

T Transportation Committee

Meeting date: May 11, 2009

Management Committee May 13, 2009

Council meeting May 27, 2009

ADVISORY INFORMATION

Date:	5/13/09
Subject:	Authorization to procure railroad liability insurance for Northstar Operations
District(s), Member(s):	All
Policy/Legal Reference:	BNSF Railway Joint Use Agreement
Staff Prepared/Presented:	Brian Lamb, General Manager, 612-349-7510 Mark Fuhrmann, Deputy General Manager, 651-602-1942 Vince Pellegrin, Chief Operating Officer, Bus & Rail, 612-349-7511 Ed Byers, Director Commuter Rail, 612-349-7080 Phil Walljasper, Director Risk Mgmt & Claims, 651-602-1787
Division/Department:	Regional Administration/Risk Management

Proposed Action

That the Metropolitan Council authorize the procurement of railroad liability insurance for the Northstar Commuter Rail Operations in an amount not to exceed \$2,174,140. This insurance would be effective from 6/1/09-12/31/10.

Background

In its Joint Use Agreement (JUA) with the BNSF Railway, the Metropolitan Council is required to procure and maintain a railroad liability insurance policy to respond to claims related to Northstar commuter rail. This insurance must be in place when any Northstar train is running on BNSF tracks and is to have limit of \$200 million per occurrence, providing coverage for both the Council and BNSF. With the testing of Northstar trains scheduled to begin in June of 2009, the policy must have an effective date of June 1st.

The JUA also addresses the self-insured retention (SIR) that can be in place on the policy. The SIR is the amount of each loss the insured (Council) must pay before the insurance policy responds, which is very similar to a deductible. In the agreement, the SIR must not be greater than \$5 million.

Insurance companies are limited in the amount of insurance they can offer, which is based on the size of the company, its underwriting philosophy, and the type of risk. Because of this, when insurance of very high limits is required for a very specialized type of risk, such as railroad liability, multiple companies participate in the insurance program.

During the procurement process for Northstar's insurance, staff met with several insurance underwriters to present the Northstar program, focusing on safety, system features, and operations. After the presentations, Northstar's insurance broker and staff negotiated the best terms and rates possible with several insurance companies to reach the limits required by the JUA.

Rationale

When multiple insurance companies are involved in an insurance program, the insurance is structured in such a way that each company provides "layers" of insurance, with each company/layer charging a premium. This is often times referred to as a "tower" of insurance.

After the presentations and negotiations, two insurance carriers were identified as possible options for the lead layer for the Northstar insurance program. Of these two, Lexington provided the most favorable pricing.

While it is common for railroad liability policies to have a term of 12 months, our presentations to the underwriters and negotiations yielded a 19 month policy for this first placement. The policy will have a SIR of \$2 million per occurrence.

Funding

The Northstar operating budget plan contemplates an annual premium of \$2 million (beginning in 2009) and a SIR of \$3 million. If this proposal action is authorized the total premium covering 2009-2010 will be approximately \$2.2 million with a SIR of \$2 million.

Known Support / Opposition

Not applicable