

Watertown City Council

June 25, 2019

Agenda Item:	Appoint Insurance Agent of Record
Request for Action:	Approve Resolution #2019-88 appointing insurance agent of record for the City of Watertown
Department:	Administration

Background:

The City participates in the League of Minnesota Cities Insurance Trust for their property and casualty as well as workers compensation insurance. The League requires Cities to use an agent for administering the policy renewals and maintenance. The City of Watertown has been using Marsh & McLennan Agency LLC for the past five years. The agent's role is to be that of an adviser and service provider. Staff feels the customer service and response time provided by the agent has been sub-par for the past three years.

At the April 23rd meeting, council authorized staff to request proposals from local insurance agents. Staff received three proposals and have reviewed the information provided via the RFP. Outlined in the process was the option to conduct interviews. Upon review of the submitted written material it is not recommended to conduct interviews at this time and is recommending Oakwood Insurance Agency as the agent of record. Cory Mitteness would be the city's contact at Oakwood Insurance Agency. Being that Mitteness is a member of the Watertown Economic Development Authority, he will need to sign an affidavit of official interest in claim stating that he has provided the lowest or as low contract price as other agents in order to avoid any conflict of interest perceptions. The rate of contract is set by the League of Minnesota Cities and is not competitive in nature. Mitteness will also sign the city's professional services contract.

Staff will begin the insurance renewal process after all contract documents have been signed.

Recommendation:

Staff recommends approval of Resolution #2019-88, appointing insurance agent of record for the City of Watertown.

Attachments:

Resolution #2019-88

Affidavit of official interest in claim

Agent contract

CITY OF WATERTOWN

RESOLUTION 2019-88

**RESOLUTION APPOINTING INSURANCE AGENT OF
RECORD FOR THE CITY OF WATERTOWN**

WHEREAS, the League of Minnesota Cities Insurance Trust (LMCIT) requires cities to use the services of an agent in order to participate in the LMCIT property/casualty program; and

WHEREAS, the city staff has reviewed and considered the written materials from LMCIT discussing the agent's role and compensation in LMCIT; and

WHEREAS, Cory Mitteness with Oakwood Insurance Agency has agreed that he is willing to provide to the city the services listed below under the terms and conditions listed below; and

WHEREAS, Cory Mitteness is a member of the Watertown Economic Development Authority and will be financially interested in this contract; and

WHEREAS, it is determined the contract is as low as, or lower than, the price at which the services can be obtained elsewhere at this time; in addition

WHEREAS, the contract is not one that is required to be competitively bid.

NOW THEREFORE, be it resolved by the City Council of the City of Watertown, Minnesota as follows:

1. The City of Watertown hereby appoints Cory Mitteness of Oakwood Insurance Agency as its agent for purposes of the City's participation in the LMCIT property/casualty program.
2. This appointment shall remain effective until July 31, 2022 with option for renewal to an indefinite term unless terminated by council action.
3. As compensation for the services provided to the city as described in Paragraph 4 below, the agent will receive annually a fee equal to 10 percent of the annual premiums paid by the city to LMCIT for property, liability, and automotive coverages and 2 percent of the annual premiums paid by the city to LMCIT for workers' compensation coverage. This fee shall be included in the amounts billed to the city by LMCIT and shall be paid to the agent by LMCIT on the city's behalf.
4. The agent will perform the following services:
 - a. Advise and assist the city in assembling and accurately reporting underwriting data, including updating property values, for rating purposes.
 - b. Advise and assist the city in evaluating and selecting among coverage alternatives such as deductibles, limits, optional coverages, alternative coverage forms, etc.

- c. Review coverage documents and invoices to assure coverage has been correctly issued and billed.
- d. Advise the city on potential gaps or overlaps in coverages.
- e. Assist the city as requested in submitting claims and interpreting coverage as applied to particular claims.
- f. Review loss reports for correct reporting, appropriate reserves, etc.
- g. Assist as requested with safety and loss control activities.
- h. Assist the city in identifying risk exposures and developing appropriate strategies to address those exposures.

Adopted by the City Council of the City of Watertown this 25th day of June, 2019.

Steve Washburn, Mayor

ATTEST: _____

Lynn Tschudi, Clerk/Treasurer

AFFIDAVIT OF OFFICIAL INTEREST IN CLAIM

STATE OF MINNESOTA)

COUNTY OF CARVER)

I, Cory Mitteness, being duly sworn state the following:

- 1) I am a member of the Watertown Economic Development Authority.
- 2) On May 13, 2019 I submitted an RFP response for the City of Watertown’s Insurance Agent of Record.
- 3) The contract price for the services is set by the League of Minnesota Cities Insurance Trust with nothing additional charged by Oakwood Insurance Agency.
- 4) At the time the services were furnished to the city, I had the following personal financial interest in this contract: to provide the best service to the City of Watertown at the LMCIT set commission.

To the best of my knowledge and belief, the contract price is as low as, or lower than the price at which the service could be obtained from other sources.

I further state that this affidavit constitutes a claim against the city for the contract price, that the claim is just and correct, and that no part of the claim has been paid.

Cory Mitteness

Subscribed and sworn to before me this _____ day of June, 2019.

Notary signature

AGREEMENT FOR INSURANCE CONSULTING AND BROKERAGE SERVICES

This Agreement (“Agreement”) is entered as of the _____ day of _____, 20__, by and between the City of Watertown (the “City”), a municipal corporation under the laws of the State of Minnesota, and _____ (“Agent”) (each sometime hereinafter called “Party” and both sometimes collectively “Parties”).

I. Purpose

The purpose of this Agreement is to set forth the terms and conditions under which the Agent is appointed to provide certain insurance consulting and brokerage services to the City.

II. Scope of Services

The Agent agrees to perform the following services (the “Services”):

1. Coordinate the gathering of the information need to complete LMCIT renewal applications and assist with the completion of the LMCIT renewal forms using the data supplied by the City.
2. Advise and assist in assembling and accurately reporting underwriting data needed for rating purposes. Assist in managing, tracking, and ensuring coverage is secured for insurable assets, such as building, mobile property, and automobiles.
3. Advise and assist the City in evaluating and selecting coverage alternatives such as deductibles, limits, optional coverage, alternative coverage forms, etc. Advise the City on potential gaps or overlaps in coverage. Provide the City Administrator and Clerk with access to the broker’s working files of City business upon request, at the City’s convenience and discretion.
4. Review coverage documents and invoices to assure coverage has been correctly issued and billed.
5. Review the LMCIT insurance policies for completeness and accuracy. Confirm the schedules have been updated for the new data supplied during the renewal process.
6. Provide the City with a recap of insurance costs and an explanation of premium increases for each renewal. Provide assistance on questions about coverage and premium calculations.
7. Provide explanations of insurance coverage, coverage options and make recommendations as requested.
8. Assist in ensuring contractual insurance requirements are being met.
9. Assist as requested in submitting claims and interpreting coverage as applied to particular claims.
10. Conduct quarterly review of open claims. Review loss reports for correct reporting. Review claim reserves for appropriateness.
11. Assist the City in identifying risk exposures and developing appropriate strategies to address those exposures.
12. Assist as requested with safety and loss control activities.
13. Evaluate and advise the City on whether comparable insurance can be provided by someone other than the League of Minnesota Cities.
14. Assist with LMCIT appraisal process.

15. Assist in managing and securing certificates of insurance.
16. All other functions expected of an insurance broker and requested by the City such as, but not limited to, accurately amending policies, providing interpretation of coverage, policy maintenance, binders and certificates, timely delivery of policies and/or binders, providing unbiased recommendations, answering questions and resolving issues.

The Agent agrees to comply with all federal, state and local laws and ordinances applicable to the Services to be performed under this Agreement, including all safety standards. The Agent represents and warrants that it has the requisite training, skills, and experience necessary to provide the Services and is appropriately licensed by all applicable agencies and governmental entities and will perform the Services with reasonable care and skill.

The Agent shall not perform any additional Services without the express permission of the City.

The Agent shall not subcontract any of the Services without prior written consent of the City.

III. Term

The Term of the Agent's appointment, and this Agreement, shall be for a (3) three-year period commencing from the effective date of this Agreement in order to service the City's insurance coverage for the following policy periods: 8/1/2019-7/31/2020; 8/1/2010-7/31/2021; 8/1/20121-7/31/2022.

Notwithstanding the foregoing, the Parties may terminate this Agreement at any time, with or without cause. Termination shall be effective upon thirty (30) days written notice to the other Party. The City may solicit proposals from other Agents prior to the termination of this Agreement.

In the event that the Parties terminate the Agreement prior to the end of the three-year period, the Agent is entitled to compensation, as discussed in Section IV below, for the policy period implemented at the time of termination.

IV. Compensation.

The Agent will be paid a fee for the Services. As compensation for the agent's services described in this Agreement, the City shall direct LMCIT to pay the agent annually a fee equal to 10% of the annual premium paid by the City to LMCIT for property, liability and automobile coverages and a fee equal to 2% of the annual premium paid by the City to LMCIT for workers' compensation coverage. These fees shall be included in the amounts billed to the City by LMCIT and shall be paid to the agent by LMCIT on the City's behalf. If a fee for the agent's services is paid by LMCIT to the City, the City shall remit such fee to the agent. Said fees shall be subject to any change in LMCIT's compensation schedule regarding fees paid to agents.

V. Independent Contractor Relationship

It is expressly understood that the Agent is an “independent contractor” and not an employee of the City. The Agent shall have control over the manner in which the Services are performed under this Agreement. The Agent shall supply, at its own expense, all materials, supplies, equipment, and tools required to accomplish the Services contemplated by this Agreement. The Agent shall not be entitled to any benefits from the City, including, without limitation, insurance benefits, sick and vacation leave, workers’ compensation benefits, unemployment compensation, disability, severance pay, or retirement benefits. Nothing in this Agreement shall be deemed to constitute a partnership, joint venture or agency relationship between the Parties.

VI. Insurance Requirements

The Agent, at its expense, shall procure and maintain in force for the duration of this Agreement, a valid policy of Professional Liability Insurance. The value of the policy shall not be less than the cap for municipal tort liability as established by Minnesota Statutes.

To the fullest extent permitted by law, the Agent agrees to defend, indemnify, and hold harmless the City, its agents, elected officials, and employees against all causes of action against the City or any of its agents, elected officials or employees that arise from or as a result of the Agent’s Services, actions, or advice under the terms of this Agreement. The Agent’s indemnification obligation shall apply to the Agent’s subcontractors or anyone directly or indirectly employed or hired by the Agent, or anyone for whose acts the Agent may be liable. The Agent agrees this indemnity obligation shall survive the completion or termination of this Agreement.

VII. General Provisions

A. Entire Agreement. This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, between the Parties, and contains the entire agreement.

B. Assignment. The Agent may not assign this Agreement to any other person unless written consent is obtained from the City.

C. Amendments. Any modification or amendment to this Agreement shall require a written agreement signed by both Parties.

D. Nondiscrimination. In the hiring of employees to perform work under this Agreement, the Agent shall not discriminate against any person by reason of any characteristic or classification protected by state or federal law.

E. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota.

F. Government Data. Data provided to the Agent under this Agreement shall be administered in accordance with the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.

G. Waiver. The waiver by either party of any breach or failure to comply with any provision of this Agreement shall not be construed as or constitute a continuing waiver of such provision or a waiver of any other breach or of a failure to comply with any other provision of this Agreement.

H. Notices. Any notice required to be given hereunder shall be deemed to have been given when notice is (i) received by the Party to whom it is directed by personal service; (ii) sent by electronic mail (provided confirmation of receipt is provided by the receiving Party), or (iii) deposited as registered or certified mail, return receipt requested, with the United States Postal Service, addressed as follows:

To: City:

ATTN: City Administrator
City of Watertown
309 Lewis Avenue S
Watertown, MN 55388
Phone: 952-955-2681
Email: _____

From: Agent:

***** Signature Pages to Follow *****

IN WITNESS WHEREOF, the Parties hereto, have caused this Agreement to be executed in their corporate and company names by their duly authorized officers as of the day and year first above written.

CITY:

AGENT:

CITY OF WATERTOWN

By: _____

Its Mayor

By: _____

Its _____

By: _____

Its City Clerk

STATE OF MINNESOTA)

) ss.

CITY

COUNTY OF CARVER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____ and _____, the Mayor and the City Clerk, respectively, of the City of Watertown, a municipal corporation under the laws of the State of Minnesota, on behalf of the City.

Notary Public

STATE OF MINNESOTA)

) ss.

AGENT

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, the _____ of _____, a Minnesota _____, on behalf of _____.

Notary Public