The current Pollution Legal Liability Extension Policy will expire on March 26, 2013. Staff seeks authorization to renew the existing six-month extension policy. Aon has presented staff with four renewal options: (1) one-year; (2) three-years; (3) five-years; and (4) 10 years. Due to the DRPA’s long-standing relationship with AIG, coupled with the sizable claim already paid by AIG, Aon recommends that we bind the 10-year policy term with AIG. If approved, the 10-year policy term would be March 26, 2013 to March 26, 2023 for an estimated premium of $238,885. The AIG renewal offer is subject to the receipt and satisfactory review and acceptance of the original signed AIG Pollution Legal Liability Application, including all applicable attachments prior to binding.

Pursuant to DRPA-12-066, Aon is paid a fixed annual service fee not-to-exceed $129,000, payable in quarterly installments. Therefore, the proposed policy premium is net of commission.

At the Board’s direction, Aon aggressively marketed this coverage for the renewal policy term to several insurance companies in order to secure the most competitive pricing, terms, and conditions. A summary of Aon’s marketing efforts follows:

- Commerce & Industry (AIG) - $238,885 est. (incumbent)
- Greenwich Ins. Co. (XL) - $247,900
- Zurich Insurance Company - Deemed non-competitive
<table>
<thead>
<tr>
<th></th>
<th>1 year term</th>
<th>3 year term</th>
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</thead>
<tbody>
<tr>
<td><strong>XL</strong></td>
<td>$59,900 (estimated)</td>
<td>$99,900 (estimated)</td>
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<td>$149,900 (estimated)</td>
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<table>
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<tr>
<th></th>
<th>1 year term</th>
<th>3 year term</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AIG</strong></td>
<td>$53,087 (estimated)</td>
<td>$93,964 (estimated)</td>
</tr>
<tr>
<td></td>
<td>$140,681 (estimated)</td>
<td>$238,885 (estimated)</td>
</tr>
</tbody>
</table>

The AIG and XL options are similar in terms of pricing, terms, and conditions. Aon deemed the Zurich quote non-competitive because Zurich was the most expensive and also was using exclusionary policy language that was unacceptable.

Due to the perpetual obligation to indemnify Lockheed and others against liability and to perform certain environmental remediation, our longstanding relationship with AIG, and, in addition the sizable claim already paid by AIG, it is Aon’s recommendation that we renew the policy with AIG for a 10-year policy term.

**PURPOSE:** The policy will provide continued coverage for potential environmental personal injury, legal indemnification, and remediation claims that may arise from the lifting of deed restrictions for residential use of the former RCA buildings 8 (“Radio Lofts”) and 17 (“Nipper Building/Victor Lofts Apartments”).

**BACKGROUND:** The deed executed on November 30, 1993 by Martin Marietta Corporation (predecessor to Lockheed Martin) prohibited the use of the Nipper and Radio Loft buildings for residential purposes. Lockheed Martin agreed to remove the restriction provided the restriction remained in full force and effect as to the basement and first floor, and provided that Lockheed Martin was protected from any future claims arising out of any development of either building for residential purposes. The DRPA and others agreed to indemnify and hold Lockheed Martin harmless from any such claims.

On May 23, 2001, the DRPA entered into a 10-year agreement with Lockheed Martin Corporation, the City of Camden Redevelopment Agency (CCRA), and Cooper’s Ferry Development Association (CFDA), to redevelop the Nipper and Radio Loft buildings into residential apartment complexes, with related commercial and retail
uses. The redevelopment work on the Victor Loft Apartments is complete. However, Building 8 (“Radio Lofts”) has not been renovated at this time.

Pursuant to the terms of the Lockheed agreement, DRPA assumed responsibility for securing the required insurance. The original agreement with Lockheed and others required that DRPA purchase an environmental insurance policy with an aggregate limit of not less than $20 million and an initial policy term of at least 10 years. At the time the agreement was executed there were ongoing environmental remediation activities being conducted by Dranoff Properties, Inc., and its assignee, Victor Associates, L.P. Upon the issuance of “No Further Action” letters from the NJ Department of Environment Protection relative to these activities, the DRPA undertook the sole financial responsibility to maintain the policy and conduct further required work in order to maintain NJDEP standards and requirements.

The time period for the DRPA to maintain the required coverage under the Lockheed Martin Agreement expired on March 26, 2011. Therefore, there is no obligation to renew the policy. However, the DRPA does have a perpetual obligation to indemnify Lockheed and others (Martin Marietta and General Electric Company) against liability, and to perform certain environmental remediation. The renewal policy would cover DRPA’s risk of being called on to indemnify Lockheed and others in the event of a lawsuit related to the use of the building for residential purposes or to carry out future DRPA remediation obligations.

The policy covers new and pre-existing conditions (not known by the DRPA) that occur and are reported after March 26, 2001, the inception date and retroactive date of the original policy. The Pollution Legal Liability Policy includes a $20 million aggregate limit, with a $100,000 deductible and optional terrorism coverage, which was purchased by the Authority. The deductible is aggregated at $200,000 with a maintenance deductible of $25,000 for each and every claim thereafter. The policy will continue to provide coverage for microbial (mold) and Legionella exposure.

The AIG policy form contains one insuring agreement for new conditions coverage, and a separate insuring agreement for pre-existing conditions coverage. The renewal offer proposed by AIG
maintains the existing $20 million aggregate limit. It also maintains a $100,000 deductible. The deductible is aggregated at $200,000 for all policy term options, with a maintenance deductible of $25,000 for each and every claim thereafter. The renewal quote continues to provide optional terrorism coverage, which Aon continues to recommend.

As a result of Aon’s negotiation efforts, we have secured several policy enhancements that were not offered as part of the expiring policy. Those enhancements include, but are not limited to the following:

- If the Board approves a multi-year policy term, AIG has agreed to the following cancellation terms for returned premiums: minimum earned premium is 25% at inception, 50% on 3/26/2014; 75% on 3/26/2015; and 100% on 3/26/2017; (current minimum earned premium is 25% at inception and 100% at end of year one);
- Transportation pollution coverage for third parties is no longer subject to a retroactive date (currently, this coverage is subject to a retroactive date of 3/26/2001);
- Crisis/Catastrophe Management Costs (i.e. – public relations services) which provides coverage to pay for a pre-approved public relation firm to help restore public confidence in the insured, after a covered loss under the policy. The sublimit for this coverage is $250,000 each occurrence and $250,000 total aggregate. This sublimit is spread over the entire policy term and does not annually reinstate for long term policies. (This is a new coverage endorsement.)
- Definition of “Responsible Insured” for claim reporting purposes has been amended to include the General Counsel or Director of Risk Management & Safety (currently the definition of “responsible insured” for claim reporting purposes is the manager or supervisor of the Named Insured responsible for environmental affairs, control or compliance, or any officer, director, partner or member of the Named Insured)
- PIER Network Provider Deductible Reduction Endorsement - If the Named Insured uses a PIER Network Provider in responding to a pollution condition covered under Emergency Response Costs, then the deductible will be reduced to $75,000. A PIER Network Provider means an environmental or emergency response contractor that is a member of AIGs’ approved contractors list (This is a new coverage endorsement.)
• Fungi/Mold/Legionella is no longer limited to a sub-limit of $50,000 and is now covered up to the policy limits subject to a retroactive date of 3/26/2011
• The Asbestos/Lead-Based Paint Exclusion no longer applies to third-party claims for bodily injury or property damage, clean-up costs in soil or groundwater, or clean-up costs arising out of the accidental disturbance of asbestos or lead-based paint
• The Jurisdiction for litigation, Venue & Choice of Law has been amended from New York to the State of New Jersey;
• The exclusion for any pollution conditions discovered during a voluntary site investigation at Building 8 has been removed from the policy terms and conditions. Formerly known as the Voluntary Site Investigation Exclusion
• The Contamination Exclusion for Building 17 has been modified from excluding all pollution conditions referenced in certain scheduled specified reports prepared by Pennoni Associates to a less restrictive exclusion for clean-up costs arising out of chlorinated volatile organic compounds; and
• The Contamination Exclusion for Building 8 has been modified from excluding all pollution conditions referenced in certain scheduled specified reports prepared by Pennoni Associates to a less restrictive exclusion for clean-up costs arising out of PCBs, dioxins, total petroleum hydrocarbons, chlorinated volatile organic compounds, or PAHs.

Aon advises that the renewal offer by AIG will include the following changes to the existing policy terms and conditions:

• The Aggregate limit on multi-year policy terms are for the entire policy term and will not annually reinstate. AIG will not offer a reinstatement of the aggregate even with an additional premium payment, as the company no longer offers this enhancement on its environmental policy form; and

• AIG no longer offers an endorsement to purchase an Optional Extended Reporting Period (OERP) for the ten-year policy term. The OERP is available on the 1, 3, and 5 year options. DRPA never purchased an Optional Extended Reporting Period because it is something that is generally purchased if the policy is not going to be renewed.
For the reasons stated herein, Aon recommends that the Pollution Legal Liability Policy be renewed with Commerce and Industry Insurance Company (d/b/a AIG) for a 10-year policy term, effective March 26, 2013 to March 26, 2023, for an estimated premium of $238,885, net of commission. The estimated premium does not include the NJ PLIGA tax of 0.9% or the TRIA coverage for terrorism risk estimated at 3% of the policy premium.

SUMMARY: Amount: Estimated $238,885
Source of Funds: General Fund
Capital Project #: N/A
Operating Budget: DRPA Risk Mgt. C/E#8 – TBD
Patco Admin. C/E Insurance & Claims – TBD
Master Plan Status: N/A
Other Fund Sources: N/A
Duration of Contract: March 26, 2013-March 26, 2023
Other Parties Involved: Commerce and Industry Insurance Company and Aon Risk Services
RESOLUTION

RESOLVED: That staff be and is hereby authorized to bind a 10-year policy term of the Pollution Legal Liability Insurance Policy for the Victor Loft Apartment building (also known as RCA Building 17 or “Nipper Building”) and the Radio Lofts building (also known as RCA Building 8), with Commerce and Industry Insurance Company (d/b/a AIG) for an estimated premium of $238,885, including NJ PLIGA tax and optional terrorism coverage (TRIA) estimated at an additional 3% of the policy premium; and be it further

RESOLVED: That the policy renewal term of March 26, 2013 to March 26, 2023 shall be net of commission; and be it further

RESOLVED: That the Chairman, Vice Chairman 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 Chairman, Vice Chairman and Chief Executive Officer and if thereafter either the Chairman, Vice Chairman 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 Chairman and Vice Chairman 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: Estimated $238,885
Source of Funds: General Fund
Capital Project#: N/A
Operating Budget: DRPA Risk Mgt. C/E#8-TBD
PATCO Admin. C/E Insurance & Claims- TBD
Master Plan Status: N/A
Other Fund Sources: N/A
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