

# J Joint Committee Report

Transportation Committee Meeting (May 11, 2009)

Item: 2009-169

Management Committee Meeting (May 13, 2009)

For the Metropolitan Council meeting of June 10, 2009

## ADVISORY INFORMATION

### Date Prepared:

**Subject:** Authorization to procure railroad liability insurance for Northstar Operations

### 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 \$2,055,889. This insurance would be effective from 6/1/09-12/31/10.

### Summary of Committee Discussion / Questions:

In its Joint Use Agreement with BNSF, the Metropolitan Council is required to procure a Railroad Liability Insurance policy that provides coverage for losses that may arise out of Northstar Commuter Rail operations. This policy is to have a limit of insurance of \$200 million per occurrence and is to be in place when Northstar trains move on BNSF's track.

Through its broker, Northstar competitively bid this insurance and identified the companies that provided the required coverage at the most cost effective price. To reach the required limit of \$200 million per occurrence, multiple insurance companies were utilized.

This insurance will also have a self-insured retention (SIR), which is similar to a deductible, of \$2 million per occurrence.

In establishing a budget for this insurance, an estimated annual premium of \$2 million was contemplated. In addition, the SIR was estimated to be \$3 million, which was to be funded over a three year period (\$1 million annually for 2009-2011).

The insurance companies agreed to provide this initial policy for a 19-month term, compared to the usual 12-month term. The result of this is that the insurance premiums for 2009-2010 are \$2,055,889, compared to the \$4 million budgeted. Additionally, with the \$2 million SIR, the funding will only require two years, with no need for the \$1 million funding in 2011.

There were discussions at both committees regarding the structure of this insurance and how multiple companies provide "layers" of insurance, particularly on how the pricing and coverage of the overall insurance is derived from the quote on the first "layer". There was also discussion as to the extent of the insurance protection and that this insurance is only triggered if it involves commuter rail operations and is not solely for the BNSF's freight operations. Lastly, there were questions and discussion about the overall competitive bidding process and how the various options were formed.

Both the Transportation Committee and Management Committee approved the proposed action of procuring the Northstar Railroad Liability Insurance, for 6/1/09-12/31/10, in an amount not to exceed \$2,055,889.

# T Transportation Committee

**Meeting date: May 11, 2009**

**Management Committee May 13, 2009**

**Council meeting June 10, 2009**

## ADVISORY INFORMATION

<b>Date:</b>	5/13/09
<b>Subject:</b>	Authorization to procure railroad liability insurance for Northstar Operations
<b>District(s), Member(s):</b>	All
<b>Policy/Legal Reference:</b>	BNSF Railway Joint Use Agreement
<b>Staff Prepared/Presented:</b>	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
<b>Division/Department:</b>	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 1<sup>st</sup>.

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

# M Management Committee

Business Item

Item: 2009-169

Meeting date: May 13, 2009

## ADVISORY INFORMATION

<b>Date:</b>	5/13/09
<b>Subject:</b>	Authorization to procure railroad liability insurance for Northstar Operations
<b>District(s), Member(s):</b>	All
<b>Policy/Legal Reference:</b>	
<b>Staff Prepared/Presented:</b>	Phil Walljasper, 651-602-1787
<b>Division/Department:</b>	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 \$2,055,889. This insurance would be effective from 6/1/09-12/31/10.

### Background

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**Known Support / Opposition**

Not applicable