- **Board of Directors**
  Business and Finance Committee

June 10, 2008 Board Meeting

7-3

Subject

Approve up to $1.344 million to purchase insurance coverage for Metropolitan's Casualty and Property Insurance Program

Description

The existing Property and Casualty Insurance Program consists of the following lines of insurance coverage and amounts expiring in June 2008:

1. $25 million Aircraft Liability coverage; Aircraft Hull coverage for assessed value
2. $5 million Crime coverage for exposures such as fraud, theft, and public employee dishonesty
3. $75 million General Liability coverage in excess of a $25 million self-insured retention
4. $60 million Fiduciary and Employee Benefits Liability coverage in excess of a $25 million self-insured retention
5. $65 million Public Officials, Directors and Officers Liability coverage in excess of a $25 million self-insured retention
6. $25 million Workers' Compensation and $1 million Employers Liability coverage in excess of a $5 million self-insured retention
7. $5 million Special Contingency coverage
8. $250,000 Travel Accident coverage

Total premiums to renew and replace Metropolitan's property and casualty insurance policies for fiscal year 2008/09 will be approximately 2 percent lower than for the current fiscal year. The decrease is primarily due to the purchase of three-year Travel Accident and Special Contingency crime policies in 2007/08. There were slight premium increases in some coverages due to exposure growth and inflation, while others remained flat or experienced slight decreases. **Attachment 1** compares the current coverages and premiums to those proposed for fiscal year 2008/09. Insurance market conditions have improved as losses to insurers arising from the 9/11 terror event and other catastrophic incidents have been absorbed, and insurance risk capacity has increased.

Each of the different lines of insurance coverage is described below:

General Liability – The excess general liability coverage; as well as the Fiduciary and Employee Benefits, and Public Officials, Directors and Officers liability policies; provides catastrophic coverage for claims in excess of Metropolitan's $25 million self-insured retention. The aggregate premium for these coverages has increased slightly from $924,220 in the current year to $926,133 for fiscal year 2008/09. Metropolitan also received a continuity credit (a premium reduction based on number of years with the insurer and claims experience) of $22,514 for the current year, which reduced the actual premium to $901,706. The credit amount for 2008/09 has yet to be calculated by the carrier.

Workers' Compensation – Excess workers' compensation insurance protects Metropolitan against claims for workplace injuries and illness. Once again, this coverage is designed to handle a catastrophic event such as multiple injuries occurring at the Headquarters facility due to a major disaster. Metropolitan is self-insured for the first $5 million in losses, after which the $25 million policy limit would kick in. Because rates have been flat or decreasing, staff has looked at options to decrease the self-insured retention, or to increase coverage limits. The cost of coverage with a $2 million retention is $236,300, an increase of over $132,000 from the current premium for a $5 million retention. The cost to increase the coverage limits from $25 million to statutory is $142,582. The cost of retaining the current $5 million self-insured retention and $25 million excess policy limit is $100,806, a decrease of approximately $3,319 from last year's premium. The risk exposure remains consistent, consequently, staff recommends purchasing coverage at the same levels as last year.

Property – Metropolitan has not carried property insurance because of a favorable loss history, a strong financial position, and the ability to access capital markets to fund emergency repair projects. As reported in May, staff has been evaluating the merits of adding catastrophic "all risk," as well as flood and earthquake coverage to Metropolitan's insurance portfolio. An "all risk" property policy insuring just the Headquarters Building for $100 million with a $100,000 deductible would cost approximately $50,000. A flood and earthquake policy with a $25 million limit and 5 percent deductible would cost approximately $400,000. While premium costs have moderated in recent years, they have not decreased enough to merit obtaining property coverage for the Headquarters facility where the risk exposure remains stable. However, staff is undertaking a more comprehensive review of Metropolitan's key facilities to determine whether some with higher risks justify coverage if cost-effective. At this point, staff recommends that Metropolitan continue its practice of self-insurance for property-related risk.

Specialty Coverages – Metropolitan also carries Aircraft Liability and Hull, Crime, Travel Accident and Special Contingency policies to complete its insurance portfolio. The aircraft liability and hull policy provides a $25 million aircraft liability limit, and hull or property coverage based on the assessed value of the Metropolitan planes. In 2007/08 a policy covering two planes cost $48,187. A similar policy for fiscal year 2008/09 will cost $41,867. The crime policy provides $5 million coverage to protect against losses such as fraud, public employee dishonesty, and forgery. The cost of the current crime policy is $14,464. The cost of similar coverage for fiscal year 2008/09 will be $14,452.

Employment Practices Liability Insurance - This type of policy provides coverage against claims from employees and former employees for acts such as wrongful termination, discrimination, and sexual harassment. Metropolitan has not had this coverage in the past. Since the late 1990s, many public entities, including Metropolitan, have experienced increases in both the frequency and severity of this type of claim. The estimated cost of an Employment Practices Liability Insurance policy (EPLI) with $10 million coverage limits and a self-insured retention of $1 million is $130,000. Reducing the retention to $500,000 increases the premium to $260,000.

Since 2002/03, Metropolitan has had three claims with combined settlement and defense costs of over $1 million, and an additional claim that costs over $500,000. Hypothetically speaking, during this six-year period, if coverage with a $500,000 deductible had been available at $260,000 per year, Metropolitan's exposure for those four claims would have been $3.56 million (six years of premium plus $500,000 retention costs for four claims), instead of the $5,274,869 paid on these claims. If the $1 million self-insured retention option were chosen at an estimated cost of $130,000 per year, Metropolitan's exposure to date would have been $4,392,593 instead of $5,274,869. Along with working toward controlling this exposure and reducing defense costs, staff recommends purchasing the EPLI coverage with the $500,000 retention, upon satisfaction of terms and conditions by the General Counsel and Risk Manager.

To complete the insurance renewal for fiscal year 2008/09 with similar limits and retentions, the cost is expected to be approximately $1.084 million compared with the $1.104 million expended in fiscal year 2007/08. To include EPLI coverage, the renewal will cost approximately $1.344 million.

Policy

Metropolitan Water District Administrative Code Section 6413: Insurance Program requires the General Manager to review any changes to the insurance program.

Metropolitan Water District Administrative Code Section 9101: Risk Retention and Procurements of Insurance requires the procurement of insurance for losses in excess of reserve ($25 million) as specified in Administrative Code Section 5202.

California Environmental Quality Act (CEQA)

CEQA determination for Options #1 and #2:

The proposed actions are not defined as a project under CEQA because they involve continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed actions are not subject to CEQA because they involve other government fiscal activities, which do not involve any commitment to any specific project, which may result in a potentially significant physical impact on the environment (Section 15378(b)(4) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed actions are not subject to CEQA pursuant to Sections 15378(b)(2) and 15378(b)(4) of the State CEQA Guidelines.

Board Options

Option #1

Adopt the CEQA determination and approve up to $1.084 million to renew or replace the Aircraft Liability, Crime, Excess General Liability policies and Excess Workers' Compensation policy (retaining the $5 million self-insured retention).
Fiscal Impact: The anticipated $1.084 million, within the $1.4 million budget, to obtain coverage would result in an approximate $21,000 decrease compared with the premium cost for fiscal year 2007/08.
Business Analysis: Protects Metropolitan's financial position against risk of catastrophic loss.

Option #2

Adopt the CEQA determination and approve up to $1.344 million to renew or replace the Aircraft Liability, Crime, Excess General Liability policies and Excess Workers' Compensation policy (retaining the $5 million self-insured retention); and purchase Employment Practices Liability Insurance with a $500,000 retention.
Fiscal Impact: The anticipated $1.344 million, within the $1.4 million budget, to obtain coverage would result in an approximate $239,500 increase compared with the premium cost for fiscal year 2007/08.
Business Analysis: Protects Metropolitan's financial position against risk of catastrophic loss.

Staff Recommendation

Option #2

Fidencio M. Mares 5/27/2008
Director of Human Resources *Date*

Jeffrey Kightlinger 5/28/2008
General Manager *Date*

Attachment 1 – Insurance Premium Comparison

BLA #6085

Metropolitan's Casualty and Property Insurance Program
Insurance Premium Comparison
In Dollars

Insurance Policy Type	Self-Insured Retention (SIR)	Coverage Limits	2007/08 Actual Insurance Premium	2008/09 Quoted Insurance Premium	2008/09 Insurance Premium Cost Change	2008/09 Insurance Premium % Change
Excess General Liability	$25 million	$35 million	389,258	413,849 *	24,591	7%
Excess General Liability Following Form	AEGIS layer	$40 million	353,393	346,292	(7,101)	(2%)
Fiduciary and Employee Benefits Liability	$25 million	$35 million	15,272	15,272	0	0%
Public Officials Directors and Officers Liability	$25 million	$25 million	143,783	150,720 *	6,937	4.8%
Crime	$150,000	$5 million	14,464	14,452	(12)	0%
Excess Workers' Compensation	$5 million	$25 million	104,125	100,806	(3,319)	(4%)
Aircraft Liability and Hull	$0	$25 million	48,187	41,867	(6,320)	(13.1%)
Special Contingency Crime **	$0	$5 million	7,809	**NA**	**NA**	**NA**
Travel Accident **	$0	$250,000	27,586	**NA**	**NA**	**NA**
Option 1 - Total Premiums	**NA**	**NA**	**1,103,877**	**1,083,258**	**(20,619)**	**(2%)**
Employment Practices Liability	$500,000	$10 million	**NA**	260,000	**NA**	**NA**
Option 2 - Total Premiums	**NA**	**NA**	**NA**	**1,343,258**	**239,381**	**22%**

* Premium does not include continuity credits which amounted to $22,514 for 2007/08.
** Three-year term policies which were renewed in 2007/08.