

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 5/17/2011       Consent       Regular  
    Ordinance       Public Hearing

Submitted By: \_\_\_\_\_ Risk Management

I. EXECUTIVE BRIEF

**Motion and Title: Staff recommends motion to approve:** The purchase of an excess workers' compensation endorsement to the County's in force total risk management excess insurance package for the period June 1, 2011 through March 31, 2012 purchased through the County's contracted broker, Arthur J. Gallagher Risk Management Services, Inc., under Contract No. 10-042R/LJ, for a cost of \$243,626.50.

**Summary:** The County has historically self-insured its workers' compensation exposure from the ground up. Staff recommends the purchase of the proposed excess coverage for the purpose of smoothing out catastrophic exposure to the County against workers' compensation loss. Under the proposed policy, coverage would total \$2 million excess of a \$1,000,000 self-insured retention with an aggregate annual limit of \$15,000,000. The coverage would be purchased as an endorsement to the current in force Palm Tran Automobile Liability policy, and will increase that policy's existing \$10 million aggregate to \$15 million at no additional premium. The coverage structure has been analyzed and configured to provide the best coverage terms at the most competitive price. Sufficient funds are budgeted in FY 2011 for the endorsement of this policy. Countywide (TKF)

**Background and Justification:** (Continued on page 3)

**Attachments:**

- 1. Quotation for Palm Beach County BOCC Excess Workers' Compensation

Recommended by: Nancy L. Bolton      4/29/11  
   Department Director      Date

Approved By: Bolton      \_\_\_\_\_  
   Assistant County Administrator      Date

**Background and Justification:**

Since 1994, the County has self-insured all workers' compensation risk from the ground up. However, as medical costs continue to rise and the types of operations unique to county government including fire/rescue, ocean rescue, water utility, road and bridge, and others expose the County to the potential of catastrophic workers' compensation loss, staff recommends the purchase of catastrophic coverage to hedge against the risk of large losses excess of \$1,000,000.00. Unlike the Board's general liability exposures, workers' compensation losses do not fall under Florida Statute 768.28, which currently limits the liability of a government entity to \$100,000/\$200,000 per occurrence.

Upon requesting a quote for excess workers' compensation insurance from the contracted broker, staff also considered comparative information regarding the risk retention policies of other Florida local government entities. The following table illustrates the findings of that comparison. Notable exceptions include the Palm Beach County School District and PBSO, which remain examples of large self-insureds choosing not to purchase excess coverage.

| Client Name                      | Self Insured Retention | # of Emps | Annual Premium |
|----------------------------------|------------------------|-----------|----------------|
| Broward County BOCC              | \$ 2,000,000           | 12,833    | \$ 1,196,695   |
| Broward County Schools           | \$ 1,250,000           | 29,265    | \$ 959,394     |
| City of Boca Raton               | \$ 400,000             | 1,400     | \$ 230,000     |
| City of West Palm Beach          | \$ 500,000             | 1,600     | \$ 385,000     |
| City of Pembroke Pines           | \$ 500,000             | 1664      | \$ 231,751     |
| City of Pensacola                | \$ 500,000             | 1037      | \$ 105,955     |
| Miami-Dade County Public Schools | \$ 1,000,000           | 48,111    | \$ 1,699,859   |
| Monroe County Schools            | \$ 325,000             | 1220      | \$ 179,911     |
| Putnam County BOCC               | \$ 500,000             | 680       | \$ 72,337      |
| Hillsborough County BOCC         | \$ 350,000             | 5865      | \$ 530,250*    |
| City of Miami                    | \$ 750,000             | 4000      | \$ 1,450,000   |
| City of Plantation               | \$ 175,000             | 850       | \$ 232,294     |
| City of Boynton Beach            | \$ 500,000             | 850       | \$ 115,830     |
| City of Jacksonville/Duval Co.   | \$ 1,200,000           | 11,620    | \$ 294,920     |
| Orange County                    | \$ 2,000,000           | 9000      | \$ 288,685     |
| City of Cape Coral               | \$ 350,000             | 1600      | \$ 297,131     |
| Town of Palm Beach               | \$ 350,000             | 355       | \$ 97,240      |
| Pinellas County                  | \$ 1,500,000           | 5367      | \$ 480,000     |

\*indicates a package policy with premium applying to lines of coverage in addition to excess WC.

Due to favorable market conditions in the property casualty arena, renewal premiums were less than expected. This leaves sufficient funds available to purchase this recommended policy. The policy premium is broken down as follows:

|                            |                     |
|----------------------------|---------------------|
| Annual Premium:            | \$288,600.00        |
| FL Hurricane CAT Fund 1.3% | \$ 3,751.80         |
| <b>Total Annual Cost:</b>  | <b>\$292,351.80</b> |
| <br>                       |                     |
| Prorated Term Premium:     | \$240,500.00        |
| FL Hurricane CAT Fund 1.3% | \$ 3,126.50         |
| <b>Total Term Cost:</b>    | <b>\$243,626.50</b> |

**PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS**

**STAR INSURANCE COMPANY  
EXCESS WORKERS COMPENSATION  
JUNE 1, 2011 – APRIL 1, 2012**

|                                   |   |
|-----------------------------------|---|
| <b>Carrier:</b>                   | Star Insurance Company  |
| <b>Named Insured:</b>             | Palm Beach County Board of Commissioners, a Political Subdivision of the State of Florida, Agents and Employees and Palm Tran – Excluding Sheriff's Department Operations |
| <b>Policy Limit of Liability:</b> | \$ 2,000,000 Each Accident or Occurrence Limit <sup>(1)</sup>   |
| <b>Policy Aggregate:</b>          | \$15,000,000 Policy Aggregate <sup>(1)</sup>  |
| <b>Defense Costs:</b>             | Within Limit of Liability   |

**WORKERS' COMPENSATION and EMPLOYERS LIABILITY**

|   |   |
|---|---|
| <b><u>Self Insured Retention:</u></b>         | \$1,000,000 Per Occurrence  |
| <b>Limits of Liability:</b>                   | Included in the Policy Limit and Aggregate  |
| <b>Exclusions include but not limited to:</b> | <p>A. LOSSES or CLAIM EXPENSES arising out of or caused or contributed to by any operations, which operations are insured or should have been insured under any other policy of direct insurance, or with or through any state fund, by whatever name called;</p> <p>B. Bodily injury to or sickness, disease or death of any persons who were illegally employed by the INSURED with knowledge of such illegality by the INSURED or any of its officers, directors, trustees or representatives;</p> <p>C. Liability assumed under a contract</p> <p>D. Punitive or exemplary damages;</p> <p>E. Any LOSS:</p> <ol style="list-style-type: none"> <li>1. insured by full coverage workers' compensation or employers liability insurance policy;</li> <li>2. payable under the workers' compensation law of any state which is not named in item 3. of endorsement SNS 1002, if the INSURED is protected from the loss by any other insurance; and</li> <li>3. arising out of operations for which the INSURED has rejected any workers' compensation law;</li> </ol> <p>F. any obligation imposed by an unemployment compensation or disability benefits law or similar law;</p> <p>G. any assessment made upon self-insurers, whether imposed by statute, regulation or otherwise;</p> |

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**STAR INSURANCE COMPANY  
EXCESS WORKERS COMPENSATION  
JUNE 1, 2011 – APRIL 1, 2012  
(Continued)**

**WORKERS' COMPENSATION and EMPLOYERS LIABILITY**

|  |   |
|--|---|
| <p><b>Exclusions include but not limited to:<br/>(Continued)</b></p> | <p>H. bodily injury occurring outside the United State of America, its territories or possessions and Canada. This exclusion does not apply to bodily injury to a citizen or resident of the United States of America or Canada who is temporarily outside these countries;</p> <p>I. damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions;</p> <p>J. bodily injury to any person in work subject to the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950), the Nonappropriated Fund Instrumentalities Act (5 USC Sections 817-8173), the Outer Continental Shelf Lands Act (43 USC Sections 1331-1356), the Defense Base Act (42 USC Sections 1651-1654), the Federal Coal Mine Health and Safety Act of 1969 (30 USC Sections 901-942), and any other federal workers' compensation law or other federal occupational disease law, or any amendments to these laws;</p> <p>K. bodily injury to any person in work subject to the Federal Employers' Liability Act (45 USC Sections 51-60), any other federal laws obligating an employer to pay damages to an employee due to bodily injury arising out of or in the course of employment, or any amendments to those laws;</p> <p>L. bodily injury to a master or member of the crew of any vessel;</p> <p>M. fines or penalties imposed for violation of federal or state law; and</p> <p>N. damages payable under the Migrant and Seasonal Agricultural Worker Protection Act (29 USC Sections 1801-1872) and under any other federal law awarding damages for violation of those laws or regulations issued thereunder, and any amendments to those laws.</p> |
| <p><b>Endorsement:</b></p>   | <ul style="list-style-type: none"> <li>• SNS1019(0903) Excess Workers' Compensation Endorsement</li> </ul>  |
| <p><b>Terms &amp; Conditions:</b></p>                                | <ul style="list-style-type: none"> <li>• Premiums are "Flat" not subject to audit</li> <li>• Legal costs start to erode the SIR from 1st dollar</li> <li>• 45 days non-renewal notice/10 day notice for non-payment of premium</li> </ul>   |

**PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS**

**STAR INSURANCE COMPANY  
EXCESS WORKERS COMPENSATION  
JUNE 1, 2011 – APRIL 1, 2012  
(Continued)**

|                                   |  |
|-----------------------------------|--|
| <b>Payment Terms:</b>             | <ul style="list-style-type: none"><li>• Endorsement Premium</li><li>• Due at Inception</li></ul> |
| <b>Annual Premium:</b>            | \$288,600.00   |
| <b>Hurricane CAT Fund 1.3%</b>    | <u>\$ 3,751.80</u>   |
| <b>Total Annual Cost:</b>         | <b>\$292,351.80</b>  |
| <b>Term Premium:</b>              | \$240,500.00   |
| <b>Hurricane CAT Fund (1.3%):</b> | <u>\$ 3,126.50</u>   |
| <b>Term Cost:</b>                 | <b>\$243,626.50</b>  |

<sup>(1)</sup> Excess Workers' Compensation coverage will be endorsed to the Palm Tran Fleet Liability policy and occurrence and aggregate liability limits will be shared.