

SERVICE AGREEMENT

BROKER OF RECORD SERVICES FOR PROPERTY INSURANCE

Service Agreement No. _____

THIS **Broker of Record Services for Property Insurance Agreement** (this "Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City"), acting by and through its City Manager or his designee ("City Manager"), and Borden Insurance and McGriff, Seibels & Williams (jointly described hereafter as "Contractor"), effective for all purposes upon execution by the City Manager.

WHEREAS Contractor has proposed to provide **BROKER OF RECORD SERVICES FOR PROPERTY INSURANCE** in response to **RFP Event No. 71**;

WHEREAS the City has determined Contractor to be the lowest responsible proposer;

NOW, THEREFORE, Contractor and City enter into this Agreement and agree as follows:

1. **Services.** Contractor will provide **BROKER OF RECORD SERVICES FOR PROPERTY INSURANCE** in accordance with **RFP Event No. 71** ("Services"), which request for proposal and related specifications, if any, are attached to this Agreement and incorporated by reference into this Agreement as **Exhibit "A"**. Contractor's proposal to provide the services is attached to this Agreement and incorporated by reference into this Agreement as **Exhibit "B"** in the amount of **\$27,700** per year.

2. **Term.** This Agreement is for a term of one (1) year, commencing on the date signed by the City Manager and continuing for twelve months thereafter. The term includes an option to extend for up to four additional one-year periods subject to the approval of the Contractor and the City Manager.

3. **Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement including deductions for non-performance and authorizations for payment. All of the Contractor's notices and communications regarding this Agreement must be directed to the Contract Administrator, who is the **Risk Manager**.

4. **Independent Contractor.** Contractor will perform the Services hereunder as an independent contractor and will furnish such Services in its own manner and method, and under no circumstances or conditions may any employee, agent, or representative of the Contractor be considered an employee of the City.

5. **Insurance.** Before Services can begin under this Agreement, the Contractor's insurance company must deliver a Certificate of Insurance as proof of the required insurance coverages to the Contract Administrator. Additionally, the certificate must state that the **Risk Manager** will be given at least 30 days' notice, by certified mail, of cancellation, material change in the coverages, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be given copies of all insurance policies within 15 days of the City Manager's written request.

6. **Assignment.** No assignment of this Agreement nor any right or interest herein held by the Contractor is effective unless the City Manager first gives written consent to such assignment. The performance of this Agreement by the Contractor is the essence of this Agreement, and the City's right to withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.

7. **Fiscal Year.** All parties recognize that the continuation of any contract after the close of any fiscal year of the City (the City's fiscal year ends each September 30th) is subject to budget approval and appropriations providing for such contract item as an expenditure in the fiscal budget. The City does not

represent that a budget item for this Agreement will be actually adopted, as that determination is within the sole discretion of the City Council at the time of adoption of each fiscal budget.

8. **Waiver.** No waiver by either party of any breach of any term or condition of this Agreement, or Exhibit A, or the Contractor's response to **RFP Event No. 71** waives any subsequent breach of the same.

9. **Compliance with Laws.** This Agreement is subject to all applicable federal, state and local laws. All duties of the parties will be performed in Corpus Christi, Texas. The applicable law for any legal disputes arising out of this Agreement is the law of Texas, and the forum and venue for such disputes is the appropriate district or county court in and for Nueces County, Texas.

10. **Subcontractors.** The Contractor may use subcontractors in connection with the work performed under this Agreement. When using subcontractors, however, the Contractor must obtain prior written approval from the **Risk Manager**. In using subcontractors, the Contractor is responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Contractor. All requirements set forth as part of this Agreement are applicable to all subcontractors and their employees to the same extent as if the Contractor and its employees had performed the services.

11. **Amendments.** This Agreement may be amended only in writing and signed by persons authorized to execute the same by both parties.

12. **Termination.**

A. The City Manager may terminate this Agreement for Contractor's failure to perform the services specified in this Agreement and its exhibits. The Contract Administrator must give the Contractor written notice of the breach and set out a reasonable opportunity to cure. If the Contractor has not cured within the cure period stated in the notice, the City Manager may terminate this Agreement immediately thereafter.

B. Failure to keep all insurance policies in force for the entire term of the Contract constitutes a material breach and is grounds for termination. Upon Contract Administrator's receipt of the required notice of any change in coverage, the Contract Administrator will provide Contractor with written notice of same and give Contractor a reasonable opportunity to cure. If the Contractor fails to cure within the specified cure period, the City may terminate the Contract immediately thereafter.

C. Alternatively, the City may terminate this Agreement, with or without cause, upon 20 days advance written notice to the Contractor. However, the City may terminate this Agreement upon 24 hours' advance written notice to the Contractor for the Contractor's failure to pay any required taxes or to provide proof of payment of taxes as set out in this Agreement. The Contractor may terminate this Agreement upon 90 days' advance written notice to the City.

D. If the City terminates its Contract under the foregoing paragraph, the City shall pay the Contractor for services actually performed prior to such termination, less such payments as have been previously made. Contractor shall not be entitled to any further compensation for work performed by the Contractor or anyone under its control or direction from the date of receipt of notice of cancellation including any and all costs related to the transferring of any files to another Contractor or any costs related to the electronic transfer of any information including, but not limited to: tape transfers, downloads, uploads, CDs, etc.

E. Upon termination of the Contract, the Contractor shall provide the City reproducible copies of all work completed or partially completed documents prepared under the Contract – all such documents thereafter being the sole property of the City within (30) days of such termination at the Contractor's expense.

13. **Taxes.** The Contractor covenants to pay all payroll taxes, Medicare taxes, FICA taxes, unemployment taxes, and all other taxes in accordance with Circular E “Employer’s Tax Guide”, Publication 15, as it may be amended, and applicable federal and state laws. Upon request, the City Manager shall be provided proof of payment of these taxes within fifteen (15) days of such request.

14. **Drug Policy.** The Contractor must adopt and enforce a “Drug Free Workplace” policy.

15. **Violence Policy.** The Contractor must adopt and enforce a “Violence in the Workplace” policy.

16. **Notice.** Notice must be given by personal delivery, facsimile (fax), or by certified mail, postage prepaid and return receipt requested, and is deemed received on the date hand-delivered or faxed, with proof of accepted transmission, and on the third day after deposit in the U.S. mail if sent certified mail. Notice shall be sent as follows:

IF TO CITY:

City of Corpus Christi
Attention: Risk Manager
P. O. Box 9277
Corpus Christi, Texas 78469-9277
Fax # 361-826-3697

IF TO CONTRACTOR:

Contractor _____
Contact Person: _____
Address: _____
City, State, ZIP _____
Fax #: _____

IF TO CONTRACTOR:

Contractor _____
Contact Person: _____
Address: _____
City, State, ZIP _____
Fax #: _____

17. **Month-to-Month Extension.** If the City has not completed the procurement process and awarded a new agreement upon expiration of the original contract term or any extension period, the Contractor shall continue to provide goods/services under this Agreement at the most current price, in accordance with the terms and conditions of this Agreement or extension, on a month-to-month basis not to exceed six months. Any month-to-month provision of goods/services by the Contractor under this Agreement automatically terminates on the effective date of a new contract.

18. **Severability.** Each provision of this Agreement is severable and if, for any reason, any such provision or any part thereof is determined to be invalid and contrary to any existing or future applicable law, such invalidity shall not impair the operation of or affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part thereof had been omitted.

19. INDEMNIFICATION. CONTRACTOR SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES AND AGENTS (“INDEMNITEES”) FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS AND CAUSES OF ACTION OF ANY NATURE ON ACCOUNT OF DEATH, PERSONAL INJURIES, PROPERTY LOSS OR DAMAGE OR ANY OTHER KIND OF DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS’ FEES AND EXPERT WITNESS FEES WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF WHETHER THE INJURIES, DEATH, OR DAMAGES ARE CAUSED OR ARE CLAIMED TO BE CAUSED BY THE CONCURRENT OR CONTRIBUTORY NEGLIGENCE OF INDEMNITEES, BUT NOT IF BY THE SOLE NEGLIGENCE OF INDEMNITEES UNMIXED WITH THE FAULT OF ANY OTHER PERSON OR GROUP. CONTRACTOR MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL REASONABLY SATISFACTORY TO INDEMNITEES, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF CONTRACTOR UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR SOONER TERMINATION OF THIS AGREEMENT.

Contractor: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Contractor: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

CITY OF CORPUS CHRISTI

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Incorporated by Reference:

Exhibit A: Request for Proposal Event No. 71 (Available upon request)

Exhibit B: Contractor's Proposal (Available upon request)