SUMMARY STATEMENT

ITEM NO.: DRPA-15-062  SUBJECT: Broker/Consultant for Traditional Property & Casualty, including Pollution Legal Liability

COMMITTEE: Finance

COMMITTEE MEETING DATE: May 6, 2015

BOARD ACTION DATE: May 20, 2015

PROPOSAL: That the Board authorizes staff to negotiate an Agreement with a Broker/Consultant for the Authority’s Traditional Property & Casualty Program, which includes a Pollution Legal Liability policy covering the Victor Lofts Buildings and for staff to use its discretion (based on performance evaluation) as to whether to exercise the third year option based on staff’s overall satisfaction with TSIB’s professional services. Staff may use its discretion as to whether to exercise the third year option for TSIB’s services.

PURPOSE: To appoint a Broker/Consultant for the Authority’s Traditional Property & Casualty Program, including Pollution Legal Liability, which would include insurance marketing and claims management, among other tasks. The broker appointment will be valid upon the following: (1) the expiration of the New Jersey Governor’s Veto Period; (2) a fully-executed Broker/Services Agreement between the Delaware River Port Authority and Turner Surety & Insurance Brokerage Inc. (TSIB); and (3) completion and submittal of the signed Broker of Record Letters to the various insurance carriers.

BACKGROUND: DRPA-12-066 authorized staff to appoint and negotiate an Agreement with the Broker/Consultant, Aon Risk Solutions for the Authority’s Traditional Property & Casualty Program, including the Pollution Legal Liability Policy. The Agreement was for a period of two (2) years (August 12, 2012 to August 16, 2014), with an option for a third year, unilaterally exercisable by the DRPA at its sole discretion.

DRPA-14-070 authorized staff to exercise the right to extend the initial term of the Aon Brokerage and Consulting Services Agreement for the Traditional Property & Casualty Program, including Pollution Legal Liability, for one (1) additional year until August 17, 2015. DRPA exercised that option and entered into an extended Agreement. The Agreement included an annual fixed service fee of $129,000, payable in quarterly installments of $32,250 each.

Since the Agreement does not provide for any additional extensions, staff drafted and issued a Request for Proposal for Broker/Consultant Services for the Traditional Property & Casualty, including a Pollution
Legal Liability policy. All steps of the RFP process were in compliance with Resolution DRPA-10-044.

The RFP was advertised on DRPA’s website. It was also advertised in the *Business Insurance Periodical* on January 12 and January 19, 2015. Responses were due on January 30, 2015, by 3 pm.

Each proposer was required to submit the following sealed and clearly marked envelopes: (1) Technical Proposal and (2) Cost Proposal.

The following four (4) firms submitted proposals:

- The Alamo Insurance Group, Inc. – Secaucus, NJ
- AON (the incumbent) – Philadelphia, PA
- TSIB – Paramus, NJ
- Willis of PA, Inc. – Radnor, PA

The review committee consisted of following individuals:

- Chief Administrative Officer
- Chief Engineer
- Director Risk Management & Safety
- PATCO General Manager

In compliance with Resolution 10-044, the staff evaluation team was interviewed and screened for conflicts by the Acting Inspector General. All members of the team were cleared to participate in the evaluation process.

On February 23, 2015, the Review Committee met to discuss and evaluate the proposals on the basis of technical merit and cost. Turner Surety and Insurance Brokerage, Inc. (TSIB) was the highest technically-ranked firm.

Until recently, TSIB served as the Administrator of the DRPA’s OCIP, which expired on December 31, 2015. Although the OCIP expired, the Board authorized an extension of the Agreement with TSIB through August 17, 2015 to perform OCIP administrative close-out services. During this four-year period, staff had the opportunity to work closely with the TSIB team members and has been pleased.

TSIB’s proposal outlined a very proactive renewal process strategy. TSIB will maintain a renewal calendar including a 180-day, 120-day and 90-day look-ahead to be sure that strategies and goals are discussed and
documented well in advance of policy expiration.

TSIB clearly understands staff’s critical time constraints. The Review Committee felt that TSIB’s relevant experience and knowledge of their key personnel, along with their experience in recognizing the importance of transparency when dealing with public agencies was best suited to meet the DRPA’s needs. TSIB also proposed a property analysis beyond the physical structures owned, operated and occupied by DRPA, which would include a review of interior fixtures, furniture, computers and equipment used to maintain and operate DRPA facilities, as well as valuable papers and records. This will illustrate to DRPA where to concentrate insurance dollars on areas subject to the greatest loss potential from both a severity and frequency standpoint. In addition, TSIB’s proposed Program Management includes a policy log for each policy of the thirteen policies to track the issues, discrepancies or changes which are indispensable in maintaining accurate and up-to-date policies for this large Traditional Property & Casualty program. TSIB will prepare a Claims Management Procedures Manual to assist DRPA to set forth critical detailed claims special handling instructions. Finally, TSIB is a direct writer of Selective Insurance Company. Selective Insurance was the former Commercial Automobile insurance company for the Authority and previously charged very competitive premiums. Our current broker does not represent this company.

There are two current DRPA insurance companies that TSIB does not represent on a “direct basis”. The carriers are Affiliated FM (FM Global) and National Fire & Marine Insurance Company. It is common in the industry for a broker to be issued a Broker of Record letter from an insured, yet work thorough a “wholesaler” or “surplus lines” broker to place that policy with the carrier. These wholesale brokers work directly with the retail broker, TSIB in this instance, and serve as an intermediary with the insurance carrier. Wholesale brokers often possess specialized expertise in a particular line of coverage and/or have greater access to or influence with those insurance markets. If approved, TSIB has elected to use Am Wins, the largest wholesaler in the country to access both of these insurance carriers. TSIB’s selection of AmWins as the wholesaler is simply to ensure that TSIB would have sufficient influence with the carriers to ensure DRPA’s program receives the highest level of attention of a most preferred client.
Affiliated FM and National Fire & Marine Insurance Company will process the Broker of Record Letters NET of any income including commission, or any contingent, supplemental or other forms of additional compensation to TSIB.

As a result, the premiums quoted from Affiliated FM and National Fire & Marine Insurance company to AM Wins as the intermediary. AM Wins will receive commissions from the carriers, but will not pay any additional income to TSIB, including commission, or any contingent, supplemental or other forms of additional compensation.

In the contractual agreement, TSIB will be advised about the Authority’s prohibition against fee-sharing, fee-splitting or receipts of any funds or consideration not earned by any broker or agent on behalf of the DRPA. To ensure transparency of costs, the Authority will require the disclosure of all payments made by or to any brokers as compensation for services provided under the terms of the Broker/Consultant contract. TSIB will be advised that the Authority shall have the right to request, review and audit all records and documentation of the broker for compliance.

If staff’s recommendation is accepted, TSIB’s Cost Proposal would result in a $12,000 increase (per year) over the current annual service fee ($129,000 vs. $141,000).

It is recommended that a Broker/Consultant Agreement be negotiated with TSIB for the two-year fixed service fee for a not-to-exceed annual amount of $141,000 ($282,000 over a two-year term), payable in quarterly installments of $35,250. The Agreement will include a one year option not to exceed $141,000 for the period of August 17, 2015 to August 17, 2017. The option for the third year is unilaterally exercisable by the DRPA, at its sole discretion.

The current Aon Brokerage and Consulting Agreement does not provide for any further extensions. In order for staff to transition the broker services for the Traditional Property & Casualty Program from Aon to TSIB, DRPA Legal has advised that the current Aon Agreement be terminated as of July 31, 2015. Under the “Termination for Convenience” clause, the Authority may terminate the Agreement at any time, for any reason or for no reason, by giving written notice of termination to the Broker not less than thirty (30) days prior to the effective date of the termination. The contract termination clause 5.5, “Transfer Assistance”, requires the broker to agree to reasonably assist the Authority’s replacement broker in the transfer of the projected renewal services that will not exceed more than thirty (30) days when
the termination is effective. The transfer assistance will occur between 7/31/2015 to 8/17/2015. DRPA’s Legal Department has reviewed and approved a termination letter. Staff will send the termination letter to Aon on or about June 12, 2015. The final quarterly installment of $32,250, due 6/30/2015, will be paid to Aon.

The Legal department staff will draft a new Broker/Consultant Agreement for TSIB to become effective July 31, 2015. Upon execution of same, TSIB will receive the DRPA signed Broker of Record letters for distribution to the insurance carriers representing the thirteen (13) policies of the Traditional Property & Casualty Program including the Pollution Legal Liability policy. Upon the insurance carriers’ acceptance of the Broker of Records for the Traditional Property & Casualty Program including the Pollution Legal Liability policy, TSIB will begin the renewal process in August for the 12/31/2015 renewal policies of the Traditional Property & Casualty Program.

Staff recommends that TSIB be appointed as the Broker of Record and to negotiate an Agreement for the Authority’s Traditional Property & Casualty Program, which includes a Pollution Legal Liability policy covering the Victor Lofts Buildings.

SUMMARY:

Amount: Total: $282,000 (two year term), with 1 Year option NTE $141,000; payable on an annual basis (with quarterly installments of $35,250 each)

Source of Funds: Revenue Fund and General Fund (PATCO portion)

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

Duration of Contract: 2 years, with an option for a third year, unilaterally exercisable by the DRPA at its sole discretion, permitting staff to use its discretion (based on performance evaluation) as to whether to exercise the option for a third year

Other Parties Involved: Turner Surety & Insurance Brokerage Inc. (TSIB)
RESOLUTION

RESOLVED: That the Board authorizes staff to exercise the “Termination for Convenience” clause in the Agreement between DRPA and Aon, and to issue a letter to Aon on or about June 12, 2015, terminating the Aon Brokerage and Consulting Services Agreement for the Traditional Property & Casualty Program, which includes a Pollution Legal Liability policy. The effective of the Termination would be 7/31/2015; and be it further

RESOLVED: That the Board authorizes staff to exercise the “Transfer Assistance” clause in the Aon Brokerage and Consulting Services Agreement for the Traditional Property & Casualty Program, which includes a Pollution Legal Liability. Under the Transfer Assistance clause, Aon is obligated to reasonably assist the Authority’s replacement broker in the transfer of the renewal services which expected to occur between 7/31/2015 to 8/17/2015; and be it further

RESOLVED: That the Board authorizes staff to pay the final quarterly installment of $32,250 due 6/30/2015 to Aon for the “Transfer Assistance”; and be it further

RESOLVED: That the Board authorizes staff to appoint TSIB as the Authority’s Broker/Consultant for the Traditional Property & Casualty Program, including the Pollution Legal Liability Policy; and be it further

RESOLVED: That the Board authorizes staff to negotiate an agreement with TSIB for a period of two (2) years, with an option for a third year, unilaterally exercisable by the DRPA at its sole discretion; for the 2-year fixed service fee not to exceed $282,000, at the annual fixed service fee of $141,000 payable on a quarterly basis at $35,250 each; and be it further
RESOLVED: That the Board permits staff to use its discretion (based on performance evaluation) as to whether to exercise the third year option based on staff’s overall satisfaction with TSIB’s professional services. Staff may use its discretion as to whether to exercise the third year option for TSIB’s services. If the third year option is exercised, the additional one-year option shall not exceed $141,000, and shall be payable on a quarterly basis at $35,250 each; and be it further

RESOLVED: That the Board authorizes that the appointment shall be validated upon the following: (1) the expiration of the New Jersey Governor’s Veto Period; (2) a fully executed Broker/Services Agreement between the Delaware River Port Authority and Turner Surety & Insurance Brokerage, Inc. (TSIB) and (3) completion and submittal of the signed Broker of Record Letters.

RESOLVED: The Chair, Vice Chair 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 Chair, Vice Chair and Chief Executive Officer and if thereafter either the Chair or Vice Chair 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 Chair and Vice Chair 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: Total: Not to exceed $282,000 (two year term) With 1 year option NTE $141,000; payable on an annual basis (with quarterly installments of $35,250 each) Source of Funds: Revenue Fund and General Fund (PATCO portion) 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 Duration of Contract: 2 years, with an option for a third year, unilaterally exercisable by the DRPA at its sole discretion, permitting staff to use its discretion (based on performance evaluation) as to whether to exercise the option for a third year Other Parties Involved: Turner Surety & Insurance Brokerage, Inc. (TSIB)