Union Pacific (UP) contract requirements. The FAST Act limit was raised to \$322,864,228 from \$294,278,983 on February 25, 2021. The cap is adjusted per the consumer price index every five years. This limit is the federal cap, or maximum, amount a railroad is liable for passenger injuries incurred in a single occurrence. There is no cap, or maximum amount, set on a federal or state level for liabilities incurred by pedestrians, or bus passengers. No one insurer can provide a policy meeting this limit, so multiple carriers are engaged to secure the amount required. UP's requirement

represents 25% of the total general liability premium cost, a significant amount even under less extreme market conditions.

SacRT has met with UP and is currently evaluating a proposed UP designed insurance deviation process. This process consists of UP asking counsel of their choosing in California to opine as to whether there are other avenues of recovery for UP if a catastrophic event occurs causing exposure to UP at or near the federal rail cap and SacRT does not have insurance to the cap. This process does not evaluate the risk (or lack of risk) posed by SacRT's light rail service along the subject areas of track. SacRT will continue to engage with UP staff on a proposed insurance deviation process if markets or fiscal capacity cannot allow for coverage up to the FAST ACT rail cap, thereby making it impossible for SacRT to comply with the requirements and place SacRT in breach of its agreement with UP.

At SacRT's request, Alliant successfully bifurcated the excess general liability limits over \$100,000,000 in 2017 to cover only the portion of track subject to the UP requirement up to the federal cap for passenger liability. This proved to be a valuable and cost-effective strategy in the past that has resulted in more accurate risk assessment and a significant savings to SacRT.

This is the second year of uncertain and historically severe market conditions for this line of coverage and continue to be the worst since 1985. Driven in part by the pandemic and to significant exposure to increased jury verdict awards in California, the lack of predictability in outcomes has driven many carriers to avoid the California general liability market altogether. Further, SacRT has continued to expand operations which brings increased risk and exposures that underwriters must consider when calculating premiums. For example, the expansion of the bus fleet and bringing the SacRT GO service in house. The excess liability insurance market has been hit with unprecedented losses due to extreme settlement awards by jury's and as a result underwriters have left the market or decreased capacity. While SacRT has had some larger settlements, we have been successful in settling those claims within the \$2 million self-insured retention (SIR). The fact that SacRT did not have to increase the SIR to \$3 million for FY23 demonstrates successful claims management and is recognized as positive in the insurance market.

Few new carriers have entered the excess commercial general liability class given the overall adverse loss experience. The entire global market of carriers was accessed for replacement quotes, and 35 carriers were marketed in the United States, London, and Bermuda. As of June 3, 2022, the entire \$322,864,228 that SacRT is again required to purchase, is formally quoted. (Attachment 2).

Underwriters are aware of the overall effects to service decreases due to the COVID pandemic; however, they are evaluating their capacity deployment much more on a price per million basis and the market is effectively not reflecting the exposure decreases on any transit accounts.

FY22-23 Excess Liability Renewal Premium: \$8,977,044.00

Employment Practices Liability (EPL):

Arch Insurance Company continues to offer competitive quotes and act as a stable partner, providing a \$2 million limit and \$250,000 deductible with a 10% increase in the rate as expiring for FY22-23. The premium is increasing due to the overall hard market conditions. This placement reflects a 5% rate increase.

FY22-23 Employment Practices Liability Renewal Premium: \$79,379.00

Property Insurance (Non-LRVs):

Travelers, the current carrier on the property program, increased its rate substantially on all SacRT property during the prior FY21-22 renewal, with a proposed increase of 107% for the Light Rail Vehicles (LRVs) in addition to doubling their deductible. This was driven by general market conditions and Travelers’ payout of two large property claims, one involving a crash between two LRVs and one a totaled bus. They also paid for a total fire loss to a vacant building that occurred on June 10, 2020, after the renewal was already priced and bound for the FY20-21 term.

During the FY21-22 renewal period, Travelers declined to quote property coverage for light rail vehicles. This was in response to a May 2021 collision, where a passenger van struck a train causing it to derail at 10th and O Streets. Although fault lies with the driver of the van, the collision resulted in the total loss of one CAF light rail car. The driver carries insufficient insurance to cover the \$5,000,000.00 replacement value of the light rail car.

This caused SacRT and Alliant to conduct a last-minute separate marketing initiative to secure coverage for light rail cars through a consortium of inland marine providers. Travelers continues to quote and provide property insurance for buildings, property contents, buses, non-revenue vehicles, equipment, and parts and supplies. Tokyo Inland Marine, Chubb, and a consortium of other inland marine carriers provide property insurance for light rail vehicles since FY21-22.

For the FY22-23 Property insurance renewal, Traveler’s has provided a more modest premium increase of 30% from prior year proposal. Property insurance applies on a blanket basis to a coverage or type of property for which a Limit of Insurance is shown below. Property coverage is underwritten on Deluxe Property Form Coverage, allowing SacRT to consolidate multiple property coverage provisions and property types under one blanket policy.

Property Coverage Limits of Insurance & Deductibles

Buildings, Business Personal Property Contents, Personal Property of Others:

Buildings	\$86,027,199
Business Personal Property Contents	\$58,850,020
Personal Property of Others	\$100,000
Basic Deductible	\$250,000

Property Coverage Limits of Insurance & Deductibles

Revenue vehicles (non-LRVs), non-revenue vehicles, short term leased or rented vehicles not included on the vehicle schedule, light rail specialty vehicles and miscellaneous scheduled property. No coverage is provided for light rail trains railroad rolling stock, as they are insured under separate Property-Inland Marine policies.

Property Limit of Insurance per Occurrence	\$20,000,000
Flood Limit & Flood Aggregate of Insurance	\$10,000,000
Earth Movement Limit & Aggregate of Insurance	\$10,000,000
Basic Deductible, except as noted	\$500,000
Specialty Vehicles	\$250,000
Police Vehicles	\$250,000
Flood Deductible	\$500,000
Earth Movement Deductible	\$500,000
Windstorm Deductible	\$500,000

FY22-23 Property (Buildings, Buses, Non-Revenue) Premium: \$822,932.00

Property Insurance – Railroad Rolling Stock (LRVs):

For the FY22-23 Property insurance renewal for light rail vehicles, Mitsui Inland Marine, Chubb, and a consortium of inland marine carriers provide up to \$50,000,000 of property insurance coverage for LRVs. Alliant was successful in negotiating a 22-23 premium decrease of 3% for the light rail vehicles while maintaining coverage, deductibles, and policy limits.

Property Coverage Limits of Insurance & Deductibles

Railroad rolling stock (LRVs)

Inland Marine Limits of Insurance per Occurrence	\$50,000,000
Flood Limit & Flood Aggregate of Insurance	\$10,000,000
Trackbed and Catenary	\$10,000,000
Earth Movement Limit & Aggregate of Insurance	\$10,000,000
Deductible, comprehensive	\$500,000
Deductible, collision, except as noted	\$1,000,000
Collision (LRV vs. LRV)	\$2,000,000
Flood Deductible	\$500,000
Earth Movement Deductible	\$500,000
Windstorm Deductible	\$500,000

FY22-23 Property-Inland Marine-Rolling Stock Premium: \$1,777,715.00

Boiler & Machinery Insurance:

Travelers has been the insurer for Boiler & Machinery coverage for several years and consistently offers competitive terms and pricing. This year the premium is increasing 11% inclusive of a 3% increase in the insured values. All other terms and conditions are the same time.

Boiler & Machinery Limits of Insurance & Deductibles

Comprehensive Coverage per SacRT Scheduled Statement of Values:

Limits of Insurance:	\$10,000,000
Utility interruption	\$250,000
Hazardous substance	\$250,000
Ordinance or Law	\$500,000
Water Damage	\$250,000
Deductible	\$25,000

FY22-23 Boiler & Machinery Premium: \$14,239.00

Excess Workers' Compensation:

SacRT is required to provide Statutory limits for this coverage to meet contract requirements and accepted a proposal to join the largest JPA risk pool in the country, PRISM. The Board approved joining PRISM during its May 10, 2021, Board Meeting. PRISM continues to be a cost effective, service-oriented provider of Statutory Excess Workers' Compensation coverage and services. PRISM has improved program integrity with utilization of its claims audit division in conjunction with SacRT's third party claims administrator.

Excess Work Comp Limits of Insurance & Deductibles

Limit of Insurance per each Occurrence:	Statutory Limits
Employers' Liability Limit	\$5,000,000
Exposure Basis	Payroll (per \$100)
Self-Insured Retention	\$2,000,000

FY22-23 Workers' Comp Excess Premium: \$242,000.00

Crime/Employee Dishonesty:

Government Crime Policy and Errors and Omissions including the following coverages:

Limits of Insurance each Occurrence:	\$3,000,000
Deductible:	\$2,500
Forgery or Alteration	
Inside the Premises – Theft of Money and Securities	
Inside the Premises – Robbery & Safe Burglary of Other Property	
Outside the Premises (Money, Securities and Other Property)	
Computer Fraud	
Funds Transfer Fraud	
Money Orders & Counterfeit Money	

FY22-23 Crime Premium: \$15,454.00

Cyber Privacy & Network Liability:

This coverage line continues to be the most volatile of the FY22-23 renewal year, with rate increases quoted in the 100% to 200% range for most placements. The global events in Europe and increased frequency of ransomware and/or malware attacks have affected this market, with underwriters hesitant to insure much risk. The current carrier, Ascent, has non-renewed coverage and is leaving much of the cyber liability market. Alliant Insurance Services is still currently marketing the coverage to maintain options close to expiring as possible. Currently, SacRT has a quote for a \$2M limit, well below the current \$5M limit, for a premium of \$93,529.00 which is the same price as prior placement but with much lower limits.

Cyber Privacy & Network Liability Limits of Insurance & Deductibles

Security & Privacy Liability	\$2,000,000
Network Interruption & Recovery	\$2,000,000
Multimedia & Intellectual Property Liability	\$2,000,000
Network Extortion	\$2,000,000
Privacy Regulatory Defense and Penalties	\$2,000,000
Notification Expenses	\$2,000,000
PCI Fines	\$2,000,000
8 hours for Business Interruption	
Deductible:	\$250,000 Each Claim

FY22-23 Cyber Privacy & Network Liability Premium: \$93,529.00

Pollution Liability - Fuel Storage Tanks

Coverage continues to renew with Liberty and with a 9% increase in the rate due to the age of the tanks, additional years of retro date coverage, and standard inflation/ market rate increases. The underwriter noted the 1985 tank should have a \$500,000 deductible, but they agreed to increase it to \$250,000 (up from \$100,000). The deductibles for the seven (7) 1998 USTs and the 2002 AST remain the same, \$25,000, and \$5,000 respectively.

Pollution Liability (Tanks) Limits of Insurance & Deductibles

Exposure Basis: Number of tanks (9), capacity, contents and monitoring system	
Deductible Each AST:	\$5,000
Deductibles USTs Varies by Tank Age:	\$25,000 & \$100,000
Claim Limit:	\$1,000,000 Each

FY22-23 Pollution (Tanks) Premium: \$6,017.00

Pollution Liability – Elk Grove

The contract with Elk Grove requires SacRT to provide a specialized pollution policy to cover potential on or migrating off-site pollutants arising from SacRT's use of Elk Grove's bus maintenance facility. The carrier has offered a flat renewal and discounted premiums for a two- or three-year extension.

Pollution Liability (EG) Limits of Insurance & Deductibles

Exposure Basis: Statement of values for buildings and business personal property.	
Deductible:	\$5,000
Limit:	\$1,000,000

FY22-23 Pollution (Elk Grove) Premium: \$3,614.00

Primary Flood

Current insurer, Tokio Marine Specialty, has indicated a renewal submission was not needed this year and offered a flat premium renewal for the Flood coverage effective July 1, 2022.

Flood Limits of Insurance & Deductibles

Exposure Basis: Based on Schedule of values for buildings and business personal property.	
Limits of Insurance per occurrence	
Building Property:	\$2,500,000
Business Personal Property/Contents:	\$1,412,000
Business Income & Extra Expense	\$0
Deductible:	\$50,000

FY22-23 Primary Flood Premium: \$12,345.00

FY22-23 Insurance Renewal Premium Summary

Attachment 1

Policy Coverage Type	FY2022-23	FY2021-22	FY2020-21	FY2019-20	FY2018-19	FY2017-18
	Premium	Premium	Premium	Premium	Premium	Premium
Excess General Liability	\$ 8,977,044	\$ 8,420,507	\$ 5,650,899	\$ 2,480,000	\$ 2,095,799	\$ 2,095,799
Employment Practices	79,379	75,524	73,321	73,154	70,163	70,163
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Pollution Liability -Tanks	6,017	5,527	5,025	4,876	4,798	5,329
Pollution Liability -EG	3,614	3,614	3,606	3,612	n/a	n/a
Flood	12,345	12,345	12,346	12,500	12,338	14,735
Total Premium	\$ 12,044,268	\$ 11,380,618	\$ 7,482,849	\$ 3,502,925	\$ 2,940,934	\$ 2,909,629

FY22-23 EXCESS GENERAL LIABILITY INSURANCE COVERAGES

Attachment 2

COVERAGE LAYER	GENERAL LIABILITY COVERAGE LINE	INSURANCE LIMITS	CARRIER	TOTAL PREMIUM
1	Excess Liab- 5M xs 2M SIR	5,000,000	Munich Re/ The Princeton Excess & Surplus Lines Ins. Co.	\$ 1,340,082
2	Excess Liab- 1.5M (part of 3M xs 5M)	1,500,000	Genesis / General Star Indemnity Company - AmWins	371,477
2	Excess Liab- 1.5M (part of 3M xs 5M)	1,500,000	SiriusPoint Bermuda Insurance Company Ltd./Arcadian	384,969
3	Excess Liab- 10M xs 8M	10,000,000	Allied World National Assurance Company (AWAC) -AmWins	1,342,250
4	Excess Liab- 7M (part of 10M xs 18M)	7,000,000	Lloyds: Inigo/MAP/ Canopus Howden	621,565
4	Excess Liab- 3M (part of 10M xs 18M)	3,000,000	Group Ark Insurance, Ltd. - AmWins	276,060
5	Excess Liab- 15M (part of 20M xs 28M)	15,000,000	Great American Security Ins. Company	835,763
5	Excess Liab- 5M (part of 20M xs 28M)	5,000,000	Hallmark Specialty Ins. Co.	273,456
6	Excess Liab- 11.5M (part of 20M xs 48M)	11,500,000	Lloyds: Hiscox/ Convex/ Canopus Howden	490,861
6	Excess Liab- 8.5M (part of 20M xs 48M)	8,500,000	Watford Re Ltd./Helix - AmWins	362,810
7	Excess Liab- 32M xs 68M	32,000,000	Lloyds: Ascot/ Hiscox/ Aspen/ Markel Howden	924,810
<i>*Insurance below only apply to Union Pacific RR Agreement*</i>				
8	Excess Liab- 100M (100M Occ/ 200M Agg xs 100M)	100,000,000	Argo Re Ltd. Howden	879,005
9	Excess Liab- 123M (123M Occ/ 246M Agg xs 200M Occ/300M Agg)	123,000,000	Lloyds Consortium: Hiscox/ Apollo/ Inigo/Aspen/XL/Hamilton/Convex	873,937
	TOTAL LIMITS PURCHASED	323,000,000		\$ 8,977,044

RESOLUTION NO. 2022-06-069

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

June 13, 2022

APPROVAL OF THE RENEWAL OF THE EXCESS GENERAL LIABILITY, EMPLOYMENT PRACTICES LIABILITY, PROPERTY, BOILER AND MACHINERY, EXCESS WORKERS' COMPENSATION, CRIME, CYBER PRIVACY AND NETWORK LIABILITY, POLLUTION LIABILITY - UNDERGROUND TANKS, POLLUTION LIABILITY - ELK GROVE, AND FLOOD INSURANCE FOR THE PERIOD OF JULY 1, 2022, THROUGH JUNE 30, 2023.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Board hereby approves the renewal of the Excess General Liability, Employment Practices Liability, Property, Boiler & Machinery, Excess Workers' Compensation, Crime, Cyber Privacy & Network Liability, Underground Storage Tank Pollution Liability, Elk Grove Pollution Liability, and Flood Insurances for the period of July 1, 2022, through June 30, 2023.

THAT, the Board hereby authorizes the General Manager/CEO to negotiate the renewal of the excess liability insurance at a not to exceed amount of \$8,977,044.00 for the period of July 1, 2022, through June 30, 2023.

STEVE MILLER, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Tabetha Smith, Assistant Secretary