



42
City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 5

Ordinance/Resolution# 11-12-409

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of December 5, 2011
 (Adoption Date)

TITLE: A RESOLUTION APPROVING AN INDEFINITE COST AND INDEFINITE QUANTITY PRICE AGREEMENT TO PURCHASE COMMERCIAL PROPERTY INSURANCE PACKAGE (TO INCLUDE: CONTRACTOR'S EQUIPMENT & AUTO/FIRE PHYSICAL DAMAGE, CRIME, BOILER & MACHINERY, AND EMPLOYEE DISHONESTY) AND EXCESS WORKERS' COMPENSATION; THROUGH THE CITY CONTRACTED BROKER, AON RISK SERVICES FOR A TERM OF UP TO FIVE (5) YEARS CONDITIONED UPON ANNUAL RENEWALS AND APPROVED BUDGETS.

PURPOSE(S) OF ACTION:

To secure insurance for the City of Las Cruces for a period of up to five years conditioned upon annual renewals and approved budgets.

COUNCIL DISTRICT: N/A		
<u>Drafter/Staff Contact:</u> Mark Anthony Castillo	<u>Department/Section:</u> Human Resources	<u>Phone:</u> 528-3665
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

It is the responsibility of the Risk Management Section to ensure that the City is adequately insured. On May 1, 2011, in accordance with the City Procurement Code, the City of Las Cruces entered into a price agreement with insurance broker AON Services of Albuquerque, New Mexico to research and provide the most comprehensive and economical insurance coverage in the current market. While ensuring that the City's assets are adequately covered, consideration is also given to risk assessments of potential risks and liabilities. The commercial property insurance package proposed by AON Services includes the following policies: Contractor's Equipment, Automobile Physical Damage, Crime, Boiler & Machinery, and Employee Dishonesty. Also included is excess coverage for Workers' Compensation.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Purchasing Manager's Request to Contract, (PMRC).
3. Exhibit "B", Renewal Proposal.
4. Exhibit "C", Brokerage Contract for AON (RFP # 10-11-497).

(Continue on additional sheets as required)

SOURCE OF FUNDING:

Is this action already budgeted?	Yes	<input checked="" type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
	<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.	
Does this action create any revenue?	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$_____ for FY_____.
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
Various	Various	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will allow the Risk Manager to finalize the annual purchase of insurance for the City of Las Cruces.
2. Vote "No"; this will result in a lack of third party insurance coverage for the City of Las Cruces.
3. Vote to "Amend"; this could modify the Resolution to reflect the wishes of the City Council.

REFERENCE INFORMATION:

N/A

RESOLUTION 11-12-409

A RESOLUTION APPROVING AN INDEFINITE COST AND INDEFINITE QUANTITY PRICE AGREEMENT TO PURCHASE COMMERCIAL PROPERTY INSURANCE PACKAGE (TO INCLUDE: CONTRACTOR'S EQUIPMENT & AUTO/FIRE PHYSICAL DAMAGE, CRIME, BOILER & MACHINERY, AND EMPLOYEE DISHONESTY) AND EXCESS WORKERS' COMPENSATION; THROUGH THE CITY CONTRACTED BROKER, AON RISK SERVICES FOR A TERM OF UP TO FIVE (5) YEARS CONDITIONED UPON ANNUAL RENEWALS AND APPROVED BUDGETS.

The City Council is informed that:

WHEREAS, it is the responsibility of the Risk Management Section to ensure that the City is adequately insured for all possible risks; and

WHEREAS, the City will purchase the following policies: Commercial Property Package including: Contractor's Equipment & Auto/fire Physical Damage, Crime, Boiler and Machinery, Employee Dishonesty; and Excess Workers' Compensation for fiscal year 2012; and

WHEREAS, AON Risk Services, as the City of Las Cruces Insurance broker, has researched different insurance coverage and found these insurance policies to be the best and the most affordable coverage for the City of Las Cruces; and

WHEREAS, the Risk Manager recommends moving forward with obtaining these insurance policies through AON Risk Services.

NOW, THEREFORE, be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the Risk Manager is hereby authorized to purchase insurance policies through the City contracted broker AON Risk Services, Albuquerque, New Mexico.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the above.

DONE AND APPROVED on this _____ day of _____, 2011.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

VOTE:

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Small: _____

Councillor Sorg: _____

Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

CITY OF LAS CRUCES

PURCHASING MANAGER'S REQUEST TO CONTRACT

For Meeting of: December 5, 2011

Resolution No.: 11-12-409

**Existing Contract Purchase For
Insurance Brokerage Services - Commercial Property Insurance Package**

The Las Cruces City Council is provided the following information concerning this request:

BID/RFP SOLICITATION INFORMATION:

1. Original Bid/RFP & Due Date: **RFP #10-11-497/ March 3, 2011**
2. Description of Bid/RFP: **Insurance Brokerage Services – Commercial Property Insurance Package**
3. Number of Original Responses Accepted: **One**
4. Existing Contract Expiration Date: **April 30, 2012**
5. Last Contract Renewal by Council: **N/A**
6. Using Department: **Risk Management**
7. Current Award Recommendation To: **AON Risk Insurance Services West, Inc. of Albuquerque, NM**
8. Total Award Amount (includes any tax and contingency) **Indefinite Quantity/Cost**
9. Contract Duration: **Five (5) years pending annual renewals and approved budgets**

PROCUREMENT CODE COMPLIANCE:

The City of Las Cruces Procurement Code was administered in the conduct of this procurement and approval to purchase is hereby requested pursuant to **Section 24-316.**

Karen Medina 11 Nov. 17, 2011
 for Purchasing Manager Date

CONFIRMATION OF FUND ENCUMBRANCE:

REQUISITION OR PURCHASE ORDER NUMBER:	Various
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Coverage	Expiring	Renewal Premiums
Property / EDP / Contractor's Equipment	\$ 193,724	\$ 186,067
Automobile Physical Damage	\$ 10,131	\$ 9,511
Boiler & Machinery	Included	Included
Fine Arts	\$ 2,018	\$ 2,018
Airport Liability	\$ 4,700	\$ 4,700
Crime (underlying)	\$ 18,798	\$ 18,199
Excess Crime	\$ 11,917	\$ 11,465
Excess Work Comp	\$ 74,819	\$ 87,477
Totals:	\$316,107	\$319,437

Payment Plans

All policies are Agency Bill; premiums are due upon receipt of invoice.

A.M. Best Ratings

Travelers	A+, XV
Ace Fire Underwriters Ins. Co.	A+, XV
Ace Property	A+, XV
Safety National	A, XI
Berkley Regional	A+, X

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this 1st day of May, 2011, by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and AON Risk Insurance Services West, Inc. of 6000 Uptown Boulevard NE #400, Albuquerque, NM 87110, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION: Contractor will provide insurance brokerage services to the City of Las Cruces.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No.10-11-497 incorporated herein by reference and as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed \$27,500 plus applicable taxes. CONTRACTOR shall perform the SERVICES upon receipt of a written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of projects that are required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on May 1, 2011 for a term of one year through April 30, 2012 (the 'service period') and, pending mutual written agreement, may be extended annually thereafter for up to four (4) more years until April 30, 2016.

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, CONTRACTOR shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated, subject to the terms of the fee reduction schedule in Exhibit A.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR, except the CONTRACTOR'S internal files and/or records, in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment, and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

CITY acknowledges and agrees that CONTRACTOR is in the business of providing similar services to its clients utilizing CONTRACTOR'S knowledge, including background software, ideas, forms, concepts, methodologies, products, and processes in connection with any work product prepared for, and distributed to the CITY under this Attachment A, and its underlying agreement and any exhibits, and/or amendments thereto. The CONTRACTOR'S work product is prepared solely for the exclusive and internal use of the CITY. Use of the CONTRACTOR'S work product, whether in electronic or hardcopy format, is strictly limited for the CITY'S use with CONTRACTOR and shall not be relied upon by any other persons or entity for any purpose, unless otherwise agreed to, in writing, by both the CITY and CONTRACTOR. The CONTRACTOR'S work product and the information contained therein are confidential, and proprietary to, and the property of CONTRACTOR and it reserves any and all

rights, including but not limited to copyrights and other proprietary interests in its work product. CONTRACTOR grants the CITY a worldwide, paid-up, royalty free, nonexclusive and perpetual license to use, copy, translate, modify, and distribute, CONTRACTOR's work product consistent with the terms set forth in this Section 13, and as may be necessary for the completion of the SCOPE OF SERVICES. Notwithstanding, nothing herein confers any rights or licenses on any third party and neither the CONTRACTOR's work product nor the information contained therein shall be distributed, copied, disseminated or used by any third party without the express written consent of CONTRACTOR and/or its affiliates, if applicable.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as

otherwise specifically set forth herein, neither CONTRACTOR nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT.

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain during the life of his subcontract:

- a. Professional Liability: \$1,000,000 per claim

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this Agreement.

CONTRACTOR's liability to the CITY, in total, for the duration of CONTRACTOR's business relationship for any and all damages, costs, and expenses (including but not limited to the CONTRACTOR's obligation of indemnity and the CITY's attorneys' fees), whether based on contract, tort (including negligence), or otherwise, in connection with or related to the SERVICES (including a failure to provide a services) or any other services that CONTRACTOR provide shall be limited to a total aggregate amount of \$2,500,000 (Liability Limitation), to the fullest extent permitted by law.

This Liability Limitation shall apply to the CITY and extend to the CITY's parent(s), affiliates, subsidiaries, and their respective directors, officers, employees and agents (hereinafter, each a 'the CITY Group Member' and together, 'the CITY Group') wherever located that seek to assert claims against CONTRACTOR, and its parent(s), affiliates, subsidiaries and their respective directors, officers, employees and agents (each a "CONTRACTOR Group Member" and together, "CONTRACTOR Group"). Nothing in this Liability Limitation section implies that any CONTRACTOR Group Member owes or accepts any duty or responsibility to any CITY Group Member.

If the CITY or any CITY Group Member asserts any claims or makes any demands against CONTRACTOR or any CONTRACTOR Group Member for a total amount in excess of this Liability Limitation, then the CITY agree to indemnify CONTRACTOR for any and all liabilities, costs, damages and expenses, including attorney's fees, incurred by CONTRACTOR or any CONTRACTOR Group Member that exceeds this Liability Limitation.

Notwithstanding the provision in this Agreement, its Exhibits and any amendments hereto, in no event will either party, its parent(s), affiliates, subsidiaries, and their respective directors, officers, employees and agents ('Group') be liable to the other Group for any indirect, incidental, special, consequential, exemplary, punitive or reliance damages (including, without limitation, lost or anticipated revenues, lost business opportunities or lost sales or profits, whether or not either Group; has been advised of the likelihood of such damages) arising out of services provided by Aon or any of its affiliates.

As CONTRACTOR and the CITY intend the aforementioned Liability Limitation provisions to be enforceable, it is agreed that any over breadth in such provisions shall not itself render any of such provisions void, but rather, such provisions shall be interpreted and enforceable to the fullest extent permitted by applicable law.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, CONTRACTOR may have additional time to cure if (a) the alleged breach is curable but not reasonably curable within the five-day period and (b) the CONTRACTOR has advised the CITY in writing of i) its remediation plan, ii) the number of days necessary to remedy the alleged breach; and iii) CONTRACTOR has taken and will continue to diligently take substantial steps towards curing the alleged breach. In the event the alleged breach is not remedied within the time specified in CONTRACTOR's notice to the CITY, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR,

With Copies to: Aon Services Corporation
200 East Randolph Street
Chicago, Illinois 60601
ATTENTION: Chief Counsel

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

AON RISK INSURANCE SERVICES
WEST, INC.

BY: *Loren Cunningham*
ASSISTANT VICE PRESIDENT

DATE: 4-11-11

THE CITY OF LAS CRUCES

BY: *[Signature]*
PURCHASING MANAGER

DATE: 4/26/2011
Reg # 11103492

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY



Exhibit A – Scope of Services for the City of Las Cruces

The CITY of Las Cruces (hereinafter “the CITY”) has appointed Aon Risk Services West, Inc. (“CONTRACTOR”), as The CITY’s Broker of Record for certain casualty, property and other insurance policies, and programs (“Insurance Programs”) as scheduled and outlined in Exhibit A – Part I (Insurance Programs) This Compensation Agreement (“Agreement”) confirms CONTRACTOR’S mutual understanding concerning the insurance and/or financial and risk management support SERVICES (“SERVICES”) to be provided by CONTRACTOR to the CITY in connection with the Insurance Programs as outlined in Exhibit A – Part II (Scope of Services) The SERVICES hereunder will be provided in accordance with the terms of this Agreement and with the notices and policies set forth in CONTRACTOR’s Disclosures and Commitments to CONTRACTOR’S Client attached in Exhibit C, (see also www.aon.com/risk-SERVICES/default.jsp) the content of which is hereby acknowledged by the CITY.

The SERVICES shall commence as of May 1, 2011 and shall end on April 30, 2012 (the “Service Period”)and, pending mutual written agreement, may be extended annually thereafter for up to four (4) more years until April 30, 2016. CONTRACTOR will not be responsible or liable for any insurance policies, coverages or programs that CONTRACTOR did not negotiate or place.

In consideration of the SERVICES to be provided under this Agreement by CONTRACTOR to the CITY during the Service Period, the CITY agrees that CONTRACTOR shall be compensated as follows:

In consideration of the SERVICES related to the Insurance Programs scheduled in Exhibit A- Part I (A) (“Part A Insurance Programs”), The CITY agrees CONTRACTOR shall earn compensation comprised of 1) an annual fee payable by the CITY in the amount of \$27,500 plus New Mexico Gross Receipts Tax (“Fee”) and 2) where allowable by law, such commission amounts in addition to the Fee as with the CITY’s approval may be payable to CONTRACTOR by the CITY’s insurers. To the extent commissions payable to CONTRACTOR by the CITY’s insurers exceed the approved amount(s), and where permitted by law, CONTRACTOR will provide a credit to the CITY against the Fee up to the full amount of the Fee received by CONTRACTOR. If CONTRACTOR is required by law to return to insurers any commissions that, pursuant to this Agreement, were credited against the annual Fee, for any reason, including but not limited to mid-term cancellation(s), the CITY agrees to reimburse CONTRACTOR for such amount(s). The Fee shall be payable to CONTRACTOR prior to the commencement of the Service Period and thereafter at each annual anniversary of the commencement of the Service Period unless otherwise set forth in Exhibit A and shall include expenses for CONTRACTOR’S travel and entertainment unless otherwise set forth in Exhibit A

In consideration of the SERVICES related to the Insurance Programs scheduled in Exhibit A - Part I (B) (“Part B Insurance Programs”), The CITY agrees CONTRACTOR shall be entitled to earn and retain the full amount of commissions payable to CONTRACTOR by the CITY’s insurers. Commissions payable on the Part B Insurance Programs shall be in addition to and not, for any reason, credited against the Fee.

In addition to the compensation set forth herein, revenue CONTRACTOR may be entitled to receive from third parties due to contingencies, overrides, bonus commissions, national additional commissions, and/or administrative expense reimbursements, shall be retained by CONTRACTOR and shall not, for any reason, be credited against the Fee or any other compensation earned hereunder.

Premiums paid by the CITY to CONTRACTOR for remittance to insurers and the CITY premium refunds paid to CONTRACTOR by insurance companies for remittance to the CITY are deposited into fiduciary accounts in accordance with applicable insurance laws until they are due to be paid to the insurance company or the CITY. Subject to such laws and the applicable insurance company’s consent, where required, CONTRACTOR will retain the interest or investment income earned while such funds are on deposit in such accounts.

To the extent that any portion of CONTRACTOR’S compensation, by operation of law, agreement or otherwise, becomes adjusted or credited to the CITY, it is the CITY’s responsibility to disclose the actual net cost to the CITY of the brokerage and insurance costs the CITY has incurred to third party(ies) having an interest in such amounts.

CONTRACTOR agrees to reasonably assist the CITY with administering policies, coverages or programs preceding those listed in Exhibit A, Part I to the extent the CITY has advised CONTRACTOR of the CITY’s need for such assistance. If the CITY needs or requests unanticipated levels of assistance for such policies,



coverages or programs, the CITY and CONTRACTOR shall negotiate and agree in writing to the additional amount(s) of compensation CONTRACTOR shall be entitled to receive from the CITY for such SERVICES.

CONTRACTOR will deliver the SERVICES based upon the information the CITY or the CITY's representatives provide to CONTRACTOR and the demands and needs that the CITY expressly advises CONTRACTOR of. The CITY understands the CITY is responsible for the accuracy and completeness of any information the CITY or the CITY's representatives provide CONTRACTOR and that CONTRACTOR accepts no responsibility for losses, damages or costs arising from the CITY's failure to so inform CONTRACTOR. The CITY acknowledge the importance of providing CONTRACTOR promptly with the information needed to deliver the SERVICES and to update any information where there has been a material change which may affect the scope of delivery of the SERVICES, such as a change in the nature of the risk, insured entities, property values and persons or entities to be covered.

The CITY shall inform CONTRACTOR in the event that the CITY's operations change substantially by merger, acquisition, expansion or other material change in scope and nature of exposures, losses and/or Insurance Program, or if there is a substantial midterm change to programs or limits, The CITY and CONTRACTOR will negotiate in good faith to revise the Agreement as appropriate.

The CITY acknowledge that the CITY will carefully review all documents CONTRACTOR gives the CITY (including binders, policies and endorsements) and advise CONTRACTOR immediately of any mistakes of fact or contents in such documents that do not address The CITY's needs. The absence of such notification to CONTRACTOR will be deemed as confirmation that the documents fully conform to The CITY's needs and instructions.

When, in CONTRACTOR's judgment, it should become necessary or appropriate to use the SERVICES of other intermediaries, including, but not limited to, managing general agents/managing general underwriters, wholesale brokers or facultative reinsurance brokers (collectively "Intermediaries") to assist in accessing, negotiating, placing, or procuring insurance markets for the Insurance Programs, CONTRACTOR will, in all such instances, endeavor to use the SERVICES of a CONTRACTOR-affiliated intermediary. In the event circumstances or the CITY should require that a non-CONTRACTOR affiliated intermediary, co-broker or sub-broker, be appointed, retained or engaged to assist in accessing, negotiating, placing or procuring insurance for the Insurance Programs, CONTRACTOR will not be responsible for any actual or alleged act, error or omission of any such Intermediary, co-broker or sub-broker or of its officers, directors or employees in assisting in accessing, negotiating, placing or procuring insurance for the Insurance Programs. Under all circumstances, any and all compensation earned by any Intermediary, or by any co-broker or sub-broker in connection with the Insurance Programs shall be in addition to the compensation paid to CONTRACTOR hereunder.

In some instances, insurance placements made by CONTRACTOR on the CITY's behalf may require the payment of state surplus lines or other premium taxes and/or fees in addition to the premium itself. CONTRACTOR will make every effort to identify any such tax and/or fee in advance, but in all instances the payment of these taxes and/or fees will remain the responsibility of the CITY and CONTRACTOR will invoice the CITY for the payment of such taxes and fees.

The CITY acknowledges and agrees that the work products provided hereunder by CONTRACTOR are not to be distributed to, used or relied upon by third parties without the written consent of both CONTRACTOR and the CITY, except such materials may be provided without such written consent to the CITY's legal, accounting and non-insurance financial advisors.

Our obligation to render any and all SERVICES or any further SERVICES under this Agreement will terminate at the end of the Service Period. Termination will occur on April 30, 2016 or after CONTRACTOR or the CITY have tendered either through the U.S. Postal Service, or otherwise as provided herein, a written notice of termination stating the effective date of termination, whichever occurs first. CONTRACTOR's Fee for the annual Service Period during which the Agreement terminates shall be deemed to be fully earned as of the date of this Agreement; however, in the event this Agreement is terminated prior to the end of the annual Service Period, the CITY will be entitled to a reduction in Fee as follows:

- a) 40% reduction if termination is within the first 3 months of the annual Service Period.
- b) 10% reduction if termination is between 3 and 9 months of the annual Service Period.
- c) 0% reduction if termination is more than 9 months into the annual Service Period or anytime during the Service Period if the CITY's controlling ownership should change.



All commissions payable to CONTRACTOR under this Agreement shall be deemed fully earned at the inception of the Insurance Programs and are excluded from the above reduction schedule.

Notwithstanding the provisions in this Agreement, its Exhibits and any amendments hereto, in no event will either party, its parent(s), affiliates, subsidiaries, and their respective directors, officers, employees and agents ("Group") be liable to the other Group for any indirect, incidental, special, consequential, exemplary, punitive or reliance damages (including, without limitation, lost or anticipated revenues, lost business opportunities or lost sales or profits, whether or not either Group has been advised of the likelihood of such damages) arising out of SERVICES provided by CONTRACTOR or any of its affiliates.

The CITY hereby consents to the CONTRACTOR's use of the CITY's logo, pictures, and other publicly available information about the CITY, for the purpose of marketing the CITY's Insurance Programs or for use in lists of CONTRACTOR'S clients.

This Agreement and its Exhibits may not be changed or modified nor any provision waived without the prior written consent of the parties.

If any provision of this Agreement or its Exhibits or amendments is held to be in violation of any applicable law, statute, regulation, or judicial or administrative order, such provision shall be deemed to be amended to conform to such applicable law, statute, regulation or judicial or administrative order, to the maximum extent permitted by law, and where not so permitted by law, such offending provision shall be deemed to be of no force and effect.

Accepted and Agreed:

Aon Risk Insurance Services West, Inc

By: Karen Cunningham
Karen Cunningham, Vice President

Date: 4-11-11

City of Las Cruces

By: [Signature]
Type in name and title of signatory

Date: 4/26/11

APPROVED AS TO FORM:
[Signature]
City Attorney



Exhibit A – Part I – Insurance Programs

This Exhibit pertains only to those policies and programs listed below having policy periods incepting during the Service Period and for which CONTRACTOR proposes to develop, recommend, negotiate and place insurance and/or risk financing programs are as follows:

(A) Fee-Based Insurance Programs

- Property
- Inland Marine
- Boiler & Machinery
- Airport Liability
- Crime
- Fine Arts
- Excess Workers' Compensation
- Underground Storage Tank Liability
- Environmental Liability

(B) Commission-Based Insurance Programs

- Other policy placements as needed and agreed to by both parties

Exhibit A – Part II – Scope of SERVICES

This Exhibit covers only those SERVICES to be performed during the Service Period. Compensation for additional SERVICES required by the CITY, and compensation for SERVICES to be performed after the end of the Service Period shall be separately negotiated.

1. CONTRACTOR will develop, recommend, negotiate and place insurance and/or risk financing programs for all coverages listed in the Exhibit A – Part I. CONTRACTOR will:
 - Identify and analyze viable markets for the CITY's insurance and bond requirements.
 - Prepare appropriate marketing and underwriting information to be submitted to potential insurers and related service companies.
 - Arrange meetings between appropriate underwriters or service providers and the CITY's risk management personnel for the purpose of presenting the CITY's account in the most favorable light.
 - Obtain insurance or related service quotations as appropriate
 - Assist the CITY's risk management or assigned personnel in negotiating the most favorable rates and coverages or service contracts
 - Obtain and review all commercial insurance policies and service contracts for accuracy and proper form
 - Provide training to City Risk Management for insurance and risk management issues
 - Provide the following Claim SERVICES –
 - Develop claim reporting procedures for each line of coverage
 - Provide loss reports quarterly
 - Assist the CITY with claim reporting to insurance companies
 - Act as the CITY's advocate in claim disputes
 - Track open claims reported to the insurance companies
 - Assist the CITY to resolve claims in a timely and equitable manner
 - Annual Claim Audit: for Excess Workers' Compensation
 - Provide 10 Hours – Loss Control Services Upon Request of the CITY
2. CONTRACTOR will assist the CITY in the gathering and preparation of underwriting information and completion of insurance applications. CONTRACTOR will not assume responsibility for the accuracy and completeness of such information and shall be entitled to rely on information provided by the CITY and the CITY's employees. Those applications requiring signature shall be signed by the CITY.
3. CONTRACTOR will administer The CITY's relationship with insurance companies including, but not limited to, issues such as billings in connection with selected programs, data reporting other than claim data, and compliance with negotiated requirements.
4. CONTRACTOR will provide SERVICES such as risk control, claim advocacy and claim consulting, as outlined herein. Loss Control services are limited to 10 hours annually. CONTRACTOR will perform one Excess Workers' Compensation claim audit annually. CONTRACTOR will not provide any other risk control, claim advocacy or claim consulting SERVICES without the CITY's approval and for which the CITY agrees to pay CONTRACTOR additional compensation at a rate of \$150 per hour. CONTRACTOR offers no representation or warranty, either express or implied, that as a result of such SERVICES the CITY will receive a specific claim payment or monetary savings generally.

CONTRACTOR will provide "basic property and casualty claims consulting." Basic property and casualty claims consulting SERVICES consist of: (a) providing information as may be requested by the CITY to enable the CITY to provide notice to insurers whose coverages may apply to any circumstances, occurrences, claims, suits, demands and losses; (b) facilitating contact between the

CITY and the insurer(s); (c) providing an overview of coverages that may be available to the CITY under the applicable insurance policy; and, (d) advising the CITY on requirements for payment of a claim. Basic claims advocacy does not include claims notifications to insurers and CONTRACTOR does not provide, as part of the SERVICES, legal representation, testimony or depositions.

The CITY acknowledge it is the CITY's responsibility to take such steps as are necessary to notify directly those insurers whose coverages may apply to any circumstances, occurrences, claims, suits, demands and losses in accordance with and as may be required by the terms and conditions of the policies placed for the CITY under this agreement. The CITY may send copies of such notices to CONTRACTOR as may assist CONTRACTOR in carrying out SERVICES relating to claim advocacy and claim consulting as may be set forth above. CONTRACTOR undertakes no duty or responsibility to monitor The CITY's obligation to place insurers on notice of the CITY's circumstances, occurrences, claims, suits, demands and losses nor to place the CITY's insurers on such notice.

5. CONTRACTOR will, through Contractor's affiliate, Aon Property Risk Consulting, Inc., provide Rapid Response Property Claims Consulting Services ("Rapid Response"). The fee for Rapid Response is \$10,000 and is in addition to the Fee on page one. The Rapid Response territorial scope is U.S. and surrounding Territories, including Bermuda, Caribbean and Puerto Rico or global. Rapid Response Services will consist of the basic property claims consulting SERVICES described herein above, and forty (40) hours of comprehensive property claims consulting SERVICES, consisting of: (i) an Aon Claims Representative visit the loss location within 48-72 hours of notification of the claim, provided that access to the loss location is permitted; (ii) establishing emergency procedures to preserve and protect damaged and undamaged property; (iii) securing digital photographs of the loss scene and property damage; and (iv) reviewing and analyzing the applicable insurance policy(ies) and, preparing a detailed coverage matrix applicable to the claim.
6. CONTRACTOR will provide the CITY with an insurance schedule for all coverages listed in Exhibit A – Part I.

Exhibit B – Risk Control Conditions and Limitations

The SERVICES to be performed by CONTRACTOR hereunder, including, without limitation, all surveys and reports, are advisory only and for the sole purpose of assisting the CITY in the development of risk control procedures. CONTRACTOR assumes no responsibility for management or operation of risk control and safety procedures. The CITY acknowledges and agrees that, in the performance of CONTRACTOR duties and obligations hereunder, CONTRACTOR shall not be deemed to be acting for or on behalf of the CITY's safety, risk management or other similar department.

Any survey performed by CONTRACTOR pursuant hereto, and any report, recommendation or other material prepared by CONTRACTOR pursuant hereto, shall be based upon the conditions observed and the information supplied by the CITY during any CONTRACTOR visit to the CITY's location(s). CONTRACTOR shall be under no obligation to verify or investigate the accuracy or completeness of the data and information provided by the CITY, and CONTRACTOR shall have no liability or responsibility for any inaccuracies in the data or information and/or for any reports, services, materials or documents prepared or provided to the CITY based on such inaccurate or incomplete data or information. Any survey performed by CONTRACTOR pursuant hereto is not intended and shall not be deemed to be a comprehensive safety inspection.

The CITY acknowledges and agrees that, in CONTRACTOR performance of SERVICES hereunder, CONTRACTOR shall not be deemed to have guaranteed, assured or warranted on the CITY's behalf, or for the benefit of others:

- 1) the safety of the CITY's location(s);
- 2) that the CITY is in compliance with federal, state and local laws, statutes, ordinances, recommendations, regulations, consensus codes or other standards; or
- 3) that compliance with, or implementation of CONTRACTOR recommendations will eliminate or reduce any or all hazards, accidents or other losses.

To the extent any survey prepared by CONTRACTOR pursuant hereto contains a valuation of the CITY's physical structure(s), CONTRACTOR shall not be deemed to have made any representation that CONTRACTOR is an appraisal agent, and the CITY acknowledges that any values calculated by utilizing the Marshall Swift Valuation (or any other method) are estimates only.

If CONTRACTOR or one of CONTRACTOR'S affiliates prepares a loss control report regarding some or all of the CITY's operations, the CITY hereby consents and agrees that any such report may be disclosed to insurers or prospective insurers for the Insurance Programs.

Exhibit C - CONTRACTOR Disclosures and Commitments to the City

As your broker of record, Aon Risk Services (ARS) commits to the timely and thorough disclosure of placement strategies, marketing options and broking results. The services we provide will be subject to these Disclosures and Commitments to Our Clients which, unless you and we agree in writing otherwise, are applicable to our services to you.

Our Services

We deliver our services based on the information you give us or which is given to us expressly on your behalf. In preparation for placing or renewing your insurance coverage, we will consult with you regarding insurance market conditions, the insurers we suggest be approached, our recommended program options to pursue, and our marketing strategy on your behalf. By the conclusion of the marketing process, we will provide you with written information regarding the coverage details, policy terms and conditions provided by the markets.

We will assist you in gathering and preparing the underwriting information and completing insurance applications. We rely on you for the accuracy and completeness of any information you or anyone else provides to us on your behalf. We will also rely on you to provide us promptly with the information needed to deliver the services and to update any information provided where there has been a material change to that information that may affect the scope of delivery of the services, such as the nature of the risk, the insured entities, property values and descriptions of persons to be covered. Applications requiring signature will be signed by you.

We will obtain your instructions to us to bind specific programs based on the program proposal we provide. We expect you to carefully review all documents we give you, including binders, policies and endorsements, and to advise us immediately if you detect any mistakes or believe the contents do not address your needs or instructions.

ARS will administer your relationship with insurance companies including, where applicable, issues such as billings in connection with selected programs, data reporting, and compliance with negotiated requirements.

We will provide services unless and until either of us notifies the other that ARS is no longer acting as your broker of record. Subject to applicable state law and contractual arrangements with insurers, any commissions to which we were entitled are fully earned.

Your Limitation of Our Liability

Our liability to you, in total, for the duration of our business relationship for any and all damages, costs, and expenses (including but not limited to attorneys' fees), whether based on contract, tort (including negligence), or otherwise, in connection with or related to our services (including a failure to provide a service) that we provide shall be limited to an aggregate amount. Further specifics on the liability limitation will be provided directly to you.

This liability limitation applies to you, our client, and extends to our client's parent(s), affiliates, subsidiaries, and their respective directors, officers, employees and agents (each a "Client Group Member" of the "Client Group") wherever located that seek to assert claims against ARS, and its parent(s), affiliates, subsidiaries and their respective directors, officers, employees and agents (each an "Aon Group Member" of the "Aon Group"). Nothing in this liability limitation section implies that any Aon Group Member owes or accepts any duty or responsibility to any Client Group Member.

If you or any of your Group Members asserts any claims or makes any demands against us or any Aon Group Member for a total amount in excess of this liability limitation, then you agree to indemnify ARS for any and all liabilities, costs, damages and expenses, including attorneys' fees, incurred by ARS or any Aon Group Member that exceeds this.

Use of Intermediaries

ARS encourages its retail brokers to approach markets directly (without an intermediary) wherever possible. However, ARS will consider and may recommend the use of intermediaries, including but not limited to co-brokers, sub-brokers, managing general agents/managing general underwriters, wholesale brokers, or reinsurance brokers (collectively, "intermediary") where we believe it is in the client's best interest.

Whenever we recommend or it becomes necessary to utilize the services of, or you require that we access, an intermediary to assist in accessing, negotiating, placing, or procuring insurance or reinsurance for your insurance programs, we prefer, where possible, using the services of an ARS-affiliated intermediary. ARS will not be responsible for a non-ARS affiliated intermediary's actual or alleged acts, errors, or omissions or those of its officers, directors or employees arising out of such assistance.

Insurance Proposals and Summaries

ARS's insurance documents containing proposals to bind coverage and summaries of coverages placed are furnished to clients as a matter of information for our clients' convenience. These documents summarize proposed and placed policies and are not intended to reflect all the terms and conditions of, nor exclusions within, such proposed or placed policies. Moreover, the information contained in these documents reflects proposed or placed coverage as of the effective dates of the proposed policies or the date of the summaries and does not include subsequent changes. These documents are not themselves insurance policies and do not amend, alter or extend the coverages afforded by the proposed or placed policies. The insurance afforded by the proposed or placed policies is subject to all the terms, exclusions and conditions contained in such policies as they are issued by the insurers.

Insurer Insolvency

ARS does not guarantee the solvency of any insurer with which we place business, whether or not a placement is with an admitted insurer or whether an insurer is approved by Aon Market Security. In addition to the published information that ARS may convey to our clients, ARS encourages our clients to review all publicly available information since only the client can make the ultimate decision to accept or reject a particular insurer.

Pricing

ARS does not and cannot guarantee the availability or price of insurance for your risks and will not be responsible for fluctuation in the premiums charged by insurers. We will rely on you to review and approve calculation or estimation of premium and ARS is not responsible for any loss occasioned as a result of our calculation or estimation of premium and statutory charges that may apply to your insurance.

Claims Handling

Unless we have a specific written agreement with you to the contrary, it is your responsibility to take such steps as are necessary to notify directly those insurers whose policies may apply to any circumstances, occurrences, claims, suits, demands and losses in accordance with the terms and conditions of the policies we place for you. ARS assumes no duty or responsibility with respect to such notifications or monitoring the insured's obligation to place insurers on notice unless pursuant to a separate written agreement. You may send copies of such notices to designated members of ARS staff as may assist ARS in carrying out services relating to claim advocacy and claim consulting which ARS may provide if we agree with you in writing to do so. ARS does not provide legal advice or trial or deposition testimony.

Contract and Lease Review and General Advice

Suggested additional or alternative wordings in any contract or lease that ARS may recommend at your request should be ratified by your legal advisor before being adopted. ARS can not provide legal advice as to whether a client's insurance program covers any legal obligations contained in the client's contracts

or leases. All descriptions of the insurance coverages are subject to the terms, conditions, exclusions and other provisions of the policies or any applicable regulations, rating rules or plans.

Any advice, report or information that ARS provides as part of its services is given solely for your benefit and cannot be given to or relied upon by any third party, including beneficiaries, without ARS's prior written consent.

Insurance Producer's Role and Compensation

The role of the insurance producer such as ARS in any particular transaction involves review with insurance purchasers about the benefits and terms and conditions of insurance contracts and selling insurance. Compensation is paid to the producer based on the insurance contract the producer sells. Depending on the insurer(s) and insurance contract(s) the purchaser selects, as well as the arrangement between the producer and the purchaser, compensation will be paid by the insurer(s) selling the insurance contract or by another third party. Such compensation may vary depending on a number of factors, including the insurance contract(s) and the insurer(s) the purchaser selects.

Unless applicable state law and regulation or contractual agreement between ARS and insurers states otherwise, any commission that ARS is entitled to receive for any placements is fully earned at inception of the insurance programs described in our insurance proposals and ARS is entitled to retain such commissions in the event of a midterm cancellation of coverage or a reduction in coverage resulting in a premium adjustment.

To the extent that any portion of ARS's compensation as reflected on its invoices becomes adjusted or credited to our client, it is the client's responsibility to disclose the actual net cost to the client of the brokerage and insurance costs incurred to third party(ies) having an interest in such amounts.

In placing, renewing, consulting on or servicing your insurance coverages, ARS and its affiliates ("Aon") may participate in contingent commission arrangements with insurance companies that provide for additional compensation, if, for example, certain underwriting, profitability, volume or retention goals are achieved. Such goals are typically based on the total amount of certain insurance coverages placed by Aon with the insurance company or the overall performance of the policies placed with that insurance company rather than on an individual policy basis. As a result, Aon may be considered to have an incentive to place your insurance coverages with a particular insurance company.

You may obtain information about compensation expected to be received by Aon based in whole or in part on the sale of insurance to you, and (if applicable) compensation expected to be received based in whole or in part on any alternative quotes presented to the you by Aon by contacting your Account Executive or emailing: aon.broking.us@aon.com.

Surplus Lines

ARS may determine based on our broking efforts that insurance may not be available in the admitted marketplace for the terms and conditions specified. In that event, our insurance proposal may be for an insurer not itself licensed to transact insurance in the states of exposure and such coverage may be placed, issued and delivered as surplus lines coverage pursuant to the various state insurance laws governing the placement of insurance with non-admitted insurers. Persons and entities insured by surplus lines insurers cannot avail themselves of the protection and recovery afforded by the state insurance guaranty funds in the event the surplus lines insurer should become insolvent. The states do not audit the finances or review the solvency of surplus lines insurers.

In some instances, insurance placements made by ARS on behalf of our clients may require the payment of state surplus lines or other premium taxes and/or fees in addition to the premium itself. ARS makes every effort to identify any such tax and/or fee in advance, but in all instances the payment of these taxes and/or fees will remain the ultimate responsibility of the client.

Collection and Use of Client Information

ARS gathers data containing information about our customers and their insurance placements, as well as information about the insurance companies that provide coverage to our customers or compete for our customers' insurance placements. In addition to the information provided by our customers, ARS may collect information from commercially available sources. Such information may include name, address, email address and demographic data.

This information may be shared among ARS affiliated businesses, as well as with third-party service providers acting on our behalf. In addition to being used to provide services to ARS customers, the information may be used for business administration, business reporting, statistical analysis, marketing of ARS products or services and providing consulting or other services to insurance companies for which ARS or its affiliates may receive remuneration. ARS takes appropriate measures to protect the privacy and confidentiality of our ARS customers as well as to comply with applicable laws and regulations. ARS may use or disclose information about our customers if we are required to do so by law, ARS policy, pursuant to legal process or in response to a request from law enforcement authorities or other government officials.

Due to the global nature of services provided by ARS, the personal information you provide may be transmitted, used, stored and otherwise processed outside of the country where you submitted that information. If you have questions about ARS data processing, please contact your ARS account executive.

Use of Logos

Unless you instruct us otherwise, ARS will use your logo, pictures, and other publicly available information about you to effectively market your programs or for use in lists of Aon clients. For marketing effectiveness, we may disclose to insurers loss control reports about your operations prepared by ARS or an affiliate.

Confidentiality of Aon Work Product

The services we provide are solely for our clients' benefit and exclusive use. Accordingly, ARS expects that clients will protect data, recommendations, submissions, proposals, reports, and other ARS work product from distribution to parties other than your legal, accounting and non-insurance financial advisors without our mutual agreement and nothing in the services we provide shall be construed as conferring any rights upon or duties toward any other person or entity.

Mutual Limited Waiver of Liability

Neither ARS nor you, nor either of our parent(s), affiliates, subsidiaries, and their respective directors, officers, employees and agents ("Group") will be liable to the other Group for any indirect, incidental, special, consequential, exemplary, punitive or reliance damages (including, without limitation, lost or anticipated revenues, lost business opportunities or lost sales or profits, whether or not either Group has been advised of the likelihood of such damages) arising out of services provided by ARS or any of its Group.

Waiver of Jury Trial

You and we, on behalf of our Groups, waive our rights to a trial by jury in any lawsuit or other legal proceeding against the other Group arising out of any of our services provided to you. You and we also will not name as a defendant any individual employee, officer or director of the other Group in any lawsuit or legal proceeding.

Client Responsibilities

We will deliver the services based upon the information that you and your representatives provide and the demands and needs of which you expressly advise us. You are responsible for the accuracy and



completeness of any information provided. We require prompt delivery of the information needed for us to deliver services as well as your prompt updates to any information where there has been a material change which may affect the scope or delivery of our services to you, such as a change in the nature of the risk, insured entities, property values and persons or entities to be covered.

We expect you to inform us promptly in the event that your operations change substantially by merger, acquisition, expansion or other material change in the scope and nature of your exposures, losses and/or of your overall insurance program, or if there is a substantial midterm change to programs or limits. Having reviewed carefully all the documents we give you (including binders, policies and endorsements), we require you to advise us immediately of any mistakes of fact or contents in the documents that do not address your needs.