

**FIRST RESTATED AND AMENDED
BROKER SERVICES AGREEMENT C-120779
BETWEEN
WILLIS INSURANCE SERVICES OF CALIFORNIA, INC.
AND
THE CITY OF LOS ANGELES
FOR PROPERTY AND LIABILITY INSURANCE BROKER SERVICES**

**FIRST RESTATED AND AMENDED
BROKER SERVICES AGREEMENT**

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AGREEMENT NUMBER _____ OF CITY CONTRACTS
BETWEEN
THE CITY OF LOS ANGELES
AND
WILLIS INSURANCE SERVICES OF CALIFORNIA, INC.

This First Restated and Amended Broker Services Agreement ("AGREEMENT") is made and entered into by and between Willis Insurance Services of California, Inc. ("BROKER"), and the CITY OF LOS ANGELES ("CITY") acting through its Office of the City Administrative Officer, Risk Management.

RECITALS:

- A. The CITY, through the Office of the City Administrative Officer, Risk Management, purchases insurance coverage consistent with the guidelines of the City's Risk Management Policy; and
- B. The CITY requires certain technical and expert services of a temporary and occasional nature consisting generally of insurance broker services to cost-effectively secure quality insurance on a continuous basis for the CITY; and
- C. BROKER has expertise as an insurance brokerage firm and was selected to provide the required services following a competitive Request for Proposals dated April 16, 2012; and
- D. The required services can be performed more economically or feasibly by BROKER than by CITY employees; and
- E. The original term of this Agreement was three years; and
- F. Just prior to the end of the original term the City suffered harm associated with a fire, which requires BROKER'S continued involvement for an unknown period of time to assure the best and most consistent results for the City; and
- G. The parties wish to restate agreement C-120779 providing for a new and extended term of 12 months with an option to extend up to an additional 24 months.

NOW, THEREFORE, the parties do agree as follows:

1.0 BROKER SERVICES

The BROKER will:

- 1.1 Provide accurate and complete information regarding the most advantageous insurance markets from the standpoint of cost, service, coverage and security.
- 1.2 Prior to each renewal of each policy or group of policies Exhibit A – Insurance Policies of the City of Los Angeles, prepare a market analysis and forecast for policy or group of policies. Such analysis must identify pricing and service trends, availability of markets, the longer-term direction of the market, and the feasibility of reducing costs and/or improving coverages by consolidating policies into one or more master policies.
- 1.3 Market required insurance coverages and additional insurance needs on a timely basis as requested during the term of the AGREEMENT. This function shall include preparation of complete and accurate specifications for presentation to the insurance marketplace.
- 1.4 Assist in the preparation of materials, specifications, and underwriting data required by insurers. This includes working with the CITY to gather the necessary information.
- 1.5 Fully document marketing of the required insurance coverages, including copies of any declinations received from insurance carriers.
- 1.6 Verify the accuracy and adequacy of all binders, policies, policy endorsements, invoices, claims information, and other insurance-related documents prior to delivery to the CITY. Any irregularities or required corrections or coverage changes shall be promptly communicated in writing or electronically by the BROKER to the CITY.
- 1.7 Provide recommendations on coverage changes and program adjustments or restructuring, as needed.
- 1.8 Assist the CITY in preparing proofs of loss or claims reports.
- 1.9 Assist the CITY in obtaining loss settlements, histories and summaries from insurers.
- 1.10 Assist the CITY in maintaining a database of all important claims information and submitting reports as required by the CITY.

- 1.11 Issue binders, certificates of insurance, and other coverage verification documents as required.
- 1.12 Respond to the CITY'S questions regarding insurance coverages and related issues, including contractual issues and CITY Requests for Proposals and Requests for Bids.
- 1.13 Structure insurance programs for the CITY to eliminate gaps or overlaps in coverage and provide the terms and limits requested by the CITY.
- 1.14 Provide expert evaluation in the development (and improvement) of risk control programs for the CITY.
- 1.15 Participate in all risk control surveys at the CITY performed by or on behalf of insurance carriers.
- 1.16 Participate in the evaluation of risk financing opportunities/alternatives that may be available to the CITY.
- 1.17 Evaluate and monitor each insurer's financial status and advise the CITY immediately of any adverse developments that might impact existing or renewal insurance placements.
- 1.18 Prepare and provide to the CITY an annual report on all coverages placed, activities performed and planned, future plans and goals for cost reduction, program enhancement, and contributions and all remuneration received from any insurer or any other source in connection with the CITY'S insurance.
- 1.19 Attend meetings with the CITY, as needed and requested by the CITY.

2.0 CITY RESPONSIBILITIES

The CITY will:

- 2.1 Provide accurate and timely insurance application information to BROKER as needed to secure quotations for coverage.
- 2.2 Provide payment to BROKER of premiums, premium taxes, agreed fees and surcharges, BROKER administration fees to be paid by the CITY, including payment of mutually agreed upon additional services or work, within forty-five (45) days after invoice approval.

3.0 STAFFING AND SUBCONTRACTING

- 3.1 BROKER is not an employee, agent, or other representative of the CITY.

BROKER has no authority to act for, legally represent, or otherwise bind or legally commit the CITY in any way except as authorized by the City Administrative Officer or the Director of Risk Management as designee. Notwithstanding the foregoing provisions, the duty of BROKER to the CITY is a fiduciary one entailing the highest duty of individual loyalty. (Refer to Standard Provisions for City Contracts, Rev. 03/09 (STANDARD PROVISIONS), Section PSC-11 INDEPENDENT CONTRACTOR).

- 3.2 With the prior written approval of the City Administrative Officer or the Director of Risk Management as designee, BROKER may enter into subcontracts for the performance of parts of the services associated with this AGREEMENT. The CITY shall at no time be responsible for the acts or omissions of BROKER'S subcontractors and persons directly or indirectly employed by them. Nothing in this AGREEMENT shall constitute any contractual relationship between any subcontractor and the CITY or any obligation on the part of the CITY to pay, or to be directly responsible for the payment of, any sums to any subcontractor.
- 3.3 BROKER must inform the CITY within seventy-two (72) hours, of any changes of principals handling the CITY's account and the qualifications of the prospective principals. Such changes shall be made subject to the written approval of the CITY.

4.0 COMPENSATION FEES AND REIMBURSEMENT

- 4.1 BROKER shall submit invoices to the CITY stating all insurance premiums, premium taxes, fees and surcharges to be paid by the CITY for the insurance coverage procured under this AGREEMENT as well as all BROKER administration fees to be paid by the CITY. All sources of BROKER compensation must be disclosed, and contingent commissions will not be allowed. As set forth in Section 2.2, the CITY shall provide payment to BROKER of such insurance premiums, premium taxes, fees and surcharges for insurance coverage and BROKER administration fees within forty-five (45) days after invoice approval.
- 4.2 BROKER shall promptly and timely deliver to the appropriate insurance carrier(s) all insurance premiums, premium taxes and fees for the insurance coverage procured under this AGREEMENT.
- 4.3 It is expressly understood and agreed that in no event shall the Annual Base Fee to be paid by the CITY to BROKER under this AGREEMENT exceed the maximum sum of ONE HUNDRED SIXTY-FIVE THOUSAND DOLLARS (\$165,000.00) unless provided by written amendment hereto. Any

commissions, bonuses, fees or anything else of value received by BROKER from insurance carriers as it relates to BROKER SERVICES (Section 1.0) shall be credited against the Annual Base Fee. Any commissions, bonuses, fees or anything else of value received by BROKER from insurance carriers as it relates to BROKER SERVICES in excess of the Annual Base Fee of ONE HUNDRED SIXTY-FIVE THOUSAND DOLLARS (\$165,000.00) shall be reimbursed to the CITY.

4.3.1 Payment of the Annual Base Fee shall be made to BROKER on a quarterly basis in four equal installments of forty-one thousand two hundred fifty dollars (\$41,250.00) each. BROKER may submit the first quarterly invoice on or after August 1, 2015, with subsequent quarterly invoices submitted every three (3) months thereafter.

4.4 All invoices submitted by BROKER shall be sent to the CITY at the following address:

City of Los Angeles
Office of the City Administrative Officer – Risk Management
200 North Main Street, Suite 1240
Los Angeles, CA 90012
Attn: Victor T. Parker

4.5 All written correspondence or official contact from the CITY to BROKER shall be submitted to the following address:

Willis Insurance Services of California, Inc.
801 South Figueroa Street, Suite 800
Los Angeles, CA 90017
Attn: Demetri Lembesis

4.6 Any additional professional services or work performed by BROKER which has been requested pursuant to Section 4.7 below, except for actuarial services, will be billed to the CITY at a rate commensurate with the services provided. Such rate shall not exceed \$200.00 per hour for claim consulting and \$185.00 per hour for loss control consulting. Services for actuarial work, if requested by the CITY, will be billed at the rate such services are charged to BROKER. The CITY is under no obligation to authorize any amount of additional professional services or work.

4.7 In the event the CITY and BROKER mutually agree upon additional

professional services or work to be performed by BROKER, BROKER shall submit an itemized statement to the CITY setting forth the hours worked by BROKER, the specific services performed, and the charges therefor. Statement shall include sufficient and proper documentation evidencing the performance and completion of said additional services or work. After the CITY'S verification of said statement, compensation will be made as agreed in Section 2.2 above.

5.0 INDEMNIFICATION

5.1 Refer to STANDARD PROVISIONS, Section PSC-20 INDEMNIFICATION.

6.0 INSURANCE

6.1 Refer to STANDARD PROVISIONS, Section PSC-24 INSURANCE.

7.0 AUDIT

7.1 An audit of this program may be made from time to time at the discretion of the CITY at no expense to BROKER. BROKER shall cooperate with the auditor named by the CITY, and make available necessary records. Such audits shall be conducted during normal working hours at the offices of BROKER where such records are normally maintained.

8.0 TERM OF AGREEMENT AND CANCELLATION

8.1 The term of this AGREEMENT shall be from July 1, 2015 through June 30, 2016, unless terminated earlier. Provided that all other terms and conditions in this Contract remain the same the City Administrative Officer or the Director of Risk management as his designee may amend this Contract to extend the term for a period of time up to 24 months without additional approval from the City Council.

8.2 This AGREEMENT may be canceled by either party with or without cause on thirty (30) days' written notice or by mutual written agreement of the parties. Said notice, on the CITY's behalf, will be given by the City Administrative Officer or the Director of Risk Management as designee.

8.3 If the interest of BROKER under this AGREEMENT shall be transferred to, pass to, or devolve upon, by operation of law or otherwise, any other person, firm or corporation; or

If BROKER is a corporation and becomes a possessor or merged corporation in a consolidation, or a corporation in dissolution; or

If by or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of BROKER and such possession or control shall continue in effect for a period of thirty (30) days; then,

Upon the occurrence of any of the events specified in this Section 8.3, the CITY shall have the right, after having given BROKER seven (7) or more days' written notice, to terminate this AGREEMENT.

- 8.4 In the event this AGREEMENT is canceled, the Annual Base Fee for the year (July 1 through June 30) of the AGREEMENT during which the cancellation occurs will be prorated from July 1 to the date of cancellation (the Earned Portion of the Annual Base Fee). Any Annual Base Fee paid to BROKER in excess of the Earned Portion of the Annual Base Fee will be returned to the CITY within thirty (30) days of the cancellation date.

9.0 ATTACHMENTS AND ORDER OF PRECEDENCE

- 9.1 The following Exhibits are hereby incorporated into and made a part of this Agreement as though set forth at length.

Exhibit A: Insurance Policies of the City of Los Angeles

Exhibit B: Standard Provisions for City Contracts (Rev. 03/09)

Exhibit C: Request for Proposals for Insurance Brokerage Services for Property and Liability Insurance Programs released on April 16, 2012 (RFP)

Exhibit D: BROKER'S Proposal dated May 14, 2012 (BROKER'S Proposal).

- 9.2 In the event of an inconsistency between any of the provisions of this Agreement and/or any appendix attached hereto, the inconsistency shall be resolved by giving precedence in the following order:

1. The provisions of this Agreement
2. Exhibit A
3. Exhibit B
4. Exhibit C
5. Exhibit D

IN WITNESS THEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective duly authorized representatives.

THE CITY OF LOS ANGELES

WILLIS INSURANCE SERVICES OF CALIFORNIA, INC.

By: _____

Miguel A. Santana
City Administrative Officer

By: _____

Demetri Lembesis
Executive Vice President

Date: _____

Date: _____

APPROVED AS TO FORM

Michael N. Feuer
City Attorney

ATTEST:

Holly L. Wolcott
City Clerk

By: _____

By: _____

Deputy Clerk

Date: _____

Date: _____