SUMMARY STATEMENT

ITEM NO.: DRPA-14-086

SUBJECT: Renewal of DRPA/PATCO
Public Officials and Employment Practices Liability Policy

COMMITTEE: Finance

COMMITTEE MEETING DATE: June 4, 2014

BOARD ACTION DATE: June 19, 2014

PROPOSAL: That the Board authorizes staff to bind the renewal of the DRPA/PATCO Public Officials and Employment Practices Liability policy with AIG. This policy is placed by our Broker/Consultant, Aon Risk Services.

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.

Aon marketed this coverage extensively for the 2013-2014 policy term to 17 insurance companies in order to secure the most competitive premium. AIG was the only quoting carrier willing to offer defense costs in addition to the limit of liability. This year Aon approached the incumbent, AIG to provide a renewal quote. At the renewal strategy meeting, Aon advised that since this coverage was marketed last year, it was not beneficial to the Authority to obtain quotes from these same niche markets that will only quote defense limits inside the limits of liability thereby reducing coverage.

PURPOSE: To protect the DRPA and PATCO and its appointed public officials, including directors, officers and employees, from third-party claims against these insured persons/organization from wrongful acts of errors, omissions, misstatements, neglect or breach of duty.

The policy also provides coverage to the DRPA and PATCO against claims brought by employees for alleged wrongful employment practices. Accordingly, staff seeks to renew the DRPA Public Officials and Employment Practices Liability Policy.

BACKGROUND: The incumbent carrier is AIG. The annual estimated premium for the term August 1, 2013 to August 1, 2014 is $103,035, net of commission. The policy will expire on August 1, 2014.

The expiring policy has an annual aggregate limit of $10 million, and the
following sublimits:

- $10 million for Public Officials Liability; and
- $10 million for Employment Practices Liability

AIG does not provide a separate limit for EPL claims. The sub limits are subject to the annual policy aggregate of $10 million. AIG will not offer a reinstatement of aggregate endorsement.

The $10 million aggregate policy is subject to the following Self Insured Retention (SIR) levels:

- $50,000 SIR for Public Officials; and
- a separate $250,000 SIR for Employment Practices claims.

The current AIG policy includes a bond exclusion which reads, “This policy shall not cover Loss in connection with a Claim alleging, arising out of, based upon or attributable to any failure to pay any bond, interest on any bond, any debt, financial guarantee or debenture”

Since 2003, all former Public Officials Liability policies included a bond exclusion for “Alleging, arising out of, based upon, or attributable to the issuance of bonds or the improper collection of taxes”. The exclusion also applied to defense costs. On July 16, 2009, staff recommended and the former CEO approved a “buy-back” of this exclusion for the additional premium of $19,189.

During the past year, Aon has been in negotiations with AIG to remove this exclusion in its entirety. AIG declined to remove the bond exclusion but has offered two options to schedule a sublimit for bond coverage for our consideration:

- a $3 million sublimit; and
- a $5 million sublimit.

**Bond Exclusion Options**

- The $3 million sublimit for bond coverage would be offered at no additional premium cost. AIG is willing to back-date the $3 million sublimit for bond coverage to May 12, 2014, subject to a signed AIG warranty letter. The signed warranty letter must be received by AIG within the next couple of weeks. The AIG warranty letter is basically a “no known claims” letter limited to the bond coverage endorsement. The draft AIG warranty letter would be submitted to General Counsel for any comments.

- AIG has also offered a $5 million sublimit for bond coverage. The annual premium
for this sublimit is $8,500; however, AIG has a minimum premium of $5,000 (NJ PLIGA tax to be included). AIG has offered to add the $5 million sublimit for bond coverage from a T-B-D effective date until the policy expiration 8/1/2014, for AIG’s minimum premium of $5,000 (NJ PLIGA tax to be included).

Both Bond sublimits are subject to a $100,000 self-insured retention and a signed AIG warranty letter.

The endorsement to add the sublimit for bond coverage would read:

“The Public Entity Coverage Section shall cover up to $________ in Loss (the “Bond Sublimit of Liability”) in connection with a Claim alleging, arising out of, based upon or attributable to any failure to pay any bond, interest on any bond, any debt, financial guarantee or debenture (a “Bound Claim”). Bond Claims shall be subject to the retention amount for this coverage Section as set forth in ITEM 6 of the declarations.”

Summary of Four (4) Renewal Quotes Offered by AIG:

1. AIG quoted the same policy terms, conditions and limits, but offered a $3 million sublimit for bond coverage for an estimated annual premium of $104,066 (including the NJ PLIGA tax and TRIA) for the renewal term of 8/1/2014-8/1/2015, net of commission. The $3 million sublimit for bond coverage is subject to a $100,000 self-insured retention and the signed warranty letter.

2. AIG also quoted the same policy terms, conditions and limits as expiring, but offered a $5 million sublimit for bond coverage for an additional $8,500. The estimated annual premium for the renewal term of 8/1/2014-8/1/2015 would be $112,728 (including the NJ PLIGA tax and TRIA), net of commission. The $5 million sublimit for bond coverage would be subject to a $100,000 self-insured retention and the signed warranty letter.

3. AIG offered an 18-month extended policy from 8/1/2014-2/1/2016 for an estimated premium of $156,574, net of commission, including the NJ PLIGA tax and TRIA. This quote includes the $3 million sublimit for bond coverage, subject to a $100,000 SIR and the signed warranty letter.

4. AIG offered an 18-month extended policy from 8/1/2014-2/1/2016 for an estimated premium of $169,542, net of commission, including the NJ PLIGA tax and TRIA. The quote includes the $5 million sublimit for bond coverage, subject to a $100,000 SIR and the signed warranty letter.

Unless otherwise directed by DRPA, AIG has the right to assign counsel from their approved panel of attorneys for any claims against DRPA/PATCO. Elliot Greenleaf, located in Bluebell PA is on the DRPA’s qualified counsel list. As such, because Elliot Greenleaf (Bluebell PA office) is on AIG’s
approved panel, AIG specifically scheduled the law firm to the policy with maximum rates of $180/$170/$80. This specific appointment will remain in effect unless the DRPA submits another law firm for approval by AIG.

Aon reports that it is seeing double digit rate increases in the market for this line of coverage. Therefore, in order to avoid this increase, Aon's recommends that we move forward with the long-term proposed renewal quote from AIG for a policy term from August 1, 2014 to February 1, 2016. Aon further recommends that DRPA consider the $5M bond sublimit option, which is the maximum limit that AIG is willing to provide for the sublimit of bond coverage. In anticipation of the increased premium for adding the sublimit for bond coverage, the Risk Management budget for 2014 was approved for the estimated budget premium of $113,766, which is in-line with the annual estimated premium option #2 of $112,728. Aon reports that it is seeing double digit rate increases in the market for this line of coverage in 2014. In order to avoid a possible double digit rate increase for the 2015-2016 policy term, the 18-month option #4 is recommended.

For the reasons stated herein, staff recommends the following proposals:

1. Amend the existing Public Officials & EPL Policy, which will expire on 8/1/2014, to include an Additional Sublimit – Proposing to add a $3M sublimit for bond coverage offered at no additional premium cost from effective date T-B-D to the policy expiration date of August 1st, 2014. The $3million sub limit for bond coverage is subject to a $100,000 self-insured retention and the signed warranty letter; and

2. Renewal Quote – Bind an 18-month policy instead of a 12-month policy. If approved, the new policy term with AIG will be for 18-months (8/2/2014-2/1/2016), and would include the $5M sublimit for bond coverage. The estimated premium for the 18-month policy will be $169,542. The $5 million sub limit for bond coverage is subject to a $100,000 self-insured retention and the signed warranty letter.

Prior to binding the coverage, AIG has the following subjectivities:
- A completed signed and dated AIG application;
- A signed warranty letter

SUMMARY:

| Amount: | Estimated $169,542, 18-month premium, net of commission, (including NJ PLIGA tax & TRIA) |
| Source of Funds: | Revenue and General Funds |
| 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 |
| Other Parties Involved: | Aon Risk Services and AIG |
RESOLUTION

RESOLVED: That the Board of Commissioners authorizes staff to bind the DRPA/PATCO Public Officials & Employment Practices Liability Insurance Policy with AIG for a 18-month policy term, including the $5 million sublimit for bond coverage for the estimated 18-month premium of $169,542 (including the NJ PLIGA tax and TRIA) net of commission, effective August 1, 2014 to February 1, 2016; and be it further;

RESOLVED: That the current policy be endorsed to include a $3 million sublimit of bond coverage with an effective date T-B-D at no additional premium cost to the policy expiration date of August 1st, 2014; 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 or 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 $169,542, 18-month premium, net commission, (including NJ PLIGA tax & TRIA)
Source of Funds: Revenue and General Funds
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
Other Parties Involved: Aon Risk Services and AIG