

February 24, 1997

(Budget and Finance Committee--Information)

To:

Board of Directors (Engineering and Operations Committee--Information)

(Legal and Claims Committee--Information)

From:

Subject:

General Manager

Submitted by: Gary M. Snyder ¼⅓ Chief Engineer

Third Annual Stewardship Report on Eastside Reservoir Project's Owner-

Controlled Insurance Program (OCIP)

RECOMMENDATION

For information only.

EXECUTIVE SUMMARY

Under an Owner Controlled Insurance Program (OCIP) for large construction projects, the owner procures certain insurance coverage for itself, contractors and subcontractors of any tier, when performing job site operations. The OCIP replaces the traditional approach wherein the owner requires contractors to provide Workers' Compensation, Liability and Builders Risk insurance.

An OCIP presents advantages over traditional construction insurance and loss control procedures such as the economies of scale produced by centralizing the purchase of insurance coverage, and the coordination of a number of on-site functions (claim management, loss control, safety, recordkeeping etc.) Under an OCIP, the owner consolidates the essential lines of project insurance (i.e., workers' compensation, liability, builders' risk), security, and safety and loss control programs. Based on the above information in February 1994, Metropolitan entered into an agreement with Sedgwick and its Joint Venture Partners (JV) to act as broker/administrator for an Owner-Controlled Insurance Program (OCIP) in support of the Eastside Reservoir Project (ESRP).

Utilizing the OCIP, Metropolitan's staff had estimated that it could decrease insurance costs by approximately \$11 million, while broadening the insurance coverage for the project. It also became clear that better results could be achieved if Metropolitan availed itself of the changes in California State Law, that allowed for a tailored workers' compensation program

(Alternative Dispute Resolution or ADR) an additional premium reduction of \$9 million was possible. The total prospective savings would then increase to approximately \$20 million.

Metropolitan's Risk Management Division set a workers' compensation loss ratio goal for the project of 40%. Attainment of this goal would result in an another \$15+ million savings and a possible \$35+million in total savings for the project.

As required by law, the JV and Metropolitan staff entered into negotiations with collective bargaining units and succeeded in consummating an agreement for a tailored workers' compensation insurance program for the project. The negotiation required for ADR led to a Project Labor Agreement (PLA) for ESRP that provided for labor stability and a system of mediation and arbitration to address most all conceivable labor relations conflicts, including a "no strike" provision.

Thus far, the OCIP has a per claim cost of \$6,969 (\$348,430 incurred losses divided by 50 claims) for the period December 1, 1995 to December 31, 1996. Metropolitan's proprietary program has a per claim cost of \$7,933 (\$1,419,988 incurred losses divided by 179 claims) for the period June 30, 1995 to June 30, 1996.

In summary, the ESRP's OCIP will save a minimum of \$20 million, less administrative expenses, and has the prospect of achieving a \$35 million savings to the project if the targeted 40% loss ratio is achieved. The incurred loss rate to date is 37.1%. Based upon the three years construction experience, this projected savings to the project is realistic.

A detailed report accompanies this Board letter and provides a thorough explanation of the features of the Owner-Controlled Insurance Program and its benefits to Metropolitan.

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EXECUTIVE SUMMARY

In recognition of administration staff and Board change, we have elected to repeat the background of the current program. MWD staff has suggested that portions of Section I be repeated so that all Board and staff have an historical perspective of the insurance program that was developed and implemented in support of the Eastside Reservoir Project (ESRP).

In February, 1994, Metropolitan entered into an agreement with Sedgwick and its Joint Venture Partners (JV) to act as broker/administrator for an Owner Controlled Insurance Program (OCIP) in support of its ESRP. Metropolitan's staff had estimated that it could decrease insurance costs by approximately \$11 million, while broadening the insurance coverage for the project.

In the course of negotiation with insurance underwriters, it became clear that the insurance market would yield better results than had been forecast and that if Metropolitan availed itself of the changes in California State Law, that allowed for a tailored workers' compensation program, (Alternative Dispute Resolution or ADR) an additional premium reduction of \$9 million was possible. The total prospective savings would then increase to approximately \$20 million.

Metropolitan's Risk Management Division set a workers' compensation loss ratio goal for the project of 40%. Attainment of this goal would result in an added \$15+ million savings and a possible \$35+ million in total savings for the project.

As required by law, JV and Metropolitan staff entered into negotiations with collective bargaining units and succeeded in consummating an agreement for a tailored workers' compensation insurance program for the project. The negotiation required for ADR led to a Project Labor Agreement (PLA) for ESRP that provided for labor stability and a system of mediation and arbitration to address most all conceivable labor relations conflicts, including a "no strike" provision.

Thus far, the OCIP has a per claim cost \$6,969 (\$348,430 incurred losses divided by 50 claims) for the period 12/1/95 - 96. Metropolitan's proprietary program has a per claim cost of \$7,933 (\$1,419,988 incurred losses divided by 179 claims) for the period 6/30/95 - 96.

In summary, the ESRP's OCIP will save a minimum of \$20 million, less administrative expenses, and has the prospect of achieving a \$35 million savings to the project if the targeted 40% loss ratio is achieved. Based upon the three years construction experience, this goal is realistic.

In addition to the contract cost reduction and anticipated lower losses, the PLA has produced several additional benefits without adverse affect on the work process:

- 1. ESRP was not affected by general strike.
- 2. Jurisdictional issues between trade unions were solved through arbitration.
- 3. A contractor's disagreement with one of the trade unions is being resolved through arbitration.

I. OWNER CONTROLLED INSURANCE PROGRAM

A. OVERVIEW OF O.C.I.P.

An Owner Controlled Insurance Program (OCIP), frequently referred to as "Wrap-Up" Insurance, is an insurance program designed for large construction projects. Under such a program the owner procures certain insurance coverage for itself, contractors and subcontractors of any tier, when performing job site operations. The OCIP replaces the traditional approach wherein the owner requires contractors to provide Workers' Compensation, Liability and Builders' Risk insurance.

An OCIP presents advantages over traditional construction insurance and loss control procedures for several reasons:

- Centralizes the purchase of insurance coverage.
- Coordinates claim management, loss control and safety and administration under a single authority.

The key to the operation and success of an OCIP is consolidation by the owner of the essential lines of project insurance (i.e., workers' compensation, liability, builders' risk), security, and safety and loss control programs.

Characteristics of an OCIP include:

- A well defined single project or site.
- A project for a finite number of years.
- Consolidation of the workers' compensation, liability, and builders' risk
 insurance for the owner, contractors and subcontractors in a single
 program managed by the owner's broker that provides coverage for the
 owner, contractors and subcontractors..
- Hard construction costs exceeding \$125 million, (California law for public agencies), with a significant labor component.
- A safety and loss control program dedicated to the specific project.
- The owner purchases better coverage and limits than the contractors and subcontractors could provide on a cumulative basis. The ESRP has \$200 million in liability insurance which is purchased at extremely competitive rates with insurance coverage and limits that are dedicated solely to the project.

 Coordinated Claims Management. The OCIP plus the ADR program for workers' compensation claims creates a tremendously effective environment for insurance claims management that reduces litigation, expedites claim settlement, integrates claim adjustment, thereby <u>lowers</u> costs.

Additionally, there are qualitative factors that support the concept on large construction projects such as the ESRP. They include the following:

- <u>Economies of Scale/Pooled Buying Power</u> The pooling of buying power makes it possible for the Owner to obtain expanded insurance coverage tailored to the project needs at collectively lower premium costs than contractors would pay for individually placed insurance with less coverage.
- <u>Reduced Construction Cost</u> By eliminating insurance costs, associated overhead and profit mark-up from Contractors bids, Contractors bids are reduced overall.
- <u>Elimination of Duplication</u> The use of an OCIP eliminates or significantly reduces the possibility of confusion and conflict among carriers in the event of loss. In addition, the cost of duplication of limits is eliminated since all contractor and subcontractor limits are replaced by one limit under the OCIP
- Elimination of Inter-Insurance Company Litigation One of the most costly aspects of an insurance program is the cost of inter-company litigation in an attempt to determine relative liability. A single primary insurer eliminates the necessity of such litigation and thus reduces the cost of insurance.
- More Realistic Loss Settlements Dedicated claims adjusters for OCIP results in prompt investigation and settlements.

Lower claims settlements will result in lower insurance loss ratios, thus lower insurance costs.

- <u>Fewer Accidents and Safer Place to Work</u> Full time safety representatives from the OCIP administrator and Insurance Carrier allows for greater emphasis on loss control, which minimizes the number and severity of accidents.
- <u>Cash Flow Benefits of an OCIP</u> Because of the purchasing power of the owner, several premium payment and claim payment plans are available which defer or delay payment of the premium obligation to some later date.

• Enhancement of Public Relations - Metropolitan, not the contractor, controls the claims process and therefore can emphasize its interests, whereas a contractor may not feel the same obligation.

B. ACTUAL EASTSIDE RESERVOIR OCIP EXPERIENCE DEVELOPED BY QUALITATIVE FACTORS.

There are many benefits of a consolidated insurance program. First, are the financial benefits arising from <u>reduced insurance premiums</u>. Second are the financial benefits arising from <u>reduced losses</u>. Third, is contract cost reduction.

Historically, losses on major projects using OCIP have been below those projects wherein the insurance program is purchased by individual contractors. Based on reduced losses, premium savings on the order of 40% are not uncommon.

Based upon experience in the private sector between 1975 and 1992, seven OCIP water construction projects were showing loss ratios in the vicinity of 46% versus expected insurance carrier loss ratios of 60%. The experience was 33% lower than expected based upon prior statistical analysis.

Data was collected from the two largest ESRP contracts. The data indicates that the contractors excluded 4.5% of total construction costs from their bids because of MWD's OCIP. Assuming the data is credible, the projected offset amounts to approximately \$44 million (\$975 million construction hard costs x 4.5%). MWD has already saved \$10 million (\$44 million - \$34 million maximum possible insurance costs). This figure does <u>not</u> consider the overhead and administrative costs which are excluded from the bids.

- Economies of Scale/Pooled Buying Power Examining workers' compensation only and assuming that Contractors could obtain the same pricing of \$36 million standard premium from inception as quoted by Hartford, Metropolitan saved \$3.6 million by eliminating contractor overhead (estimated at 10 percent). In addition, JV's initial marketing efforts reduced Hartford's quote to \$34 million. Further negotiations reduced Hartford's quote by 25% or \$9 million in consideration of the tailored workers' compensation program commonly referred to as ADR. The total premium savings achieved during the marketing of the OCIP workers' compensation coverage was \$12.6 million.
- Cash Flow Benefits of an OCIP Metropolitan elected to pay its premium on an annual basis. The projected ESRP payroll of \$328,410,000 developed an estimated workers' compensation premium of \$27 million (\$36 million x 75% +85 thousand surcharge allowing for the 25% credit for the entire project duration). These premiums are audited and adjusted annually based upon actual payroll of each contractor.

The original estimates assumed that \$26 million (328,410,000 x 7.86 percent) of gross labor expense would be incurred in the 1994-1995 policy year. The actual labor expense for policy year 1994/95 was \$9,694,887. This resulted in a return premium to Metropolitan of over \$2 million. Workers' compensation premium costs were not eliminated, but deferred to future years.

The retrospective premium adjustment for the 1994-1995 policy year resulted in a return premium of over \$300,000. The return premium was due to lower than anticipated losses

II. PROGRAM ACCOMPLISHMENTS

A. SCOPE OF SERVICES

Sedgick and its Joint Venture Partners continues to provide OCIP Risk Management and Administrative Support Services for the Metropolitan's ESRP. These support services are provided primarily through our on-site service office. The service office is staffed by one ombudsperson for the ADR program, one administrator and two safety professionals. The service office is responsible for general administration, claims processing and administration, loss control and safety, and the risk management information system.

Following are general categories of the service requirements.

Terms of Agreement

SERVICES TO BE PERFORMED BY JV

- > Develop insurance specifications for construction bid documents.
- Design and market the insurance program.
- Organize and facilitate OCIP insurance administration.
- Establish and facilitate claims management and claims administration.
- Develop and administer risk control (safety/loss prevention) services.
- > Provide a project risk management information system.

B. JV PERFORMANCE SUMMARY

JV continues to work closely with the Metropolitan's staff, providing risk management, marketing and insurance services as it relates to project activities. The more significant aspects of our OCIP program were:

1. **ADMINISTRATION**

- Contractor/Subcontractor Enrollment Enrolling new contractors/subcontractors into the OCIP; one hundred twenty-five (125) contractors/ subcontractors.
- Policy Issuance/Certificate Issuing certificates of insurance and reviewing issued policies for those contractor/subcontractors who have enrolled into the OCIP. All enrolled contractors receive individual policies or certificates as contractually required.

- Payroll reports Receiving, reviewing and recording contractor payroll information. JV has recorded payroll totaling \$33,530,585.
- ➤ Verifying Insurance Coverage Contractors are required to submit evidence of insurance not provided by the OCIP. JV reviews and approves all certificates of insurance as submitted by contractors.
- Project Insurance Premium Invoices To date, Metropolitan was invoiced a total of \$20,602,173.93. Metropolitan received a return premium of \$2,025,865.
- Participation in Pre-Bid and Pre-Construction Meetings JV is continuing to participate in all scheduled pre-bid and pre-construction meetings for the ESRP.

2. SAFETY AND LOSS CONTROL

THE PROJECT INJURY REPORT DISPLAYS INCIDENT RATES FOR LOST TIME CASES (4.36) AND TOTAL COSTS THROUGH THE CALCULATION OF MAN-HOURS, DAYS AWAY FROM WORK AND INJURIES THAT RESULT IN MEDICAL TREATMENT BEYOND FIRST AID (12.27). ESRP'S GOAL IS TO BE EQUAL TO OR LOWER THAN THE NATIONAL HEAVY CONSTRUCTION INCIDENT RATES FOR LOST TIME CASES (4.2) AND RECORDABLE CASES (10.2).

PROJECT INJURY REPORT
INCIDENT RATES FOR LOST TIME CASES & LOST WORK DAYS
DECEMBER 1, 1994 THROUGH DECEMBER 31, 1996 BY CONTRACTOR

					LOST
			RECORDABLE	LOST	TIME
CONTRACTOR		RECORDABLE	INCIDENT	TIME	INCIDENT
(including sub-contractors)	MANHOURS	CASES	RATE ¹	DAYS	RATE ²
A & B LANDSCAPING	18,166	1	11.01	0	0
ADVANCO CONSTRUCTORS	249,718	32	25.63	14	11.21
ATKINSON-WASHINGTON- ZACHRY	918,310	53	11.54	18	3.92
ATKINSON-WASHINGTON- ZACHRY (TUNNEL)	3,004	1	66.58	0	0
E.L. YEAGER	201,240	12	11.93	5	4.97
ERRECA'S, INC.	29,158	4	27.44	2	13.72
FLEMING ENGINEERING, INC.	21,829	1	9.16	0	0
KIEWIT - GRANITE	18,166	o	o	0	0
KIEWIT - PACIFIC	199,989	14	14	3	3
SOUTHERN CALIFORNIA ASSOCIATES	313,342	3	1.91	1	0.64
GRAND TOTAL	1,972,922	121	12.27	43	4.36
NATIONAL HEAVY CONSTRUCTION INCIDENT RATES (1994)			10.2		4.2

<u>Total Cases</u> = <u>Recordable Cases</u>: all work related deaths and illnesses and those work related injuries which result in medical treatment beyond first aid.

Incidence rates represent the number of injuries and/or illnesses per 100 full time workers and are calculated as: $(N/EH) \times 200,000$ where N = number of injuries and/or illnesses, EH = total hours worked by all employees during the calendar year. 200,000 = base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year).

Lost Time Cases: injuries involving days away from work.

As indicated above, the incident rates are slightly above the national averages. We have initiated a procedure to intensely monitor efforts for those contractors whose incident rate does not meet project objectives. In addition, management has agreed to increase the number of on-site safety professionals to cover increased production activity.

- Development and Maintenance of the OCIP Construction Safety Procedures Manual Following an audit conducted by Metropolitan's ECD personnel, JV incorporated various recommendations to clarify roles and responsibilities of field safety personnel and the safety reporting mechanism.
- ➤ OCIP Safety site Inspections and Hazard Analysis A hazard analysis is performed before each scheduled construction activity and discussed with contractors and their employees prior to commencement of the activity. The safety team continues to conduct daily site inspections of each major contractor's activities. Contractors were in compliance with safety requirements.
- Contractor safety Program participation JV participated in over 150 combined PMPM, tool box, workers compensation committee and joint safety council meetings. The project safety program was communicated to contractors, subcontractors and other interested parties.
- Training Programs JV provided contractors/subcontractors training in crane safety, ladder safety, safe traffic patterns, trench shoring and fall protection. Safety training will continue for the duration of the project.

3. <u>CLAIMS MANAGEMENT AND ADMINISTRATION</u>

The claims experience for the ESRP continues to be highly favorable. The project has an incurred loss ratio of 37%. (Loss ratio equals losses divided by estimated premiums.)

A. Administration

Monitor Insurers Claims Handling Procedures -

- JV assisted Metropolitan with the design and set-up of the on-site first-aid station. The station conducts initial drug screening for new employees and provides first aid to injured employees. The station has treated over 250 workers to date.
- > JV assists Hartford with claims investigation and settlement of losses.
- > **JV** meets with Hartford quarterly to review the status of open claims and file reserves.

B. Alternative Dispute Resolution Process (ADR)

JV's Ombudsperson has been successful in providing workers compensation benefits to injured workers in a timely manner and with the least disruption to construction work. JV's Ombudsperson has accomplished the following:

- Followed-up with injured workers regarding medical status, temporary disability checks and expense reimbursement.
- Arranged modified works plans with contractors for injured workers.
- Conducted ADR orientation sessions for new contractor employees.
- Reviewed and discuss injured employee's medical treatment with various specialists.
- Participated in labor/management meetings, providing ADR information and claim up-date to the committee.
- Revised the ADR procedural manual to include a section on Vocational Rehabilitation.

- Developed a pamphlet entitled "Help in Returning to Work" for distribution to workers.
- Provided required annual reports to the State's Department of Workers' Compensation regarding the experience on the project.

C. Claims Overview

- Workers' Compensation There have been 144 incurred losses amounting to \$1,355,558 which developed an incurred loss ratio of 37.14% (loss ratio = incurred losses/premium). The 37.14% is lower than the established goal for ESRP of 40% loss ratio.
- General Liability There have been thirteen reported losses, currently reserved at \$28,264. The contractor is responsible for the first \$15,000 of each loss and consequently each is responsible for all of the current losses. Underwriters are extremely pleased with the results of the program to date.
- **Builders' Risk** (Property) The property program has no losses through December 31, 1996. Underwriters are pleased and the program has produced excellent results.

The following chart illustrates the workers' compensation loss experience for individual contractors:

WORKERS' COMPENSATION PROGRAM INCURRED LOSS RATIO BY CONTRACTOR - BEST FIRST DECEMBER 1, 1994 THROUGH DECEMBER 31, 1996

CONTRACTOR (including sub-contractors)	CONTRACT REPORTED PAYROLL TO DATE	CONTRACT ESTIMATED PREMIUM TO DATE	NUMBER OF LOSSES	INCURRED LOSSES	INCURRED LOSS RATIO	RANK
KEWIT- GRANITE	\$0	\$0	0	\$0	0.00%	1
SOUTHERN CALIFORNIA ASSOCIATES	\$3,678,430	\$400,434	6	\$8,025	2.00%	2
A & B LANDSCAPING	\$74,273	\$8,085	1	\$199	2.46%	3
KIEWIT-PACIFIC	\$4,996,818	\$543,9 5 4	18	\$56,980	10.48%	4
FLEMING ENGINEERING, INC.	\$371,139	\$40,402	1	\$1 2,7 30	31.51%	5
ATKINSON-WASHINGTON-ZACHRY	\$14,029,985	\$1,527,304	71	\$602,274	39.43%	6
E. L. YEAGER	\$4,140,541	\$450,739	13	\$195,300	43.33%	7
ERRECA'S, NC.	\$681,350	\$74,172	5	\$43,872	59.15%	8
ADVANCO CONSTRUCTORS	\$5,551,507	\$60 4,337	28	\$434,828	71.95%	9
ATKINSON-WASHINGTON-ZACHRY (TUNNEL)	\$6,542	\$712	1	\$1,350	189.56%	10
GRAND TOTAL	\$33,530,585	\$3,650,140	144	\$1,355,558	* 37.14%	

^{*} The 37.14% incurred loss ratio is below the anticipated incurred loss ratio of 40% for the project (Loss Ratio = incurred losses/premium).

Significant Large Claims (losses over \$50,000)

<u>Date of Injury</u> 07/25/96	Contractor Advanco	<u>Claim No.</u> 55414	<u>Injury</u> Cervical Strain	Loss Amount \$66,556
01/26/96	и	51038	Head Injury	\$114,744
02/14/96	"	51555	Lumbar Fusion	\$61,451
06/28/96	H	54355	3rd Degree Burns	\$125,480
03/27/96	11	52294	Fractured Arm	\$84,468
04/29/96	"	53028	Lumbar Surgery	\$86,084
04/12/96	Yeager	52669	Multi. Fractures	\$149,940
07/22/96	AWZ	55054	Fracture Ankle	\$70,215
09/24/96	**	57933	Knee Problem	\$55,177
09/03/96	n .	58264	Head Trauma	\$68,250
10/05/96	11	59245	Lumbar Surgery	\$93,788

4. <u>INSURANCE MARKETING SERVICES</u>

JV continues to interact with primary and excess underwriters on behalf of the MWD. Our accomplishments have included the following:

- Prepared and presented an annual update on the project for excess underwriters. This information was further updated to London Underwriters in December, 1996.
- Audited payroll resulted in a return premium to MWD of \$2,025,865. This overpayment is the result of lower payroll hours.
- Processed a variety of endorsements to clarify coverage and enrollment status of contractors and sub-contractors.
- Monitored legislative changes and advised the MWD as necessary.

5. RISK MANAGEMENT INFORMATION SYSTEMS

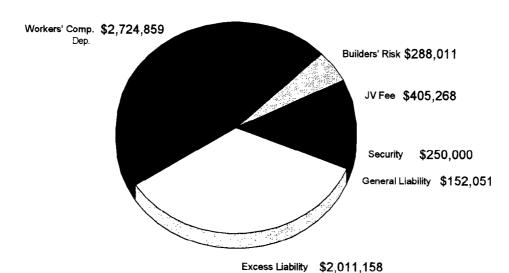
Insurance/Risk Management Expenses (Exhibits I & II) The two charts provided below, and on the following page, display the OCIP's cash outflow expenses totaling \$10,728,646 for the 1994-1995 and 1995-1996 periods.

Exhibit IA

1994 - 1995

Insurance/Risk Management Expenses

A. Actual Billed Premium and Expenses = \$5,801,347

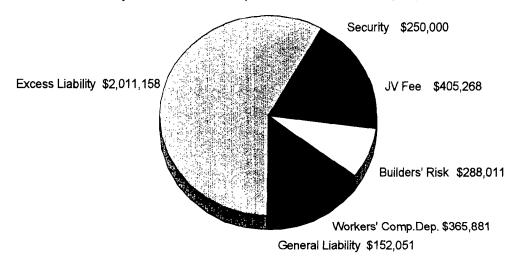


POLICY YEAR	ESTIMATED PAID (PREMIUM/EXPENSES)	ACTUAL PAID PREMIUM/EXPENSES)	VARIANCE
12/1/94-95	\$5,801,347	\$3,442,369	(\$2,358,978)
12/1/95-96	\$7,286,277		
12/1/96-97	\$8,896,597		

Exhibit 1B 1994 - 1995

Insurance/Risk Management Expenses

B. Actual Adjusted Premium and Expenses Based on Audit = \$3,442,369.



Note: Actual billed total premium and expenses
Return premium as result of lower payroll
Return premium as result of lower losses
Actual adjusted total premium and expenses

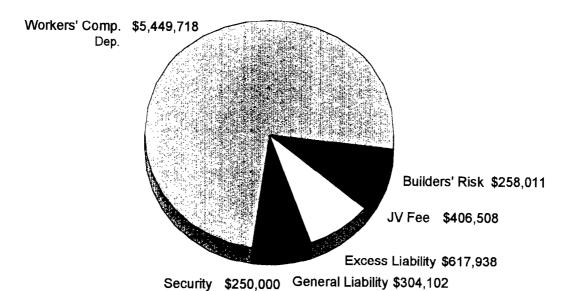
\$5,801,347 (\$2,025,865) (\$333,113) \$3,442,369

Exhibit II

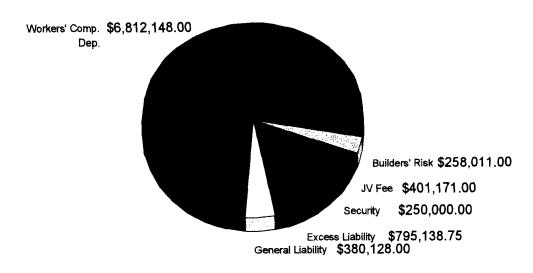
1995 - 1996

Insurance/Risk Management Expenses

Estimated Paid Total Premium and Expenses = \$7,286,277



1996 - 1997
Insurance/Risk Management Expenses



Estimated Paid Total Premium and Expenses = \$8,896,596.75

CONCLUSION

Metropolitan was the <u>first</u> public agency in the State of California to combine the elements of Alternative Dispute Resolution with the Owner Controlled Insurance Program and blend these programs into a Project Labor Agreement. The synergistic approach has created an atmosphere of labor stability in which the Metropolitan Water District will achieve substantial financial savings.

Metropolitan has achieved significant up-front savings on its Owner Controlled Insurance Program. These savings were achieved because of the following:

- An effective insurance marketing effort by Joint Venture.
- Metropolitan's technical and engineering qualifications in managing major construction projects, combined with its corporate management commitment to safety and loss control.
- Metropolitan's willingness to step to the forefront of public agencies by implementing a new approach to improve the effectiveness of the workers' compensation delivery system.

Although the lost time incidents rates are higher than projected, current financial results arising from ADR program is extremely encouraging.

Metropolitan, at a minimum, should save due to negotiated premium reduction, contract cost reduction and anticipated lower losses, approximately \$20 million. Our early experience indicates that our 40% loss ratio target is realistic and well within reach. Meeting our target will result in an additional \$15 million in savings by the end of the project.

Overall, the program results are very encouraging and we expect these early established positive trends in safety/loss control and incurred claims cost to continue throughout the term of the project.