SUMMARY STATEMENT

ITEM NO. DRPA-11-049  SUBJECT: Renewal of DRPA Claims Made Excess Liability Insurance

COMMITTEE: Executive

COMMITTEE MEETING DATE: May 18, 2011

BOARD ACTION DATE: June 8, 2011

PROPOSAL: That the Board authorizes staff to bind the renewal of the DRPA’s Claims Made Excess Liability policy.

The policy is placed by our Broker/Consultant, The Graham Company. The Graham Company marketed the DRPA’s Claims Made Excess Liability policy to several domestic and international insurance companies to secure the most competitive pricing. The Graham Company provided its Marketing Summary to staff to review, and a copy of same is included herewith for the Board’s review.

PURPOSE: To renew the Claims Made Excess Liability Insurance necessary to reduce the DRPA’s exposure to risk and liability.

BACKGROUND: The DRPA’s Claims Made Excess Liability policy provides coverage for claims involving Bodily Injury, Personal Injury, Property Damage or Advertising Injury, which are first made in writing against the DRPA during the policy term.

The coverage only applies to claims that first commenced at a specific time after the June 1, 1986 retroactive date, and prior to the expiration date of the policy (and reported up to 120 days thereafter).

The current carrier is the Lexington Insurance Company. The policy limit for the expiring policy is $25 million each accident/aggregate, subject to a $5 million self-insured retention. The policy includes an annual aggregate reinstatement (excess of $5 million each accident self-insured retention) for 125% of the annual premium provided written notice is made within 125 days of the expiring policy.

Terrorism Coverage
Terrorism Liability Coverage is provided for the policy limit of liability ($25 million, excess of the $5 million self-insured retention). “Terrorism” means the use or threatened use of force or violence against person or property, or commission of an act dangerous to human life or property, or commission of an act that interferes with or disrupts an electronic or communication system, undertaken by any person or group,
whether or not acting on behalf of or in any connection with any organization, government, power, authority or military force, when the effect is to intimidate, coerce, or harm:

a. a government;
b. the civilian population of a country, state, or community; or
c. to disrupt the economy of a country, state, or community.

“Terrorism” also includes an act of terrorism as defined by the TRIA 2007 Act, and any revisions or amendments thereto.

Renewal Summary
In 2010, the premium for the coverage with Lexington was $843,291. Lexington’s initial position was that the June 30, 2011 renewal quotation for the same coverage would include a 10% increase in premium (an $84,329 increase). Lexington has since reconsidered this 10% premium increase, and has offered to keep the premium quote flat for the June 30, 2011-June 30, 2012 policy term. However, as a result of recent development on a significant PATCO automobile claim, Lexington is faced with the potential of paying a $1.5 - $2 million settlement on behalf of the DRPA. In the event Lexington has to pay more than $5 million as the settlement on behalf of the DRPA prior to the renewal date of June 30, 2011, Lexington will seek to increase the premium anywhere from 5-10% (increase would range between $42,164.50 - $84,329).

Since the quote for the Claims Made Excess Liability policy was released more than 90 days prior to policy inception, the premium quote is contingent upon Lexington obtaining facultative reinsurance within 30 days prior to binding coverage effective June 30, 2011. Pricing or coverage terms may be subject to change during this 90 day period.

Staff Recommendation

Staff recommends that we bind the existing Claims Made Excess Liability policy with the incumbent carrier (Lexington). The estimated premium for the 2011-2012 policy term will be $843,291. However, the estimated premium is subject to a 5-10% increase (the increase could range between $42,164.50 - $84,329), if Lexington pays more than $5 million on a PATCO automobile claim prior to June 30, 2011.
<table>
<thead>
<tr>
<th>SUMMARY:</th>
<th>Amount:</th>
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<tbody>
<tr>
<td></td>
<td>Total: estimated $843,291*</td>
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<tr>
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<td>Claims Made Excess Liability: $843,291*</td>
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<td></td>
<td>*Premium is subject to the outcome of a potential settlement, which could result in a 5-10% premium increase, (ranging between $42,164.50 - $84,329), and the ability to obtain the necessary facultative reinsurance.</td>
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<tr>
<td>Source of Funds:</td>
<td>Revenue Fund and General Fund</td>
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<td>Capital Project #:</td>
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<tr>
<td>Operating Budget:</td>
<td>DRPA Risk Mgt. C/E #8</td>
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<td></td>
<td>PATCO Admin. C/E Insurance &amp; Claims</td>
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<tr>
<td>Master Plan Status:</td>
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<tr>
<td>Other Fund Sources:</td>
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<tr>
<td>Duration of Contract:</td>
<td>June 30, 2011 to June 30, 2012</td>
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<tr>
<td>Other Parties Involved:</td>
<td>Lexington Insurance Company</td>
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RESOLUTION

RESOLVED: That the Board of Commissioners approves and authorizes staff to bind the Claims Made Excess Liability policy with Lexington Insurance Company for a one-year term beginning June 30, 2011 to June 30, 2012. The policy limit is $25 million each accident/aggregate, subject to a $5 million self-insured retention. The total estimated premium for this policy is $843,291; and be it further

RESOLVED: That the Board of Commissioners recognizes that as a result of a recent development on a significant PATCO automobile claim, Lexington Insurance Company is faced with the potential of paying a $1.5-2 million settlement on behalf of the DRPA. In the event that Lexington has to pay more than $5 million as the settlement on behalf of the DRPA prior to the renewal date of June 30, 2011, Lexington will seek to increase the premium any where from 5-10% (premium increase would range between $42,164.50 - $84,329, plus applicable taxes); and be it further

RESOLVED: That the Board of Commissioners recognizes that the estimated premium quote is contingent upon the Lexington obtaining the necessary facultative reinsurance within 30 days prior to binding coverage effective June 30, 2011. Pricing or coverage terms may be subject to change during this 90-day period; and be it further
RESOLVED: The Chair, 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 Chair, Vice Chair and Chief Executive Officer and if thereafter either the Chair or Vice Chair is absent or unavailable, the remaining Officer may execute the said document(s) on behalf of DRPA along with the Chief Executive Officer. If both the Chair and Vice Chair are absent or unavailable, and if it is necessary to execute the said document(s) while they are absent or unavailable, then the Chief Executive Officer shall execute such documents on behalf of DRPA.

SUMMARY: Amount: Total: estimated $843,291*
Claims Made Excess Liability: $843,291*
*Premium is subject to the outcome of a potential settlement, which could result in a 5-10% premium increase (ranging between $42,164.50 - $84,329), and the ability to obtain the necessary facultative reinsurance.
Source of Funds: Revenue Fund and General Fund
Capital Project #: N/A
Operating Budget: DRPA Risk Mgt. C/E #8
PATCO Admin. C/E Insurance & Claims
Master Plan Status: N/A
Other Fund Sources: N/A
Duration of Contract: June 30, 2011 to June 30, 2012
Other Parties Involved: Lexington Insurance Company