SUMMARY STATEMENT

ITEM NO. SUBJECT: DRPA Construction Contract Requirements
COMMITTEE: New Business
COMMITTEE MEETING DATE: N/A
BOARD ACTION DATE: June 10, 2009

PROPOSAL: That the Board adopt as DRPA policy the use of Project Labor Agreements (“PLAs”) for DRPA Construction Contracts where the Engineer’s estimate of project cost exceeds a threshold amount to be determined by Chair, Vice Chair and Chief Executive Officer as stated in the attached Resolution; that the Board directs staff along with New Jersey and Pennsylvania Counsel to develop a unified form of PLA for use by DRPA, and that the Board authorized the Chair, Vice Chair and Chief Executive Officer to review and approve such a unified PLA form and to implement it immediately.

PURPOSE: To provide for the efficient, safe, quality, and timely completion of its construction projects in a manner designed to afford lower costs and more predictable outcomes for the DRPA and the public it serves.

BACKGROUND: The Authority regularly undertakes large-scale construction projects, as well as smaller projects of significant technical complexity and with rigorous time deadlines. These projects often involve numerous contractors and subcontractors, both union and non-union, representing a variety of the building trades. The interaction, on a single job, of these contractors and their employees, each subject to different area work standards, can create inefficiencies and lead to labor strife, delaying projects and creating unnecessary costs for the DRPA and inconvenience to the public. PLAs are regularly used in public and private construction contracts to avoid these problems.

The Board will direct that New Jersey and Pennsylvania counsel work with the DRPA General Counsel to create a unified form of PLA and that they submit this to the Chair, Vice Chair and Chief Executive Officer for their consideration not later than Thursday, June 18, 2009. Working with such counsel, the Chair, Vice Chair, and Chief Executive Officer will agree on a form of PLA for use on appropriate DRPA projects, and will also agree on any necessary threshold project costs. For projects where costs do not reach the agreed threshold, the decision to use a project labor agreement will be made on a project-by-project basis by the Chief Executive Officer, in consultation with the Chair and/or Vice Chair of the DRPA Board, depending on the location of the work to be performed on the project. Such decision will be based on a determination as to whether the use of a PLA will promote labor
stability and advance the Authority’s and the public’s interest in cost, efficiency, quality, safety and timeliness.
New Jersey and Pennsylvania counsel have obtained versions of PLAs that have been used in each State and New Jersey and Pennsylvania counsel are prepared to work with DRPA General Counsel to reconcile the differences between these PLAs and to create a final product of benefit to the DRPA and its constituents, the Board directs that counsel create a proposed unified PLA and submit it for approval by Chair, Vice Chair, and the Chief Executive Officer by June 18, 2009. In order to assure that the pending PATCO Pole Line project is implemented on schedule, in the event that counsel working with Chair, Vice Chair and Chief Executive Officer are unable to create an agreed form of unified PLA prior to June 25, 2009 staff recommends that the Board permit use of the New Jersey form of PLA on that project which will be performed solely within the State of New Jersey.

SUMMARY:

| Amount:          | Not Applicable |
| Source of Funds: | Not Applicable |
| Capital Project #: | Not Applicable |
| Operating Budget: | N/A            |
| Master Plan Status: | N/A            |
| Other Fund Sources: | N/A            |
| Duration of Contract: | On a project by project basis |
| Other Parties Involved: | N/A            |
RESOLUTION

RESOLVED: That the Board of Commissioners of the Delaware River Port Authority finds that it is in the best interests of the DRPA and the public that it serves for DRPA to require use of Project Labor Agreements on construction projects performed on DRPA property (including property serving the PATCO Hi Speed Line), and paid for by DRPA in whole or in part, where the contract value exceeds a threshold amount to be agreed by Chair, Vice Chair and Chief Executive Officer at the recommendation of New Jersey and Pennsylvania counsel working with General Counsel; and be it further

RESOLVED: That New Jersey Counsel and Pennsylvania Counsel be directed to work with DRPA General Counsel to create a unified form of Project Labor Agreement for use by DRPA and to submit a proposed form of PLA to the Chair, Vice Chair and Chief Executive Officer on or before June 18, 2009; and be it further

RESOLVED: That in the event that counsel are not able to create, and or Chair, Vice Chair and Chief Executive Officer are unable to agree upon, an acceptable form of unified Project Labor Agreement by June 25, 2009 in time for it to be used on the PATCO Pole Line project, then DRPA will use the form of Project Labor Agreement submitted by New Jersey counsel for the PATCO Pole Line project only; and be it further

RESOLVED: For projects with projected costs under the threshold that may be agreed by the Chair, Vice Chair and Chief Executive Officer, the Authority’s Chief Executive Officer, in consultation with the Chair and/or Vice Chair of the DRPA Board, depending on the location of the work to be performed on the project, shall determine, on a project-by-project basis, whether such project warrants the use of a PLA. In making the decision whether to use a project labor agreement on these projects, the Chief Executive Officer shall consider the following factors:

(a) The potential for labor disruptions, such as strikes, lockouts, or slowdowns which could affect completion of the project;
(b) The level of technical or specialized skills required on the project;
(c) The need and urgency of the project and the harm to the public if completion of the project is delayed; and
(d) The size and complexity

RESOLVED: The Chairman, Vice Chairman and the Chief Executive Officer must approve and are hereby authorized to approve the proposed form of Project Labor Agreement and to implement it for use on all eligible contracts immediately.

SUMMARY:  
Amount: N/A  
Source of Funds: N/A  
Capital Project #: N/A  
Operating Budget: N/A  
Master Plan Status: N/A  
Other Fund Sources: N/A  
Duration of Contract: on a project by project basis  
Other Parties Involved: N/A