



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Scott P. Johnson

SUBJECT: SEE BELOW

DATE: August 23, 2006

Approved

Kay Wimer

Date

8/29/06

SUBJECT: AMENDMENT TO THE AGREEMENT WITH WILLIS INSURANCE SERVICES OF CALIFORNIA INC.

RECOMMENDATION

Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with Willis Insurance Services of California Inc. ("Willis"), for citywide insurance broker services, to set a cap on commissions paid to Willis by insurance carriers for placement of the City's policies in an amount not to exceed \$241,000.

OUTCOME

To obtain the highest quality insurance brokerage services for fair compensation and to ensure consistency in the broker service team servicing the City's diverse insurance requirements.

BACKGROUND

On April 22, 2003, City Council adopted resolution number 71507 authorizing the City Manager to take any necessary action to replace the City's then current insurance broker with Willis Insurance Services of California, Inc. ("Willis"). The resulting agreement with Willis required Willis to provide insurance brokerage service until June 30, 2005, subject to two one-year extensions. The City exercised the option for the second extension period, which will end on June 30, 2007.

As is customary in the insurance industry, the compensation for Willis has been covered through commissions from insurance carriers. For each insurance purchase or policy placed, the broker has disclosed the commission percentage paid to it directly from the insurance carrier.

The Redevelopment Agency has a separate agreement with Willis for insurance brokerage services; however, the City's Finance Department coordinates the purchase of insurance coverages for both the City and the Redevelopment Agency. Consistent with this recommendation, the Agency negotiated a capped commission with Willis.

ANALYSIS

During the current contract period, Willis demonstrated the ability to perform property and casualty insurance and risk management functions in a timely and efficient manner by successfully completing tasks as outlined in the contract. The Broker's performance has been very responsive to the City's needs. Through the past years the City and the Redevelopment Agency have benefited from the brokers professional knowledge, skills, and advice.

As part of the review in executing the second option renewal of the existing contract, staff negotiated with Willis to cap the commissions paid to Willis by the insurance carriers with which the City's coverages are placed for the final contract period of July 1, 2006 to June 30, 2007. Under the agreement with Willis, the City is not directly obligated to pay the broker's fees. As is the norm in the insurance industry, Willis is compensated through commissions from insurance carriers from which the City purchases its insurance policies. In the past three contract years, an average industry commission of 5% to 20% has been paid by the carrier directly to the insurance brokers, depending on the type of coverage placed by Willis. In accordance with Willis's full disclosure requirement as outlined in the contract, the commissions paid in the past three years are as outlined in the table below.

Fiscal Year	Broker Commission
2003/2004	\$483,520
2004/2005	\$389,486
2005/2006	\$316,914

Through the proposed amendment of the compensation schedule, the commission will not exceed \$241,000 for the term of the contract extension for July 1, 2006 to June 30, 2007. Willis will continue to disclose any commission paid by the insurance carriers and remit to the City any compensation exceeding the capped commission of \$241,000.

After a careful evaluation, staff recommends amending the existing contract to a capped commission. Staff has engaged in discussions with Willis regarding the amount of the cap. This discussion has resulted in a cap of \$241,000, which is \$9,000 lower than the original proposed cap of \$250,000.

Given the history of the commission payment to Willis, as depicted above, staff anticipates cost savings for commission payments to the City by capping the commission at \$241,000. However, the capped commission still allows the City to save additional funds, if the amount of the

commissions paid to the Willis by the insurance carriers is less than \$241,000. Although the City was not able to participate in the Settlement Fund for the reasons outlined below, staff believes that the City will benefit from a continued relationship with Willis in light of the reformed business practices instituted by Willis and the anticipated cost savings from the capped commissions.

Willis and other large insurance brokers have been the target of investigations into their business practices. These business practices have included accepting payments in addition to the commissions for placement of coverage from insurance carriers, known as “contingent compensation”. Willis has entered into a settlement agreement with the Attorney General of New York and the New York insurance superintendent in which Willis agreed to a number of business reforms, including:

- Clear disclosure to its clients regarding the compensation to be paid to Willis as a result of placement of the clients’ insurance coverage;
- Prohibition on contingent compensation arrangements and pay to play arrangements with insurers; and
- Mandated training of staff to implement the business reforms.

We have received the Willis Client Engagement Guide which is a key part of the new process for Willis. It embodies the Willis Value Experience by serving as a living document that guides, and will monitor the level of service the City of San Jose receives – ensuring that the City’s satisfaction is paramount. With the Client Engagement Guide Willis describes their protocols and philosophy regarding marketing, transparency, compliance, advocacy and compensation, as well as information about the Willis Client Bill of Rights, Advocacy Report and Client Service Plan.

In connection with the New York settlement agreement, the City was offered a cash distribution from the Settlement Agreement Fund in the amount of \$8,037.38. In order to obtain the cash distribution, the City was required to sign a release. The City declined to participate in the Settlement Fund because the City, as a current client of Willis, determined that the release’s broad language could relieve Willis of liability arising under its contract with the City for insurance broker services and the proposed settlement amount did not warrant relieving Willis of its ongoing obligations to the City.

POLICY ALTERNATIVES

Not to limit the annual compensation and base the compensation on commissions paid by the insurance carrier.

PUBLIC OUTREACH/INTEREST

Not applicable.

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**

- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

This memorandum has been coordinated with the Redevelopment Agency and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This Council item is consistent with Council approved Budget Strategy Memo, General Principle #2, "We must focus on protecting our vital core city services".

COST IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

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CEQA

Not applicable.



SCOTT P. JOHNSON
Director, Finance

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