



**Regional
Transportation
Authority**

To: Board of Directors

From: Leanne P. Redden, Executive Director

Date: May 9, 2019

**Re: ORDINANCE AUTHORIZING THE PURCHASE OF EXCESS LIABILITY INSURANCE POLICIES
BY THE RTA LOSS FINANCING PLAN/JOINT SELF-INSURANCE FUND**

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Action Requested

Staff is requesting Board adoption of the attached ordinance authorizing the purchase of excess liability insurance policies by the RTA's Loss Financing Plan/Joint Self-Insurance Fund. RTA's current policies expire on June 15, and renewal policies are required in order to ensure continuous coverage in the event of a claim. At the time of drafting, the RTA's broker continues to negotiate terms with underwriters, in order to further reduce the proposed premiums, however the total cost for coverage from 2019-2020 will not exceed \$5,645,775, plus applicable taxes.

Background

In 1986, the RTA and the Service Boards together established a Loss Financing Plan (the "LFP" or the "Plan") and Joint Self-Insurance Fund (the "Fund"). Pursuant to a four party Agreement, the Plan and Fund are governed by three Fund Advisors (one representing each Service Board) and a Fund Manager (appointed by the RTA). The Fund/Plan was initially capitalized with the proceeds of an RTA bond issuance followed by a series of annual RTA contributions. The original purpose of the Fund was to provide a ready source of cash for the Service Boards to settle claims and pay judgments, which the Service Boards then are required to repay over time. This promotes stability in operations and finances by allowing the Service Boards to spread the impact of major losses over a multi-year period. There are currently no outstanding loans.

The Fund pays for settlements and judgments above established self-insurance retention levels for each Service Board. If the Service Boards use the Fund to satisfy settlements or judgments, there are fixed minimums on the amount of repayment per year for each Service Board.

Since 1993, the Fund has purchased excess liability insurance on behalf of the four agencies. Plan coverage includes General Liability, as well as Terrorism coverage and punitive damages. This insurance covers very large losses, protecting against rapid depletion of the Fund and unexpected impact on Service Board budgets. The losses covered by the insurance policy do not need to be repaid by the Service Boards. The insurance purchased by the Fund has served its intended purpose: coverage has been available to the Service Boards to protect against a large loss adversely impacting the operating budget in a single year.

Proposed Coverage

RTA's broker, Aon Risk Services, Inc. ("Aon"), has assembled a complete insurance program covering losses between \$15 and \$100 million dollars. This is the level of coverage that the RTA purchased last year, and the proposed program, which is being renewed at proposed rates increasing by 5.75%, is tentatively comprised of the following layers (specific underwriting markets may shift or change during continuing negotiations):

1. The primary layer provides coverage of \$15 million per occurrence, \$30 million in the aggregate, with a self-insured retention of \$15 million, at an annualized premium of **\$2,659,875**. This represents a 2.5% increase over 2018-2019 premiums for this layer. It will tentatively be underwritten by *Aspen*

Specialty Insurance (London), Aegis London, Aegis Casualty Consortium/Magna Carta Insurance, Ltd., ACT (Aon Client Treaty), Argo Insurance (London) and XL Insurance Company Dublin (London).

2. The second layer provides coverage of \$20 million per occurrence, \$40 million in the aggregate, for losses in excess of \$30 million, at an annualized premium of **\$1,332,500**. This represents a 2.5% increase over 2018-2019 premiums for this layer. It will be underwritten by *Queens Island Insurance Company, Ltd. (Bermuda), XL Insurance Company Dublin (London), Aspen Specialty Insurance (London), Argo Re Ltd. (Bermuda), Liberty Insurance (in conjunction with Magna Carta).*
3. The final layer provides coverage of \$50 million per occurrence, \$100 million in the aggregate, for losses in excess of \$50 million, at an annualized premium of **\$1,653.380**. This represents a 14.5% increase over 2018-2019 premiums for this layer. It will be underwritten by *Aspen Specialty Insurance (London), Magna Carta Insurance, Ltd., ACT, Sampro/Endurance Specialty Insurance, Ltd., Hamilton Re/Canopus Underwriting (Bermuda and North American Capacity Insurance Co. (Swiss Re) or Markel International.*

Please see the attached proposed “tower” for additional detail. Following several years of decreased premiums followed by two years of flat renewals, this proposed increase results largely from a hardening in the market vis-à-vis transit coverage (particularly bus) and very large losses in other jurisdictions. As mentioned previously, negotiations continue with individual markets in an effort to achieve minimum increases in cost. The proposed rates nonetheless remain lower than those in the previous seven renewal years.

The structure of the program provides for what is referred to as “dual aggregate” limits, meaning the policies will cover two total losses. This aspect of the program is important, because Metra is contractually bound by its purchase of service agreements with the freight railroads, on whose tracks commuter service operates, to maintain excess liability insurance coverage for losses up to \$295 million (the additional coverage is purchased by Metra separately). The dual aggregate structure means that Metra or another Service Board can suffer a loss that is covered by insurance without degrading the insurance coverage available to satisfy Metra’s contractual obligations, and only after a second such loss would the RTA need to consider purchasing a reinstatement policy.

Financial Impact

Premiums. The total premium of all layers, inclusive of wholesale commissions, is **\$5,645,775**. Applicable taxes may apply to the placement.

Wholesale Commissions. Under its contract with Aon, the RTA pays a wholesale broker commission to Aon Risk Solutions, Aon’s international affiliate that accesses the London and Bermuda markets for the LFP program. That commission is paid at a rate of 5% on international placements. Aon Risk Solutions’ commission is already included in the \$5,645,775 aggregate premium payment.

Prepared by: Legal & Compliance Department
LPR/NML
Attachment.

ORDINANCE NO.

WHEREAS, the Regional Transportation Authority (RTA), the Chicago Transit Authority (CTA), the Commuter Rail Division of the Regional Transportation Authority (Metra) and the Suburban Bus Division of the Regional Transportation Authority (Pace), hereinafter collectively referred to as the "Participating Entities," are authorized by law to purchase insurance, to self-insure or to self-insure on a joint basis against various risks arising out of the exercise of their powers and duties under the law;

WHEREAS, the Participating Entities determined in 1986 that it was in their individual and collective best interests to contract among themselves to establish a Loss Financing Plan (Plan) providing for a Joint Self-Insurance Fund (Fund), which provides loans to the Participating Entities, above certain retained limits and subject to repayment, for damages and losses arising out of specific risks;

WHEREAS, the Participating Entities authorized the execution of the Articles of Agreement of the Loss Financing Plan, effective October 1, 1986, to achieve such purposes;

WHEREAS, in 1993 the Participating Entities determined that it was in their individual and collective best interests for the Fund to purchase excess liability insurance to provide coverage for a portion of the obligations of the Fund;

WHEREAS, the current insurance policies, authorized by the RTA Board of Directors pursuant to Ordinance 2018-29, expire on June 15, 2019;

WHEREAS, RTA's excess liability insurance broker, Aon Risk Services, Inc., has prepared a renewal program to provide for continued excess liability insurance coverage; and

WHEREAS, the Fund Manager and the Fund Advisors have reviewed the renewal program and recommend that the Fund purchase the policies.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE REGIONAL TRANSPORTATION AUTHORITY that:

1. The Loss Financing Plan and Joint Self-Insurance Fund is authorized to bind coverage and enter into agreements with each of the insurance carriers, for the period from June 15, 2019 through June 15, 2020 in the approximate amounts indicated in the attached tower at rates **not to exceed \$5,645,775, in the aggregate**, plus any applicable taxes.
2. The Fund Manager is hereby authorized to arrange for the withdrawal from the Fund the amounts necessary to purchase such insurance.
3. The Fund Manager is authorized and directed to take such further actions as the Fund Manager deems necessary and appropriate to implement, administer and enforce this Ordinance and said agreements authorized herein.

Regional Transportation Authority

Liability Program

June 15, 2019 - June 15, 2020 draft 2

<i>PLACEMENT</i>	<i>CARRIER</i>	<i>POLICY NO.</i>	<i>LIMIT</i>	<i>Premium</i>
\$50,000,000 in excess of \$50,000,000				
London	Aspen including Wrap		\$ 12.00	\$ 396,811.20
London	ACT		\$ 3.00	\$99,202.80
US	SwissRe OR Markel International		\$ 15.00	\$496,014.00
Bermuda	Sampo/Endurance Specialty Ins. Ltd.		\$ 15.00	\$496,014
Bermuda	Hamilton Re/Canopus Underwriting		\$ 5.00	\$165,338
Total Layer Premium \$1,653,380				
\$20,000,000 in excess of \$30,000,000				
Bermuda	Queen's Island		\$ 7.50	\$ 499,687.50
London	XL Dublin		\$ 5.68	\$ 378,430.00
London	Aspen including wrap		\$ 1.42	\$ 94,607.50
Bermuda	Argo Re Ltd.		\$ 2.50	\$166,562.50
US/Bermuda	Liberty inc. Magna Carta wrap		\$ 2.90	\$ 193,212.50
Total Layer Premium \$1,332,500				
\$15,000,000 in excess of \$15,000,000				
London	Aspen including wrap		\$ 3.50	\$ 620,637.50
London	Aegis including wrap		\$ 5.00	\$886,625
London	ACT including wrap		\$ 1.50	\$265,987.50
London	Argo		\$ 2.50	\$443,312.50
London	XL Dublin		\$ 2.50	\$443,312.50
Total Layer Premium \$2,659,875				

