

EXHIBIT 4

CLEVELAND PUBLIC LIBRARY

Finance Committee
September 16, 2010

RATIFICATION OF PUBLIC OFFICIALS LIABILITY INSURANCE

- WHEREAS, The Board of Library Trustees routinely purchases public officials and employment practices liability insurance for claims primarily related to "wrongful acts" including defense costs associated with such claims; and
- WHEREAS, The Library's policy with United National Insurance Company expires on September 18, 2010; and
- WHEREAS, The Library has received through our insurance agent, McGowan & Company, Inc., the proposed premium quote of \$25,445.00 from Darwin National Insurance Company, slightly more than last year's premium of \$24,956.25 for the same coverage amount as last year, liability limit of \$1,000,000 with a deductible of \$50,000 per claim, and some additional more favorable policy language in this new policy; and
- WHEREAS, The Darwin National Insurance Company offers at an additional premium of \$2,625.00, an option to provide defense costs outside the limit; and
- WHEREAS, Crain Langner & Co. has reviewed the proposal as detailed in the attached response, recommending renewal with Darwin National Insurance Company and the purchase of the optional defense coverage; and
- WHEREAS, The Library Director and Fiscal Officer have set into motion the purchase of this renewal coverage; now therefore be it
- RESOLVED, That the Board of Library Trustees ratifies the decision to purchase Public Officials Liability Insurance from Darwin National Insurance Company for the period of September 18, 2010 through September 18, 2011 through McGowan & Company, Inc. with the \$28,070.00 expenditure being charged to General Fund: Account 11020053-53400 (Insurance).

CRAIN, LANGNER & CO.

ANALYSTS AND CONSULTANTS
RISK AND INSURANCE MANAGEMENT
3728 WAITLEY DRIVE
P.O. BOX 531
RICHFIELD, OH 44286

VIA E-MAIL TRANSMISSION

Hard Copy to Follow

September 7, 2010

H. Sandra Kuban
Fiscal Officer
Cleveland Public Library
325 Superior Avenue
Cleveland, Ohio 44114

Re: Public Officials Liability Insurance
Marketing and Renewal Results
Effective 9/18/10 - 9/18/11

Dear Ms. Kuban:

We reviewed the proposal materials regarding the above-captioned Public Officials Liability insurance policy.

In sum, we recommend the purchase of coverage from Darwin Select Insurance Company as proposed by Colin Dean of McGowan & Co. Our comments follow below.

1. Renewal Marketing – Colin Dean of McGowan & Co. presented three proposals:

<u>Insurer and Group</u>	<u>AM Best Rating</u>
Darwin Select Insurance Company Part of Allied World Assurance Company Holdings, Ltd	A (FSC XV)
Illinois National Insurance Company Part of Chartis (formally American International Group)	A (FSC XV)
United National Insurance Company United National Group	A (FSC XI)

The proposals received at this year's renewal compared to last year when one proposal from the incumbent carrier, United National Insurance Company was received. While the current policy represents the eighth consecutive year coverage has been placed through United National, with terms and conditions remaining substantially the same over that period, the proposals received from Darwin Select and Illinois National reflect broader coverage terms and conditions and more aggressive pricing.

CRAIN, LANGNER & CO.

Ms. H Sandra Kuban
 Cleveland Public Library
 7 September 2010
 Page 2

2. Renewal Proposal and Terms – The attached spreadsheet presents various details of the proposals. Red highlights represent more restrictive terms, while green highlights represent more favorable terms compared to the other options as presented.

Darwin Select and United National are excess and surplus lines insurers. Therefore, insureds covered under policies issued in Ohio pay a 5% Ohio Excess and Surplus lines tax and are not covered by the Ohio Insurance Guarantee Association (OIGA). Illinois National is an admitted carrier and not subject to the 5% tax. The OIGA operates to provide up to \$300,000 of coverage per claim for claims filed against an insurer that becomes insolvent. If the insurer cannot honor its obligations the OIGA will provide some backstop coverage. However, this protection is not available to insureds whose net worth exceeds \$50,000,000. Inasmuch as the Library's net worth is understood to exceed this amount, the OIGA protection described above would not be available to the Library.

While the Darwin Select costs \$ 1,700 more than the Illinois National proposal, we believe the Darwin Select proposal's conditions are more favorable to the Library by including, among other things, Third Party Employment Practices Liability, limiting the Knowledge of Occurrence to the top three executives, covering Non-Monetary claims for both defense and indemnity and including the Library's input on the selection of defense.

Darwin has offered an option to provide defense costs outside the limit for the additional cost of \$2,625. To the extent that it is financially feasible and the Library's financials support it, the Library should consider purchasing this additional coverage.

The quoted renewal from United National reflects a 43% increase in premium (compared to expiring) which is inconsistent with what we have seen for other insureds where the renewals have been mostly flat.

The following chart shows the Library's account history.

Insurer	Policy Period	Total Costs	Dollar Change	Percent Change	Limit of Liability	Deductible
Coregis	1999/00	\$10,679	---	---	\$1M/\$1M	\$10,000
Coregis	2000/01	\$12,227	\$1,548	14%	\$1M/\$1M	\$10,000
Coregis	2001/02	\$17,359	\$5,132	42%	\$1M/\$1M	\$10,000
United Natl	2002/03	\$20,650	\$3,291	19%	\$1M/\$1M	\$25,000
United Natl	2003/04	\$22,250	\$1,600	8%	\$1M/\$1M	\$25,000
United Natl	2004/05	\$23,438	\$1,188	5%	\$1M/\$1M	\$25,000
United Natl	2005/06	\$30,265	\$5,362	23%	\$1M/\$1M	\$50,000
United Natl	2006/07	\$30,390	\$ 125	0%	\$1M/\$1M	\$50,000
United Natl	2007/08	\$24,825	-\$5,565	-18%	\$1M/\$1M	\$50,000
United Natl	2008/09	\$24,956.25	+131	.05%	\$1M/\$1M	\$50,000
United Natl	2009/10	\$24,956.25	\$0	0%	\$1M/\$1M	\$50,000

Proposals for 2010-11

Darwin Select	2010/11	\$25,445	\$489	2%	\$1M/\$1M	\$50,000	Recommended
Illinois Natl	2010/11	\$23,745	-\$1,211	-5%	\$1M/\$1M	\$50,000	
United Natl	2010/11	\$35,640	\$10,684	43%	\$1M/\$1M	\$50,000	

CRAIN, LANGNER & CO.

Ms. H Sandra Kuban
Cleveland Public Library
7 September 2010
Page 3

3. Loss Control and Loss Prevention – We repeat prior year’s remarks regarding the Library’s continued attention to sound policies and procedures relating to board activities and employment practices, *e.g.*, supervisors training and employment manuals. We continue to encourage the Library to use Colin Dean’s office and the chosen insurance carrier as resources in this regard. Insurers and law firms will often offer free educational seminars for employees and/or management where they review general principles and codes of conduct relating to reasonable employment practices. We understand the Library maintains and implements relevant practices and procedures, and insurers welcome knowing their insureds conduct themselves in this fashion. For an example, a seminar addressing discrimination could be extended to non-employment situations given the Library’s tremendous contact with a diverse customer population. Should the Library change insurers as recommended, then the new insurer may well offer useful training which could benefit the Library.

4. Coverage Comments

a. Limit of Liability - All proposals came in with a \$1,000,000 limit of liability which is shared between the Public Officials Liability coverage part and the Employment Practices Liability coverage part.

b. Defense Costs - The United National and Darwin National proposals include defense costs within their limit of liability. The Illinois National proposal’s defense costs are outside of the limit of liability, as quoted, and Darwin has offered the coverage as an option for additional premium. In a case where defense costs are outside the limit, the costs incurred to defend the Library do not reduce the amount of insurance available to pay damages. It is preferable to have defense cost outside the limit of liability, if financially feasible.

c. Deductible - All proposals quoted a \$50,000 each claim deductible without aggregate. This means that every claim will be subject to a \$50,000 deductible. The Library has carried this deductible since the 2005 renewal. We can support the continued use of a \$50,000 deductible in the program provided the Library maintains sound practices, policies and procedures regarding the actions of the board, employees and volunteers, *e.g.*, employment practices and human resource procedures.

d. Non-Monetary Damages - The Darwin National proposal includes a \$50,000 per claim limit subject to a \$100,000 aggregate. However, defense costs must be first paid by the Library and then will be reimbursed by Darwin National. The Illinois National proposal only covers defense costs for non-monetary relief (*i.e.*, injunctive relief) subject to a \$100,000 aggregate limit. The United National policy excludes coverage for claims seeking other than money damages, *i.e.*, non-monetary relief.

e. Duty to Defend - United National’s policy does not have the duty to defend any claim against the Library, although it may join the Library in the defense of a claim. Thus, the Library should retain its own counsel if a claim is filed, notice the insurer of any claim as soon as possible, obtain the insurer’s written consent of the selected attorney (required by the policy), and keep the insurer informed of claim developments.

The Darwin National and Illinois National proposals have the duty to defend language in their proposals. Darwin has offered to review the Library’s preferred law firm(s) to be added to the carrier’s approved list. We recommend the Library provide this list to the agent.

CRAIN, LANGNER & CO.

Ms. H Sandra Kuban
Cleveland Public Library
7 September 2010
Page 4

f. Knowledge of Occurrence, Incident - In the past we have asked the Library's insurance agent, Colin Dean, to request that the policy be endorsed to provide that notice to a particular person must take place before knowledge of an occurrence or claim is imputed to the Library. That is, either you, the Executive Director or some other officer or director should be required to have knowledge before the insurer can conclude the Library had knowledge of a circumstance or claim. This arrangement protects against a staff person learning of something, not telling anyone, and a claim arises later. The insurer could attempt to deny coverage asserting that the Library knew of the circumstance at the time the staff person knew even if senior management was never advised until much later. The proposals we received from Darwin Select and Illinois National have endorsed their policy language to limit the knowledge of occurrence to the positions referred to above. The incumbent carrier, United National, would not accommodate this request. We consider this feature in the Darwin Select and Illinois National proposals to be favorable.

It is recommended that the Library continue to have and use occurrence and incident reporting procedures to ensure timely notification and investigation of matters.

Other questions relating to this coverage may exist or arise. This letter does not address every potential issue, and reference to the actual policy is recommended with respect to policy terms, conditions, limitations, and exclusions.

We support the purchase of this coverage and remain available to answer any questions you may have.

Thank you.

Sincerely,

Daniel C. Buser
Daniel C. Buser

DCB/mtf
10 jss 0061 cpl

The information contained in this E-mail message is confidential, may be privileged, and is intended for the use of the individual or entity named above. If you, the reader of this message, are not the intended recipient, the agent, or employee responsible for delivering this transmission to the intended recipient, you are expressly prohibited from copying, disseminating, distributing, or in any other way using any of the information contained in this E-mail message.

POLICY TERM	OPTIONS	OPTIONS	OPTIONS	EXPIRING	D	E	F	G	H	I	J
A	B-1	B-2	B-3	C							
1 Carrier	Danwith Select	Illinois National	United National Ins	United National Ins	United National Ins	United National Ins	United National Ins	United National Ins	United National Ins	United National Ins	United National Ins
2 Insurer is member of	Allied World Assurance Group	Chertis	Indemnity Group	Non-Admitted	Non-Admitted	Non-Admitted	Non-Admitted	Non-Admitted	Non-Admitted	Non-Admitted	Non-Admitted
3 Status - Admitted or Non-Admitted	Non-Admitted	Admitted	Non-Admitted	POL B174349	POL B174104	POL B173407	POL B173407	POL B172930	POL B172422	POL B171930	POL B171423
4 AM Best	A, XV	A, XV	A, XI	9/18/09 - 9/18/10	9/18/08 - 9/18/09	9/18/07 - 9/18/08	9/18/06 to 9/18/07	9/18/05 to 9/18/06	9/18/04 to 9/18/05	9/18/03 to 9/18/04	9/18/02 to 9/18/03
5 Policy number				McGowan	McGowan	McGowan	McGowan	McGowan	McGowan	McGowan	McGowan
6 Effective dates	9/18/10 - 9/18/11	9/18/10 - 9/18/11	9/18/10 - 9/18/11								
7 Broker/Agent	McGowan	McGowan	McGowan								
8 LIMITS											
9 POL each loss limit	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000
10 EPL each loss limit	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000
11 Aggregate policy limit	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000
12 Deductible	\$ 50,000	\$ 50,000	\$ 50,000								
13 TERMS & CONDITIONS											
14 Form	Claims Made & Reported	Claims Made & Reported	Claims Made & Reported	Claims Made & Reported	Claims Made & Reported	Claims Made & Reported	Claims Made & Reported	Claims Made & Reported	Claims Made & Reported	Claims Made & Reported	Claims Made & Reported
15 Retro Date	Full Prior Acts	Full Prior Acts	Full Prior Acts	Full Prior Acts	Full Prior Acts	Full Prior Acts	Full Prior Acts	Full Prior Acts	Full Prior Acts	Full Prior Acts	Full Prior Acts
16 Duty to defend	Yes	Yes	No	No	No	No	No	No	No	No	No
17 Defense costs	Within limits, see below	Outside Limits	Within Limits	Within Limits	Within Limits	Within Limits	Within Limits	Within Limits	Within Limits	Within Limits	Within Limits
18 Non-monetary coverage	\$50K / \$100K Age-Defense & Indemnity	\$100K Age-Defense Costs Only	None	None	None	None	None	None	None	None	None
19 EPL - 3rd party	Yes	No	No	No	No	No	No	No	No	No	No
20 Notice of Occurrence	Top three executives (to be named)	Five named positions	Broad (needs to be more narrow)	Broad (needs to be more narrow)	Broad (needs to be more narrow)	Broad (needs to be more narrow)	Broad (needs to be more narrow)	Broad (needs to be more narrow)	Broad (needs to be more narrow)	Broad (needs to be more narrow)	Broad (needs to be more narrow)
21 Hammer Clause	Soft - 60% / 40%	Heavy - 0% / 100%	Heavy - 0% / 100%	None	None	None	None	None	None	None	None
22 Outside Directors	No	Yes, Non-Profit	No	No	No	No	No	No	No	No	No
23 Selection Of Defense Counsel	Insured may offer suggestions	Insurer	Insured (subject to Insurer approval)								
24 Annual Premium	\$ 24,000	\$ 23,745	\$ 33,800	\$ 23,625	\$ 23,625	\$ 23,500	\$ 28,800	\$ 28,800	\$ 23,438	\$ 22,250	\$ 20,650
25 Tax & Surplus Fees	\$ 1,200	\$ -	\$ 1,690	\$ 1,181	\$ 1,181	\$ 1,175	\$ 1,440	\$ 1,440	\$ -	\$ -	\$ -
26 Fee	\$ 245	\$ -	\$ 150	\$ 150	\$ 150	\$ 150	\$ 150	\$ 150	\$ 23,438	\$ 22,250	\$ 20,650
27 Total Annual Premium	\$ 25,445	\$ 23,745	\$ 35,640	\$ 24,956	\$ 24,956	\$ 24,825	\$ 30,390	\$ 30,265	\$ 23,438	\$ 22,250	\$ 20,650
28 % diff from expiring	43%	(1,211)	10,644	131	131	5,565	123	6,827	OK	29%	29%
29 Option for defense costs outside the limit	\$ 28,070			OK	1%	18%	OK	29%			
	Including taxes and fees										

**PUBLIC OFFICIALS LIABILITY & EMPLOYMENT PRACTICES LIABILITY
REVISED OPTIONAL INSURANCE QUOTE**

INSURED: Cleveland Public Library

CARRIER: Darwin Select Insurance Company (Non-Admitted)

COVERAGE: Public Officials Liability / Employment Practices Liability

FORM: *Claims-Made Basis*

EFFECTIVE DATE: September 18, 2010

RETRO-DATE: Full Prior Acts

LIMITS OF LIABILITY: \$1,000,000 Each Claim / \$1,000,000 Policy Aggregate / Shared Limits

SUPPLEMENTARY: Non-Monetary Payments - \$50,000 Each Claim / \$100,000 Policy Aggregate

DEDUCTIBLE: \$50,000 Each Claim Including Defense Costs

DEFENSE COSTS: Inside the Limits of Liability

POLICY FORMS & ENDORSEMENTS:

- ◆ DRWN POL 1005 (10/2006) Public Officials Professional Liability Policy Declarations
- ◆ SAA-100 (8/1998) Schedule of Policy Forms and Endorsements
- ◆ DRWN POL 1000 (10/2006) Public Officials Professional and Employment Practices Liability Policy
- ◆ PGU 1052 (7/2007) Minimum Earned Premium
- ◆ PGU 1096 (3/2008) Amend Law Enforcement Exclusion
- ◆ PGU 1089 (1/2009) Spouses and Domestic Partners
- ◆ PGU 1075 (6/2008) Amend Insured Vs. Insured Exclusion, EPLI Carveback for Officials
- ◆ PGU 1045 (4/2007) Defense Within the Limits ** (Not Applicable to Defense Outside Option)
- ◆ S1006 DSI (4/2005) Service of Suit
- ◆ MANU Amend Claim Notice Provision – Top 3 Executives (need list from insured)

SUBJECT TO:

- ◆ Updated, Re-signed, and Re-dated Application
- ◆ Original Notarized Ohio Surplus Lines Affidavit
- ◆ Greater of \$1,500 or 25% Minimum-Earned Premium – No Flat Cancellation

OPTIONAL QUOTES:

Defense Within the Limits of Liability – **TOTAL POLICY COST: \$25,445**
(\$24,000 Annual Premium - Minimum & Deposit + \$245 Policy Fee + \$1,200 Ohio 5% Surplus Lines Tax)

Defense Outside the Limits of Liability – **TOTAL POLICY COST: \$28,070**
(\$26,500 Annual Premium - Minimum & Deposit + \$245 Policy Fee + \$1,325 Ohio 5% Surplus Lines Tax)

Terrorism coverage is not available.

McGowan Private Client Group

