

**PORT OF SEATTLE**  
**MEMORANDUM**

**COMMISSION AGENDA**  
**STAFF BRIEFING**

<b>Item No.</b>	<u>7f</u>
<b>Date of Meeting</b>	<u>September 8, 2015</u>

**DATE:** August 31, 2015  
**TO:** Ted Fick, Chief Executive Officer  
**FROM:** Jeff Hollingsworth, Sr. Manager Risk Management  
**SUBJECT:** Report on the Port Liability Insurance Renewal for the Policy Year beginning on October 1, 2015

**SYNOPSIS**

This report is on the upcoming Port's liability insurance renewal. The Port's current liability insurance program expires on September 30, 2015. The Port is in the process of finalizing the purchase of this coverage for the policy year starting on October 1, 2015, and expiring on September 30, 2016. Under the current delegation of authority, the CEO has the authority to purchase the insurance.

**BACKGROUND**

The update will focus around the issues of renewing the insurance liability program. The insurance policies to be renewed include the airport operator's general liability, the non-aviation general liability, law enforcement liability, public official's liability, fiduciary liability, and employee dishonesty (crime). The renewal process for these policies include updating the Port underwriters on current and forecast finances, the operating budget, changes in organizational structure, and on-going and new claims. The Port uses an insurance broker (Alliant) to help collect and aggregate the renewal data and then submit the data to incumbent and prospective insurance carriers to obtain quotes for the renewal.

The Port purchases an airport operator's primary and excess general liability insurance policy which covers liability claims from third parties that involve property damage and/or bodily injury that arise out of airport operations. The current limit of liability is \$500 Million (\$500,000,000) with a \$1 Million (\$1,000,000) per occurrence (claim) retention. Coverage for events stemming from terrorism and/or war is excluded. The Port's ramp control tower operator, Robinson Aviation, is an insured on this policy to cover the liability exposure of aircraft movement on the ramp area. This coverage is currently with ACE Insurance Company.

The Port purchases a public entity commercial general liability policy (bodily injury and property damage coverage) which covers losses involving actual or alleged bodily injury and/or property damage that arises from claims made against the Port by third parties for non-aviation exposures and operations. This policy has a \$1 Million per occurrence

## **COMMISSION AGENDA**

Ted Fick, Chief Executive Officer

August 21, 2015

Page 2 of 4

(claim) retention and a limit of \$10 Million per occurrence. This policy also covers exposures and liabilities that could stem from the wrongful or non-intentional acts of Port employees, directors, and Commissioners, and employment practices liability. This policy also covers alleged and actual wrongful acts of the Port's Police operations. This policy will be endorsed to add the Northwest Seaport Alliance (NWSA) as an additional insured with regards claims and litigation brought against the NWSA.

With regard to the NWSA, a separate general liability policy, to include coverage for errors and omissions and employment practices, has been purchased in the name of the NWSA. This policy has a \$10 Million dollar limit, and a \$5,000 per claim deductible for general liability and a \$10,000 per claim deductible for errors/omissions and employment practices. A crime policy (fidelity bond) with a \$ 1 Million limit was also purchased in the name of the NWSA. These two policies were bound on August 4, 2015 and will run through September 30, 2016. The cost of these two policies were split equally between the Port of Tacoma and Port of Seattle and were charged as a reimbursable to the NSWA. These policies were used with an amendment made to the Port of Tacoma's broker Alliant, which allows Alliant to make insurance transactions on behalf of the NSWA.

Excess to this public entity commercial policy is an excess policy with coverage up to a \$50 Million (\$50,000,000) per occurrence limit, which provides coverage for Port marine exposures (cargo, cruise, marina, and terminal operations). This excess liability policy also includes coverage for the Port's non-aviation operational, automobile, employee benefits, and foreign liability exposures. Coverage includes claims resulting from bodily injury and property damage arising from terrorism acts (under the Terrorism Risk Insurance Program Reauthorization Act of 2007 and Reauthorized in 2015). This policy will also be endorsed to add the Northwest Seaport Alliance (NWSA) as an additional insured with regards claims and litigation brought against the NWSA.

The Port also purchases smaller policies with limits that range from \$ 1 Million to \$5 Million that cover its liabilities associated with its role as a fiduciary for Port sponsored employee benefit plans, employee dishonesty policy (also known as a fidelity bond), and for liabilities associated with foreign travel. The foreign travel policy has coverage for emergency medical expenses and coverage for kidnap and ransom. The Port self-insures its workers' compensation exposure. The Port self-insures all automobile liability exposures and claims up to \$ 1 Million per claim.

The Port in 2014 added a cyber-liability policy that has limits that range up to \$5 Million depending on the liability, such as a breach, extortion, damage or loss of data, or liabilities around loss of private protected information. The cyber policy provides coverage for cyber liabilities that are excluded from coverage in its other liability policies.

The Port's renewal rate for insurance depends heavily on the strength of the Port's indemnity agreements with its lessees, prime tenants, and contractors as well as in

## **COMMISSION AGENDA**

Ted Fick, Chief Executive Officer

August 21, 2015

Page 3 of 4

personal and professional service agreements. The Risk Management Department works diligently to ensure that contracts have the protections with regard to insurance and indemnity that minimize the impact to the Port for losses and damages that stem from the work or operations of Port tenants and contractors. The defense costs for the litigated Afoa case (trial in February 2015), which involved an injured airport worker, was fully picked up by the contractor's insurance program, even though the Port was a defendant in this suit.

Another underwriting factor is the distinction between operations the Port controls and runs itself versus what our tenants do. The number and severity of recent paid claims and litigation as well as reserves on open claims and litigation is also part of the underwriting review. Examples of Port operations (that the Port manages) that the underwriters will review closely include the rental car busing operation, marina operations, and airport parking.

The current state of the insurance markets also dictates the type of pricing that the Port will obtain on its renewal. Currently the markets are such that renewal rates for liability programs are running about 5% increase, unless there are large losses or reserves on open claims associated with the account. Early indications for the Port's renewal indicate a 22% increase in the cost of its public entity primary liability policy due to long tail litigated claims, and the reserved legal costs associated with these litigated claims. However, Port Risk Management is working with its broker to negotiate this proposed increase down prior to binding the renewal on September 30<sup>th</sup>. Other options include possible raising the Port's retention on this policy, lowering the limit of liability, or finding a new insurance carrier. By looking at these other options, Risk Management is hoping to minimize the overall coverage increase of the total renewal to between 10% and 12% as compared to last year.

Earlier this year Congress approved the Terrorism Risk Insurance Program Reauthorization Act of 2015 (TRIA). This act provides reinsurance to private insurers following a certified act of terrorism. Following the events of 9/11 – insurance companies added exclusions into their policies to void coverage for losses caused by acts of terrorism. Congress in 2002 passed the original Terrorism Risk Insurance Act. The passing of this act, allows the insurers to offer this coverage on various property and liability policies. The costs for this coverage, which is a cost addition to a policies base premium, have come down significantly since 2002 for many types of operations, but not so much for ports, transit authorities, and airports.

The Port does not buy this coverage for its airport general liability policy due to a concern with how an act is certified as "terrorism" as well as pricing. The Port does purchase this TRIA coverage for liability for its non-aviation operations, and on the property insurance. Terrorism coverage excludes damages that result from any use of chemical, nuclear, or biological sources. However, as part of this renewal, the Port is looking at a stand-alone terrorism policy, to provide coverage over several policies,

## **COMMISSION AGENDA**

Ted Fick, Chief Executive Officer

August 21, 2015

Page 4 of 4

provided by Lloyd's of London syndicates. The standalone policy would replace any of the TRIA coverages the Port currently purchases (non-aviation) and add this coverage to policies for which this coverage is currently excluded.

Risk Management will review quotes from our broker and then consider options to limit proposed price increase. Risk Management is not looking to enhance or add coverage/limits this year (other than looking at a standalone terrorism policy). It may have to raise a retention to minimize the proposed price increase in the public entity primary policy. The goal is to minimize cost increases but at the same time not under-insure critical operations. Risk Management will review renewal options with division budget and finance leaders and obtain their input prior to binding coverage on September 30<sup>th</sup>.

The insurance renewed on September 30, 2014 at a cost of \$804,000. Cyber liability coverage was added on December 1, 2014 at a cost of \$40,067. The renewal cost for September 30, 2015 is anticipated to be between \$940,000 and \$960,000. This estimate includes a full 12 month premium of cyber liability coverage and making changes to minimize the impact of the 22% increase in the primary public entity general liability policy. Even with the price increase, the final actual 2015 total insurance costs should be right at or slightly less than what was budgeted for in 2015. The Port's favorable renewal pricing on its property insurance on July 1, 2015 will off-set the larger than anticipated increase to the liability insurance program.

## **ATTACHMENTS TO THIS BRIEFING**

- Computer slide presentation.

## **PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

- September 30, 2014 – Briefing on liability insurance renewal.
- June 9, 2015 – Briefing on property insurance renewal.