SUMMARY STATEMENT

ITEM NO.: DRPA-18-054 SUBJECT: Broker/Consultant for Traditional Property & Casualty, including Pollution Legal Liability

COMMITTEE: Finance

COMMITTEE MEETING DATE: June 6, 2018

BOARD ACTION DATE: June 20, 2018

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. The initial term of the Agreement shall be for a three (3) year term, with an option for two (2) additional (1) year options, unilaterally exercisable, at the DRPA’s sole discretion, based on staff’s overall satisfaction with the professional services. Assuming the broker is performing satisfactorily and consistent with the terms of the Agreement, staff may use its discretion to exercise the fourth and fifth one-year options for the broker services without returning to the Board for additional authorization.

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; and (2) a fully-executed Broker/Services Agreement between the Delaware River Port Authority and Turner Surety & Insurance Brokerage Inc. (TSIB).

BACKGROUND: Since 2012, TSIB has served as the Administrator for the Authority’s Owner Controlled Insurance Program (OCIP). Although the OCIP insurance policies expired on December 31, 2014, the Board authorized several extensions of the OCIP Administrator Agreement in order for TSIB to perform limited OCIP administrative close-out services. The current Agreement will expire on December 31, 2018. During this six-year period, staff had the opportunity to work closely with the TSIB team members and has been pleased.
DRPA-15-062 authorized staff to appoint and negotiate an Agreement with the Broker/Consultant, TSIB 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 1, 2015 to July 31, 2017), with an option for a third year. DRPA exercised that option and entered into an extended Agreement. The Agreement included an annual fixed service fee of $141,000, payable in quarterly installments of $35,250 each. The agreement will expire on July 31, 2018.

The Broker/Consultant Agreement for the Traditional Property & Casualty program does not provide for any additional extensions. Therefore, staff drafted and issued a Request for Proposal for Broker/Consultant Services for the Traditional Property & Casualty, including a Pollution Legal Liability policy.

The RFP was advertised on DRPA’s website. It was also advertised from March 1 to March 22, 2018 in the March issue of Business Insurance, both the subscription hard-copy and the on-line digital copy, and including daily briefing text ads. Responses were due on Monday, April 2, 2018, by 2 pm.

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

The following three (3) firms submitted proposals:
- Alliant Insurance Services, Inc. – Morristown, NJ
- Cook Maran, A Prime Risk Partner - *New York, NY
- TSIB (the incumbent) – Paramus, NJ
* Best guess, proposal did not specify a location

The review committee consisted of following individuals:
- Chief Administrative Officer
- Chief Engineer
- General Counsel
- Director Risk Management
- PATCO General Manager

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 May 4, 2018, 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. Their cost proposal was the second lowest and TSIB committed to the same locked-in annual fee for the proposed five-year term.

TSIB’s proposal outlined their significant marketing achievements by negotiating 24-month policy terms with locked-in rates for the Non-Bridge Property, Commercial Automobile, Marine Program (3 policies) and the DRPA and PATCO Excess Workers’ Compensation policies. This translated into significant premium cost savings over the years.

Throughout TSIB’s tenure as our broker, members of the service team have demonstrated the understanding and expertise to manage all aspects of the broker/consulting duties and responsibilities, as outlined in the RFP—which include program development, management and renewal responsibilities.

TSIB represents on a direct basis, all but two (2) insurance carriers of the Traditional Property & Casualty program; (1) Affiliated FM (FM Global) and (2) National Fire & Marine Insurance Company. If approved, TSIB would continue to use AmWins, 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.

AmWins will receive commissions from the insurance carriers, but will not pay any additional income to TSIB, including commission, or any contingent, supplemental or other forms of additional compensation. Affiliated FM and National Fire & Marine Insurance Company will continue the placement of the policies NET of any income including commission, or any contingent, supplemental or other forms of additional compensation to TSIB.
TSIB does not accept contingent, supplemental or other forms of additional compensation from insurers and will not receive any additional compensation beyond the flat fixed service fee payable as outlined in their Cost Proposal.

If staff’s recommendation is accepted, TSIB’s Cost Proposal would result in a $19,380 increase (per year) over the current annual service fee ($141,000 vs. $160,380).

The Legal department will draft a new Broker/Consultant Agreement to become effective after the expiration of the New Jersey Governor’s Veto Period or on or about July 2, 2018. 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.

Staff recommends that TSIB be reappointed as the Broker of Record. We recommend further that staff negotiate an Agreement with TSIB as the Authority’s Broker Consultant for the Traditional Property & Casualty, including Pollution Legal Liability policy.

It is recommended that a Broker/Consultant Agreement be negotiated with TSIB for the three-year fixed service fee for a not-to-exceed annual amount of $481,140, payable in quarterly installments of $40,095. The Agreement will include an option for two (2) additional (1) year options, unilaterally exercisable, at the DRPA’s sole discretion, based on staff’s overall satisfaction with TSIB’s professional services, without returning to the Board for additional authorization.
SUMMARY STATEMENT
Broker/Consultant for Traditional
Property & Casualty, including
Pollution Legal Liability

SUMMARY: Amount: Total: Not to exceed $481,140, (three year term), with an option for two (2) additional (1) year options, unilaterally exercisable at DRPA’s sole discretion; NTE $160,380 on an annual basis, payable with quarterly installments of $40,095 each

Source of Funds: Revenue Fund and General Fund (PATCO portion)
Capital Project #: N/A
Operating Budget: DRPA Risk Mgt. Commitment #70000 PATCO Risk Mgt. Commitment #70000
Master Plan Status: N/A
Other Fund Sources: N/A
Duration of Contract: 3 years, with an option for two (2) additional (1) year terms unilaterally exercisable by the DRPA at its sole discretion, (based on performance evaluation)
Other Parties Involved: Turner Surety & Insurance Brokerage Inc. (TSIB) and AmWins of Mid-Atlantic
RESOLUTION

RESOLVED: That the Board authorizes staff to reappoint Turner Surety & Insurance Brokerage (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 three (3) years, with an option for two (2) additional (1) year terms, unilaterally exercisable by the DRPA at its sole discretion; (based on performance evaluation) for the 3-year fixed service fee not to exceed $481,140, at the annual fixed service fee of $160,380 payable on a quarterly basis at $40,095 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 fourth year option shall be exercised, without returning to the Board for additional authorization. If the fourth year option is exercised, the fee for the additional one-year option shall not exceed $160,380, and shall continue to be payable on a quarterly basis at $40,095 each. The terms and conditions of the Agreement shall remain the same during the fourth-year option; 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 fifth year option shall be exercised, without returning to the Board for additional authorization. If the fifth year option is exercised, the fee for the additional one-year option shall not exceed $160,380, and shall continue to be payable on a quarterly basis at $40,095 each. The terms and conditions of the Agreement shall remain the same during the fifth-year option; and be it further

RESOLVED: That the Board of Commissioners authorizes AmWins of Mid-Atlantic, 1127 South Patrick Drive, Suite 16, Satellite Beach, FL 32937 as the Wholesale Broker for TSIB in the placement of the (1) Affiliated FM (FM Global) and (2) National Fire & Marine Insurance Company policies. AM Wins will receive commission from Affiliated FM Global, but will not pay TSIB any additional income, including commission, or any contingent, supplemental or other forms of additional compensation;
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; and (2) a fully executed Broker/Services Agreement between the Delaware River Port Authority and Turner Surety & Insurance Brokerage, Inc. (TSIB).

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 $481,140, (three year term), with an option for two (2) additional (1) year options, unilaterally exercisable at DRPA’s sole discretion; NTE $160,380 on an annual basis, payable with quarterly installments of $40,095 each

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

Capital Project #: N/A

Operating Budget: DRPA Risk Mgt. Commitment #70000
PATCO Risk Mgt. Commitment #70000

Master Plan Status: N/A

Other Fund Sources: N/A

Duration of Contract: 3 years, with an option for two (2) additional (1) year terms unilaterally exercisable by the DRPA at its sole discretion, (based on performance evaluation)

Other Parties Involved: Turner Surety & Insurance Brokerage, Inc. (TSIB) and AmWins Mid-Atlantic