SUMMARY STATEMENT

ITEM NO.: DRPA-15-089  SUBJECT: Broker/Consultant for the Bridge Property Damage and Loss of Toll Revenue Program and the Claims-made Excess Liability Policy

COMMITTEE: Finance

COMMITTEE MEETING DATE: July 1, 2015

BOARD ACTION DATE: July 15, 2015

PROPOSAL: That the Board authorizes staff to negotiate an Agreement with a Broker/Consultant for the Authority’s Bridge Property Damage and Loss of Toll Revenue Program and the Claims-made Excess Liability Policy, 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. Assuming the broker is performing satisfactorily and consistent with the terms of the Agreement, staff may use its discretion to exercise the third year option for TSIB’s services without returning to the Board for additional authorization.

PURPOSE: To appoint a Broker/Consultant for the Authority’s Bridge Property Damage and Loss of Toll Revenue Program and the Claims-made Excess Liability policy, 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-12-075 authorized staff to appoint and negotiate an Agreement with the Broker/Consultant, Aon Risk Solutions for the Authority’s Bridge Property Program and the Claims-made Excess Liability policy. The Agreement was for a period of two (2) years (October 9, 2012 to October 9, 2014), with an option for a third year, unilaterally exercisable by the DRPA at its sole discretion.

DRPA-14-069 authorized staff to exercise the right to extend the initial term of the Aon Brokerage and Consulting Services Agreement for the Authority’s Bridge Property Program and Claims Made Excess Liability policy, for one (1) additional year, from October 10, 2014 to October 9,
2015. DRPA exercised that option and entered into an extended Agreement. The Agreement included an annual fixed service fee of $118,250, payable in quarterly installments of $29,562.50 each.

The Agreement does not provide for any further extensions. Therefore, staff drafted and issued a Request for Proposal for Broker/Consultant Services for the Bridge Property Program and the Claims-made Excess 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 five (5) firms submitted proposals:

- The Alamo Insurance Group, Inc. – Secaucus, NJ
- AON (the incumbent) – Philadelphia, PA
- JB West Inc. – New York, New York
- 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 and submitted the lowest three-year locked-in cost proposal.

TSIB’s proposal outlined a very proactive methodology for establishing values for bridge structures. Until such time as staff receives budgetary approval for appraisals, TSIB proposes that the bridge valuation renewal process focus on the indexing process called CALTRANS (California Department of Transportation). This indexing along with the current market value determination will provide a more comprehensive valuation by merging the current market conditions from both a commodity and a geographical perspective, for replacement cost values to be used for future policy limits.

TSIB has direct access to all the insurance companies currently comprising the Bridge Property Damage Program and the Claims-made Excess Liability policy.

If staff’s recommendation is accepted, TSIB’s Cost Proposal would result in an $11,250 decrease (per year) over the current annual service fee ($107,000 vs. $118,250).

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 $107,000 ($214,000 over a two-year term), payable in quarterly installments of $26,750. The Agreement will include a one (1) year option not to exceed $107,000 for the period of October 10, 2017 to October 9, 2018. The option for the third year is unilaterally exercisable by the DRPA, at its sole discretion.
In order for staff to transition the broker services for the Bridge Property Damage Program and the Claims-made Excess Liability policy from Aon to TSIB, DRPA Legal has advised that the current Aon Agreement be terminated immediately following the expiration of the NJ Governor’s Veto Period, (allowing for a 30-day notice) on or about August 3, 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 is expected to occur between 8/10/2015 to 9/9/2015. DRPA’s Legal Department has reviewed and approved a termination letter. Staff will mail the termination letter to Aon after the NJ Governor’s Veto Period has expired. The final quarterly installment of $29,562.50, due 6/30/2015, has been paid to Aon.

The Legal department staff will draft a new Broker/Consultant Agreement for TSIB to become effective the first day after the expiration of the New Jersey Governor’s Veto Period or on or about August 3, 2015. 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.
Upon execution of same, TSIB will receive the DRPA signed Broker of Record letters for distribution to the insurance carriers representing the four (4) policies of the Bridge Property Damage Program and the Claims-made Excess Liability policy. Upon the insurance carriers’ acceptance of the Broker of Records for the Bridge Property Damage Program and the Claims-made Excess Liability policy, TSIB will begin the renewal process in August for the Claims-made Excess Liability policy which renews 12/31/2015. DRPA-15-063 approved the renewal of the Bridge Property Damage policies from 6/30/2015 to 12/31/2016.

Staff recommends that TSIB be appointed as the Broker of Record and to negotiate an Agreement for the Authority’s Bridge Property Damage Program and the Claims-made Excess Liability policy.

SUMMARY:  
Amount: Total: Not to exceed $214,000 (two year term), with 1 year option NTE $107,000; payable on an annual basis (with quarterly installments of $26,750 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)
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 immediately following the expiration of the NJ Governor’s Veto Period, (allowing for a 30-day notice) to terminate the Aon Brokerage and Consulting Services Agreement for the Bridge Property Damage and Loss of Toll Revenue Program and the Claims-made Excess Liability Policy. The effective date of the Termination will be on or about August 3, 2015 or the first day after the expiration of the New Jersey Governor’s Veto Period; 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 Bridge Property Damage and Loss of Toll Revenue Program and the Claims-made Excess Liability Policy. Under the Transfer Assistance clause, Aon is obligated to reasonably assist the Authority’s replacement broker in the transfer of the renewal services which is expected to occur between 8/10/2015 to 9/9/2015; and be it further

RESOLVED: That the Board authorizes staff to appoint TSIB as the Authority’s Broker/Consultant for the Bridge Property Damage and Loss of Toll Revenue Program and the Claims-made Excess 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 $214,000, at the annual fixed service fee of $107,000 payable on a quarterly basis at $26,750 each; and be it further
RESOLVED: That, assuming TSIB is performing satisfactorily and consistent with the terms of the Agreement, the Board authorizes staff to use its discretion as to whether the third year option shall be exercised, without returning to the Board for additional authorization. If the third year option is exercised, the fee for the additional one-year option shall not exceed $107,000, and shall continue to be payable on a quarterly basis at $26,750 each. The terms and conditions of the Agreement shall remain the same during the third-year option; and be it further

RESOLVED: That the Board authorizes that TSIB’s 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 $214,000 (two year term)
With 1 year option NTE $107,000; payable on an annual basis (with quarterly installments of $26,750 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)