SUMMARY STATEMENT

ITEM NO.       SUBJECT: Funding Reserve for Ongoing Environmental Remediation Victor Lofts

COMMITTEE:     New Business

COMMITTEE MEETING DATE: N/A

BOARD ACTION DATE: December 09, 2009

PROPOSAL: That the Board authorizes staff to reserve funding not to exceed $500,000 in order to comply with existing DRPA contractual and other legal obligations pending resolution of an insurance claim being pursued by DRPA.

PURPOSE: To reserve funds for costs that may be incurred by DRPA before the final resolution of an insurance claim being pursued by DRPA.

BACKGROUND: In February 2001, DRPA Commissioners approved $6 million to be used to complete the environmental remediation of the Victor Lofts site (formerly the Historic Nipper Building) necessary to support the conversion of the building into 300 market rate residential apartments. As part of the DRPA participation in the Victor Lofts project, DRPA assumed certain responsibilities DRPA purchased insurance through an AIG Company, Commerce and Industry Insurance to cover certain potential costs.

Commerce and Industry Insurance Company initially approved claims submitted under our policy, but in March 2008, began to deny coverage. DRPA has worked with our environmental consultant and DRPA has engaged counsel to pursue the claim. We anticipate additional expenses for remediation activities to be performed at the site in the future to cost up to an estimated additional $500,000 with such possible expenses to be incurred prior to the time the insurance claim may be resolved.

SUMMARY:

Amount: $500,000
Source of Funds: 2001 Port District Bonds A
Capital Project #: N/A
Operating Budget: N/A
Master Plan Status: 1998
Other Fund Sources: N/A
Duration of Contract: N/A
Other Parties Involved: N/A
RESOLUTION

RESOLVED: That the Board of Commissioners hereby authorizes staff to reserve funding in an amount not to exceed $500,000 for ongoing expenses for which DRPA may have contractual or other legal responsibility in relation to the Victor Lofts project pending resolution of an insurance claim being pursued by DRPA as set forth in the attached Summary Statement; and be it further

RESOLVED: That the eventual payment of the claim by the insurer would result in the replenishment of the original project fund with proceeds that are anticipated to be sufficient to pay for all necessary expenses. In the likely event that payment of the claim is made, any portion of the $500,000 reserve approved herein that has been expended will be reimbursed to the extent the amount of the claim is sufficient.

RESOLVED: Any proposed use of the said funds under this Resolution must qualify for use of applicable bond, legal and tax provisions; and be it further

RESOLVED: The Vice Chair and the Chief Executive Officer must approve and are hereby authorized to approve and execute all necessary agreements, contracts, or other documents on behalf of the DRPA. If such agreements, contracts, or other documents have been approved by the Vice Chair and Chief Executive Officer and if thereafter Vice Chair is absent or unavailable, and if it is necessary to execute the said document(s) while he is absent or unavailable, then the Chief Executive Officer shall execute such documents on behalf of DRPA.

SUMMARY:

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